



(Bill No. 544)

AN ORDINANCE

Amending and Restating in full the General Water and Wastewater Revenue Bond Ordinance of 1989, enacted and approved by the Mayor on May 18, 1989 (Bill No. 399) by authorizing the issuance of Water and Wastewater Revenue Bonds of the City of Philadelphia; defining terms used therein; authorizing the Bond Committee to determine the form and terms of bonds; prescribing the method of sale, payment, execution, interchangeability, negotiability and transfer, and exchange; authorizing credit enhancement, exchange agreements and swaps; pledging water and wastewater system project revenues and certain other funds as security for payment of bonds and other obligations authorized under the Ordinance; providing for the deposit of Project Revenues into the Revenue Fund and the segregation of Project Revenues and all funds and accounts created hereunder from all other funds of the City not held exclusively for Water Department purposes; establishing certain funds and accounts and determining the transfer of moneys to funds and accounts; enumerating covenants of the City concerning water and wastewater rates, payment of principal, redemption premium and interest, operation of the system, the conditions of and provisions relating to the issuance of bonds, delivery of reports, disposition of proceeds from insurance or sale of assets, and certain provisions of the Internal Revenue Code of 1986; providing for redemption of bonds; designating a fiscal agent and sinking fund depository and setting forth the

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terms of resignation of the fiscal agent and appointment of a successor fiscal agent; providing remedies for default; allowing the transfer of all or substantially all of the City's right, title and interest in the System and prescribing the terms and conditions of such transfer; providing for amendments and modifications of the Ordinance; setting forth the terms and conditions for defeasance of bonds; and requiring maintenance of tax exempt status of bonds initially issued as tax exempt bonds.

The Council of the City of Philadelphia hereby ordains:

1. The General Water and Wastewater Revenue Bond Ordinance (Bill No. 399) enacted and approved by the Mayor on May 18, 1989 (the "1989 Ordinance") is amended and restated in full to read as follows:

"ARTICLE I

AUTHORIZATION, SCOPE AND PURPOSE, EFFECTIVE DATE AND SHORT TITLE

This Ordinance is enacted pursuant to the provisions of The First Class City Revenue Bond Act approved October 18, 1972 (Act No. 234, 53 P.S. §15901 to 15924) for the purpose of authorizing the issuance from time to time of water and wastewater revenue bonds of the City to be payable from the revenues of the water and wastewater systems of the City, in such principal amounts as shall from time to time be authorized by further ordinance of the Council as more particularly hereinafter set forth; provided that this Ordinance shall become effective immediately and without any further action by City Council when (but only when) all Prior Bonds issued under the Prior Ordinance have been paid or defeased as set forth in Section 10 of the Act ("Effective Date"). The City shall cause the Fiscal Agent to give written notice of the Effective Date to all Holders of Existing Bonds. Such notice shall state that upon the Effective Date the Holders of Existing Bonds shall be secured solely pursuant to the

terms of this Ordinance and not by the Prior Ordinance. On the Effective Date the Prior Ordinance and all supplements thereto relating to the Prior Bonds shall no longer be in force or have any effect. This Ordinance shall be known as the Restated General Water and Wastewater Revenue Bond Ordinance of 1989.

ARTICLE II

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

SECTION 2.01. *Definitions.* For all purposes of this Ordinance and any ordinance supplemental hereto, except as otherwise expressly provided or unless the context otherwise requires:

"Accreted Value" means, with respect to Capital Appreciation Bonds, the amount to which, as of any specified time, the Original Value of any such Bond has been increased by accretion, all as may be provided in an applicable Supplemental Ordinance.

"Act" means The First Class City Revenue Bond Act approved October 18, 1972 (Act No. 234, 53 P.S. §15901 to 15924) as from time to time amended.

"Bond" or "Bonds" means, upon and after issuance of the first series of bonds under this Ordinance, if and to the extent Outstanding at any time, (i) the Existing Bonds and (ii) all series of bonds authorized and issued under one or more supplemental ordinances amending and supplementing this General Ordinance.

"Bond Committee" means the Mayor, City Controller and City Solicitor or a majority thereof.

"Bond Counsel" means a firm of nationally recognized bond counsel selected by the City.

"Bondholder" or "Holder" means any registered owner of Bonds or holder of Bonds issued in coupon form at the time Outstanding.

"Capital Account" means the Capital Account within the Construction Fund established in Section 4.04 hereof.

"Capital Account Deposit Amount" means an amount equal to one percent (1%) of the depreciated value of property, plant and equipment of the System or such greater amount as shall be annually certified to the City in writing by a Consulting Engineer as sufficient to make renewals, replacements and improvements in order to maintain adequate water and wastewater service to the areas served by the System.

"Capital Appreciation Bonds" means any Bonds issued hereunder which do not pay interest either until maturity or until a specified date prior to maturity, but whose Original Value increases periodically by accretion to a final Maturity Value.

"Charges Account" means the Charges Account established within the Sinking Fund to provide for the payment of fees under any Credit Facility to the extent payment of such fees are not otherwise provided.

"City" means the City of Philadelphia, Pennsylvania.

"City Controller" means the head of the City's auditing department as provided by the Philadelphia Home Rule Charter.

"City Solicitor" means the head of the City's law department as provided by the Philadelphia Home Rule Charter.

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

"Construction Fund" means the Construction Fund established in Section 4.04 hereof.

"Consulting Engineer" means a nationally recognized Independent registered consulting engineer or a nationally recognized Independent firm of registered consulting engineers, in either case having experience in

the design and analysis of the operation of water and wastewater systems of the magnitude and scope of the System.

"Credit Facility" means any letter of credit, standby bond purchase agreement, line of credit, surety bond, insurance policy or other insurance commitment or similar agreement (other than a Qualified Swap or an Exchange Agreement) that is provided by a commercial bank, insurance company or other institution, with a current long term rating (or whose obligations thereunder are guaranteed by a financial institution with a long term rating) from Moody's and S&P not lower than the credit rating of any Series of Bonds which has no Credit Facility, to provide support for a Series of Bonds or for any issue of Subordinated Bonds, and shall include any Substitute Credit Facility.

"Debt Reserve Account" means the Debt Reserve Account of the Sinking Fund established in Section 4.04 hereof.

"Debt Reserve Requirement" means with respect to all Bonds, an amount equal to the lesser of (i) the greatest amount of Debt Service Requirements payable in any one Fiscal Year (except that such Debt Service Requirement will be computed as if any Qualified Swap did not exist and the Debt Service Requirements attributable to any Variable Rate Bonds may be based upon the fixed rate of interest as set forth in the Supplemental Ordinance or Determination for such Bonds), determined as of any particular date or (ii) the maximum amount to be financed with proceeds of Bonds permitted by Section 148(d)(1) of the Code (or any successor provision).

"Debt Service Account" means the Debt Service Account of the Sinking Fund established in Section 4.04 hereof.

"Debt Service Requirements," with reference to a specified period, means:

A. amounts required to be paid into any mandatory sinking fund established for the benefit of Bonds during the period;

B. amounts needed to pay the principal or redemption price of Bonds maturing during the period and not to be redeemed at or prior to maturity through any sinking fund established for the benefit of Bonds;

C. interest payable on Bonds during the period, with adjustment for capitalized interest or redemption through any sinking fund established for the benefit of Bonds; and

D. all net amounts, if any, due and payable by the City under a Qualified Swap during such period.

For purposes of estimating Debt Service Requirements for any future period, (i) any Option Bond outstanding during such period shall be assumed to mature on the stated maturity date thereof, except that the principal amount of any Option Bond tendered for payment and cancellation before its stated maturity date shall be deemed to accrue on the date required for payment pursuant to such tender; and (ii) Debt Service Requirements on Bonds for which the City has entered into a Qualified Swap shall be calculated assuming that the interest rate on such Bonds shall equal the stated fixed or variable rate on the Qualified Swap or, if applicable and if greater than such stated rate, the applicable rate for any Bonds issued in connection with the Qualified Swap adjusted, in the case of a variable rate obligation, as provided in Section 5.01 hereof.

Calculation of Debt Service Requirements with respect to Variable Rate Bonds shall be subject to adjustment as permitted by Section 5.01 hereof.

"Debt Service Withdrawal" means the aggregate amount withdrawn from the Capital Account during a Fiscal Year and applied toward the payment of principal

or redemption price of or interest on Bonds or toward the elimination of a deficiency in any reserve fund established for the benefit of Bonds.

"Determination" means a determination by the Bond Committee regarding certain matters relating to the issuance of a Series of Bonds, made pursuant to this General Ordinance or the Supplemental Ordinance providing for the issuance of such Series of Bonds.

"Director of Finance" means the chief financial officer of the City as established by the Philadelphia Home Rule Charter.

"Effective Date" shall have the meaning set forth in Article I of this General Ordinance.

"Exchange Agreement" means, to the extent from time to time permitted by applicable law, any interest exchange agreement, interest rate swap agreement, currency swap agreement or other contract or agreement, other than a Qualified Swap, authorized, recognized and approved by a Supplemental Ordinance or Determination as an Exchange Agreement and providing for (i) certain payments by the City from the Residual Fund and (ii) payments by an entity whose senior long term debt obligations, other senior unsecured long term obligations or claims paying ability, or whose obligations under an Exchange Agreement are guaranteed by an entity whose senior long term debt obligations, other senior unsecured long term obligations or claims paying ability are rated not less than A3 by Moody's, A- by S&P or A- by Fitch Investors Service, Inc., or the equivalent thereof by any successor thereto as of the date the Exchange Agreement is entered into; which payments by the City and counterparty are calculated by reference to fixed or variable rates and constituting a financial accommodation between the City and such counterparty.

"Existing Bonds" means the bonds originally issued under the Prior Ordinance other than Prior Bonds, which

Existing Bonds shall be specified in a certificate of the Director of Finance on the Effective Date and thereafter shall be secured by this General Ordinance.

"Financial Consultant" means a firm of investment bankers, a financial consulting firm, a firm of certified public accountants or any other firm which is qualified to calculate amounts required to be rebated to the United States pursuant to Section 148(f) of the Code.

"Fiscal Agent" means a bank or other entity designated as such pursuant to Section 7.01 hereof or its successor.

"Fiscal Year" means the fiscal year of the City.

"Fitch" means Fitch Investors Service and any successor thereto.

"General Obligation Bonds" means the general obligation bonds of the City issued and outstanding from time to time to finance improvements to the System and adjudged, pursuant to the Constitution and laws of the Commonwealth of Pennsylvania, to be self-sustaining on the basis of expected Project Revenues.

"General Ordinance" means this Restated General Water and Wastewater Revenue Bonds Ordinance of 1989.

"Government Obligations" means direct obligations of, or obligations of the principal of and interest on which are unconditionally guaranteed by, the United States of America, including but not limited to interest obligations of the Resolution Funding Corporation or any successor thereto.

"Independent" means a person who is not a salaried employee or elected or appointed official of the City; provided, however, that the fact that such person is retained regularly by or transacts business with the City shall not make such person an employee within the meaning of this definition.

"Initial Deposit" means the initial, one time, deposit to be made by the City from any source into the Rate Stabilization Fund upon the establishment of such Rate Stabilization Fund.

"Interdepartmental Charges" means the proportionate charges for services performed for the Water Department by all officers, departments, boards or commissions of the City which are required by the Philadelphia Home Rule Charter to be included in the computation of operating expenses of the Water Department.

"Interim Debt" means any bond anticipation notes or other temporary borrowing which the City anticipates permanently financing with Bonds or other long term indebtedness under this Ordinance or otherwise.

"Maturity Value" with respect to Capital Appreciation Bonds means the amount due on the maturity date.

"Moody's" means Moody's Investors Service and any successor thereto.

"Net Revenues" for any period means the Project Revenues collected during such period and deposited into the Revenue Fund plus (x) the amounts, if any, transferred from the Rate Stabilization Fund into the Revenue Fund during, or as of the end of, such period and (y) interest earnings during such period on moneys in any of the funds or accounts established hereunder to the extent such interest earnings are credited to the Revenue Fund pursuant to Section 4.16 hereof minus the sum of (a) Operating Expenses incurred during such period and (b) the amounts, if any, transferred from the Revenue Fund to the Rate Stabilization Fund during, or as of the end of, such period; provided, however that in determining such Net Revenues the Initial Deposit shall not reduce such Net Revenues.

"Operating Expenses" for any period means all costs and expenses of the Water Department necessary and appropriate to operate and maintain the System in good

operating condition, and shall include, without limitation, salaries and wages, purchases of services by contract, costs of materials, supplies and expendable equipment, maintenance costs, costs of any property or the replacement thereof or for any work or project, related to the System, which is not properly chargeable to property, plant and equipment, pension and welfare plan and worker's compensation requirements, provisions for claims, refunds and uncollectible receivables and for Interdepartmental Charges, all in accordance with generally accepted accounting principles consistently applied, but Operating Expenses shall exclude depreciation, amortization, interest and sinking fund charges.

"Operating Expense Withdrawal" means the aggregate amount withdrawn from the Capital Account during a Fiscal Year and applied toward the payment of Operating Expenses.

"Option Bond" means any Bond which by its terms may be tendered by and at the option of the Holder thereof for payment by the City prior to its stated maturity date or the maturity date of which may be extended by and at the option of the Holder thereof.

"Ordinance" means this General Ordinance, as amended from time to time by one or more Supplemental Ordinances in accordance with Article X hereof.

"Original Value" with respect to Capital Appreciation Bonds means the principal amount paid by the initial purchasers on the date of original issuance.

"Outstanding," when used with reference to Bonds, means, as of any date, all Bonds theretofore or thereupon being authenticated and delivered under the Ordinance except (i) any Bonds cancelled by the Fiscal Agent at or prior to such date; (ii) Bonds (or portion of Bonds) for the payment or redemption of which moneys, equal to the principal amount, Accreted Value or redemption price

thereof, as the case may be, with interest (except to the extent of any Capital Appreciation Bonds) to the date of maturity or redemption date, shall be held in trust under the Ordinance and set aside for such payment or redemption (whether at or prior to the maturity or redemption date), provided that if such Bonds (or portions of Bonds) are to be redeemed, notice of such redemption shall have been given as provided in Article VI of the Ordinance or provision satisfactory to the Trustee shall have been made for the giving of such notice; (iii) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to Article III or Section 6.06 of this General Ordinance; and (iv) Bonds deemed to have been paid as provided in Section 11.01 of this General Ordinance.

"Philadelphia Home Rule Charter" means the Philadelphia Home Rule Charter, as amended or superseded by any new home rule charter, adopted pursuant to authorization of the First Class City Home Rule Act approved April 21, 1949, P.L. 665 §1 et seq. (53 P.S. §13101 et seq.).

