

ORDINANCE NO. 35

AN ORDINANCE AUTHORIZING THE CONSTRUCTION OF A WATER SYSTEM FOR THE TOWN OF OAK GROVE, ARKANSAS; AUTHORIZING THE ISSUANCE OF WATER REVENUE BONDS FOR THE PURPOSE OF FINANCING THE COST OF THE CONSTRUCTION; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST ON THE BONDS; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the Town of Oak Grove, Arkansas (the "Town"), has determined that a water system (the "System") should be constructed (the "construction"), in order that the Town and its inhabitants may have adequate and proper water facilities; and

WHEREAS, the Town Council has had prepared by a duly qualified consulting engineer a preliminary report and estimates of costs of the proposed construction, which have been examined and approved by the Town Council and a copy filed in the office of the Town Recorder where it may be inspected by any interested person; and

WHEREAS, the total estimated cost of the construction, authorizing and issuing a bond and paying interest during construction ("Costs") is \$750,000; and

WHEREAS, the Town can obtain the necessary funds for paying the Costs by the issuance of a water revenue bond in the principal amount of \$195,300 (the "bond") and from grant funds obtained from an agency or agencies of the State of Arkansas (the "State") and the United States of America and available funds of the Town; and

WHEREAS, the Town has entered into a Loan Agreement with the United States of America, Farmers Home Administration (the "Government"), whereby the Government has committed to purchase the bond; and

WHEREAS, the Town is authorized, under the provisions of Title 14, Chapter 234, Subchapter 2, of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation"), to accept the offer of the Government;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Oak Grove, Arkansas:

Section 1. That the construction be accomplished. The Mayor and Town Recorder are hereby authorized to take, or cause to be taken, all action necessary to accomplish the construction and to execute all required contracts and documents.

Section 2. That the offer of the Government of par for a bond in the principal amount of \$195,300 is hereby accepted, and the bond is hereby sold to the Government.

Section 3. That the Town Council hereby finds and declares that the period of usefulness of the System after completion of the construction will be more than forty (40) years.

Section 4. That, under the authority of the Constitution and laws of the State, including particularly the Authorizing Legislation, Town of Oak Grove, Arkansas Water Revenue Bond is hereby authorized and ordered issued in the principal amount of \$195,300, the proceeds of the sale of which are necessary to finance the Costs. The bond shall be dated as of the date of its delivery and shall bear interest at the rate of 5.0% per annum. The principal of and interest on the bond shall be payable in monthly amortized installments of \$959 commencing twenty-five months from the date of the bond and continuing monthly thereafter on the same day (except that if the bond is dated the 29th, 30th or 31st day of any month the monthly payment shall be due on the 28th day of each month); interest only shall be payable annually on the first and second anniversary dates from the date of the bond. The amount of each monthly payment shall be applied first to payment of interest then due and the balance shall be applied to a reduction of principal. The amortized installments of principal and interest shall continue until the principal of the bond, with interest, is fully paid, except that final payment of the bond shall be due and payable not later than forty (40) years from the date of the bond, subject to prepayment prior to maturity as provided in the face of the bond.

The bond will be issued in typewritten form, registered as to both principal and interest, payable to the registered owner, or registered assigns (the "Owner"), as set forth hereinafter in the permanent bond form, and shall be numbered R-1.

Payment of principal and interest shall be by check or draft mailed to the Owner at its address shown on the bond registration books of the Town which shall be maintained by the Town Recorder hereunder as Bond Registrar, without presentation or surrender of the bond (except upon final payment) and such payments shall discharge the obligation of the Town to the extent thereof. The Town Recorder shall keep a payment record and make proper notations thereon of all payments of principal and interest.

Payment of principal and interest shall be in any coin or currency of the United States of America which, as at the time of payment, shall be legal tender for the payment of debts due the United States of America. When the principal of and interest on the bond has been fully paid, it shall be canceled and delivered to the Town Recorder.

Section 5. That the bond shall be executed on behalf of the Town by the Mayor and Town Recorder and shall have impressed thereon the seal of the Town. The bond is not a general obligation of the Town but is a special obligation, the principal of and interest on which are secured by a pledge of and are payable from

revenues derived from the System ("Revenues"). The bond and interest thereon shall not constitute an indebtedness of the Town within any constitutional or statutory limitation.

