ORDINANCE NO. O-2017-01

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A WATER AND SEWER REVENUE BOND IN THE PRINCIPAL AMOUNT OF $1,000,000 FOR THE PURPOSE OF PROVIDING FOR THE CONSTRUCTION OF BETTERMENTS AND IMPROVEMENTS TO THE WASTEWATER SYSTEM OF THE CITY OF WARD, ARKANSAS, PROVIDING FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON THE BOND; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Ward, Arkansas (herein sometimes referred to as "Council") has previously determined that there is an immediate need to provide for the construction of betterments and improvements to the wastewater portion of the water and wastewater system for the City of Ward (the "City"), and has caused to be filed with the City Clerk by a duly qualified engineer, chosen by the Council, plans and specifications and an estimate of the cost of the construction; and

WHEREAS, by City Ordinance No. O-2016-01 dated June 13, 2016, the City previously authorized the issuance of a water and sewer revenue bond in the amount of $4,860,000 to USDA Rural Development. After the bids were tabulated, it was determined that $4,860,000 was not sufficient to complete the proposed improvements; and

WHEREAS, according to the above-mentioned estimate, the cost of constructing betterments and improvements to the wastewater system, inclusive of funds from federal and state grants, and state loans, will be the sum of $1,000,000, in addition to the amount of $4,860,000 described in the previous paragraph, including engineering, legal costs, and other expenses incidental to the issuance of the bond hereinafter authorized, which report has been previously examined and approved by the City Council; and
WHEREAS, it is necessary to defray a portion of the cost of the construction of the betterments and improvements, as above recited, by obtaining a loan made, or insured, by the United States of America in accordance with the applicable provisions of the Consolidated Farm and Rural Development Act of 1972, it being determined that the City of Ward is unable to obtain sufficient credit elsewhere to finance the construction of betterments and improvements to the wastewater system, taking into consideration prevailing private and comparative rates and terms currently available; and

WHEREAS, the City is authorized under Amendment 65 and Arkansas Code Annotated §§14-234-201 et seq., Arkansas Code Annotated §§14-235-201 et seq., and Arkansas Code Annotated §§14-164-401 et seq., to issue and sell a revenue bond for the purpose of financing in part the cost of constructing betterments and improvements to the wastewater system, including printing, legal and other expenses incident to the issuance of the bond; and

WHEREAS, to secure funds necessary to finance the construction of betterments and improvements to the wastewater system and the engineering, legal and other costs incidental to the issuance of the bond for these purposes, the Council has determined to issue the Water and Sewer Revenue Bond hereinafter authorized, to be payable solely from the net revenues of the water and sewer system; and

WHEREAS, the City has the following prior issues ("Prior Issues"): (1) $4,990,000 Water and Sewer Revenue Refunding and Construction Bonds, Series 2011, with the amount currently outstanding of $3,850,000, and the bonds mature on April 1, 2031; (2) $3,025,000 Water and Sewer Revenue Refunding Bonds, Series 2013, with the amount currently outstanding of $2,750,000, and the bonds mature on April 1, 2043; and (3) $4,860,000 Water and Sewer Revenue Bond, with the amount currently outstanding of
$4,860,000, and the bond matures on December 30, 2056; and

WHEREAS, the Bond authorized by this Ordinance will be issued on a parity with the Prior Issues.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WARD, ARKANSAS:

Section 1. That the betterments and improvements to the wastewater system be constructed in accordance with the plans herebefore referred to, and for defraying a portion of the costs thereof, to obtain such financial assistance as is available by loan, made or insured by the United States of America, acting by and through the USDA Rural Development (formerly Farmers Home Administration, United States Department of Agriculture).

Section 2. That the City Council hereby finds and declares that the period of usefulness of the water and sewer system after the improvements will be more than forty (40) years.