"Prior Bonds" means the bonds issued under the Prior Ordinance designated as Water and Sewer Revenue Bonds (i) the First Series through Ninth Series, and the Eleventh Series and Twelfth Series, and (ii) to the extent the following bonds are defeased on the Effective Date, the Tenth Series and the Thirteenth Series through Sixteenth Series.

"Prior Ordinance" means the General Water and Sewer Revenue Bond Ordinance of 1974 approved May 16, 1974 as amended and supplemented from time to time.

"Project" shall have the meaning assigned to it in the Act, as the same may be amended from time to time.

"Project Revenues" means all rents, rates, fees and charges imposed or charged for the connection to, or use or product of or services generated by the System to the

ultimate users or customers thereof, all payments under bulk contracts with municipalities, governmental instrumentalities or other bulk users, all subsidies or payments payable by Federal, State or local governments or governmental agencies on account of the cost of operation of, or the payment of the principal of or interest on moneys borrowed to finance costs chargeable to the System, all grants, payments and contributions made in aid or on account of the System exclusive of grants and similar payments and contributions solely in aid of construction and all accounts, contract rights and general intangibles representing the foregoing.

"Purchase and Remarketing Fund" means, with respect to each Series of Bonds subject to tender for purchase pursuant to an applicable Supplemental Ordinance or Determination, the Fund so designated in such Supplemental Ordinance.

"Qualified Escrow Securities" means funds which are represented by (a) demand deposits, interest-bearing time accounts, savings deposits or certificates of deposit, but only to the extent such deposits or accounts are fully insured by the Federal Deposit Insurance Corporation or any successor United States governmental agency, or to the extent not insured, fully secured and collateralized by Government Obligations having a market value (exclusive of accrued interest) at all times at least equal to the principal amount of such deposits or accounts, (b) if at the time permitted under the Act, obligations of any state or political subdivision thereof or any agency or instrumentality of such state or political subdivision for which cash, Government Obligations or a combination thereof have been irrevocably pledged to or deposited in a segregated escrow account for the payment when due of principal or redemption price of and interest on such obligations, and any such cash or Government Obligations pledged and deposited are payable as to principal or interest in such amounts and on such dates as may be

necessary without reinvestment to provide for the payment when due of the principal or redemption price of and interest on such obligations, and such obligations are rated by any Rating Agency in the highest rating category assigned by each such rating service to obligations of the same type, or (c) noncallable Government Obligations. In each case such funds (i) are subject to withdrawal, maturing or payable at the option of the holder, at or prior to the dates needed for disbursement, provided such deposits or accounts, whether deposited by the City or by such depository, are insured or secured as public deposits with securities having at all times a market value exclusive of accrued interest equal to the principal amount thereof, (ii) are irrevocably pledged for the payment of such obligations and (iii) are sufficient, together with the interest to disbursement date payable with respect thereto, if also pledged, to meet such obligations in full.

"Qualified Rebate Fund Securities" means either:

(a) Government Obligations; or

(b) rights to receive the principal of or the interest on Government Obligations through (i) direct ownership, as evidenced by physical possession of such Government Obligations or unmatured interest coupons or by registration as to ownership on the books of the issuer or its duly authorized paying agent or transfer agent, or (ii) purchase of certificates or other instruments evidencing an undivided ownership interest in payments of the principal of or interest on Government Obligations.

"Qualified Swap" or "Swap Agreement" means, with respect to a Series of Bonds, any financial arrangement that (i) is entered into by the City with an entity that is a Qualified Swap Provider at the time the arrangement is entered into; (ii) provides that (a) the City shall pay to such entity an amount based on the interest accruing at a fixed rate on an amount equal to the principal amount of the Outstanding Bonds of such Series, and that such entity

shall pay to the City an amount based on the interest accruing on a principal amount initially equal to the same principal amount as such Bonds, at either a variable rate of interest or a fixed rate of interest computed according to a formula set forth in such arrangement (which needs not be the same as the actual rate of interest borne by the Bonds) or that one shall pay to the other any net amount due under such arrangement or (b) the City shall pay to such entity an amount based on the interest accruing on the principal amount of the Outstanding Bonds of such Series at a variable rate of interest as set forth in the arrangement and that such entity shall pay to the City an amount based on interest accruing on a principal amount equal to the Outstanding Bonds of such Series at an agreed fixed rate (which shall not be the same as the rate on the Bonds) or that one shall pay to the other any net amount due under such arrangement; and (iii) which has been designated in writing to the Fiscal Agent by the City as a Qualified Swap with respect to the Bonds.

"Qualified Swap Provider" means, with respect to a Series of Bonds, an entity whose senior long term debt obligations, other senior unsecured long term obligations or claims paying ability, or whose payment obligations under a Qualified Swap are guaranteed by an entity whose senior long term debt obligations, other senior unsecured long term obligations or claims paying ability, are rated (at the time the subject Qualified Swap is entered into) at least as high as Aa by Moody's, and AA by S&P, or the equivalent thereof by any successor thereto.

"Rate Covenant" means the rate covenant contained in Section 5.01 hereof.

"Rate Stabilization Fund" means the Rate Stabilization Fund established in Section 4.04 hereof.

"Rating Agency" means Moody's, S&P or Fitch, to the extent that any of such rating services have issued a credit rating on the Bonds or, upon discontinuance of any of such

rating services, such other nationally recognized rating service or services if any such rating service has issued a credit rating on the Bonds.

"Rebate Bond Year," for purposes of Section 4.14 hereof and in order to facilitate compliance with the arbitrage rebate requirements of the Code, shall mean the period or periods specified in a Supplemental Ordinance or Determination for a Series of Bonds.

"Rebate Fund" means the Rebate Fund established in Section 4.04 hereof.

"Remarketing Agent" means a Remarketing Agent appointed in the manner provided in the applicable Supplemental Ordinance or Determination authorizing the issuance of Variable Rate Bonds.

"Remarketing Agreement" means an agreement providing for the remarketing of tendered Variable Rate Bonds by a Remarketing Agent, as more fully set forth and defined in the Supplemental Ordinance authorizing any Series of Variable Rate Bonds.

"Required Rebate Fund Balance" shall have the meaning set forth in Section 4.14 hereof.

"Residual Fund" means the Residual Fund established in Section 4.04 hereof.

"Revenue Fund" means the Revenue Fund established in Section 4.04 hereof.

"Series" when applied to Bonds means, collectively, all of the Bonds of a given issue authorized by Supplemental Ordinance, as provided herein, and may also mean, if appropriate, a subseries of any Series if, for any reason, the City should determine to divide any Series into one or more subseries of Bonds.

"S&P" means Standard & Poor's Corporation and any successor thereto.

"Sinking Fund" means the Sinking Fund established in Section 4.04 hereof.

"Sinking Fund Installment" means an amount so designated which is established pursuant to Section 3.01 hereof.

"Standby Agreement" with respect to a Series of Bonds, means an irrevocable letter of credit and related reimbursement agreement, line of credit, standby bond purchase agreement or similar agreement providing for the purchase of all or a portion of the Bonds of such Series, as amended, supplemented or extended from time to time.

"Standby Purchaser," with respect to a Series of Bonds, means the provider of the Standby Agreement for such Series of Bonds.

"Subordinated Bond" means any Bond referred to in, and complying with the provisions of, Section 5.04 hereof.

"Subordinated Bond Fund" means the Subordinated Bond Fund established in Section 4.04 hereof.

"Substitute Credit Facility" means any letter of credit, standby bond purchase agreement, line of credit, surety bond, insurance policy or other insurance commitment or similar agreement (other than a Qualified Swap or an Exchange Agreement) that replaces a Credit Facility and is provided by a commercial bank, insurance company or other financial institution with a current long term credit rating (or whose obligations thereunder are guaranteed by a financial institution with a long term rating) from Moody's and S&P not lower than the credit rating of any Series of Bonds which has no Credit Facility.

"Supplemental Ordinance" means an ordinance supplemental hereto enacted pursuant to the Act and this Ordinance by the Council of the City.

"System" means the entire combined water system and wastewater system of the City, now existing and hereafter acquired by lease, direct control, purchase or otherwise or

constructed by the City, including any interest or participation of the City in any facilities in connection with said System, together with all additions, betterments, extensions and improvements to said System or any part thereof hereafter constructed or acquired and together with all lands, easements, licenses and rights of way of the City and all other works, property or structures of the City and contract rights and other property or structures of the City and contract rights and other tangible and intangible assets of the City now or hereafter owned or used in connection with or related to said System.

"Tender Agent," with respect to a Series of Bonds, means any commercial bank or trust company organized under the laws of any state of the United States or any national banking association designated as a tender agent for such Series of Bonds, and its successor or successors hereafter appointed in the manner provided in the applicable Supplemental Ordinance or Determination.

"Uncertified Bond" means any Bond which is fully registered as to principal and interest and which is not represented by an instrument.

"Variable Rate Bond" means any Bond, the rate of interest on which is subject to change prior to maturity and cannot be determined in advance of such change.

"Water and Wastewater Funds" means, collectively, the Revenue Fund, the Sinking Fund, the Subordinated Bond Fund, the Rate Stabilization Fund, the Residual Fund and the Construction Fund.

"Water Commissioner" means the head of the Water Department as provided by the Philadelphia Home Rule Charter.

"Water Department" means the Water Department of the City created pursuant to Section 3-100 of the Philadelphia Home Rule Charter.

SECTION 2.02. *Interpretation.* All references in this Ordinance to articles, sections and other subdivisions of this Ordinance are to the designated articles, sections or other subdivisions of this Ordinance as amended and reenacted in 1993. The words "herein," "hereof," "hereby" and "hereunder" and other words of similar import refer to this Ordinance as a whole and not to any particular article, section or other subdivision. Any reference herein to the Act shall mean the Act as amended from time to time.

SECTION 2.03. *Descriptive Headings.* The table of contents and the descriptive headings of the several articles and sections of this Ordinance are inserted for convenience only and shall not control or affect the meaning or construction of any of its provisions.

SECTION 2.04. *Severability.* In case any one or more of the provisions contained in this Ordinance or in any Bond issued pursuant hereto shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Ordinance or of said Bonds, and this Ordinance or said Bonds shall be construed and enforced as if such invalid, illegal or unenforceable provisions had never been contained therein.

ARTICLE III

CONCERNING THE BONDS

SECTION 3.01. *Form and Terms of Bonds.* All Bonds shall be in substantially such form as may be approved by the City and set forth in the Supplemental Ordinance or Determination providing for the issuance thereof. Bonds shall be generally designated as Water and Wastewater Revenue Bonds of the City and shall be issued in such Series and within such Series in such subseries as the City may from time to time determine. The aggregate principal amount of Bonds which may be issued, authenticated and delivered under this Ordinance is unlimited, but prior to

the issuance of such Series of Bonds, the City shall enact a Supplemental Ordinance authorizing such Series and the maximum aggregate principal amount of such Series.

The Bonds shall be issued in fully registered form, except as provided in Section 3.11 hereof and, subject to the applicable provisions hereof, such Bonds shall be issued upon and contain such additional terms as may be set forth in the supplemental Ordinance and Determination providing for the issuance of the Bonds in question. As required by Section 5 of the Act, all Bonds shall contain a brief statement of the Project Revenues pledged as security therefor and the priority or priorities, if any, in the application of such pledged Project Revenues and shall contain a covenant of the City to pay from the pledged Project Revenues on the respective due dates the amounts required to pay the interest on and principal or redemption price of the Bonds. Bonds may be designated as of such Series by date, number, letter or otherwise and may also have such individual letters, identifying numbers or other marks, and such descriptive panels, registration panels, legends or endorsements placed thereon as may, consistent with this Ordinance and the Act, be determined by a Supplemental Ordinance, Determination or the Director of Finance. The Bonds may also have printed thereon or on the reverse thereof the text of an approving legal opinion with respect thereto. Any portion of the text of any Bond may be set forth on the reverse thereof with an appropriate reference on the face of the Bond.

The Bonds of each Series shall be issued in such aggregate principal amount, shall be in such denominations, shall mature or be subject to mandatory redemption in such principal amounts, on such dates and at such places, shall have such Sinking Fund Installments for Bonds of like maturity and interest rate, shall bear interest from such date or dates and at such rate or rates (including variable, adjustable, convertible or other rates),

shall be subject to optional redemption at such times and upon such terms, shall (if such Bonds are Option Bonds) be subject to optional or mandatory tender, and shall contain such other terms and conditions not inconsistent with this General Ordinance or the Act, all as shall be determined by the City and set forth in the Supplemental Ordinance or Determination under which such Bonds are issued, or as shall be determined by a designated officer or officers of the City thereunto authorized by the Supplemental Ordinance, or in the absence of such provisions or designation, as shall be determined by the Director of Finance as specified in Section 3.02 hereof.

If permitted by applicable law, any Series of Bonds may be issued as Uncertificated Bonds and the foregoing provisions specifying the form of Bonds shall be inapplicable to such Series.

A Series of Bonds may be secured by a Credit Facility meeting the requirements of this General Ordinance and the applicable Supplemental Ordinance. In connection with the issuance of its Bonds or at any time thereafter so long as a Series of Bonds remains Outstanding, the City also may enter into Qualified Swaps or Exchange Agreements if the Bond Committee determines that such Qualified Swap or Exchange Agreement will assist the City in more effectively managing its interest costs. The City's payment obligation under any Qualified Swap shall be made from the Sinking Fund and its payment obligation under any such Exchange Agreement shall be made from the Residual Fund created pursuant to Section 4.04 hereof. Unless otherwise acknowledged by each Rating Agency by virtue of its confirmation of the existing credit ratings on the City's Outstanding Bonds, the City will not enter into any Qualified Swap or Exchange Agreement unless it gives at least fifteen (15) day's advance notice of its intention to do so to each of the Rating

Agencies, which notice shall specify the identity of the Qualified Swap Provider or Exchange Agreement counterparty, as the case may be.

SECTION 3.02 *Sale of Bonds; Taxes Not to be Assumed; Authority of Director of Finance.* Bonds may be sold by the City at public, private, or invited sale upon such terms not inconsistent with the Act and at such prices as the City may determine. To the extent that the Supplemental Ordinance authorizing any Series of Bonds and the Determination relating to such Series shall not otherwise provide:

(a) all Bonds shall be sold at competitive public sale to the purchaser or purchasers submitting the highest and best bid upon such terms and conditions of the bidding as shall be specified in an official notice of sale issued in the name of the City by the Director of Finance;

(b) no covenant to pay or assume any taxes shall be included in such Bonds; and,

(c) subject to the foregoing, the terms upon which are the prices for which the Bonds are to be sold or exchange, and the form, terms or provisions of the Bonds including, without limitation, the matters referred to in Section 5 of the Act, shall be determined by the Director of Finance who is hereby designated as the officer of the City authorized to make such determinations based, to the extent applicable, on the prices, interest rates or other terms set forth in the highest and best proposal conforming to the bidding specifications, as ascertained and accepted on behalf of the City by the Director of Finance.