Section 6. (a) That the bond shall be in substantially the following form and the Mayor and Town Recorder are hereby authorized and directed to make all the recitals contained therein:

(form of single registered bond)
(To be typewritten)

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF CARROLL
TOWN OF OAK GROVE
5% WATER REVENUE BOND

No. R-1

\$195,300

KNOW ALL MEN BY THESE PRESENTS:

That the Town of Oak Grove, Carroll County, Arkansas (the "Town"), for value received, hereby acknowledges itself to owe and promises to pay to the registered owner, or assigns, solely from the special fund provided as hereinafter set forth, the principal sum of

ONE HUNDRED NINETY-FIVE THOUSAND THREE HUNDRED DOLLARS
(or the total principal amount outstanding as reflected
by the Record of Payment of Advances attached hereto)

with interest on the unpaid balance of the aggregate principal sum at the rate of 5% per annum from the date of each advance. The principal and interest shall be payable in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of debts due the United States of America and shall be payable in the following installments on or before the following dates: Interest only shall be payable annually on the first and second anniversary dates from the date of this bond; and amortized monthly installments of \$959 shall be payable commencing twenty-five months from the date of this bond and monthly thereafter on the same day (except that if this bond is dated the 29th, 30th or 31st day of any month the monthly payment shall be due on the 28th day of each month) until the principal and interest are fully paid, except that final payment of the entire indebtedness, if not sooner paid, shall be due and payable forty (40) years from the date of this bond.

Payments of the principal and interest installments due hereon shall be made, except for final payment, without presentation and surrender of this bond, directly to the registered

owner at his address shown on the bond registration book of the Town maintained by the Town Recorder as Bond Registrar, and such payments shall fully discharge the obligation of the Town to the extent of the payments so made.

This bond is issued for the purpose of financing a portion of the cost to the Town of constructing a new water system (the "construction") for the Town, costs of authorizing and issuing this bond and paying interest during construction (with the balance of the costs to be paid from grant funds obtained from an agency or agencies of the State of Arkansas and the United States of America and available funds of the Town), and is issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas, including particularly Title 14, Chapter 234, Subchapter 2, of the Arkansas Code of 1987 Annotated, and pursuant to Ordinance No. 35 of the Town, duly adopted and approved on the 3rd day of January, 1991 (the "Authorizing Ordinance"). Reference is hereby made to the Authorizing Ordinance for the details of the nature and extent of the security and of the rights and obligations of the Town and the registered owner of this bond.

Prepayments of principal installments, or any portion thereof, may be made from funds from any source at any time at the option of the Town in inverse chronological order of maturity at a price of the principal amount thereof plus accrued interest. Such prepayments shall not affect the obligation of the Town to pay the remaining installments as scheduled herein.

This bond does not constitute an indebtedness of the Town within any constitutional or statutory limitation or provision, and the taxing power of the Town is not pledged to the payment of the principal of or interest on this bond. This bond is a special obligation payable solely from and secured by a pledge of revenues derived from the operation of the water facilities of the Town (the "System"). A sufficient amount of System revenues to pay principal and interest has been duly set aside and pledged as a special fund for that purpose, identified as the "1991 Water Revenue Bond Fund," created by the Authorizing Ordinance. The Town has fixed and has covenanted and agreed to maintain rates for use of the System which shall be sufficient at all times at least to provide for the payment of the principal of and interest on all the outstanding bonds to which System revenues are pledged as the same become due, establish and maintain debt service reserves, provide a depreciation fund, and provide for the payment of the reasonable expenses of operation and maintenance of the System, all as set forth in the Authorizing Ordinance.

THIS BOND IS DESIGNATED A "QUALIFIED TAX-EXEMPT OBLIGATION" FOR THE PURPOSE OF SECTION 265 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

This bond may be assigned, and in order to effect such assignment the assignor shall promptly notify the Town Recorder by

registered mail, and the assignee shall surrender this bond to the Town Recorder for transfer on the registration records. Every assignee shall take this bond subject to all payments and prepayments of principal and interest (as reflected by the Payment Record maintained by the Town Recorder), prior to such surrender for transfer.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required by the Constitution and statutes of the State of Arkansas to exist, happen and be performed precedent to and in the issuance of this bond do exist, have happened and have been performed in regular and due time, form and manner as required by law; that this bond does not exceed any constitutional or statutory limitation of indebtedness; and that provision has been made for the payment of the principal of and interest on this bond, as provided in the Authorizing Ordinance.

IN WITNESS WHEREOF, the Town of Oak Grove, Arkansas has caused this bond to be executed in its name by its Mayor and Town Recorder, thereunto duly authorized, with the manual signatures of the Mayor and Town Recorder, and its corporate seal to be affixed, all as of the _____ day of _____, 199__.

TOWN OF OAK GROVE,
ARKANSAS

ATTEST:

By _____
Mayor

Town Recorder

(SEAL)

REGISTRATION CERTIFICATE

Date of Registration:	Name of Registered Owner:	Signature of Town Recorder
:	:	:
:	:	:
:	:	:
:	:	:
:	:	:
:	:	:
:	:	:
:	:	:
:	:	:
:	:	:

RECORD OF PAYMENT OF ADVANCES

<u>Date of Advance*</u>	<u>Amount of Advance</u>	<u>Total Principal Outstanding</u>	<u>Signature of Town Recorder</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

*The date of each advance shall be the interest commencement date from which the principal amount of such advance bears interest.