Section 3. That under the authority of Amendment 65 and Arkansas Code Annotated §§14-234-201 et seq., Arkansas Code Annotated §§14-235-201 et seq., and Arkansas Code Annotated §§14-164-401 et seq., the City of Ward is hereby authorized to borrow the sum of One Million Dollars ($1,000,000) from the United States of America, acting through the USDA Rural Development, and issue as evidence therefor a "Water and Sewer Revenue Bond" in the principal amount of $1,000,000. The bond shall bear interest on the outstanding principal amount at the lower of the prevailing Rural Development interest rate at the time of loan approval (3.375% per annum) or the prevailing Rural Development interest rate at the time the bond is issued, and with principal and interest payable in monthly amortized installments commencing one month after loan closing and
monthly thereafter except that if the loan is closed on the 29th, 30th, of 31st day of the month, the due date will be the 28th day of the month. If the interest rate is 3.375%, the amortized monthly payments shall be in the amount of $3,800. If the interest rate is lower, the monthly payments shall be in the amount necessary to amortize the bond in 480 equal monthly installments. Except that the final payment of the entire indebtedness, if not paid sooner, shall be due and payable forty (40) years from the date of the loan closing. If interim certificates of indebtedness, as hereinafter authorized, are issued to the purchaser of the bond, the bond shall be dated as of the date of delivery of the first interim certificate, otherwise, the bond shall be dated as of the date of its delivery. The bond shall be issued in fully registered form; shall be registered as to principal and interest by the City Clerk in a bond registration book, and a certificate of such registration shall be endorsed on the bond. Thereafter, both the principal and interest shall be payable to the registered owner at his address appearing on the bond registration book.

The bond, together with the interest thereon, shall be payable solely from the income and revenue to be derived from the operation of the water and sewer system, shall be a valid claim of the holder thereof only against said funds, a sufficient portion of which is hereby pledged and mortgaged for the payment of the bond, and shall be used for no other purpose, except as hereinafter set out, and the bond shall be additionally secured by a statutory mortgage lien on the improvements, betterments and extensions to the wastewater system. The bond shall contain a recital that it is issued pursuant to Amendment 65 and Arkansas Code Annotated §§14-234-201, et seq., Arkansas Code Annotated §§14-235-201 et seq., and Arkansas Code Annotated §§14-164-401, et seq.
Pending the preparation and delivery of the permanent and definitive bond hereinabove authorized, interim certificates of indebtedness, in the aggregate principal amount of the bond, may be issued for the purpose of providing construction funds immediately and in anticipation of the issuance of such permanent and definitive bond. The interim certificates shall be in such denomination as the City Council shall determine, be dated the day of delivery, bear interest at the bond rate, or if issued to evidence a loan of construction funds obtained on an interim basis, at such loan rate, and be payable within three years from their date. Upon delivery of the permanent and definitive bond, interim certificates, to the extent then outstanding, with accrued interest, shall be exchanged for, or paid from the proceeds of, the permanent and definitive bond.

Section 4. The Bond will be issued on a parity with three prior financings. The City has the following prior issues ("Prior Issues"): (1) $4,990,000 Water and Sewer Revenue Refunding and Construction Bonds, Series 2011, with the amount currently outstanding of $3,850,000, and the bonds mature on April 1, 2031; (2) $3,025,000 Water and Sewer Revenue Refunding Bonds, Series 2013, with the amount currently outstanding of $2,750,000, and the bonds mature on April 1, 2043; and (3) $4,860,000 Water and Sewer Revenue Bond, with the amount currently outstanding of $4,860,000, and the bond matures on December 30, 2056.

Section 5. The bond and interim certificates shall be signed by the Mayor and City Clerk and sealed with the corporate seal of the City and be in substantially the following form:
[FORM OF BOND]

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF LONOKE
CITY OF WARD

$1,000,000

___% WATER AND SEWER REVENUE BOND

KNOW ALL MEN BY THESE PRESENTS:

That the City of Ward (hereinafter called the "City"), in the County of Lonoke, and State of Arkansas, hereby acknowledges itself to owe, and for value received, promises to pay to the registered owner hereof, but solely from the special fund provided therefor as hereinafter set forth, the principal sum of:

ONE MILLION DOLLARS

($1,000,000)

plus interest on the unpaid balance at the rate of ___% per annum. Principal and interest shall be payable in equal consecutive monthly amortized payments of principal and interest of $__________ on the first (1st) month after loan closing and monthly thereafter, except that if the loan is closed on the 29th, 30th or 31st day of the month, the due date will be the 28th of the month, except that the final installments on the entire indebtedness evidenced hereby, if not sooner paid, shall be due and payable forty (40) years from the date of this bond. This bond shall be registered as to principal and interest in a bond registration book, such registration to be noted on the back hereof and no transfer shall be valid unless made on the bond registration book and similarly noted on the back hereof. Thereafter both the principal and interest shall be payable in lawful money of the United States of America to such registered owner at his address appearing on the bond registration book.
This bond is issued for the purpose of aiding in the construction and installation of betterments and improvements to the wastewater portion of the water and wastewater system to serve the City of Ward, Arkansas, and is issued pursuant to and in full compliance with the Constitution and laws of the State of Arkansas, including particularly Amendment 65 and Arkansas Code Annotated §§14-234-201, et seq., Arkansas Code Annotated §§14-235-201 et seq., and Arkansas Code Annotated §§14-164-401, et seq., and pursuant to Ordinances and proceedings of the City Council duly passed, and does not constitute an indebtedness of the City within any constitutional or statutory limitations.