SECTION 3.03 *Payments of Principal, Redemption Price and Interest; Date of Bonds.* Unless otherwise provided in any Bond or the Supplemental Ordinance or Determination relating thereto:

(a) The principal or redemption price of each Bond shall be payable upon surrender thereof at the principal

Philadelphia office of the Fiscal Agent in Philadelphia, Pennsylvania or at the principal office of a paying agent designated in such Bonds.

(b) The interest due on any Bond in fully registered form shall be payable by check or draft mailed to the Holder thereof, or at the request of a Holder of one million (1,000,000) dollars or more in principal amount or maturity value of Bonds by wire transfer to an account at a financial institution in the United States, designated in writing to the Fiscal Agent or the paying agent, subject to such provisions concerning record dates as may be contained in such Bond and in the Supplemental Ordinance and Determination providing for the issuance and terms thereof.

(c) The principal or redemption price of and the interest on each Bond shall be payable in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts, provided that if applicable law permits, the principal or redemption price of and the interest on Bonds of a Series may be payable in such foreign currency as may be specified in the Supplemental Ordinance authorizing such Series of Bonds.

(d) Fully registered Bonds of each Series shall be dated as of the date six (6) months preceding the interest payment date next following the date of execution thereof by the Fiscal Agent, unless such date of execution shall be an interest payment date, in which case they shall be dated as of such date of execution; provided, however, that if, as shown by the records of the Fiscal Agent, interest on the Bonds of any Series shall be in default, fully registered Bonds of such Series issued in lieu of Bonds surrendered for transfer or exchange may be dated as of the date to which interest has been paid in full on the Bonds surrendered. Fully registered Bonds of each Series shall bear interest from their date.

Notwithstanding any other provision in this Ordinance to the contrary, the foregoing provisions of this Section are subject to the express understanding that the principal of and interest on all Bonds issued hereunder and the premium, if any, payable on redemption thereof, shall be payable only from Project Revenues and other funds provided for the payment of Bonds. The Bonds are not general obligations of the City and do not pledge the general credit or taxing power or create any debt or charge against the general revenues of the City, or create any lien against any property of the City other than pledged Project Revenues.

SECTION 3.04. *Execution of Bonds.* The Bonds shall be executed on behalf of the City by the Fiscal Agent by the manual signatures of two of its duly authorized officers or signers, under the seal of the City which shall be either affixed or reproduced thereon in facsimile and shall be countersigned and attested by the manual or facsimile signature of the City Controller, all in accordance with the Act of March 24, 1949, P.L. 312, or in such other manner as shall be authorized by law and prescribed by Supplemental Ordinance. Any such Bonds may be executed, issued and delivered notwithstanding that one or more of the officers or signers signing such Bonds or whose facsimile signature shall be upon such Bonds shall have ceased to be such officers or signers at the time when such Bonds shall actually be delivered, and although at the nominal date of the Bond any such person shall not have been such officer or signer.

If the Bond Registrar (as defined in Section 3.05) is other than the Fiscal Agent, the Fiscal Agent may delegate to the Bond Registrar the power to execute the Bonds on the Fiscal Agent's behalf. Delivery of Bonds in connection with transfers and exchanges under Section 3.06, 3.07 and 3.08 hereof shall, for all purposes of this Ordinance, be deemed to be execution and delivery by the Fiscal Agent. The Fiscal Agent shall, however, itself execute all Bonds

upon their initial issuance and any Bonds issued in substitution for other Bonds pursuant to Sections 3.09 and 3.10.

SECTION 3.05. *Bond Registrar and Bond Register.* The City shall designate one or more persons to act as "Bond Registrar" for the Bonds provided that the Bond Registrar appointed for the Bonds shall be either the Fiscal Agent or a person which would meet the requirements for qualification as a Fiscal Agent imposed by Section 7.01 hereof. Any person other than the Fiscal Agent undertaking to act as Bond Registrar shall first execute a written agreement, in form satisfactory to the City and the Fiscal Agent, to perform the duties of a Bond Registrar under this Ordinance, which agreement shall be filed with the Fiscal Agent.

The Bond Registrar shall act as registrar and transfer agent for the Bonds. The City shall cause to be kept at an office of the Bond Registrar (herein sometimes referred to as "Bond Register") in which, subject to such reasonable regulations as it, the Fiscal Agent or the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and for the registration of transfers of the Bonds. The City shall cause the Bond Registrar to designate, by a written notification to the Fiscal Agent, a specific office location (which may be changed from time to time, upon similar notification) at which the Bond Register is kept. The principal corporate trust office of the Fiscal Agent shall be such office in respect of the Bonds for which the Fiscal Agent is acting as Bond Registrar.

The Bond Registrar shall, in any case where it is not also the Fiscal Agent, forthwith following each regular record date and at any other time as reasonably requested by the Fiscal Agent, certify and furnish to the Fiscal Agent and any paying agent as the Fiscal Agent shall specify, the names, addresses, and holdings of Bondholders and any other relevant information reflected in the Bond Register, and the Fiscal Agent and any such paying agent shall for

all purposes be fully entitled to rely upon the information so furnished to it and shall have no liability or responsibility in connection with the preparation thereof.

SECTION 3.06. *Interchangeability of Bonds.* Fully registered Bonds, upon surrender thereof at the office of Bond Registrar with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or his duly authorized attorney may at the option of the registered owner thereof, and upon payment by such registered owner of any charges which the City or Bond Registrar may make as provided in Section 3.07 hereof, be exchanged for an equal aggregate principal amount of fully registered Bonds of the same Series, maturity and interest rate of any other authorized denominations.

SECTION 3.07. *Negotiability, Transfer and Registry.* Fully registered Bonds, shall be transferable only by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney. Upon the transfer of any such fully registered Bonds the City shall issue and the Bond Registrar shall execute in the name of the transferee a new fully registered Bond or Bonds of the same aggregate principal amount and Series, maturity and interest rate as the surrendered Bonds.

The City, the Fiscal Agent and any paying agent designated in the Bonds may deem and treat the person in whose name any Bond shall be registered in the Bond Register as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and redemption price of and interest on such Bond and for all other purposes, and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such

Bond to the extent of the sum or sums so paid, and neither the City, the Fiscal Agent nor any paying agent designated in the Bond shall be affected by any notice to the contrary.

Any consent, waiver or other action taken by the registered owner of any Bond pursuant to the provisions of this Ordinance shall be conclusive and binding upon such Holder, his heirs, successors or assigns, and upon all transferees of such Bond whether or not notation of such consent, waiver or other action shall have been made on such Bond or on any Bond issued in exchange therefor.

SECTION 3.08. *Regulations With Respect to Exchanges and Transfers.* In all cases in which the privilege of exchanging Bonds or transferring registered Bonds is exercised, the City shall execute and deliver Bonds in accordance with the provisions of this Ordinance. All Bonds surrendered in any such exchanges or transfers shall forthwith be delivered to the Bond Registrar and cancelled or retained by the Bond Registrar. For every such exchange or transfer of Bonds, whether temporary or definitive, the City or the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge imposed by a governmental unit other than the City in connection with said exchange, transfer or registration and for any charge of insuring Bonds during the delivery thereof. Neither the City nor the Bond Registrar shall be required (a) to transfer or exchange Bonds of any Series for a period of 20 days next preceding any selection of Bonds to be redeemed or thereafter until after the first mailing of any notice of redemption, or (b) to transfer, exchange or register any Bonds called for redemption.

SECTION 3.09. *Bonds Mutilated, Destroyed, Stolen or Lost.* If any Bond becomes mutilated or is lost, stolen or destroyed, the City and the Fiscal Agent shall execute and deliver a new Bond of like date of issue, maturity date, principal amount and interest rate per annum as the Bond so mutilated, lost, stolen or destroyed, provided that (i) in

the case of such mutilated Bond, such Bond is first surrendered to the City or the Bond Registrar, (ii) in the case of any such lost, stolen or destroyed Bond, there is first furnished evidence of such loss, theft or destruction satisfactory to the City or the Bond Registrar together with indemnity satisfactory to the City, (iii) all other reasonable requirements of the City are complied with, and (iv) expenses in connection with such transaction are paid by the Holder. Any such Bond surrendered for exchange shall be cancelled. Any such new Bonds issued pursuant to this Section in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the City, whether or not the Bonds so alleged to be destroyed, stolen or lost be at any time enforceable by anyone, and shall be equally secured by and entitled to equal and proportionate benefits with all other Bonds issued under this Ordinance.

SECTION 3.10. *Temporary Bonds.* Until the definitive Bonds of any Series are prepared, the City may execute and the Fiscal Agent shall execute, if the City so directs, in the same manner as is provided in Section 3.04 hereof, and deliver, in lieu of definitive Bonds, but subject to the same provisions, limitations and conditions as the definitive Bonds, one or more temporary Bonds substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, in denominations equal to the minimum denomination of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued or any multiples thereof authorized by the City, and with such omissions, insertions and variations as may be appropriate to temporary Bonds. Until exchanged for Bonds in definitive form such temporary Bond or Bonds shall be entitled to the benefits of this Ordinance. The City at its own expense shall prepare and the City and the Fiscal Agent shall execute, if the City so directs, upon the surrender of such temporary Bonds by the Holder thereof, and without charge to the Holder thereof, deliver in exchange therefor, definitive

Bonds, of the same aggregate principal amount, Series, maturity and interest rate as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds authenticated and issued pursuant to this Ordinance.

If the City shall authorize the issuance of temporary Bonds in more than one denomination, the Holder of any temporary Bond or Bonds may, at his option, surrender the same to the Fiscal Agent in exchange for another temporary Bond or Bonds of like aggregate principal amount, Series, maturity and interest rate of any other authorized denomination or denominations, and thereupon the City and the Fiscal Agent shall execute and, in exchange for the temporary Bond or Bonds so surrendered and upon payment of the taxes, fees and charges provided for in Section 3.08 hereof, shall deliver a temporary Bond or Bonds of like aggregate principal amount, Series, maturity and interest rate in such other authorized denomination or denominations as shall be requested by such Holder.

All temporary Bonds surrendered in exchange either for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith cancelled by the Fiscal Agent.

SECTION 3.11 *Coupon Bonds.* The Act authorizes the Bonds to be issuable in coupon form. Notwithstanding such authorization pursuant to the Act, any Series of Bonds, the interest on which is excludable from gross income tax purposes, shall not be issued in coupon form unless the Fiscal Agent receives an opinion of Bond Counsel satisfactory to the Fiscal Agent to the effect that execution and delivery of Coupon Bonds will not adversely affect the exclusion of interest on such Series of Bonds from gross income for federal income tax purposes. Taxable Bonds may be issued in coupon form as provided by Supplemental Ordinance.

SECTION 3.12. *Credit Enhancement; Exchange Agreements; Qualified Swaps.* As provided by Supplemental Ordinance or Determination relating to any Series of Bonds and subject to the requirements of this General Ordinance, the City may provide for a Credit Facility, Exchange Agreement or Qualified Swap with respect to any Series of Bonds.

ARTICLE IV

ISSUANCE OF BONDS; ESTABLISHMENT OF FUNDS AND ACCOUNTS

SECTION 4.01 *Purpose of Bonds; Combination of Projects for Financing Purposes.* The Bonds issued under this Ordinance shall be issued for the purpose (i) of paying the costs of Projects relating to the System, (ii) of reimbursing any fund of the City from which such costs shall have been paid or advanced, (iii) of funding any of such costs for which the City shall have outstanding bond anticipation notes or other obligations, (iv) of refunding any Bonds or bonds of the City issued for the foregoing purposes or (v) of financing anything else relating to the System permitted under the Act. The water and wastewater systems of the City (referenced in the definition of System in Section 2.01 hereof) are hereby combined as a Project for the purpose of capital financing but the separate accounts or subaccounts required by the Philadelphia Home Rule Charter shall be maintained within the funds and accounts established hereunder in accordance therewith.

SECTION 4.02 *Pledge of Revenues; Grant of Security Interest; Limitation on Recourse.* The City hereby pledges, and assigns to the Fiscal Agent, its successors in trust and its assigns, for the security and payment of all Bonds (other than Subordinated Bonds) and hereby grants to said Fiscal Agent, its successors in trust and its assigns, a lien on and security interest in (i) all Project Revenues and (ii) all amounts on deposit in or standing to the credit of the funds and accounts (other than the Rebate Fund)

established in Section 4.04 hereof together with interest earnings on amounts in such funds and accounts (other than the Rebate Fund). The Fiscal Agent shall hold and apply the security interest granted hereby and the pledged revenues and funds described herein, in trust, for the equal and ratable benefit and security of all present and future Holders of Bonds (other than Subordinated Bonds) issued pursuant to the provisions of this Ordinance and each Supplemental Ordinance, without preference, priority or distinction of any one Bond over any other Bond (other than Subordinated Bonds); provided however, that the pledge of this Ordinance may also be for the benefit of a Credit Facility and Qualified Swap, or any other person who undertakes to provide moneys for the account of the City for the payment of principal or redemption price of and interest on any Series of Bonds (other than Subordinated Bonds), on an equal and ratable basis with Bonds, to the extent provided by any Supplemental Ordinance or Determination.

For the purpose of compliance with the filing requirements of the Uniform Commercial Code in order to perfect the security interest herein granted, the Fiscal Agent shall be deemed to be, and the City hereby recognizes the Fiscal Agent as, the representative of Bondholders to execute financing statements as the secured party.

Neither the Bonds nor the City's reimbursement or other contractual obligations under any Credit Facility, Qualified Swap or Exchange Agreement shall constitute a general indebtedness or a pledge of the full faith and credit of the City within the meaning of any constitutional or statutory provision or limitation of indebtedness. No Bondholder or beneficiary of any of the foregoing agreements shall ever have the right, directly or indirectly, to require or compel the exercise of the ad valorem taxing power of the City for the payment of the principal and redemption price of or interest on the Bonds

or the making of any payments hereunder. The Bonds and the obligations evidenced thereby and by the foregoing agreements, shall not constitute a lien on any property of or in the City, other than the Project Revenues and amounts on deposit in or standing to the credit of the Water and Wastewater Funds established in Section 4.04 hereof and interest earnings on amounts in such funds.