Section 6. (b) That pending the preparation and delivery of the bond hereinabove authorized, temporary bonds in the aggregate principal amount of \$195,300 may be issued for the purpose of providing construction funds immediately and in anticipation of the issuance of the bond. The temporary bonds shall be in such denominations as the Mayor shall determine, be numbered from 1 upwards, be sold at a price of 100 cents on the dollar, be dated the date of delivery, bear interest at a rate not to exceed 10% percent per annum and be payable two (2) years from their date. Upon delivery of the bond, the temporary bonds to the extent then outstanding, with accrued interest, shall be exchanged for, or paid from the proceeds of, the bond, and shall be canceled. The temporary bonds shall be typewritten and in substantially the following form:

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF CARROLL
TOWN OF OAK GROVE
TEMPORARY WATER REVENUE BOND

No. _____

\$ _____

KNOW ALL MEN BY THESE PRESENTS:

The Town of Oak Grove, Carroll County, Arkansas hereby acknowledges itself indebted and promises to pay to _____ at its office in _____, Arkansas, or assigns, the total principal outstanding as shown by the Record of Payment of Advances attached hereto, but not to exceed the principal sum of

_____ DOLLARS

on _____, 199_, plus interest thereon from the date of each such advance at the rate of _____ percent per annum, payable one year from date and at maturity.

This bond is one of an issue of temporary bonds in the aggregate principal amount of \$195,300 issued for the purpose of providing construction funds in anticipation of the issuance of permanent and definitive bonds for constructing a new water system (the "System") for the Town in accordance with the Authorizing Ordinance of the Town (Ordinance No. _____, adopted and approved on _____, 1991). This bond is not a general obligation of the Town but is a special obligation payable solely from the revenues of the System and from a pledge of the proceeds of the permanent and definitive bonds. The Town has fixed and has covenanted and agreed to maintain rates for use of the System which shall be sufficient at all times at least to provide for the payment of the principal of and interest on all the outstanding permanent bonds to which System revenues are pledged as the same become due, establish and maintain debt service reserves, provide a depreciation fund and provide for the payment of the reasonable expenses of operation and maintenance of the System as set forth in the Authorizing Ordinance. The Town covenants and agrees that on or before the maturity date hereof, this bond, to the extent then outstanding, with accrued interest, shall be exchanged for, or paid from the proceeds of, such permanent and definitive bonds.

This bond is issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas, including particularly Title 14, Chapter 234, Subchapter 2, of the Arkansas Code of 1987 Annotated, and pursuant to the Authorizing Ordinance.

Payments of the principal and interest installments due hereon shall be made, except for final payment, without presentation and surrender of this bond, directly to the registered owner at his address shown on the bond registration book of the Town maintained by the Town Recorder as Bond Registrar, and such payments shall fully discharge the obligation of the Town to the extent of the payments so made.

This bond may be assigned, and in order to effect such assignment the assignor shall promptly notify the Town Recorder by registered mail, and the assignee shall surrender this bond to the Town Recorder for transfer on the registration records. Every assignee shall take this bond subject to all payments and prepayments of principal and interest (as reflected by the Payment Record maintained by the Town Recorder), prior to such surrender for transfer.

THIS BOND IS DESIGNATED A "QUALIFIED TAX-EXEMPT OBLIGATION" FOR THE PURPOSE OF SECTION 265 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

This bond may be redeemed at any time prior to maturity, from funds from any source, at a price of par and accrued interest to date of redemption, upon ten (10) days prior written notice by first class mail to the owner hereof.

IT IS HEREBY CERTIFIED AND DECLARED that all conditions, acts and things required by the Constitution and statutes of the State of Arkansas to exist, happen and be performed precedent to and in the issuance of this bond do exist, have happened and have been performed in regular time, form and manner as required by law; that this bond does not exceed any constitutional or statutory limitation of indebtedness; and that provision has been made for the payment of the principal of and interest on this bond, as provided in the Authorizing Ordinance.

IN WITNESS WHEREOF, the Town of Oak Grove, Arkansas has caused this bond to be signed by the Mayor and Town Recorder and sealed with the corporate seal on this _____ day of _____, 199_.

TOWN OF OAK GROVE, ARKANSAS

ATTEST:

By _____
Mayor

Town Recorder

(SEAL)

A Registration Certificate and Record of Payment of Advances, in the forms set out above, shall be attached to each temporary bond.

Section 7. That the Town has heretofore fixed water rates by Ordinance No. 34, adopted on the 3rd day of January, 1991. Reference is hereby made to such Ordinance for the details thereof and other provisions pertaining thereto, which water rates are hereby confirmed and continued.