Both principal and interest on this bond are payable solely from a fixed amount of the net revenues from the water and sewer system, which amount shall be sufficient to pay the principal of and interest on the bond as the same becomes due and payable. This amount has been duly set aside and pledged as a special fund for that purpose and identified as the "Water and Sewer Revenue Fund" created pursuant to Ordinance No. O-2017-_____ of the City adopted and approved on May 8, 2017. The City of Ward has fixed and covenanted and agreed to maintain rates to be charged for the use of and services rendered by the water and sewer system, which rates shall be sufficient at all times to provide for the payment of the principal of and interest on all the outstanding bonds and this bond as the same become due and payable, to provide and maintain a reserve for contingencies, to provide for adequate depreciation for necessary replacement and repairs to the system, and to provide for the payment of the reasonable expenses of operation and maintenance of the system.
This bond is expressly negotiable under Amendment 65 and Arkansas Code Annotated §§14-234-201, *et seq.*, Arkansas Code Annotated §§14-235-201 *et seq.*, and Arkansas Code Annotated §§14-164-401, *et seq.*, and is issued with the intent that the laws of the State of Arkansas shall govern the construction thereof.

By virtue of the authority of Amendment 65 and Arkansas Code Annotated §§14-234-208, and Arkansas Code Annotated §§14-164-412, there is granted and created a statutory mortgage lien on the wastewater system acquired with the proceeds derived from the sale of the bond to and in favor of the holder of the bond and the water and sewer system shall remain subject to the statutory mortgage lien until the payment in full of all of the bond, both principal and interest, shall have been made.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the City. Refunds and extra payments, as defined in the regulations of the USDA Rural Development, according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this bond and shall not affect the obligation of the City to pay the remaining installments as scheduled herein.

This bond does not constitute an indebtedness of the City within any constitutional or statutory limitation or provision, and neither the taxing power of Lonoke County, Arkansas, the State of Arkansas nor any political subdivision thereof is pledged to the payment of the principal of or interest on the bond. This bond is a special obligation payable solely from revenues derived from the operation of the City’s water and sewer system. In this regard, the City has the following prior issues ("Prior Issues"): (1) $4,990,000 Water and Sewer Revenue Refunding and Construction Bonds, Series 2011, with the amount currently outstanding of $3,850,000, and the bonds mature on April 1,
2031; (2) $3,025,000 Water and Sewer Revenue Refunding Bonds, Series 2013, with the amount currently outstanding of $2,750,000, and the bonds mature on April 1, 2043; and (3) $4,860,000 Water and Sewer Revenue Bond, with the amount currently outstanding of $4,860,000, and the bond matures on December 30, 2056.

A sufficient amount of water and sewer revenues to pay principal and interest has been duly set aside and pledged as a special fund for that purpose, identified as the "2017 Water and Sewer Revenue Bond Fund," created by the Authorizing Ordinance. The City has fixed and has covenanted and agreed to maintain rates for use of the water and sewer system which shall be sufficient at all times at least to provide for the payment of the reasonable expenses of operation and maintenance of the water and sewer system, to provide for the payment of the principal of and interest on all the outstanding Prior Bonds and this Bond to which water and sewer system revenues are pledged as the same become due, to establish and maintain debt service reserves and to provide a depreciation fund, all as set forth in the Authorizing Ordinance.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all conditions and things required by the Constitution and laws of the State of Arkansas to exist, happen, and be performed pursuant to and in the issuance of this bond, have existed, have happened, and have been performed in due time, form and manner as required by law, and that sufficient of the income and revenue which is deemed to be derived from the operation of the water and sewer system has been pledged to and will be set aside into the special fund for the payment of the principal of and interest on this bond; and that the indebtedness represented by this bond and the issue of which it forms a part, do not exceed any constitutional or statutory limitations.
IN WITNESS WHEREOF, the City of Ward, Arkansas, by its City Council, has caused this bond to be signed by the Mayor and City Clerk hereof and sealed with the corporate seal of the City, all as of the ___ day of __________, 2017.