SECTION 4.03. *Bonds to be Parity Bonds.* All Bonds issued hereunder (other than Subordinated Bonds) shall be parity Bonds equally and ratably secured by the pledge of and grant of the security interest in the Project Revenues and the amounts on deposit in or standing to the credit of the funds and accounts (other than the Rebate Fund) established in Section 4.04 hereof, together with interest earnings on amounts in such funds and accounts (other than the Rebate Fund) without preference, priority or distinction as to lien or otherwise, except as otherwise hereinafter provided, of any one Bond over any other Bond or as between principal and interest.

The City hereby reserves the right, and nothing herein shall be construed to impair such right, to finance improvements to the System by the issuance of its general obligation bonds or by the issuance, under ordinances other than Supplemental Ordinances, of water and/or wastewater revenue bonds or notes for the payment of which Project Revenues may be used or pledged subject and subordinate to the payment from such Project Revenues of the payments described in Section 4.06(a) through (e) hereof and subject to the elimination of any deficiency in any fund or account established hereunder or under any Supplemental Ordinance.

SECTION 4.04. *Establishment of Funds and Accounts.* The following funds and accounts are hereby established and shall be held by the Fiscal Agent:

- (a) Revenue Fund.

(b) Sinking Fund and within such Fund a Debt Service Account, a Charges Account and a Debt Reserve Account.

(c) Subordinated Bond Fund.

(d) Rate Stabilization Fund.

(e) Residual Fund.

(f) Construction Fund, and within the Construction Fund, separate accounts designated as follows:

(i) the Existing Projects Account, into which existing proceeds, if any, of revenue Bonds heretofore issued under the Act in respect of the System shall be deposited;

(ii) the Bond Proceeds Account, into which proceeds of Bonds issued hereunder shall be deposited; and

(iii) the Capital Account.

(g) Rebate Fund.

Nothing herein shall be construed to prevent the City from establishing, in connection with the issuance of one or more Series of Bonds, additional funds or accounts to be held for the benefit of one or more Series of Bonds issued hereunder, as set forth in Supplemental Ordinances; provided that, no such additional funds or accounts shall be established unless, in the opinion of Bond Counsel, establishment of additional funds or accounts would not adversely affect the exclusion of interest on Bonds, if any, from gross income for federal income tax purposes.

SECTION 4.05. *Segregation of Water and Wastewater Funds; Deposit of Project Revenues into Revenue Fund.*

(a) The Water and Wastewater Funds shall be held separate and apart from all other funds and accounts of the City and the Fiscal Agent and the funds and accounts

therein shall not be commingled with, loaned or transferred among themselves or to any other City funds or accounts except as expressly permitted herein.

(b) The City shall cause all Project Revenues received by it on any date to be deposited into the Revenue Fund upon receipt thereof by the City and the Fiscal Agent shall, upon receipt of Project Revenues, deposit such Project Revenues into the Revenue Fund. The City and Fiscal Agent also shall cause to be deposited into the Revenue Fund such portion of proceeds of Bonds as designated by Supplemental Ordinance or Determination and any other funds directed to be deposited into the Revenue Fund by the City. The Fiscal Agent shall, at the written direction of the City, disburse from the Revenue Fund the amounts and at the times specified in Section 4.06 hereof.

(c) If at any time sufficient moneys are not available in the Revenue Fund to pay Operating Expenses and to make the transfers required by Section 4.06 hereof, then amounts on deposit in the Construction Fund, Rate Stabilization Fund and Residual Fund may be loaned temporarily, at the written direction of the City, to the Revenue Fund for the payment of such Operating Expenses to the extent of the deficiency, until such loaned amounts are required by the Water Department for purposes of the Fund making the loan. If a similar deficiency exists in the Construction Fund, amounts on deposit in the Revenue Fund, Rate Stabilization Fund and Residual Fund may be loaned temporarily, at the written direction of the City, to the Construction Fund, to the extent of the deficiency, until required by the Water Department for purposes of the Fund making the loan.

SECTION 4.06. *Transfer from Revenue Fund to Other Funds and Accounts.* Amounts on deposit in the Revenue Fund shall be applied by the Fiscal Agent, at the written direction of the City, in the following manner and in the following order of priority:

(a) to the City or its designees to pay such sums as are necessary to meet Operating Expenses in a timely manner;

(b)(i) on or before the dates that the principal or redemption price of and interest on Bonds (other than Subordinated Bonds) or payments under a Swap Agreement or Credit Facility are due, to deposit in the Debt Service Account of the Sinking Fund the amount necessary to provide for the timely payment of the principal or redemption price of and interest on such Bonds (other than Subordinated Bonds), any payments under any Swap Agreement and any amounts under a Credit Facility to repay advances thereunder to pay any of the foregoing, and (ii) on or before the dates that other payments are due under any Credit Facility with respect to Bonds (other than Subordinated Bonds) to deposit in the Charges Account of the Sinking Fund the amount necessary to make such payments;

(c) if the transfers in subparagraphs (a) and (b) are being made according to schedule, for deposit in the Debt Reserve Account, the amount, if any, required to eliminate any deficiency therein;

(d) if the transfers in subparagraphs (a) and (b) are being made according to schedule, and following any transfer required pursuant to subparagraph (c), to deposit in any debt reserve account established within the Sinking Fund and not held for the equal and ratable benefit of all Bonds (other than Subordinated Bonds), the amount, if any, required to eliminate any deficiency therein;

(e) if the transfers in subparagraphs (a) and (b) are being made according to schedule, and following any transfer then required to be made pursuant to subparagraphs (c) and (d), to deposit in the Subordinated Bond Fund the amount necessary to provide for the timely payment of the principal or redemption price of and interest on Subordinated Bonds, and forward to the

paying agent in respect of bond anticipation notes (payable by exchange for, or out of the proceeds of the sale of Subordinated Bonds) the amount necessary to provide for the timely payment of interest thereon (to the extent not capitalized);

(f) if the transfers in subparagraphs (a) and (b) are being made according to schedule, and following any transfer then required to be made pursuant to subparagraphs (c), (d) and (e) to pay to the City the amount necessary to provide for the timely payment of the principal or redemption price of and interest on General Obligation Bonds;

(g) if the transfers in subparagraphs (a) and (b) are being made according to schedule, and following any transfer then required to be made pursuant to subparagraphs (c), (d), (e) and (f), to transfer to the Rate Stabilization Fund such amount as the Water Commissioner may determine, the first such determination to be made on the Effective Date and to include the balance on that date in the Renewal and Replacement Fund created under the Prior Ordinance and the unencumbered operating balance of the Water Department as of the end of the Fiscal Year immediately preceding the Effective Date;

(h) if the transfers in subparagraphs (a) and (b) are being made according to schedule, and following any transfer then required to be made pursuant to subparagraphs (c), (d), (e), (f) and (g), to transfer to the Capital Account of the Construction Fund on June 20, of each Fiscal Year (or the first business day following June 20 if June 20 is not a business day) an amount equal to the sum of (i) the Capital Account Deposit Amount, (ii) the Debt Service Withdrawal for the preceding Fiscal Year and (iii) the Operating Expense Withdrawal for the preceding Fiscal Year, less any amounts transferred during the Fiscal Year to such Capital Account from the Residual Fund; and

(i) if the transfers in subparagraphs (a) and (b) are being made according to schedule, and following any transfer then required to be made pursuant to subparagraphs (c), (d), (e), (f), (g) and (h) and after providing for the repayment of any inter-Fund loans, to transfer as of June 30 of each year all remaining amounts to the Residual Fund.

Notwithstanding the foregoing, nothing herein shall prevent the City from directing the transfer of amounts on deposit in any fund or account established hereunder into the Rebate Fund in the amounts and at the time specified by Section 4.14 hereof.

SECTION 4.07. Sinking Fund. The Sinking Fund shall be a consolidated fund for the equal and proportionate benefit of the Holders of all Bonds (other than Subordinated Bonds) from time to time Outstanding and each account therein may be invested and reinvested on a consolidated basis.

The Fiscal Agent, as directed by the City by Supplemental Ordinance, Determination or other written direction, shall pay out of the Debt Service Account of the Sinking Fund to the designated paying agent or agents (i) on or before each interest payment date for any of the Bonds (other than Subordinated Bonds) the amount required for the interest payable on such date; and (ii) on or before each principal, redemption or prepayment date for any Bonds (other than Subordinated Bonds), the amount required for the principal, redemption or prepayment payable on such date, and (iii) on or before the respective due dates the amounts, if any, due under any Swap Agreements. Such amounts shall be applied by the designated paying agent or agents on the due dates thereof. The Fiscal Agent shall also pay out of the Debt Service Account of the Sinking Fund the accrued interest included in the purchase price of Bonds purchased for retirement and on or before the due dates any amounts

owing by the City under any Credit Facility on account of advances to pay principal of or interest or redemption premium on Bonds (other than Subordinated Bonds).

Amounts accumulated in the Debt Service Account with respect to any Sinking Fund Installment (together with amounts accumulated therein with respect to interest on the Bonds for which such Sinking Fund Installment was established) if so directed by the City, shall be applied by the Fiscal Agent, on or prior to the 60th day preceding the due date of such Sinking Fund Installment, to the purchase of Bonds of the Series, maturity and interest rate within each maturity for which such Sinking Fund Installment was established. All purchases of Bonds pursuant to this paragraph shall be made at prices not exceeding the applicable sinking fund redemption price of such Bonds plus accrued interest, and such purchases shall be made by the Fiscal Agent as directed by the City. As soon as practicable after the 42nd day preceding the due date of any such Sinking Fund Installment, the Fiscal Agent shall proceed to call for redemption, by giving notice as provided in Section 6.03 hereof, on such due date Bonds of the Series, maturity and interest rate within each maturity for which such Sinking Fund Installment was established (except in the case of Bonds maturing on a Sinking Fund Installment date) in such amount as shall be necessary to complete the retirement of the unsatisfied balance of such Sinking Fund Installment after making allowance for any Bonds purchased pursuant to Section 4.10 hereof which the City has directed the Fiscal Agent to apply as a credit against such Sinking Fund Installment as provided in Section 4.08 hereof. The Fiscal Agent shall pay out of the Sinking Fund to the appropriate paying agent or agents, on or before such redemption date (or maturity date) the amount required for the redemption of the Bonds so called for redemption (or for the payment of such Bonds then maturing) and such amount shall be applied by such paying agent or agents to such redemption

(or payment). All expenses in connection with the purchase or redemption of Bonds shall be paid by the City from Project Revenues.

In the event of the refunding of any Bonds, the Fiscal Agent shall, if the City so directs, withdraw from the Sinking Fund all, or any portion of, the amounts accumulated therein with respect to principal or interest on the Bonds being refunded and deposit such amounts with itself or another financial institution serving as escrow agent to be held for the payment of the principal or redemption price, if applicable, and interest on the Bonds being refunded; provided that such withdrawal shall not be made unless immediately thereafter the Bonds being refunded shall be deemed to have been paid pursuant to Section 11.01 hereof. In the event of a refunding, the City may also direct the Fiscal Agent to withdraw from the Sinking Fund all, or a portion of, the amounts accumulated therein with respect to principal and interest on the Bonds being refunded and deposit such amounts in any fund or account established under this Ordinance.

If any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity or otherwise or at the date fixed for redemption thereof, if moneys sufficient to pay such Bond shall have been deposited with the Fiscal Agent, it shall be the duty of the Fiscal Agent to hold such moneys, without liability to the City, any Bondholder or any other person for interest thereon, for the benefit of the owner of such Bond. Notwithstanding the foregoing, any moneys in the Sinking Fund for the payment of the interest, principal or redemption premium of Bonds unclaimed for two (2) years after the due date shall be repaid to the City but such repayment shall not discharge the obligation, if any, for which such moneys were previously held in the Sinking Fund; provided, however, that such repayment shall not

be made unless, at the time of such repayment, there shall exist no deficiency in any fund or account established under this Ordinance or any Supplemental Ordinance.

The Fiscal Agent shall pay out of the Charges Account to the appropriate payees any fees, expenses and other amounts due under any Credit Facility with respect to Bonds (other than Subordinated Bonds), to the extent such amounts are not paid from the Debt Service Account.

SECTION 4.08. Credits Against Sinking Fund Installments. If at any time Bonds of any Series or maturity for which Sinking Fund Installments shall have been established are purchased or redeemed other than pursuant to the third paragraph of Section 4.07 hereof or are deemed to have been paid pursuant to Section 11.01 hereof and, with respect to such Bonds which have been deemed paid, irrevocable instructions have been given to the Fiscal Agent to redeem or purchase the same on or prior to the due date of the Sinking Fund Installment to be credited under this Section, the City may from time to time and at any time by written notice to the Fiscal Agent specify the portion, if any, of such Bonds so purchased, redeemed or deemed to have been paid and not previously applied as a credit against any Sinking Fund Installment which are to be credited against future Sinking Fund Installments. Such notice shall specify the amounts of such Bonds to be applied as a credit against such Sinking Fund Installment or Installments and the particular Sinking Fund Installment or Installments against which such Bonds are to be applied as a credit; provided, however that none of such Bonds may be applied as a credit against a Sinking Fund Installment to become due less than forty-two (42) days after such notice is delivered to the Fiscal Agent. All such Bonds to be applied as a credit shall be surrendered to the Fiscal Agent for cancellation on or prior to the due date of the Sinking Fund Installment against which they are being applied as a credit. The portion of any such Sinking Fund Installment remaining

after the deduction of any such amounts credited toward the same (or the original amount of any such Sinking Fund Installment if no such amounts shall have been credited toward the same) shall constitute the unsatisfied balance of such Sinking Fund Installment for the purpose of calculation of Sinking Fund Installments due on a future date.

SECTION 4.09. *Debt Reserve Account.* Unless otherwise provided in the applicable Supplemental Ordinance in compliance with this Section 4.09, the City shall, under direction of the Director of Finance, deposit in the Debt Reserve Account from the proceeds of sale of each Series of Bonds issued hereunder, an amount which, when added to the existing balance in the Debt Reserve Account, will be equal to the Debt Reserve Requirement immediately after the issuance of such Series of Bonds. The money and investments in the Debt Reserve Account shall be held and maintained in an amount equal at all times to the Debt Reserve Requirement provided that if the Supplemental Ordinance authorizing a Series of Bonds shall authorize the accumulation from Project Revenues of a reserve of such amount in respect of such Bonds over a period of not more than three (3) Fiscal Years after the issuance and delivery of such Bonds, then the full payment of the annual deposits required under such Supplemental Ordinance will meet the Debt Reserve Requirements of this Ordinance in respect of such Bonds.

If at any time and for any reason, the moneys in the Debt Service Account of the Sinking Fund shall be insufficient to pay as and when due, the principal of (and premium, if any) or interest on any Bond or Bonds or other obligations payable from the Debt Service Account then due (including under Swap Agreements and Credit Facilities), the Fiscal Agent is hereby authorized and directed to withdrawn from the Debt Reserve Account and pay over the amount of such deficiency for deposit in the Debt Service Account. If by reason of such withdrawal or

for any other reason there shall be a deficiency in the Debt Reserve Account the City hereby covenants to restore such deficiency promptly from Net Revenues.