The Town covenants and agrees that the rates established will produce gross Revenues at least sufficient to pay operation and maintenance expenses of the System, pay the principal of and interest on all outstanding bonds to which System revenues are pledged ("System Bonds"), as the same become due, create and maintain debt service reserves, and to make the required deposits for depreciation as specified by this Ordinance. The Town covenants always to maintain rates (including increases as necessary) which will provide for the maintenance of the funds hereinafter described. The rates shall never be reduced while the bond is outstanding unless there is obtained from a certified public accountant not in the regular employ of the Town a certificate reciting the opinion that the proposed new rates will

produce sufficient net Revenues (net Revenues being gross Revenues to be derived during the next twelve (12) months less the reasonably anticipated cost of operation and maintenance for the next twelve (12) months and less the required deposits for depreciation of the System for the next twelve (12) months) equal to not less than 120% of the maximum amount that will become due in any year thereafter for principal and interest on all System Bonds.

Section 8. That the Treasurer of the Town shall be custodian of the gross Revenues derived from the operation of the System and shall give bond for the faithful discharge of his duties as such custodian. The amount of the bond shall at all times be at least equal to the total funds in his custody at any one time or \$25,000, whichever is greater. All Revenues received by the Treasurer shall be deposited by him in such depository or depositories for the Town as may be lawfully designated from time to time by the Town Council; provided that each depository must hold membership in the Federal Deposit Insurance Corporation ("FDIC"). All deposits shall be in the name of the Town and shall be so designated as to indicate the particular fund to which Revenues belong. Any deposit in excess of the amount insured by FDIC shall be secured by bonds or other direct or fully guaranteed obligations of the United States of America unless invested as herein authorized.

Section 9. That the Town covenants that it will continuously operate the System as a revenue-producing undertaking and will not sell or lease the same, or any substantial portion thereof, without the prior written approval of the Owner; provided, however, that nothing herein shall be construed to prohibit the Town from making such dispositions of properties of the System and such replacements and substitutions for properties of the System as shall be necessary or incidental to the efficient operation of the System as a revenue-producing undertaking.

Section 10. Water Revenue Fund. All Revenues shall be paid into the special fund, created and designated "Water Revenue Fund" (the "Revenue Fund"). Revenues in the Revenue Fund are hereby pledged and shall be applied to payment of the expenses of operation and maintenance of the System, to the payment of the principal of and interest on all outstanding System Bonds, to the establishment and maintenance of debt service reserves and to the providing of a depreciation fund all in the manner hereinafter set forth in this Ordinance.

Section 11. 1991 Water Revenue Bond Fund. (a) There shall be paid from the Revenue Fund into a special fund in the name of the Town which is hereby created and designated "1991 Water Revenue Bond Fund" (the "Bond Fund"), the sums in the amounts and at the times hereinafter stated in subsection (b) for the purpose of providing funds for the payment of the principal of and interest on the bond as it matures, and to establish a debt service reserve.

(b) There shall be paid into the Bond Fund on the first business day of each month commencing the twenty-fifth month after delivery of the bond and continuing on the first business day of each month thereafter until the bond with interest thereon has been paid in full or provision made for such payment, a sum equal to the installment of principal and interest due on the next monthly installment payment date, for the bond, plus the additional sum of \$96.00. When a debt service reserve shall have been accumulated, and so long as it shall remain, in the amount equal to the lesser of (i) \$11,508 or (ii) the maximum annual debt service requirements on the bond (the "required level"), the additional payment of \$96.00 need not be made. On or prior to the first and second anniversary date of the bond, there shall be paid into the Bond Fund from the Construction Fund the amount necessary to pay the interest installment due on the bond.

(c) If Revenues are insufficient to make the required payment on or before the first business day of the following month into the Bond Fund, then the amount of any such deficiency in the payment made shall be added to the amount otherwise required to be paid into the Bond Fund on the first business day of the next month.

(d) If, for any reason, the Treasurer shall fail at any time to make any of the required payments into the Bond Fund, or if for any reason the Bond Fund shall be insufficient at any time to make the required payments for principal and interest, as due, any sums then held in the debt service reserve shall be used to the extent necessary in the payment of the principal of and interest on the bond, but such reserve shall be reimbursed from the first available moneys in the Revenue Fund by the increased monthly payments specified in (b) above. The debt service reserve shall be used solely as herein provided.

(e) When the moneys held in the Bond Fund, including the debt service reserve, shall be and remain sufficient to pay in full the principal of and interest on the bond, the Treasurer shall not be obligated to make any further payments into the Bond Fund.

(f) All moneys in the Bond Fund shall be used solely for the purpose of paying the principal of and interest on the bond, except as herein specifically provided. If a surplus shall exist in the Bond Fund over and above the amount necessary to insure the payment, when due, of principal and interest and over and above the debt service reserve's required level, such surplus shall, at the option of the Town, either (1) be used for the prepayment of the bond prior to maturity, (2) be used for the construction of improvements and extensions to the System or (3) be transferred to the Revenue Fund.

(g) It shall be the duty of the Treasurer to withdraw from the Bond Fund and to pay to the registered owner, on or before the date on which each installment hereunder is due, an amount

equal to the amount of such installment. No withdrawal of funds from the Bond Fund shall be made for any other purpose except as otherwise authorized in this Ordinance.