CITY OF WARD, ARKANSAS

By: __________________________

MAYOR

ATTEST:

__________________________________

City Clerk

There shall be printed on the reverse of the bond a registration certificate in substantially the following form:

STATE OF ARKANSAS )
COUNTY OF LONOKE )ss.

I, the undersigned, John Barclay, City Clerk within and for the City of Ward, do hereby certify that the within Bond has been registered as to principal and interest as indicated in the registration blank below in a book provided for that purpose in my office and in the manner required by law. The principal of and interest on the Bond shall be payable only to the registered owner thereof named in the registration blank below or his legal representative, and this Bond shall be transferable only by an appropriate notation on the bond registration book of the City.

DATE OF REGISTRATION

NAME OF REGISTERED OWNER

SIGNATURE OF REGISTRATION AGENT

__________________________________

__________________________________

__________________________________

10
CITY OF WARD
INTERIM CERTIFICATE OF INDEBTEDNESS

NO. _______ $1,000,000

FOR VALUE RECEIVED, the City of Ward, Lonoke County, Arkansas, hereby
acknowledges itself indebted and promises to pay to _____________ at its office in
_______ County, Arkansas, the principal sum of One Million Dollars ($1,000,000) on
_______________, 2017, plus interest thereon from the date hereof at the rate of
_______________ percent (_____%) per annum, payable annually on _________ of each
year beginning the next following the date hereof.

This certificate is one of a series of certificates in an aggregate amount not to
exceed $1,000,000, issued for the purpose of providing construction funds and in
anticipation of the issuance of a permanent and definitive bond for constructing
betterments and improvements to the City of Ward wastewater system, in accordance with
the bond ordinance of the City adopted on May 8, 2017. This is a special obligation
payable solely from the revenues of the water and sewer system and from a pledge of the
proceeds of the definitive bond, and it does not constitute an indebtedness of the City
within any constitutional statutory limitations. The City covenants and agrees that on or
before the maturity date hereof this, and other such certificates, to the extent then
outstanding, with accrued interest, shall be exchanged for, or paid from the proceeds of,
such permanent and definitive bonds.
IN WITNESS WHEREOF, the City of Ward has caused this certificate to be signed by the Mayor and City Clerk and sealed with the corporate seal of said City on the ___ day of __________, 2017.

CITY OF WARD, ARKANSAS

By: 

__________________________
MAYOR

ATTEST:

__________________________
City Clerk

[END OF BOND FORM]

Section 6. The rates for the services of the water and sewer system established by Ordinance Nos. O-2014-07-1 and WWS-71-91-E, duly adopted and approved by the City Council of the City of Ward, are hereby confirmed.

In the event that the City or any department, agency, or instrumentality thereof shall avail itself of any of the facilities or services afforded by the water and sewer system, the reasonable value thereof shall be charged against the City, or such department, agency, or instrumentality, and shall be paid for as the charges therefor accrue. The revenues so received from the City shall be deemed to be revenues from the operation of the water and sewer system, and shall be used and accounted for in the same manner as any other revenues derived from its operation; provided, however, that nothing herein shall be construed as requiring the City or any department, agency, or instrumentality thereof to avail itself of the facilities or services afforded by the water and sewer system.
The rates are deemed reasonable and necessary as the minimum rates to be charged and will produce a total revenue sufficient to pay the total operation and maintenance expenses of the water and sewer system and to provide for the payment of the bond issued hereunder, both principal and interest, all as the same fall due and are payable, and to create all funds herein provided.

The rates so fixed shall never be reduced, except as provided in Section 14(b), until the bonds and interest thereon shall have been paid in full, and the rates shall when necessary be increased in an amount sufficient to provide for the maintenance of the funds hereinafter described.

Section 7. (a) There shall be deposited by the City Treasurer from the Water and Sewer Revenue Fund, which fund was created and established by Ordinance No. O-2017-_______, adopted and approved on May 8, 2017, which was the Authorizing Ordinance for the City's $1,000,000 Water and Sewer Revenue Bond into a fund which is hereby created and designated "Water and Sewer Revenue Bond Fund" (herein called "Bond Fund") the amounts prescribed in Subsection (b) of this Section 7.