Any money in the Debt Reserve Account in excess of the Debt Reserve Requirement shall be transferred to the Revenue Fund at the written direction of the City.

Notwithstanding the foregoing provisions, in lieu of the required deposits into the Debt Reserve Account, the City may cause to be deposited into the Debt Reserve Account a surety bond or an insurance policy payable to the Fiscal Agent for the account of the Bondholders and any Qualified Swap or an irrevocable letter of credit in an amount equal to the difference between the Debt Reserve Requirement and the remaining sums, if any, then on deposit in the Debt Reserve Account. The surety bond, insurance policy or letter of credit shall be payable (upon the giving of notice as required thereunder) on any interest payment date on which moneys will be required to be withdrawn from the Debt Reserve Account and applied to the payment of debt service on the Bonds and such withdrawal cannot be met by amounts on deposit in the Debt Reserve Account or provided from any other Fund under this Ordinance. The insurer providing such surety bond or insurance policy shall be an insurer whose municipal bond insurance policies insuring the payment, when due, of the principal of and interest on municipal bond issues results in such issues being rated in not lower than the second highest rating category (without regard to rating subcategories) by either Moody's or S&P. The letter of credit issuer shall be a bank or trust company which is rated not lower than the second highest rating category (without regard to rating sub-categories) by either Moody's or S&P, and the letter of credit itself shall be rated in at least the second highest category of either such Rating Agencies. If a disbursement is made pursuant to a surety bond, an insurance policy or a letter of credit provided pursuant to this subsection, the City shall be

obligated either (i) to reinstate the maximum limits of such surety bond, insurance policy or letter of credit or (ii) to deposit into the Debt Reserve Account, funds in the amount of the disbursement made under such surety bond, insurance policy or letter of credit, or a combination of such alternatives, as shall provide that the amount in the Debt Reserve Account equals the Debt Reserve Requirement within a time period not longer than would be required to restore the Debt Reserve Account by operation of this Section 4.09 and from the same source of funds as provided herein. Upon the occurrence of any reduction or suspension of any credit rating with respect to such surety bond, insurance policy or letter of credit (or the provider thereof) required by this Section 4.09, the City shall so notify the provider of the surety bond, insurance policy or letter of credit and prior to the effective date of such cancellation shall either provide a substitute surety bond, insurance policy or letter of credit meeting the requirements of this Section 4.09 or shall deposit cash in the Debt Reserve Account so that the amount in such Account shall equal the Debt Reserve Requirement.

SECTION 4.10. Subordinated Bond Fund. Subject to the third paragraph of this Section, the Fiscal Agent shall apply amounts in the Subordinated Bond Fund to the payment of the principal of, redemption premium, if any, and interest on Subordinated Bonds of a Series and to payments due under any Credit Facilities and Exchange Agreements with respect to Subordinated Bonds in accordance with the provisions of, and subject to the priorities and limitations and restrictions provided in, the Supplemental Ordinance and Determination authorizing such Series of Subordinated Bonds.

At any time and from time to time the City may deposit in the Subordinated Bond Fund for the payment of the principal of, redemption premium, if any, and interest on Subordinated Bonds amounts received from any source

other than Project Revenues which is not inconsistent with this Ordinance or any Supplemental Ordinance or Determination.

If at any time the amounts in the Sinking Fund shall be less than the current requirement of such fund pursuant to paragraphs (b) and (c) of Section 4.06 hereof and there shall not be on deposit in the Debt Reserve Account, the Capital Account or the Residual Fund available moneys sufficient to cure such deficiency, then the Fiscal Agent shall withdraw from the Subordinated Bond Fund and deposit in the Sinking Fund the amount necessary (or all the moneys in said fund, if less than the amount necessary) to eliminate such deficiency.

Any moneys in the Subordinated Bond Fund for the payment of the interest, principal or redemption premium of Subordinated Bonds unclaimed for two (2) years after the due date shall be repaid to the City but such repayment shall not discharge the obligation, if any, for which such moneys were previously held in the Subordinated Bond Fund; provided, however, that such repayment shall not be made unless, at the time of such repayment, there shall exist no deficiency in any fund or account established under this Ordinance or any Supplemental Ordinance.

SECTION 4.11. *Construction Fund.* Proceeds of Bonds issued for capital purposes shall be deposited into the Bond Proceeds Account of the Construction Fund and disbursed according to established procedures of the City.

The Fiscal Agent shall on the Effective Date deposit in the Existing Projects Account proceeds of Prior Bonds as directed by a Supplemental Ordinance or Determination; deposit in the Bond Proceeds Account the proceeds of Bonds as directed by a Supplemental Ordinance or Determination; and deposit in the Capital Account any amounts transferred pursuant to Section 4.06(h) hereof. Amounts in the Existing Projects Account and Bond

Proceeds Account shall be applied as directed in writing by the City for purposes permitted by the Act and the Bonds and such other purposes as are permitted under the Ordinance.

Amounts deposited in the Capital Account may be applied at the written direction of the City to (i) payments for the cost of renewals, replacements and improvements to the System; (ii) payments into the Sinking Fund or into the Subordinated Bond Fund to cure a deficiency in one of the foregoing; or (iii) the purchase of Bonds if a Consulting Engineer shall first have certified to the City that amounts remaining on deposit in the Capital Account following the proposed purchase of Bonds will be sufficient to pay the cost of renewals, replacement and improvements to the System projected to be payable during such Fiscal Year; provided, however, that no Bond shall be purchased at a price in excess of the principal amount and redemption price which would be applicable if the Bond were redeemed at the time such Bond was first subject to redemption.

As provided in Section 4.05 hereof, if at any time sufficient moneys are not available for the payment of Operating Expenses, then amounts on deposit in the Capital Account may be used for the payment of Operating Expenses to the extent of the deficiency.

SECTION 4.12. *Residual Fund.* Amounts on deposit in the Residual Fund may be used at the written direction of the City (i) to pay Operating Expenses; (ii) to fund transfers to any fund or account established hereunder or under a Supplemental Ordinance (other than the Revenue Fund and the Rate Stabilization Fund); (iii) to make payments required under any Exchange Agreement; (iv) for the payment of principal, redemption premium, if any, and interest on any revenue bonds or notes (the proceeds of which were applied in respect of the System) issued under the Act but not under this Ordinance; (v) for the payment of principal, redemption premium, if any, and interest on any General Obligation Bonds; (vi) for the

payment of principal, redemption premium, if any, and interest on other general obligation debt issued in respect of the System; (vii) for the payment of amounts due under capitalized leases or similar obligations relating to the System; and (viii) to fund a transfer to the City's "General Fund" in an amount not to exceed the lower of (A) all "Net Reserve Earnings" as defined below or (B) four million nine hundred ninety-four thousand (4,994,000) dollars. "Net Reserve Earnings" shall mean the amount of interest earnings during the Fiscal Year on amounts in the Debt Reserve Account and the Subordinated Bond Fund less the amount of interest earnings during the Fiscal Year on amounts in any such reserve funds and accounts giving rise to a rebate obligation pursuant to Section 148(f) of the Code.

The City shall establish expenditure authority from the Residual Fund to enable it to pay Operating Expenses and the other items permitted by this Section 4.12.

SECTION 4.13. *Rate Stabilization Fund.* As of the effective date of this Ordinance and as of June 30 of each Fiscal Year, the City may transfer (i) from the Rate Stabilization Fund to the Revenue Fund or (ii) from the Revenue Fund to the Rate Stabilization Fund, the amount determined by the Water Commissioner to be transferred for such Fiscal Year.

SECTION 4.14. *Rebate Fund.*

(a) The Rebate Fund shall be maintained for so long as any Series of Bonds is Outstanding, and for sixty (60) days thereafter (or such other period as may be specified by the Code and applicable regulations), for the purpose of paying to the United States Treasury the amount required to be rebated pursuant to Section 148(f) of the Code. All amounts in the Rebate Fund, including income earned from investment of amounts in the Rebate Fund, shall be held by the City free and clear of the lien created by this Ordinance.

(b) Any moneys in the Rebate Fund shall be invested exclusively in Qualified Rebate Fund Securities and investment earnings shall be credited to the Rebate Fund. The City shall maintain records of the date and amount of each deposit made into the Rebate Fund and of the investments made of such amounts, so that the investment earnings allocable to each deposit made into the Rebate Fund can be identified as if such deposits were made in segregated accounts; provided that the City may direct the Fiscal Agent in writing to commingle the amounts deposited into the Rebate Fund and shall not be required to segregate such deposits.

(c) The City shall determine, or shall retain a Financial Consultant to determine, whether thirty (30) days of the end of each Rebate Bond Year, the amount required to be rebated to the United States pursuant to Section 148(f) of the Code, as calculated from the date of original delivery of the related Series of Bonds. Such amount, less any amounts previously rebated to the United States pursuant to paragraph (e) below, is herein referred to as the "Required Rebate Fund Balance." To the extent that the amount on deposit in the Rebate Fund at the end of any Rebate Bond Year is in excess of the Required Rebate Fund Balance, such excess shall, at the direction of the Director of Finance, be transferred to the Sinking Fund. To the extent that the amount on deposit in the Rebate Fund at the end of any Rebate Bond Year is less than the Required Rebate Fund Balance, the City shall deposit an amount equal to such deficiency into the Rebate Fund. Notwithstanding the foregoing, the City shall not be required to determine the Required Rebate Fund Balance, except as required in connection with making the payments to the United States Treasury pursuant to paragraph (e) below, if during the preceding Rebate Bond Year there have been no investments made of amounts on deposit in any fund or account established hereunder or of Bond proceeds on deposit in other funds

or accounts in "non-purpose investments" (as defined in Section 148(f)(6) of the Code) having a yield higher than the yield on the related Series of Bonds.

(d) The City shall direct the Fiscal Agent in writing to withdraw from the Rebate Fund and pay over to the United States Treasury (1) not less frequently than once each five (5) years after the issuance of a Series of Bonds, an amount, as determined by the City or a Financial Consultant, equal to ninety percent (90%) of the Required Rebate Fund Balance and (2) not later than sixty (60) days after the retirement of the last Bond of a Series, one hundred percent (100%) of the Required Rebate Fund Balance with respect to such Series.

(e) The City or the Fiscal Agent, as the case may be, shall retain records of the determinations of the amounts required to be deposited in the Rebate Fund, of the proceeds of any investments of moneys in the Rebate Fund, and of the amounts paid to the United States, until the date six (6) years after the retirement of the last of the Bonds Outstanding.

(f) The provisions of this Section or the definitions of capitalized terms used in this Section may be amended or deleted from this Ordinance without any further action of Council, upon receipt by the City of an opinion of Bond Counsel that such amendment or deletion will not adversely affect the exemption of interest on a Series of Bonds from Federal income tax. Any moneys on deposit in the Rebate Fund shall be transferred to the Sinking Fund to the extent permitted by any such opinion.

SECTION 4.15. *Management of Funds and Accounts.* The moneys on deposit in the funds and accounts established hereunder, to the extent not currently required, shall be invested and secured as required by Section 9 of the Act, all at the direction and under the management of the Director of Finance or such other chief fiscal officer of the City as may hereinafter be established.

SECTION 4.16. *Investment of Funds and Accounts.* All moneys deposited in any fund or account established hereunder or under any Supplemental Ordinance may be invested by the City or by the Fiscal Agent, at the oral or written direction of the City, in any investments permitted by law (except as otherwise provided herein with respect to the Debt Reserve Account and Rebate Fund); provided that any investments with respect to amounts on deposit in the funds (other than the Debt Reserve Account) and accounts established hereunder shall mature or shall be subject to redemption by the holder thereof upon demand at par no later than the date when such amounts are needed for the purposes of such funds or accounts. Interest earnings on amounts on deposit (i) in the Revenue Fund shall be credited to the Revenue Fund; (ii) in the Sinking Fund (except as provided in (iii) below) shall be credited to the Sinking Fund to the extent needed to meet Debt Service Requirements in respect of Bonds (other than Subordinated Bonds) and additional interest earnings shall be credited to the Revenue Fund; (iii) in the Debt Reserve Account shall be credited to the Debt Reserve Account until such account is fully funded and shall then be credited to the Residual Fund up to the maximum amount to be transferred to the City's General Fund pursuant to Section 4.11 herein and any excess shall then be transferred to the Revenue Fund; (iv) in the Subordinated Bond Fund shall be credited to the Subordinated Bond Fund to the extent needed to meet Debt Service Requirements in respect of Subordinated Bonds and additional interest earnings shall be credited to the Revenue Fund or to such other fund or account established hereunder as the City may direct pursuant to a Supplemental Ordinance; (v) in the Residual Fund, shall be credited to the Residual Fund; (vi) in the Rate Stabilization Fund shall be credited to the Revenue Fund; (vii) in the Construction Fund shall be credited to the

appropriate account of the Construction Fund or to the Revenue Fund, as the City shall direct; and (viii) in the Rebate Fund shall be credited to the Rebate Fund.

SECTION 4.17. *Valuation of Funds and Accounts.* In computing the assets of any fund or account established hereunder, investments and accrued interest thereon shall be deemed a part thereof. Such investments shall be valued on June 30 of each Fiscal Year at the lower of the cost or current market value thereof if the applicable maturity is more than one (1) year and at par if the applicable maturity is equal to or less than one (1) year plus accrued interest, or at the redemption price thereof, if then redeemable at the option of the holder; provided that investments in any reserve fund or reserve account of the Sinking Fund established pursuant to a Supplemental Ordinance may be valued as provided in the Supplemental Ordinance establishing it. The annual valuation shall apply for all purposes of this Ordinance except if Bonds are issued or a fund deficit occurs based on the annual valuation, in which cases a valuation shall be made on the date Bonds are issued or the deficit is eliminated, as the case may be.