(h) The bond shall be specifically secured by a pledge of all Revenues required to be placed into the Bond Fund. This pledge in favor of the bond is hereby irrevocably made according to the terms of this Ordinance, and the Town and its officers and employees shall execute, perform and carry out the terms thereof in strict conformity with the provisions of this Ordinance.

(i) Provision has been made for the payment of the principal of and accrued interest on the temporary bonds from the proceeds of the bond and the Town shall not be required to make any payments into the Bond Fund until delivery of the bond unless necessary to prevent a default on the temporary bonds but the Town covenants to make payments into the Bond Fund at the times and in the amounts, if any, necessary to prevent a default in payment of principal of or interest on the temporary bonds.

Section 12. Water Depreciation Fund. After making the required payment into the Bond Fund, there shall be paid by the Treasurer from the Revenue Fund into a fund which is hereby created and designated "Water Depreciation Fund" ("Depreciation Fund") on the fifth day of each month 5% of the gross revenues of the System for the preceding month. Moneys in the Depreciation Fund shall be used solely for the purpose of paying the cost of replacements or repairs to the System facilities made necessary by the depreciation of the System or for the cost of economically justifiable extensions to the System; provided, however, that moneys in the Depreciation Fund may be used to the extent necessary, to prevent a default in the payment of the principal of and interest on System Bonds as the same become due and to maintain the debt service reserve at the required level.

If in any fiscal year a surplus shall be accumulated in the Depreciation Fund over and above the estimated Depreciation Fund expenditures for the remainder of the then current fiscal year plus the next ensuing fiscal year, such surplus shall be transferred and paid into the Revenue Fund.

Section 13. Water Operation and Maintenance Fund. After making the required payments into the Bond Fund and into the Depreciation Fund, there shall be paid by the Treasurer from the Revenue Fund into a fund, which is hereby created and designated "Water Operation and Maintenance Fund" ("Operation and Maintenance Fund") on or before the fifth day of each month, such sums as are estimated to be required to pay the reasonable and necessary expenses of operation, repair, maintenance and the insuring of the System for such month (excluding depreciation and debt service payments) and from which disbursements shall be made only for those purposes. Fixed annual charges, such as insurance premiums and the cost of major repair and maintenance expenses may be computed and

set up on an annual basis and one-twelfth (1/12) of the amount thereof may be paid into the Operation and Maintenance Fund each month.

If, in any month, for any reason there shall be a failure to transfer and pay the required amount into the Operation and Maintenance Fund, the amount of any deficiency shall be added to the amount otherwise required to be transferred and paid into the Operation and Maintenance Fund in the next succeeding month. If in any fiscal year a surplus shall be accumulated in the Operation and Maintenance Fund over and above the amount estimated to be necessary to defray the reasonable and necessary cost of operation, repair, maintenance and insuring of the System during the remainder of the then current fiscal year and the next ensuing fiscal year, such surplus shall be transferred and deposited in the Revenue Fund.

Section 14. That any surplus in the Revenue Fund, after making the required deposits in the other funds as set forth herein may be used for any lawful municipal purpose.

Section 15. That payments from the funds established by this Ordinance shall be made by check or voucher, signed by the Town Treasurer and the Mayor, and drawn on the depository. Each such check or voucher shall briefly specify the purpose of the expenditure.

Section 16. That the principal and interest installments shall be prepayable prior to maturity as provided in the bond form in Section 6 hereof.

Section 17. That as long as the bond is outstanding, the Town shall not issue or attempt to issue any bonds having or claimed to be entitled to a priority of lien on the Revenues over the lien securing the bond, including any and all future extensions, betterments and improvements to the System.

Nothing herein shall be construed in any manner to prevent the issuance by the Town of additional revenue bonds to finance or pay the cost of constructing extensions, betterments and improvements to the System; however, any such additional bonds shall not be issued on a parity with the bond unless and until there shall have been procured and filed in the office of the Town Recorder a statement by a certified public accountant not in the regular employ of the Town reciting the opinion that net Revenues (net Revenues being gross Revenues less operation and maintenance expenses) of the System for the fiscal year preceding the year in which such parity bonds are to be issued were not less than 120% of the average annual debt service requirements on all outstanding System Bonds and the bonds then proposed to be issued.

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

Section 18. That the Town shall maintain public liability insurance covering the Town's ownership and operation of a motor vehicle or vehicles in connection with the System, with maximum liability limits of not less than \$25,000 for personal injury or death of a single person, \$50,000 for personal injury or death of more than one person in a single accident or occurrence and \$15,000 for property damage arising from a single accident or occurrence.

Section 19. It is covenanted and agreed by the Town with the Owner that it will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State and by this Ordinance, including, without limitation, the making and collecting of reasonable and sufficient rates lawfully established for services rendered by the System, segregating Revenues and applying them to the respective funds created by this Ordinance.