There shall be paid by the Treasurer from the Water and Sewer Revenue Fund into the Bond Fund the amounts of water and sewer system revenues derived from water and sewer service rates which will equal the sums in the amounts and at the time hereinafter stated in Subsection (b).

(b) There shall be paid into the Bond Fund principal and interest in equal consecutive amortized payments of principal and interest of $3,800 (if the interest rate on the bond is 3.375%) on the first month after loan closing and monthly thereafter, except that if the loan is closed on the 29th, 30th, or 31st day of the month, the due date shall be the 28th day of the month. In addition, there shall be paid into the Bond Fund on the first
business day of each month, commencing in the first month following the date of the Bond, the sum of Three Hundred Eighty Dollars ($380) (if the interest rate on the bond is 3.375%) per month over a 10-year period or until a debt service reserve shall have been accumulated in the amount of $45,600 (if the interest rate on the bond is 3.375%). When the debt service reserve has been accumulated in the required amount, the monthly payments of $380 into the Bond Fund may be terminated; but if the debt service reserve becomes impaired, the payments of $380 each month shall be resumed until the impairment is cured.

(c) If, for any reason, the City 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 Water and Sewer Revenue Fund by the increased monthly payments specified in (b) above. The debt service reserve shall be used solely as herein provided.

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

(e) 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, such surplus may be used, at the option of the City, for the prepayment of principal or the
redemption of bonds prior to maturity and for the construction of improvements and extensions to the water and sewer system.

(f) It shall be the duty of the City Treasurer to withdraw from the Bond Fund at least ten (10) days before the date of any bond principal and interest payment hereunder and to pay to the registered owner an amount equal to the amount of such bond principal and interest payment for the sole purpose of paying the same, and no withdrawal of funds from the Bond Fund shall be made for any other purpose except as otherwise authorized in this ordinance. Such deposits shall be at the sole risk of the City and shall not operate as a payment of the bond or interest until so applied.

(g) The bond of this issue shall be specifically secured by a pledge of all the 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 City and its officers and employees shall execute, perform and carry out the terms thereof in strict conformity with the provisions of this ordinance.

Section 8. Subject to the foregoing, which are cumulative, any balance in the Bond Fund may be used for the purpose of prepaying outstanding bonds, or to make improvements or extensions to the water and sewer system, or for any other lawful purpose.

Section 9. So long as the bonds hereby authorized remain unpaid, the City of Ward will not borrow any money from any source or contract or enter into any agreement or incur any other liabilities to be paid from the pledge of the revenues of the water and sewer system, in connection with making improvements or extensions to the water and sewer system, except as herein provided, or for any purpose, without obtaining the prior written consent of the State Director of the USDA Rural Development.
Section 10. The Bond Fund shall be used solely and only and is hereby pledged for
the purpose of accomplishing the retirement of the bond. It shall be the duty of the City
Treasurer to deposit in the Fund, on the first day of each month after the issuance of this
bond, the respective sums which are required to be withdrawn from the Water and Sewer
Revenue Fund and paid into the Bond Fund pursuant to Section 7(b) hereof.

Section 11. The depository bank of each fund hereinabove created shall give
security, by the escrow deposit of notes or other direct or fully guaranteed obligations of the
United States of America, for all sums of each fund on deposit which is in excess of
$250,000. Monies on deposit to the credit or account and funds established and
maintained in conformity with the provisions of this ordinance shall be invested by the
depository bank, upon the request or by the City of Ward in direct obligations of, or
obligations of the principal and interest on which are guaranteed by the United States of
America. Where the City of Ward is required to maintain fixed amounts in such accounts
and funds, the investments shall be valued in terms of current market value as of June 30
and December 31 of each year. Interest earned on such investments shall be deposited in
the fund from which the investment was made.

Section 12. The bond will be subject to redemption prior to maturity as provided in
the bond form in Section 5 hereof.

Section 13. It is covenanted and agreed by the City with the holder or holders
herein authorized to be issued that it will perform all duties with reference to the water and
sewer system required by the Constitution and laws of the State of Arkansas, including
making and collecting reasonable and sufficient rates established for services rendered by
the water and sewer system and applying the revenues to the respective funds herein
defined. The City further covenants and agrees with the holder or holders of the bond to
maintain the water and sewer system in a satisfactory condition and to operate the same continuously in an efficient and economical manner.