ARTICLE V

COVENANTS OF CITY

SECTION 5.01. *Rate Covenant.* The City covenants with the Bondholders that it will, at a minimum, impose, charge and collect in each Fiscal Year such water and wastewater rents, rates, fees and charges as shall yield Net Revenues which shall be equal to least 1.20 times the Debt Service Requirements for such Fiscal Year (recalculated to exclude therefrom principal and interest payments in respect of Subordinated Bonds); provided that such water and wastewater rents, rates, fees and charges shall yield Net Revenues which shall be at least equal to 1.00 times (i) the Debt Service Requirements for such Fiscal Year (including Debt Service Requirements in respect of Subordinated Bonds); (ii) amounts required to

be deposited into the Debt Reserve Account during such Fiscal Year; (iii) the principal or redemption price of and interest on General Obligation Bonds payable during such Fiscal Year; (iv) debt service requirements on Interim Debt payable during such Fiscal Year; and (v) the Capital Account Deposit Amount for such Fiscal Year (less any amounts transferred from the Residual Fund to the Capital Account during such Fiscal Year). In estimating debt service requirements on any Interim Debt for the purposes of projecting compliance with this Section, the City shall be entitled to assume that (i) such Interim Debt will be amortized over a period of up to the maximum term permitted by the Act, provided however, such period shall not be in excess of the useful life of the assets to be financed, on an approximately level debt service basis and bear interest at the average interest rate on bonds of a similar maturity and credit rating (without any credit enhancement) as the Bonds outstanding under this Ordinance. Promptly upon any material change in the circumstances which were contemplated at the time such rents, rates, fees and charges were most recently reviewed, but not less frequently than once in each Fiscal Year, the City shall review the rents, rates, fees and charges as necessary to enable the City to comply with the foregoing requirements; provided that such rents, rates, fees and charges shall in any event produce moneys sufficient to enable the City to comply with its covenants in this Ordinance.

In estimating Debt Service Requirements on any Variable Rate Bonds for purposes of projecting compliance with this Section or funding the Debt Reserve Account, the City shall be entitled to assume that such Variable Rate Bonds will bear interest at a rate equal to (i) the average interest rate on the Variable Rate Bonds during the period of twenty-four (24) consecutive calendar months preceding the date of calculation or (ii) if the Variable Rate Bonds were not Outstanding during the entire twenty-four (24) month period, the average interest rate on the Variable

Rate Bonds since their date of issue or (iii) such other rate as may be specified in a Supplemental Ordinance or Determination.

The City represents that it has, by its Code of General Ordinances, as amended, authorized the imposition of rents, rates, fees and charges by the Water Department sufficient from time to time to comply with the Rate Covenant and covenants with the Holders of Bonds that it will not repeal or materially adversely dilute or impair such authorization.

SECTION 5.02. *Timely Payment of Principal, Redemption Premium and Interest.* The City covenants with the Holders of all Bonds Outstanding under this Ordinance that so long as such Bonds shall remain Outstanding it will pay or cause the Fiscal Agent or a paying agent to pay from the Project Revenues deposited in the Sinking Fund and the Subordinated Bond Fund the principal of, redemption premium, if any, and interest on all Bonds as the same shall become due and payable and as more particularly set forth in the Bonds and to pay the amounts due with respect to any and all Credit Facilities (including the reimbursement agreement or similar related agreement) and Qualified Swaps.

SECTION 5.03. *Operation of System.* The City covenants with the Holders of all Bonds Outstanding under this Ordinance that so long as such Bonds shall remain Outstanding it will continuously maintain the System or cause the System to be maintained in good condition and will continuously operate the System or cause the System to be operated.

SECTION 5.04. *Conditions of and Provisions Relating to Issuing Bonds.* The City covenants with the Holders of all Bonds Outstanding under this Ordinance that so long as any such Bonds shall remain Outstanding it will not issue any Series of Bonds hereunder without first complying

with the conditions set forth in subparagraphs (a) through (d) below and further covenants to comply with the provisions of subparagraphs (e) through (h) below:

(a) *Enactment of Supplemental Ordinance.* Prior to the issuance of any Series of Bonds (but only following the filing of the report and opinion required by Section 8 of the Act) the City shall enact a Supplemental Ordinance specifying the aggregate principal amount and authorizing the issuance of such Bonds; stating that such Bonds are issued for the purpose (i) of paying the costs of a Project relating to the System, (ii) of reimbursing any fund or account of the City from which such costs shall have been paid or advanced, (iii) of funding any such costs for which the City shall have outstanding bond anticipation notes or other obligations, (iv) of refunding any Bonds or bonds of the City issued for the foregoing purposes or (v) of financing other costs relating to the System permitted under the Act, as amended from time to time; making a finding based on the report of the Director of Finance required by Section 8 of the Act that Project Revenues pledged hereunder will be sufficient to comply with the Rate Covenant and also to pay all costs, expenses and payments required to be paid therefrom in the order and priority stated in Section 4.05 hereof; and containing the covenant as to the payment of debt service required by Article IX, Section 10 of the Pennsylvania Constitution. Such Supplemental Ordinance may specify a particular method of sale; may authorize a Credit Facility, Qualified Swap or Exchange Agreement or authorize such agreements to be included in the Determination; may specify the terms upon which, or the prices for which, the Bonds are to be sold or exchanged, including, if applicable, competitive bidding specifications; and may contain such amendments to this Ordinance, including amendments or modifications of the covenants herein contained, and may contain or authorize such further covenants and agreements, including such covenants as may be appropriate under existing law and regulations so that the

Bonds may not be deemed to be "arbitrage bonds," as such term is defined in the Code and applicable regulations, all as City Council may deem appropriate and proper and as shall be authorized or permitted by the Act and permitted by Section 10.01 hereof.

(b) *Filing of Transcript.* Prior to the issuance of any Series of Bonds, the Director of Finance shall, in addition to the filing requirements of Section 12 of the Act, file with the Fiscal Agent a transcript of the proceedings authorizing the issuance of such Series of Bonds which shall include (i) a certified copy of this Ordinance (unless previously so filed); (ii) a certified copy of the Supplemental Ordinance and the Determination specifying terms of the Series of Bonds; (iii) an executed or certified copy of the report of the Director of Finance required by Section 8 of the Act; (iv) an executed copy of the opinion of the City Solicitor required by Section 8 of the Act; (v) an executed or certified copy of the Consulting Engineer's report required by subparagraph (c) of this Section; (vi) if the Series of Bonds has been structured so that interest on such Bonds will not be excluded from the gross income of the Holders thereof for the purpose of calculating federal income tax (not taking into account collateral tax consequences associated with the holding of tax-exempt bonds) an opinion of Bond Counsel to the effect that issuance of such Series of Bonds will not adversely affect the exemption from federal income tax of interest on other Series of Bonds issued hereunder; (vii) a certificate of the Director of Finance that there is no default in the payment of the principal of, interest on, or premiums, if any, payable in respect of, any Bonds; that the report for the latest completed Fiscal Year required to be filed pursuant to Section 5.05 hereof has been filed, provided that for the Fiscal Year ended June 30, 1993 the report shall comply with the Prior Ordinance and need not comply with Section 5.05 hereof; that during such Fiscal Year the City was in compliance with the Rate Covenant; and that the City is currently in compliance with the Rate

Covenant and all other covenants contained in this Ordinance and all Supplemental Ordinances; and (viii) the opinions required by subparagraph (d) of this Section 5.04. Thereupon the proper officers of the City and the Fiscal Agent shall be authorized to execute and deliver the Bonds so authorized, to receipt for the purchase price thereof and to execute and deliver on behalf of the City closing statements, affidavits and certificates.

(c) *Delivery of Consulting Engineer's Report.* Concurrently with the delivery to City Council of the ~~financial report~~ and opinion required by Section 8 of the Act as a condition to enactment of a Supplemental Ordinance authorizing a Series of Bonds, there shall be delivered to City Council a report of a Consulting Engineer setting forth the qualifications of the Consulting Engineer and containing:

(i) a statement, supported by appropriate schedules and summaries, that, on the basis of actual, if appropriate, and estimated future annual financial operations of the Project or Projects from which pledged Project Revenues are to be derived, the Project or Projects will, in the opinion of the Consulting Engineer, yield pledged Project Revenues over the amortization period of the Bonds to be issued, sufficient to meet the payment or deposit requirements of (A) all expenses of operation, maintenance, repair and replacement of the Project, (B) all reserve funds required to be established out of such Project Revenues, (C) the principal or redemption price of and interest on Bonds, as the same become due and payable, for which such Project Revenues are pledged and (D) any state taxes assumed by the City to be paid on Bonds;

(ii) a statement, supported by appropriate schedules and summaries, that the Net Revenues, on the basis of which the statements required by the foregoing clause (i) are made, are currently sufficient to comply with the Rate Covenant and are projected to be sufficient to

comply with the Rate Covenant for each of the two (2) Fiscal Years following the Fiscal Year in which the Bonds are issued; provided that if interest on the Bonds or a portion thereof has been capitalized, the projection shall extend to the two (2) Fiscal Years following the Fiscal Year up to which interest has been capitalized on the Bonds or a portion thereof; and

(iii) a statement that, in the opinion of the Consulting Engineer, the System is in good operating condition or that adequate steps are being taken to return it to good operating condition.

(d) *Opinions of Counsel.* Prior to the issuance of any Series of Bonds, the City shall cause to be filed with the Fiscal Agent (i) an opinion of Bond Counsel to the effect that (1) the Bonds have been duly issued for a permitted purpose under the Act and this Ordinance and (2) all conditions precedent to the issuance of the Bonds pursuant to the Act and this Ordinance have been satisfied and (ii) an opinion of the City Solicitor to the effect that all documents delivered by the City in connection with the issuance of the Bonds have been duly and validly authorized, executed and delivered and such execution and delivery and all other actions taken by the City in connection with the issuance of the Bonds have been duly authorized by all necessary actions of City Council. The Fiscal Agent may rely upon such opinions.

(e) *Execution of Documents.* The Mayor, the City Solicitor, the City Controller, the Director of Finance and such other officers of the City as may be appropriate are authorized in connection with the issuance of any Series of Bonds hereunder to prepare, execute and file on behalf of the City such statements, documents, certificates or other material as may accurately and properly reflect the financial condition of the City or other matters relevant to the issuance or payment of such Bonds and as maybe required or appropriate to comply with applicable State or Federal laws or regulations.

(f) *Disposition of Proceeds.* Unless otherwise provided in the applicable Supplemental Ordinance or Determination, accrued interest on Bonds (other than Subordinated Bonds) shall be deposited in the Sinking Fund, accrued interest on Subordinated Bonds shall be deposited in the Subordinated Bond Fund, an amount sufficient to satisfy the requirements of Section 4.09 hereof shall be deposited in the Debt Reserve Account and the balance of the proceeds of the Bonds shall be deposited in the Bond Proceeds Account of the Construction Fund and shall be disbursed therefrom, in accordance with established procedures of the City, as provided in Section 4.11 hereof; provided, however, that if such Bonds shall be issued for the purpose of funding or refunding Bonds previously issued by the City such proceeds shall, unless otherwise directed by the Supplemental Ordinance, be deposited in a special fund or account to be established with and held by the Fiscal Agent or another entity acting as an escrow agent and invested (if appropriate) and disbursed under the direction of the Director of Finance for the purpose of retiring the Bonds being funded or refunded.

(g) *Refunding Bonds.* If the City shall, by Supplemental Ordinance, authorize the issuance of refunding Bonds pursuant to Section 10 of the Act, in the absence of specific direction or inconsistent authorization in the Supplemental Ordinance, the Director of Finance is hereby authorized in the name and on behalf of the City to take all such action, including the irrevocable pledge of proceeds and the income and profit from the investment thereof for the payment and redemption of the funded or refunded Bonds, bonds or notes and, if there shall have been provided a Qualified Swap with respect to the Bonds to be refunded, provision for the payment, if any, of all amounts due and payable by the City under such Qualified Swap, and including the publication of all required redemption notices or the giving of irrevocable

instructions therefor, as may be necessary or appropriate to accomplish the funding or refunding and to comply with the requirements of Section 10 of the Act.

(h) *Subordinated Bonds.* The City may, at any time, or from time to time, issue Subordinated Bonds for any purpose permitted hereunder and under the Act. Subordinated Bonds shall be payable out of, and may be secured by a security interest in and a pledge and assignment of, Project Revenues and amounts on deposit in the Subordinated Bond Fund; provided, however, that any such security interest in and pledge and assignment of Project Revenues and amounts on deposit in the Subordinated Bond Fund shall be, and shall be expressed to be, subordinate in all respects to the security interest in, and pledge and assignment of, the Project Revenues and the amounts on deposit in the funds and accounts (other than the Rebate Fund but including the Subordinated Bond Fund) established under this Ordinance for the security of the Bonds (other than Subordinated Bonds).

SECTION 5.05 *Delivery of Reports.* The City covenants with the Holders of all Bonds Outstanding under this Ordinance that so long as such Bonds shall remain Outstanding it will, within one hundred twenty (120) days following the close of each Fiscal Year of the City or as soon thereafter as is practicable (not exceeding one hundred fifty (150) days following the close of each Fiscal Year), file with the Fiscal Agent a report of the operation of the System, setting forth, among other things, in reasonable detail financial data concerning, and consolidated for, the water and wastewater components of the System for such Fiscal Year, including a balance sheet and a statement of income, expenses, and surplus (in each case not inconsistent with the statement of income, expenses, and other accounts of the City audited by the City Controller) prepared by the Water Department in accordance with generally accepted accounting principles consistently

applied, showing compliance with the Rate Covenant, accompanied by a certificate of the Water Commissioner that the water and wastewater components of the System are in good operating condition and by a certificate of the Director of Finance that as of the date of such report the City has complied with all of the covenants in this Ordinance and in all Supplemental Ordinances on its part to be performed. Such report shall be furnished to the Fiscal Agent in such reasonable number of copies as shall be required to meet the written requests of Bondholders therefor on a first come first served basis.

SECTION 5.06. *Disposition of Insurance Proceeds and Proceeds from the Sale of Assets.* In the event that any assets of the System are destroyed or the City shall sell any assets of the System (except in the event of the sale or transfer of all or substantially all of the assets of the System under Section 9.01 hereof), the City shall, if the insurance proceeds or the proceeds from the sale of assets exceed one and five-tenths percent (1.5%) of the depreciated value of property, plant and equipment of the System, as shown on the financial statements of the City for the preceding Fiscal Year, apply such amounts, at the direction of the Director of Finance or such other chief fiscal officer of the City as may hereinafter be established (i) to the retirement of the principal amount of debt incurred in respect to the System; (ii) to the reconstruction, repair or replacement of assets of the System; or (iii) to the making of capital additions or improvements to the System.

SECTION 5.07. *Bonds Not to Become Arbitrage Bonds.* The City hereby covenants for the benefit of the Bondholders that, notwithstanding any other provision of this Ordinance or any other instrument, it will neither make nor instruct the Fiscal Agent to make any investment or other use of amounts on deposit in the funds and accounts established hereunder or other proceeds of the Bonds which would cause any Series of Bonds issued

hereunder as tax-exempt to be arbitrage bonds under Section 148 of the Code and the regulations thereunder to the extent that the same are applicable at the time of such investment; it will file any reports required to be filed pursuant to the Code; and it will not take or fail to take any action so as to render any Series of Bonds issued hereunder as tax-exempt to be arbitrage bonds under Section 148 of the Code.