The Town covenants and agrees that the Owner shall have the protection of all the provisions of the Authorizing Legislation, and that the Town will diligently proceed to enforce those provisions to the end of the Owner realizing fully upon its security. And, if the Town shall fail to proceed within thirty (30) days after written request shall have been filed by the Owner, the Owner may proceed to enforce all such provisions.

If there be any default in the payment of the principal of or interest on the bond, or if the Town defaults in any Bond Fund requirement or in the performance of any of the other covenants contained in this Ordinance, the Owner may by proper suit, compel the performance of the duties of the officials of the Town under the laws of the State. And, in the case of a default in the payment of the principal of and interest of the bond, the Owner may apply in a proper action to a court of competent jurisdiction for the appointment of a receiver to administer the System on behalf of the Town and the with power to charge and collect (or by mandatory injunction or otherwise to cause to be charged and collected) rates sufficient to provide for the payment of the expenses of operation, repair and maintenance and to pay any System Bond and interest outstanding and to apply Revenues in conformity with this Ordinance. When all defaults in principal and interest payments have been cured, the custody and operation of the System shall revert to the Town. No remedy herein conferred upon or reserved to the Owner is intended to be exclusive of any other remedy or remedies herein provided or provided by law, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or given by law. No delay or omission of the Owner to exercise any right or power accrued upon any

default shall impair any such right or power or shall be construed to be a waiver of any default or an acquiescence therein; and every power and remedy given by this Ordinance to the Owner may be exercised from time to time and as often as may be deemed expedient.

The owners of the outstanding temporary bonds shall be entitled to exercise the rights and remedies granted hereby as if they were the "Owner" thereof.

Any costs of enforcement of any of the bonds or of any provision of this Ordinance, including reasonable attorney's fees, shall be paid by the Town.

Section 20. (a) That the Town covenants that it shall not take any action or suffer or permit any action to be taken or condition to exist which causes or may cause the interest payable on the permanent or temporary bonds to be included in gross income for federal income tax purposes. Without limiting the generality of the foregoing, the Town covenants that the proceeds of the permanent or temporary bonds will not be used directly or indirectly in such manner as to cause those bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). If the permanent and temporary bonds are issued, the Town agrees to make any required rebate to the United States Treasury in accordance with Section 148 of the Code with respect to the permanent bond.

(b) The Town represents that it has not used or permitted the use of, and covenants that it will not use or permit the use of the System in such manner as to cause the permanent or temporary bonds to be "private activity bonds" within the meaning of Section 141 of the Code. In this regard, the Town covenants that (i) it will not use (directly or indirectly) the proceeds of such bonds to make or finance loans to any person, (ii) that while such bonds are outstanding the System will only be used by persons on a basis as members of the general public and that (iii) charges for use of the System while such bonds are outstanding will be based upon rates for usage only and not by contract with any nongovernmental person.

(c) The permanent and temporary bonds are hereby designated as "qualified tax-exempt obligations" within the meaning of the Code. The Town represents and covenants that the aggregate principal amount of its tax-exempt obligations (excluding private activity bonds within the meaning of Section 141 of the Code, except qualified 501(c)(3) bonds within the meaning of Section 145 of the Code), including those of its subordinate entities, issued in the calendar year in which the permanent and temporary bonds are issued does not and will not exceed \$10,000,000. The Town further covenants and represents that (i) the aggregate principal amount of its tax-exempt obligations (not including "private activity bonds" within the meaning of

Section 141 of the Code), including those of its subordinate entities issued in the calendar year in which the permanent and temporary bonds are issued will not and shall not exceed \$5,000,000, and (ii) at least 95% of the proceeds of the permanent and temporary bonds will be expended for the cost of the construction (exclusive of costs of issuance of such bonds).

(d) That the Town covenants that it will take no action which would cause the permanent and temporary bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code; specifically, (A) the payment of any portion of principal or interest with respect to such bonds will not be guaranteed (directly or indirectly) by the United States or any agency or instrumentality thereof, and (B) none of the proceeds of such bonds (exclusive of proceeds invested for an initial temporary period until needed for the purpose for which such bonds were issued) will be invested (directly or indirectly) in federally insured deposits or accounts. Nothing in this Section 20 shall prohibit investments in bonds issued by the United States Treasury.

(e) The Town covenants that it will submit to the Secretary of the Treasury of the United States statements concerning the permanent and temporary bonds which contain the information required by Section 149(e) of the Code within the time provided by that Code Section.