Section 14. The City of Ward covenants and agrees that so long as the bond remains unpaid:

(a) None of the facilities and services afforded by the water and sewer system shall be furnished without a reasonable charge being made therefor. In the event the City or any department, agency, or instrumentality thereof shall avail itself of the facilities and services afforded by the water and sewer system, the reasonable value of the services and facilities so afforded shall be charged against the City or such department, agency, or instrumentality, and shall be paid for as the charges therefor accrue. The revenue so received shall be deemed derived from the operation of the water and sewer system; provided, however, that nothing herein shall be construed as requiring the City or any department, agency, or instrumentality thereof to avail itself of the facilities or services afforded by the water and sewer system.

(b) That no reduction of the initial rate schedule for the water and sewer system may be made unless:

(1) The City has fully complied with all of the provisions of the ordinance for at least the full calendar year immediately preceding such proposed reduction of the initial rate schedule;

(2) The Reserve Fund provided in Section 7(b) has been built up to the required minimum reserve of $45,600;

(3) The audit required to be made by Section 14(h) of this ordinance for the full calendar year immediately preceding such proposed rate reduction discloses that the estimated revenues which would result in the proposed rate schedule will
be sufficient to provide adequate revenues or earnings annually to pay the annual operation and maintenance expenses, the cost of all essential replacements and repairs to the water and sewer system, the principal of and interest on the Water and Sewer Revenue Bond, and any other obligations payable annually from the revenues of the water and sewer system; and

(4) The prior written approval of the State Director of the USDA Rural Development has been obtained, so long as the Water and Sewer Revenue Bond issued hereunder is held or insured by the government.

(c) It will maintain the water and sewer system in good condition and operate the same in an efficient manner and reasonable cost and maintain fire, lightning and tornado insurance on the water and sewer system in amounts which normally would be carried by a private company engaged in a similar type of business. These insurance policies are to carry a clause making them payable to the United States of America (USDA Rural Development) as its interest may appear, are to be kept continuously in force, and either the original policies of insurance shall be placed in the custody of the USDA Rural Development or the USDA Rural Development shall be furnished evidence satisfactory to it that the policies have been issued and carry the loss payable to the United States of America (USDA Rural Development). In the event of loss, the proceeds of such insurance are to be applied solely toward the reconstruction, replacement or repair of the water and sewer system. In such event it will, with reasonable promptness, cause to be commenced and completed the reconstruction, replacement and repairs. Nothing herein shall be construed as requiring the City of Ward to expend any funds for premiums on its insurance on the water and sewer system which are derived from sources other than the operation of the water and sewer system.
(d) The Treasurer shall be the custodian of the revenues derived from the water and sewer system, and shall give bond as such custodian. Such bond shall be in an amount not less than $10,000 and shall be approved by the USDA Rural Development.

(e) The water and sewer system shall be operated upon a calendar year basis beginning January 1 of each year and ending and including the following December 31.

(f) It will not sell, lease, mortgage, pledge or otherwise encumber, or in any manner dispose of, or otherwise alienate, the water and sewer system, or any part thereof, or any revenues therefrom, including any and all extensions and additions which may be made thereto, except as herein provided unless the bonds herein authorized to be issued shall have been paid in full, both principal and interest, except that so long as the bonds are held, or insured by the Government, with the prior written approval of the State Director of the USDA Rural Development, it may sell any portion of the property which shall have been replaced by other property of at least equal value, of which shall cease to be necessary for the efficient operation of the water and sewer system, but in no manner nor to any extent as might prejudice security for the payment of the bonds herein authorized; provided, however, that in the event of any sale as aforesaid, the proceeds of such sale shall be distributed as net income of the water and sewer system in accordance with the provisions of this ordinance.

(g) All revenues from the water and sewer system shall be deposited in such depository or depositories as may be lawfully designated from time to time, subject, however, to the giving of security by each such depository as now or hereafter may be required and provided each such depository shall hold membership in the Federal Deposit Insurance Corporation. All deposits shall be made in the name of the City of Ward and be so designated as to indicate the particular fund to which the revenues belong. Payments
from each fund set out in this ordinance shall be made by check or voucher signed by two duly designated persons and drawn on the depository in which the monies in the fund shall have been deposited, and each such check or voucher shall briefly specify the purpose of the expenditure.