SECTION 5.08. *Prohibition Against Certain Uses of Funds; Enforcement.*

(a) The City covenants that while any Bonds are Outstanding under the Ordinance, it will not direct the Fiscal Agent to transfer, loan or advance proceeds of the Bonds or Project Revenues from the Water and Wastewater Funds to any City account for application other than for Water Department purposes.

(b) If, on any date when a deposit is required to be made of the Project Revenues, the City fails to comply with any provision of this Ordinance, the Fiscal Agent is hereby authorized to and shall seek, by mandamus or other suit, action or proceeding at law or in equity, the specific enforcement or performance of the obligation of the City to cause the Project Revenues to be transferred to the Revenue Fund, and shall have any and all other rights and remedies of a fiscal agent under the Ordinance, any Supplemental Ordinance, the Act or otherwise at law or in equity.

- **SECTION 5.09. *Credit Facilities and Qualified Swaps.*** All or any of the foregoing covenants of the City for the benefit of the Bondholders may also be for the benefit of the providers of any Credit Facility and any Qualified Swap to the extent provided in a Supplemental Ordinance or Determination.

ARTICLE VI

REDEMPTION OF BONDS

SECTION 6.01. *Bonds May be Subject to Redemption.* Bonds of any Series may be subject to either optional or mandatory redemption at the times, in order, in the amounts, at the redemption prices, and under such terms, conditions and restrictions, all as may be set forth in the Supplemental Ordinance authorizing the issuance of such Series of Bonds or in the Determination relating to such Series of Bonds or, in the absence of such provisions, as may be set forth in the Bonds of such Series, at the direction of the Director of Finance. Notwithstanding or in limitation of the foregoing, a Supplemental Ordinance or Determination for a Series of Bonds may contain provisions for optional redemption of a Series of Bonds which may be retained by the City as a call option or may be held by the City or sold simultaneously with such Series of Bonds or at future dates as determined by such Supplemental Ordinance or Determination.

SECTION 6.02. *Selection of Bonds for Redemption.* Unless otherwise provided by Supplemental Ordinance or Determination, in the event that less than all Bonds of a particular Series are to be redeemed, the Fiscal Agent shall select Bonds of such Series for redemption in the order specified in writing by the City, and in the event that less than all Bonds of a particular maturity are to be redeemed, the Fiscal Agent shall select Bonds within such maturity by lot. In the case of any Series having Bonds of varying denominations, each Bond of such Series shall be treated as representing that number of Bonds which is obtained by dividing the face amount thereof by the smallest authorized denomination.

SECTION 6.03. *Notice of Redemption.* Unless otherwise provided by Supplemental Ordinance or Determination:

(a) When required to redeem Bonds of a Series under any provision of such Bonds or a Supplemental Ordinance

or Determination, or when directed to do so by the City, in the exercise of an optional redemption right, the Fiscal Agent shall give notice of such redemption (i) by first class mail, postage prepaid, to each Holder of Bonds to be redeemed at such Holder's registered address as it appears in the Bond Register, mailed not less than thirty (30) or more than sixty (60) days prior to the redemption date; and (ii) by United States registered or certified mail or overnight delivery service, return receipt requested, postage prepaid, to each registered securities depository and nationally recognized information service that disseminates redemption information (and to the participants of such service who have previously requested in writing to the Fiscal Agent that such notices be sent directly to them), sent at least two (2) business days in advance of the mailed notice to Bondholders.

(b) The notice of redemption shall be given in the name of the City and shall contain the following information: "CUSIP" number; and, in the case of partial redemption of any Bonds, the certificate numbers and the respective principal amounts of the Bonds to be redeemed; the publication date; the redemption date; the redemption price and the name and address of the redemption agent; and shall further identify the Bonds by date of issue, interest rate, and maturity date. The Fiscal Agent shall use the "CUSIP" numbers in such notice as a convenience to Bondholders, provided that any such notice shall state that no representation is made as to the correctness of "CUSIP" numbers as printed on the Bonds or as contained in any notice of redemption and that reliance may be placed only on identification numbers or such other description as permitted hereunder. The City shall give the Fiscal Agent five (5) days written notice of the mailing of any such notice of redemption.

(c) Failure to mail any notice or defect in the mailed notice or in the mailing thereof in respect of any Bond shall not affect the validity of the redemption proceeding.

(d) If at the time of mailing notice of redemption the City shall not have deposited with the Fiscal Agent moneys sufficient to redeem the Bonds called for redemption, such notice may state that it is conditional in that it is subject to the deposit of the redemption moneys with the Fiscal Agent not later than the redemption date, and such notice shall be of no effect unless such moneys are so deposited.

SECTION 6.04. *Effect of Redemption, Payment.* Notice having been given in the manner hereinbefore provided in this Article or irrevocable instructions to give such notice having been delivered to the Fiscal Agent, irrevocable instruction having been delivered to the Fiscal Agent to pay said Bonds or portions thereof and to pay the amount, if any, due and payable under any Qualified Swap related to said Bonds, and funds having been deposited in the Sinking Fund or the Subordinated Bond Fund (as the case may be) prior to the date fixed for redemption, the Bonds or portions thereof so called for redemption shall become due and payable on the redemption date so designated, and interest on such Bonds or portions thereof shall cease from such redemption date, whether such Bonds be presented for redemption or not. The principal amount of all Bonds or portions thereof so called for redemption, together with the premium, if any, and accrued interest thereon, shall be paid by the Fiscal Agent or any other paying agent designated in the Bonds, upon presentation and surrender thereof in negotiable form.

SECTION 6.05. *Partial Redemption.* Upon presentation of any Bond which is to be redeemed in part only, the City and the Fiscal Agent shall execute and deliver to the Holder thereof, at the expense of the City, a new Bond or Bonds of authorized denominations in a principal amount equal to and of the same Series and maturity as the unredeemed portion of the Bond or Bonds so presented.

SECTION 6.06. *Cancellation and Destruction of Bonds.* Except as may be otherwise provided with respect to

Option Bonds in the Supplemental Ordinance providing for the issuance thereof, all Bonds paid or redeemed, either at or before maturity, shall be delivered to the Fiscal Agent when such payment or redemption is made, and such Bonds together with all Bonds purchased which have been delivered to the Fiscal Agent for application as a credit against Sinking Fund Installments and all Bonds purchased by the Fiscal Agent, shall thereupon be promptly canceled. Bonds so canceled may at any time be destroyed by the Fiscal Agent, who shall execute a certificate of destruction in duplicate by the signature of one (1) of its authorized officers describing the Bonds so destroyed, and one (1) executed certificate shall be filed with the City and the other executed certificate shall be retained by the Fiscal Agent.

ARTICLE VII

FISCAL AGENT

SECTION 7.01. *Fiscal Agent.* The Fiscal Agent under the Prior Ordinance or its successor, shall be Fiscal Agent as of the Effective Date for this Ordinance. The City may appoint a successor Fiscal Agent by Supplemental Ordinance to act as Fiscal Agent hereunder, and in connection with the Bonds issued hereunder. The Fiscal Agent shall also act as depository of the Sinking Fund and the Subordinated Bond Fund, and may act as paying agent and Bonds Registrar.

Nothing in this Ordinance shall be construed to prevent the City, in accordance with law, from engaging other Fiscal Agents from time to time or to engage other paying agents of the Bonds or any Series thereof in addition to, or as a successor to the Fiscal Agent. Any entity appointed by the City as Fiscal Agent hereunder shall be a trust company or national or state bank having trust powers and combined capital and surplus of at least fifty million (50,000,000) dollars and be qualified to serve pursuant to

the Act. Any entity appointed by the City as Fiscal Agent hereunder as a successor to the Fiscal Agent shall assume all rights and obligations of the Fiscal Agent hereunder.

Subject to the foregoing, the proper officers of the City are authorized to enter into contracts or to confirm existing agreements governing the maintenance of funds and accounts and records, the disposal of canceled Bonds, the rights, duties, privileges and immunities of the Fiscal Agent, and such other matters as are authorized by the Act and as are customary and appropriate and to confirm the agreement of the Fiscal Agent, in its several capacities, to comply with the provisions of the Act and of this Ordinance.

The Fiscal Agent shall keep on file a copy of each report and its accompanying certificates delivered to it pursuant to this Ordinance for a period of ten (10) years and shall exhibit the same to, and permit the copying thereof by, any Bondholder or his authorized representative at all reasonable times.

SECTION 7.02. *Resignation of Fiscal Agent.* The Fiscal Agent may resign and be discharged of the duties created by this Ordinance by written resignation filed with the Director of Finance not less than sixty (60) days before the date when such resignation is to take effect. Such resignation shall take effect on the day specified in such notice provided that a successor Fiscal Agent is appointed. If a successor Fiscal Agent is appointed prior to the date specified in the notice, the resignation shall take effect immediately on the appointment of such successor, and the City shall give the notices required in Section 7.03 hereof.

SECTION 7.03. *Appointment of Successor Fiscal Agent.* If the Fiscal Agent or any successor Fiscal Agent resigns, is replaced, or is dissolved or if its property or business is taken under the control of any state or federal court or administrative body, a vacancy shall exist in the office of

the Fiscal Agent, and the city shall appoint a successor within thirty (30) days of such vacancy and shall mail notice of such appointment to the Bondholders and to the registered depositories at their registered addresses by first class mail, postage prepaid, within thirty (30) days of such appointment.

ARTICLE VIII

DEFAULTS AND REMEDIES

SECTION 8.01. *Defaults and Statutory Remedies; Notice to Bondholders.* If the City shall fail or neglect to pay or to cause to be paid the principal of, redemption premium, if any, or interest on any Bond or any Series of Bonds issued hereunder, whether at stated maturity or upon call for prior redemption, or if the City, after written notice to it, shall fail or neglect to make any payment owed by it as a result of a Credit Facility or Qualified Swap entered into with respect to Bonds and the provider of the Credit Facility or the Qualified Swap Provider provides written notification to the Fiscal Agent of such failure or neglect, or if the City shall fail to comply with any provision of any Bonds or with any covenant of the City contained in this Ordinance, then, under and subject to the terms and conditions stated in the Act, the Holder or Holders of any Bond or Bonds shall be entitled to all of the rights and remedies, including the appointment of a trustee, provided in the Act; provided, however, that the remedy provided in Section 20(b)(4) of the Act may be exercised only upon the failure of the City to pay, when due, principal and redemption price (including principal due as a result of a scheduled mandatory redemption) and interest on a Series of Bonds.

Upon the occurrence of an event of default specified in this Section 8.01, or if an event occurs which could lead to a default with the passage of time and of which the Fiscal Agent has noticed, the Fiscal Agent shall, with thirty (30) days, given written notice thereof by first-class mail to all Bondholders.

SECTION 8.02. Remedies Not Exclusive; Effect of Delay in Exercise of Remedies. No remedy herein or in the Act conferred upon or reserved to the trustee, if any, or to the Holder of any Bond is intended to be exclusive (except as specifically provided in the Act) 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 at law or in equity or by statute.

No delay or omission of a trustee, if one be appointed pursuant to Section 20 of the Act, or of any Holder of the Bonds to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by this Article, by the Act or otherwise may be exercised from time to time, and as often as may be deemed expedient.

SECTION 8.03. Remedies to be Enforced Only Against Project Revenues. Any decree or judgment for the payment of money against the City by reason of default hereunder shall be enforceable only against the Project Revenues and the investments thereof and amounts on deposit in the funds and accounts (other than the Rebate Fund) established hereunder, and no decree or judgment against the City upon an action brought hereunder shall order or be construed to permit the occupation, attachment, seizure, or sale upon execution of any other property of the City.

ARTICLE IX

CONVEYANCE OF SYSTEM AND ASSIGNMENT, ASSUMPTION AND RELEASE OF OBLIGATIONS

SECTION 9.01. Conveyance and Assignment, Assumption and Release. Nothing in this Ordinance shall prevent the City from conveying and assigning to a municipal authority created pursuant to the Municipality

Authorities Act of 1945, as amended, or an authority created pursuant to any other applicable statute or to another entity (the "Authority") all or substantially all (or less than substantially all, as provided below) of its right, title and interest in the System and thereupon becoming released from all of its obligations hereunder, under any Supplemental Ordinance and under the Bonds and related obligations, including, but not limited to, Credit Facilities, Qualified Swaps and Exchange Agreements, (i) if the Authority assumes in writing the City's obligations (1) to operate or cause the System to be operated and to maintain or cause the System to be maintained in good condition; and (2) to pay the principal, redemption premium, if any, and interest on all Bonds issued, and all payments due under Credit Facilities, Qualified Swaps and Exchange Agreements entered into, pursuant to this Ordinance and then outstanding according to the terms thereof; and (ii) if the instrument of assumption provides the Bondholders or the trustee or entity serving in a similar capacity and acting on behalf of the Bondholders with the substantial equivalent of all of the rights and remedies provided in this Ordinance and the Act; provided, however, that before the City may consummate such a conveyance and assignment and obtain a release of its obligations hereunder, under any Supplemental Ordinance and under the Bonds, the following conditions shall have been satisfied:

(a) the City and the Fiscal Agent shall have received an opinion of the City Solicitor substantially to the effect that the conveyance to the Authority of all or substantially all of the City's right, title and interest in the System, the assignment to the Authority of the obligations of the City under this Ordinance, any Supplemental Ordinance and the Bonds to make payments of principal, redemption premium, if any, and interest on the Bonds, and the release of the City from all of its obligations hereunder, under any Supplemental Ordinance, under the Bonds, and under related obligations, including, but not limited

to, Credit Facilities, Qualified Swaps and exchange Agreements, have been duly authorized by the City and do not violate any applicable law, ordinance, resolution or regulation of the City or any applicable court decision;

(b) the City and the Fiscal Agent shall have received an opinion of the solicitor of the Authority substantially to the effect that (i) the acquisition by the Authority of all or substantially all of the City's right, title and interest in the System and the assumption by the Authority of the City's obligations hereunder, under any Supplemental Ordinance, under the Bonds to make payments of principal, redemption premium, if any, and interest on the Bonds and related obligations, including, but not limited to, Credit Facilities, Qualified Swaps and Exchange Agreements, have been duly authorized by the Authority and do not violate any law, ordinance, resolution or regulation applicable to the Authority or any applicable court decision; (ii) the instrument under which the Authority assumes the obligations of the City hereunder, under any Supplemental Ordinance and under the Bonds to make payments of principal, redemption premium, if any, and interest on the Bonds constitute a valid and binding obligation of the Authority enforceable in accordance with its terms except as enforcement may be limited by bankruptcy, insolvency or other similar laws or equitable principles affecting the enforcement of creditors' rights, (iii) the security interest granted by the Authority pursuant to subparagraph d) creates a valid and effective first priority lien and security interest in the revenue to be generated by the System; and (iv) the rates and charges established by the Authority and referred to below in subparagraph (e) have been duly authorized and enacted in accordance with applicable law;