Section 21. That the Town will keep proper records, books and accounts relating to the operation of the System, which shall be kept separate from all other records and accounts of the Town, in which complete and correct entries shall be made of all transactions relating to the operation of the System. Such books shall be available for inspection by the Owner, or the agent or the representative of the Owner, at reasonable times and under reasonable circumstances. The Town agrees to have these records audited by an independent certified public accountant at least once each year. If the Government owns the bond, the Town will furnish to the Government, or, if the Government does not own the bond, the Town will furnish, if so requested in writing, to the Owner: (1) On or before thirty (30) days after the close of each fiscal year a statement of the operations of the System for the past fiscal year in form and content in the manner hereinafter specified, and (2) on or before ninety (90) days after the close of each fiscal year, a copy of the audit report of the certified public accountant. Both reports required by the last preceding sentence shall contain at least the following information:

(a) Comment regarding the manner in which the Town has complied with the covenants in this Ordinance and recommendations for any changes or improvements in the operation of the System;

(b) Statement of income and expense for the System;

(c) Statement showing analysis of each fund including deposits, withdrawals and beginning and ending balances;

(d) Balance sheet for the System;

(e) Schedule of insurance policies and fidelity bonds showing, with respect to each policy and bond, the amount and nature of risk covered, the expiration date, the name of the insurer;

(f) Names and titles of principal officers;

(g) Schedule of the number of customers (connected and unconnected to the System) and showing the rate schedule currently in effect;

(h) The current assessed valuation of all taxable real and personal property located in the Town, and a report on tax rates, levies and collections of the Town; and

(i) A general statement concerning any events of circumstances which possibly might affect the financial status of the System.

The reports referred to above shall cover the operations of the System for all of the last ensuing fiscal year. In the event the Town fails or refuses to furnish or cause such reports to be furnished, the Owner, may have the reports made, and the cost thereof shall be charged against the Operation and Maintenance Fund.

Section 22. The Town covenants and agrees that it will maintain the System in good condition and operate it in an efficient manner and at reasonable cost. The Town agrees that it will insure, and at all times keep insured, in the amount of the actual value thereof, in a responsible insurance company or companies authorized and qualified under the laws of the State to assume the risk thereof, all above-ground structures of the System (except reservoirs, sandpipes and elevated tanks) against loss or damage thereto from fire, lightning, tornado, winds, riot, strike, civil commotion, malicious damage, explosion, and against loss or damage from any other causes customarily insured against by private companies engaged in a similar type of business. In the event of loss, the proceeds of such insurance shall be applied solely toward the reconstruction, replacement or repair of the System, and in such event the Town will, with reasonable promptness, cause to be commenced and completed the reconstruction, replacement and repair work. If such proceeds are more than sufficient for such purposes, the balance remaining shall be deposited to the credit of the Revenue Fund, and if such proceeds shall be insufficient for such purposes, the deficiency shall be supplied, first, from moneys in the Depreciation Fund, second, from moneys in the Operation and Maintenance Fund, and third, from available moneys in the Revenue

Fund. Nothing herein shall be construed as requiring the Town to expend any funds for reconstruction, replacement or repair of the System or for operation and maintenance of the System or for premiums on its insurance which are derived from sources other than insurance proceeds or revenues derived from the operation of the System, but nothing herein shall be construed as preventing the Town from doing so.

Section 23. That when the bonds herein authorized (temporary bonds and permanent bonds) have been executed by the Mayor and Town Recorder and the seal of the Town impressed, as herein provided, they shall be delivered to the purchaser upon payment of the purchase price. The proceeds from the sale of the bonds shall be disbursed as follows:

(a) In the case of the temporary bonds the proceeds shall be deposited in a special account of the Town designated "Water Construction Fund" (the "Construction Fund") in a bank that is a member of FDIC.

(b) In the case of the bond the amount necessary, if any, to pay in full the outstanding principal and accrued interest to date of payment of any temporary bonds shall be used for that purpose, and the balance shall be deposited into the Construction Fund. Moneys in the Construction Fund in excess of the amount insured by FDIC shall be continuously secured by bonds or other direct or fully guaranteed obligations of the United States of America, except that any moneys invested as hereafter authorized need not be so secured.

The moneys in the Construction Fund shall be disbursed solely in payment of the Costs. Disbursements shall be on the basis of checks or requisitions which shall contain at least the following information: The person, firm or corporation to whom payment is being made; the amount of the payment; and the purpose by general classification of the payment. Each check or requisition must be signed by the individual occupying the managing office of the System (the "Manager") and in the case of all items of expense over which the consulting engineers shall exercise supervision (which shall include all expenses except engineering fees, legal fees and expenses pertaining to the issuance of the bonds) each check or requisition shall be accompanied by a certificate signed by the consulting engineers (or by a representative thereof designated by the consulting engineers), certifying approval thereof. In the case of requisitions, the depository shall issue its check upon the Construction Fund payable to the person, firm or corporation designated in the requisition. The depository of the Construction Fund shall be required to keep records as to all payments made on the basis of requisitions, and the Manager shall keep records of all payments made on the basis of checks.