(h) It will keep proper books of records and accounts (separate from all other records and accounts) in which complete and correct entries shall be made of any transactions relating to the water and sewer system and have these records audited at least once each year, and it shall furnish the USDA Rural Development a copy of this audit.

(i) It will, prior to December 31 of each year, provide a budget for the ensuing calendar year of the water and sewer system covering prospective revenues and receipts, operation and maintenance expenses, and deposits to be made during the calendar year in the various funds set up by this ordinance. A copy of such budget shall be forwarded promptly to the State Director of the USDA Rural Development or other official designated by the Government.

Section 15. There shall be a statutory mortgage lien on the water system acquired hereunder, including the real property on which it is situated, as provided Amendment 65 and Arkansas Code Annotated §14-234-208, Arkansas Code Annotated §14-235-223, and Arkansas Code Annotated §14-164-412, which shall exist in favor of the holders of the bond and each of them. The water system shall remain subject to the statutory mortgage lien until payment in full of the interest on and principal of the bonds. If there be any default in the payment of either the interest on or principal of any of the bonds, and such default shall continue for thirty (30) days thereafter, and if such default shall be made in the due and prompt performance of any of the other covenants and agreements contained in
the bond or in this ordinance, the holder or holders of the bond may enforce the statutory mortgage lien upon the water system in accordance with the provisions of Amendment 65 and Arkansas Code Annotated §14-234-208, Arkansas Code Annotated §14-235-223, and Arkansas Code Annotated §14-164-412, and may by proper suit compel the performance of the duties of the officials of the City as set forth in the Act.

Section 16. If there be any default in the payment of either the principal or of the interest of the bonds, or if the City shall fail to keep any other obligation which it hereby assumes, and such default shall continue for 30 days thereafter, any Court having jurisdiction in any proper action, which may be instituted by the holder of the bond in default, may appoint a receiver to administer the water and sewer system on behalf of the City, with power to charge and collect rates sufficient to provide for the expenses of the receivership, the payment of the bond and interest thereon, and the payment of the operating expenses, and to apply the income and revenues in conformity with the statutes and this ordinance. When all defaults are cured, the receivership shall be ended and the management and control of the water and sewer system restored to the City.

If default be made in the payment of the bond, or if bond fund requirements are not met, the holder of such bond may declare the bond immediately due and payable and in default, and institute suit to enforce the pledge lien herein granted. The failure to exercise this option upon any default shall not be a waiver of the right to exercise it upon any subsequent default.

Section 17. When the bond and/or interim certificates have been executed by the Mayor and City Clerk, and the seal of the City 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 and/or interim certificates shall be disbursed as follows:

(1) In the case of interim certificates of indebtedness, the amount provided for the payment of interest during the construction period shall be deposited in the Water and Sewer Revenue Bond Fund and the balance of the proceeds shall be deposited in a special account of the City designated "Water and Sewer System Construction Fund" in a bank that is a member of the Federal Deposit Insurance Corporation and disbursed by it solely for the payment of the cost of constructing the betterments and improvements to the City of Ward water and sewer system, costs and necessary engineering, legal and administrative expenses, clerical and other miscellaneous expenses.

(2) In the case of the permanent and definitive bond, the amount necessary, if any, to pay in full the outstanding principal and accrued interest to date of payment of any interim certificate of indebtedness shall be used for that purpose, and the balance shall be deposited into the Construction Fund and used for the accomplishment of the improvements and the expenses incurred by the City in authorizing, selling and issuing the bond.

Any unexpended balance remaining in the Construction Fund after payment of all construction costs and expenses shall be used solely for making prepayments on the bond.

Section 18. If at any time it shall appear to the Government that the City is able to call for redemption and refund the then outstanding bond, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purposes and periods of time or by other means, the City will upon request of the Government, redeem, refund, or apply for and
accept such loan in sufficient amount to repay the Government or the holders of the bond, or both, and will take all action as may be required in connection with such redemption or refund.

(a) If the loan is insured by the Government, the City covenants and agrees to pay to the Government any insurance charge which may be specified in the Government's insurance endorsement.

(b) In the event the Government shall make any advances to meet payments on the bond, or the payment of insurance premiums or other advances which may be required to protect the Government's security interest as to any bond, held or insured by it, the City will pay in addition to the interest on the unpaid bond, interest on all such advances or expenditures in connection therewith made by a Government, at the same per annum rate specified in the bond. All such advances, expenditures and interest thereon shall be deemed payable upon demand immediately after such expenditures by the Government and shall take priority over all other payments from the various bond fund payments set forth herein.