(c) the City and the Fiscal Agent shall have received an opinion of Bond Counsel substantially to the effect that (i) the conveyance of all or substantially all of the City's right, title and interest in the System to the Authority; the

release of the City from its obligations hereunder, under any Supplemental Ordinance and under the Bonds; and the assumption by the Authority of the City's obligations hereunder, under any Supplemental Ordinance and under the Bonds to make payments of principal, redemption premium, if any, and interest on the Bonds will not have an adverse effect on the exemption of interest on any series of Bonds issued as tax-exempt Bonds; (ii) the security interest granted by the Authority pursuant to subparagraph (d) creates a valid and effective first priority lien and security interest in the revenues to be generated by the System; and (iii) the instrument under which the Authority assumes the obligations of the City hereunder, under any Supplemental Ordinance and under the Bonds to make payments of principal, redemption premium, if any, and interest on the Bonds constitutes a valid and binding obligation of the Authority enforceable in accordance with its terms except as enforcement may be limited by bankruptcy, insolvency or other similar laws or equitable principles affecting the enforcement of creditors' rights;

(d) the Authority shall, concurrently with the conveyance, assignment, assumption and release described above, grant to the trustee or entity serving in a similar capacity and acting on behalf of Bondholders a security interest in the revenues to be generated by the System following the conveyance, assignment, assumption and release equal to the security interest granted in Project Revenues hereby;

(e) the City and the Fiscal Agent shall have received a report of a Consulting Engineer and a verification of such report by a second Consulting Engineer, concluding that for each of the three (3) twelve (12) month periods following the conveyance, assignment, assumption and release described above or for each of the three (3) fiscal years of the Authority commencing with the first full fiscal year of the Authority following the conveyance,

assignment, assumption and release described above, the System is projected to generate revenues in an amount which, after subtracting projected operating expenses (determined in accordance with generally accepted accounting principles and attributable to the System) will be equal to at least one (1) times the Debt Service requirements (as defined in subparagraph (h)) and at last one and twenty one-hundredths (1.20) times the Debt Service Requirements (as defined in subparagraph (h) but calculated to exclude Debt Service Requirements in respect of Subordinated Bonds and General Obligation Bonds which continue to be outstanding after such transfer) for each of said twelve (12) month periods or fiscal years, as the case may be;

(f) the Authority shall have the authority to establish and shall have established and shall have agreed to maintain rates and charges in connection with the operation of the System at a level sufficient, in the opinion of a Consulting Engineer, as contained in a report filed with the Fiscal Agent, as verified by the report of a second Consulting Engineer, to generate revenues in each fiscal year of the Authority in an amount which, after subtracting all operating expenses (determined in accordance with generally accepted accounting principles and attributable to the System) during such fiscal year; will be equal to at least one (1) times the Debt Service Requirements (as defined in Subparagraph (h)) and at least one and twenty one-hundredths (1.20) times the Debt Service Requirements (as defined in subparagraph (h) but calculated to exclude Debt Service Requirements in respect of Subordinated Bonds and General Obligation Bonds which continue to be outstanding after such transfer) for the next succeeding fiscal year of the Authority;

(g) the Authority shall have agreed to maintain rates and charges in connection with the operation of the System at a level sufficient to generate revenues in each

fiscal year of the Authority in an amount which, after subtracting all operating expenses (determined in accordance with generally accepted accounting principles and attributable to the System) during such fiscal year will be equal to at least one (1) times the Debt Service Requirements (as defined in subparagraph (h)) for such fiscal year and at least one and twenty one-hundredths (1.20) times the Debt Service Requirements (as defined in subparagraph (h) but calculated to exclude Debt Service Requirements in respect of Subordinated Bonds and General Obligation Bonds) for such fiscal year.

(h) the Authority shall have agreed to incur no debt payable from revenues of the System following the conveyance, assignment, assumption and release unless it shall first have obtained a report of a Consulting Engineer, as verified by the report of a second Consulting Engineer, concluding that for each of the first two (2) fiscal years of the Authority following the fiscal year in which the debt in question is to be incurred (or, if interest on all or a portion of the proposed debt is to be capitalized, following the Fiscal Year up to which interest has been capitalized on the debt or a portion thereof, the revenues of the Authority to be available for Debt Service Requirements (as defined below) (after subtracting therefrom all operating costs of the Authority which will reduce the availability of said revenues for Debt Service Requirements) will be equal to at least one (1) times the Debt Service Requirements (as defined below) for such Fiscal Years and at least one and twenty one-hundredths (1.20) times the Debt Service Requirements (as defined below but calculated to exclude Debt Service Requirements in respect of Subordinated Bonds and General Obligation Bonds which continue to be outstanding after such transfer) for such Fiscal Years. For purposes of the foregoing sentence and subparagraphs (e), (f) and (g), the phrase "Debt Service Requirements" shall have the meaning assigned to it in Section 2.01 hereof with the exception that references therein to Bonds shall be

deemed to include reference to Subordinated Bonds and General Obligation Bonds which continue to be Outstanding after such transfer, additional debt of the Authority payable from revenues of the System and the debt, if any, which the Authority proposes to incur;

(i) the Authority shall have agreed to incur no debt secured by a pledge of revenues of the System senior to the pledge of said revenues securing the Bonds (including Subordinated Bonds);

(j) the Authority shall have (i) deposited with the City or an agent acting on behalf of the City cash or securities of the types specified in Section 10 of the Act maturing as to principal and premium, if any, and interest in such amounts and at such times as will insure, without consideration of any reinvestment thereof, the availability of cash sufficient to pay the principal or redemption price of General Obligation Bonds outstanding on the date of the conveyance at maturity or at a specified call date together with interest to accrue thereon to maturity or the call date or (ii) entered into an agreement with the City pursuant to which the Authority shall have agreed to make payments to the City at such times and in such amounts as will enable the City to pay the principal or redemption price of General Obligation Bonds outstanding on the date of the conveyance at maturity or at a specified call date together with interest to accrue thereon when due and payable to maturity or the call date.

The Authority shall, upon conveyance and assignment to it of the City's right, title and interest in the System, administer, finance and operate the System and, in consideration of such conveyance and transfer, may finance and pay the City compensation in an amount agreed upon between the City and Authority representing the City's equity interest in the System after a fair value for such equity interest has been appropriately established by the parties.

Notwithstanding the foregoing, the City may convey to the Authority less than substantially all of its right, title and interest in the System if a Consulting Engineer shall first have certified that the assets of the System which the City proposes to exclude from the conveyance to the Authority are not material to the ability of the System to generate revenues following the conveyance. If less than substantially all of the assets of the System are conveyed to the Authority pursuant to this paragraph, references in the preceding paragraphs of this Section 9.01 to "all or substantially all of the City's right, title and interest in the System" shall be deemed modified to reflect a conveyance of less than substantially all of the City's right, title and interest in the System.

In connection with the conveyance to the Authority of all or substantially all of the City's right, title and interest in the System, the City shall convey and assign to the Authority all amounts on deposit in the funds and accounts established hereunder, provided that any reserve funds shall be transferred as trust funds established for the benefit of the Series of Bonds for which such reserve funds were initially established. The Fiscal Agent shall take such actions as are necessary to terminate its security interest in the pledged Project Revenues and funds and accounts established hereunder. If the City transfers less than substantially all of its right, title and interest in the System then the City shall convey and assign to the Authority an amount of the balances on deposit in funds and accounts established hereunder proportionate to the amount of assets transferred. The City Controller shall certify the balances on deposit in the funds and accounts established hereunder as of the date of the conveyance.

Anything in this Ordinance to the contrary notwithstanding, upon conveyance of all or substantially

all of the assets of the System to the Authority pursuant to this Article IX, the provisions of this Ordinance shall no longer be enforceable against the City.

ARTICLE X

AMENDMENTS AND MODIFICATIONS

SECTION 10.01. *Amendments and Modifications.* In addition to the enactment of Supplemental Ordinances supplementing or amending this Ordinance in connection with the issuance of successive Series of Bonds, this Ordinance and any Supplemental Ordinance may be further supplemented, modified or amended: (a) to cure any ambiguity, formal defect or omission herein or therein or to make such provisions in regard to matters or questions arising hereunder or thereunder which shall not be inconsistent with the provisions hereof or thereof and which shall not adversely affect the interests of Bondholders; (b) to grant to or confer upon Bondholders, or a trustee, if any, for the benefit of Bondholders any additional rights, remedies, powers, authority, or security that maybe lawfully granted or conferred; (c) to incorporate modifications requested by any Rating Agency to obtain or maintain a credit rating on any Series of Bonds; (d) to comply with any mandatory provision of state or federal law or with any permissive provision of such law or regulation which does not substantially impair the security or right to payment of the Bonds but no amendment or modification shall be made with respect to any Outstanding Bonds to alter the amount, rate or time of payment, respectively, of the principal thereof or the interest thereon or to alter the redemption provisions thereof without the written consent of the Holders of all affected Outstanding Bonds; and (e) except as aforesaid, in such other respect as may be authorized in writing by the Holders of sixty-seven percent (67%) in principal amount or Original Value in the case of Capital Appreciation Bonds of the Bonds Outstanding and affected. In the case of a Credit Facility or Qualified Swap,

if and to the extent provided in the Supplemental Ordinance and Determination of Bonds related thereto, the provider thereof may be the representative of the Bondholders of such Series or portion of such Series for purposes of Bondholder consent, approval or authorization. The written authorization of Bondholders of any supplement to or modification or amendment of this Ordinance or any Supplemental Ordinance need not approve the particular form of any proposed supplement, modification or amendment but only the substance thereof. Bonds, the payment for which has been provided for in accordance with Section 6.04 hereof, shall be deemed to be not Outstanding.

ARTICLE XI

MISCELLANEOUS

SECTION 11.01. *Deposit of Funds for Payment of Bonds.* When interest on, and principal or redemption price (as the case may be) of, all Bonds issued hereunder, and all amounts owed under any Credit Facility, Qualified Swap and Exchange Agreement entered into hereunder, have been paid, or there shall have been deposited with the Fiscal Agent or an entity which would qualify as a Fiscal Agent under Section 7.01 hereof an amount, evidenced by moneys or Qualified Escrow Securities the principal of and interest on which, when due, will provide sufficient moneys to fully pay the Bonds at the maturity date or date fixed for redemption thereof, and all amounts owed under any Credit Facility, Qualified Swap and Exchange Agreement entered into hereunder, the pledge and grant of a security interest in the Project Revenues made hereunder shall cease and terminate, and the Fiscal Agent and any other depository of funds and accounts established hereunder shall turn over to the City or to such person, body or authority as may be entitled to receive the same all balances remaining in any funds and accounts established hereunder.

If the City deposits with the Fiscal Agent or such other qualified entity moneys or Qualified Escrow Securities sufficient to pay the principal or redemption price of any particular Bond or Bonds becoming due, either at maturity or by call for redemption or otherwise, together with all interest accruing thereon to the due date, interest on the Bond or Bonds shall cease to accrue on the due date and all liability of the City with respect to such Bond or Bonds shall likewise cease, except as provided in the following paragraph. Thereafter such Bond or Bonds shall be deemed not to be outstanding hereunder and shall have recourse solely and exclusively to the funds so deposited for any claims of whatsoever nature with respect to such Bond or Bonds, and the Fiscal Agent or such other qualified entity shall hold such funds in trust for such Holder or Holders.

Moneys deposited with the Fiscal Agent or such other qualified entity pursuant to the preceding paragraphs which remain unclaimed two (2) years after the date payment thereof becomes due shall, upon written request of the City, if the City is not at the time to the knowledge of the Fiscal Agent or such other qualified entity (the Fiscal Agent having no responsibility to independently investigate), in default with respect to any covenant in this Ordinance or the Bonds contained, be paid to the City; and the Holders of the Bond for which the deposit was made shall thereafter be limited to a claim against the City; provided, however, that before making any such payment to the City, the Fiscal Agent or such other qualified entity shall, at the expense of the City, publish in a newspaper of general circulation published in Philadelphia, Pennsylvania, a notice that said moneys remain unclaimed and that, after a date named in said notice, which date shall be not less than thirty (30) days after the date of publication of such notice, the balance of such moneys then unclaimed will be paid to the City.

This Section shall not be construed to limit the procedure set forth in Section 10 of the Act for calculating the principal or redemption price of and interest on any Bonds for the purpose of ascertaining the sufficiency of revenues for the purpose of Sections 7(a)(5) and 8(a)(iii) of the Act for the purpose of determining the outstanding net debt of the City if General Obligation Bonds of the City are refunded pursuant to the Act.

SECTION 11.02. *Maintenance of Tax Exempt Status of Bonds.* No deposit of funds shall be made pursuant to Section 11.01 hereof if, in the opinion of Bond Counsel, such action shall cause the interest on any Series of Bonds initially issued as tax exempt Bonds, to become subject to Federal income tax.

Nothing contained in this Ordinance shall require any Series of Bonds to be structured so that interest on such Bonds will be excluded from income of the Holders thereof for the purpose of calculating Federal income tax; provided that the provisions contained in this Ordinance are satisfied, including, without limitation, Section 5.04(b)(vi).

SECTION 11.03. *Parties Interested Herein.* Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or corporation, other than the City, the Owners of the Bonds, the Fiscal Agent, each provider of a Credit Facility, and Qualified Swap, Standby Agreement and Remarketing Agreement, any right, remedy or claim under or by reason of this Ordinance or any covenants, condition or stipulation thereof; and all the covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Fiscal Agent, the Owners of the Bonds, each provider of a Credit Facility, Qualified Swap, Standby Agreement and Remarketing Agreement.

APP. NO.244-78

SECTION 11.04. *Ordinances are Contracts With Bondholders.* This Ordinance and Supplemental Ordinances adopted pursuant hereto are contracts with the Holders of all Bonds from time to time Outstanding hereunder and thereunder and shall be enforceable in accordance with the provisions hereof and the laws of Pennsylvania.

2. This 1993 Ordinance shall take effect immediately but shall become effective as to the holders of Bonds only upon consent in writing of the owners of not less than sixty-seven percent (67%) in principal amount of all Bonds outstanding at the time of such consent, in accordance with Section 10.01(f) of the 1989 Ordinance.

APP. NO.244-83

APP. NO. 244-84

CERTIFICATION: This is a true and correct copy of the
original Ordinance approved by the Mayor on

JUNE 24, 1993

A handwritten signature in cursive script, reading "David B. Hansen".

Chief Clerk of the Council