When the construction shall have been completed, this fact shall be evidenced by the filing with the depository in which

the Construction Fund is deposited of a certificate signed by the Manager, and the consulting engineer, which certificate shall state the date of such completion and shall state that all obligations which are payable from the Construction Fund have been discharged. Upon receipt of the above certificate the depository with which the Construction Fund is deposited shall pay or transfer any remaining balance pursuant to the written direction or check signed by the Manager and one other person designated by the Town Council and with any such remaining balance to be transferred into the Bond Fund, and applied immediately to the prepayment of the bond, in multiples of \$1,000 in principal amount. Any remaining balance of less than \$1,000 shall be deposited in the debt service reserve in the Bond Fund. The Town shall require the depository to execute an appropriate Deposit Agreement embodying the substance of the provisions of this Section 23.

Section 24. (a) That moneys held for the credit of the Construction Fund shall, as nearly as may be practicable, be continuously invested and reinvested in direct obligations of, or obligations the principal of and interest on which are fully guaranteed by, the United States Government ("Government Obligations"), which mature or which shall be subject to redemption by the holder or registered owner, at the option of such holder or registered owner, not later than the date or dates when the moneys will be needed for proper disbursements.

(b) Moneys held for the credit of the debt service reserve in the Bond Fund shall be continuously invested and reinvested in Government Obligations which shall mature, or which shall be subject to redemption by the holder or registered owner thereof, at the option of such holder or registered owner, not later than ten (10) years after the date of investment.

(c) Moneys held for the credit of any other fund may, at the option of the Town, be invested and reinvested by the Town in Government Obligations which shall mature, or which shall be subject to redemption by the holder or registered owner thereof at the option of such holder or registered owner, not later than the date or dates when the moneys held for the credit of the particular fund will be required for the purpose intended.

(d) Obligations so purchased as an investment of moneys in any such fund shall be deemed at all times to be a part of such fund, and the interest accruing thereon and any profit realized from such investment shall be credited to such fund, and any loss resulting from such investment shall be charged to such fund. Any earnings on moneys in the debt service reserve which increases the amount thereof above the required level shall be transferred from the debt service reserve into the Bond Fund.

(e) Moneys so invested in Government Obligations need not be secured by the depository bank.

Section 25. That in the event the office of Mayor, Town Recorder, Town Treasurer or Town Council shall be abolished, or any two or more of such offices shall be merged or consolidated, or in the event the duties of a particular office shall be transferred to another office or officer, or in the event of a vacancy in any such office by reason of death, resignation, removal from office or otherwise, or in the event any such officer shall become incapable of performing the duties of his office by reason of sickness, absence from the Town or otherwise, all powers conferred and all obligations and duties imposed upon such office or officer shall be performed by the office or officer succeeding to the principal functions thereof, or by the office or officer upon whom such powers, obligations and duties shall be imposed by law. In this regard, if the Town should ever fail to maintain the office of Treasurer, the duties of the Treasurer hereunder shall be performed by the Recorder.

Section 26. That the provisions of this Ordinance shall constitute a binding contract between the Town and the Owners of the outstanding bonds issued hereunder, and the Town will at all times strictly adhere to the terms and provisions hereof and fully discharge all of its obligations hereunder.

Section 27. The post-adoption hearing on this Ordinance required by Ark. Code Ann. §14-234-206 (1987) shall be held at the time determined by the Mayor. The Mayor shall give the required notice of hearing.

Section 28. That this Ordinance shall not create any right of any kind, and no right of any kind shall arise hereunder pursuant to it, until the bonds authorized by this Ordinance shall be issued and delivered.

Section 29. That the provisions of this Ordinance are hereby declared to be separable, and if any provision shall for any reason be held illegal or invalid, it shall not affect the validity of the remainder of the Ordinance.

Section 30. That there shall be a statutory mortgage lien upon the System in favor of the Owner and the System shall remain subject to such statutory mortgage lien until payment in full of the principal of and interest on the bonds authorized hereby.

Section 31. That all ordinances and resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 32. That it is hereby ascertained and declared that the Town is without water facilities to serve the needs of the Town and the inhabitants thereof, thus endangering the life, health and safety of the inhabitants and their property, and that the only practical manner in which those hazards can be eliminated

is by the construction of the System to be financed by these bonds. It is, therefore, declared that an emergency exists, and this Ordinance being necessary for the immediate preservation of the public peace, health and safety, shall take effect and be in force from and after its passage.

PASSED: January 3, 1991.

ATTEST:

Delma Allen
Town Recorder

APPROVED:

Jean Morgan
Mayor

(SEAL)

CERTIFICATE

The undersigned, Town Recorder of the Town of Oak Grove, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 35, adopted at a regular session of the Town Council of the Town of Oak Grove, Arkansas, held at the regular meeting place in said Town at 7:00 p.m., on the 3rd day of January, 1991, and that the Ordinance is of record in the Ordinance Record Book of the Town now in my possession.

GIVEN under my hand and seal on this 3rd day of January, 1991.

Delma Allen
Town Recorder

(SEAL)