Section 19. As long as this bond is outstanding, the City shall not issue or attempt to issue any bonds having or claiming to be entitled to a priority of lien on the revenues of the water and sewer system over the lien securing the bond herein authorized, including any and all future extensions, betterments and improvements to the water and sewer system.

Nothing contained herein shall be construed in any manner to prevent the issuance by the City of additional revenue bonds to finance the cost of constructing extensions, betterments and improvements to the water and sewer system; however, any such
additional bonds shall not be issued on a parity with the outstanding bond of this issue unless and until (a) there shall have been procured and filed in the office of the City Clerk a statement by a certified public accountant not in the regular employment of the City reciting the opinion that the net revenues (net revenues being gross revenues of the water and sewer system less operation and maintenance expenses) of the water and sewer 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 (principal, interest and Paying Agent's fees) on all outstanding bonds to which the revenues of the water and sewer system are pledged and the bonds then proposed to be issued, and (b) so long as the Government is the owner of the bond, consent is obtained from the owner of the bond.

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

Section 20. The City covenants that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the bond under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). The City will not directly or indirectly use or permit the use of any proceeds of the bond or any other funds of the City, or take or omit to take any action that would cause the bond to be an "arbitrage bond" within the meaning of Section 148(a) of the Code. To that end, the City will comply with all requirements of Section 148 of the Code to the extent applicable to the bond. In the event that at any time the City is of the opinion that for purposes of this Section it is necessary to restrict or limit the yield on
the investment of any moneys held by the City under this ordinance, the City shall take such action.

Section 21. The City shall assure that (i) not in excess of ten percent (10%) of the proceeds of the bond is used for a "Private Business Use" (as such term is defined in the Code; and (ii) in the event that in excess of five percent (5%) of the proceeds of the bond is used for a Private Business Use, then said excess over said five percent (5%) of the proceeds of the bond used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the water and sewer system.

Section 22. The City shall assure that not in excess of five percent (5%) of the proceeds of the bond is used, directly or indirectly, to make or finance a loan to persons other than state or local governmental units.

Section 23. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the bond to be "federally guaranteed" within the meaning of Section 149(b) of the Code and regulations promulgated thereunder.

Section 24. The Mayor of the City shall, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the bond is issued, submit to the Secretary of the Treasury a statement concerning the bond which will satisfy the requirements of paragraph (2) of Section 149(e) of the Code and applicable regulations.

Section 25. The City hereby designates the bond for purposes of paragraph (3) of Section 265(b) of the Code and covenants that the bond does not constitute a private activity bond as defined in Section 141 of the Code, and that not more than $10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income tax, including the bond,
have been or shall be issued by the City during the calendar year in which the bond is
issued. The City has no "subordinate entities" within the meaning of Section 265 of the
Code.

Section 26. If any provisions of this ordinance shall for any reason be held illegal or
invalid by the Courts, it shall not affect the validity of the remainder of the ordinance.

Section 27. All ordinances or resolutions or parts thereof in conflict herewith are
hereby repealed to the extent of such conflict.

Section 28. This ordinance shall not create any right of any character, and no right
of any character shall arise under or pursuant to it, until the bond authorized by this
ordinance, or the City's interim certificates of indebtedness shall be issued and delivered.

Section 29. It is ascertained and declared that on account of the lack of adequate
water and sewer system to serve the City of Ward, the health and lives of the inhabitants
thereof and the property are daily endangered. It is, therefore, declared that an emergency
exists, that this ordinance is necessary for the immediate preservation of the public peace,
health and safety, and this ordinance shall take effect and be in force from and after its
passage.


APPROVED:

MAYOR

ATTEST:

City Clerk

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CERTIFICATE

The undersigned, City Clerk of the City of Ward, Arkansas, hereby certifies that the foregoing pages numbered from 1 to 26, inclusive, are a true and perfect copy of Ordinance No. O-2017- 01 issued by the City Council of Ward, Arkansas, at a duly called and constituted meeting at which more than two-thirds of the total members or members elect of the Council were present and voted for said ordinance which is now in an ordinance book at Ward City Hall.

GIVEN UNDER MY HAND AND SEAL this 8th day of May, 2017.

[Signature]
City Clerk