

ORDINANCE NO. 974

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, AUTHORIZING THE ISSUANCE AND SALE OF WATER AND SEWER REVENUE BONDS IN THE PRINCIPAL AMOUNT OF \$685,000; DESCRIBING SAID BONDS; SPECIFYING THE DATE, FORM, MATURITIES, REGISTRATION, AND AUTHENTICATION OF SAID BONDS; FIXING THE MAXIMUM RATE OF INTEREST OF THE BONDS; PROVIDING FOR THE COLLECTION AND DISPOSITION OF REVENUE; ESTABLISHING CERTAIN FUNDS AND ACCOUNTS; ESTABLISHING THE DATE, TIME, AND PLACE OF SALE AND APPROVING A NOTICE OF SALE OF SAID BONDS; PROVIDING COVENANTS; AND PROVIDING FOR OTHER MATTERS RELATING THERETO

WHEREAS, the City of Payette (the "City") is a municipal corporation organized and existing under the laws of Idaho; and

WHEREAS, the City is authorized and empowered by Idaho Code Sections 50-1027 through 50-1042 (the "Revenue Bond Act") to issue water and sewer revenue bonds to finance all or part of the cost of acquisition, construction, and installation of a municipal water and sewer system and improvements thereto; and

WHEREAS, the City Council (the "Council"), by adoption of Ordinance No. 970 on April 20, 1987, ordered a special bond election to be held within the City on May 12, 1987, for the submission to the qualified electors of the City the question of whether or not the City should be authorized to issue its water and sewer revenue bonds in the principal amount of \$685,000 in order to provide funds for certain capital improvements to its water and sewer system; and

WHEREAS, the requisite majority of the qualified electors of the City, at said special bond election of May 12, 1987, authorized the issuance of water and sewer revenue bonds in the amount of \$685,000; and

WHEREAS, the Council has determined that the public health, safety, and welfare will be furthered by the water and sewer improvement project described hereinafter and has further determined to issue water and sewer revenue bonds of the City, duly authorized by the electors of the City at said election of May 12, 1987, in the principal amount of \$685,000; and

WHEREAS, the Council has determined to sell water and sewer revenue bonds of the City at public sale, as authorized by Section 50-1036, Idaho Code; and

WHEREAS, the City does not have outstanding any revenue bonds secured by a pledge of the revenues of the water and sewer system.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF PAYETTE, IDAHO, as follows:

Section 1: DEFINITIONS

As used in this Ordinance, the following words shall have the following meanings:

A. Acquisition or Acquire includes the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the Federal Government, the State, any public body therein or any person or entity, the condemnation, transfer, option to purchase, other contract, or other acquirement, or any combination thereof.

B. Bonds mean the principal amount of \$685,000 City of Payette Water and Sewer Revenue Bonds, Series 1987, herein authorized to be issued, sold, and delivered.

C. Bond Fund means the "City of Payette Water and Sewer Revenue Bond Fund" created by Section 12 of this Ordinance.

D. Bond Register means the registration books on which are maintained the names and addresses of the owners or nominees of the owners of the Bonds.

E. Bond Registrar means the bond registrar, transfer agent, and authenticating and paying agent appointed and designated in Section 6 of this Ordinance.

F. Capital Improvement Fund means the "City of Payette Water and Sewer Capital Improvement Fund" created by Section 10 of this Ordinance.

G. City means the City of Payette, Payette County, Idaho.

H. City Clerk means the de facto or de jure Clerk of the City, or other officer of the City who is the custodian of the seal of the City and of the records of the proceedings of the City, or his/her successor in functions, if any.

I. Cost of Project or any phrase of similar import, means all or any part designated by the Council of the costs of the Project, or interest therein, which costs, at the option of the Council, may include all or any part of the incidental costs pertaining to the Project, including, without limitation:

(1) Preliminary expenses advanced by the City from funds available for the use therefor, or advanced by the

Federal Government, or from any other source, with approval of the Council, or any combination thereof;

(2) The costs of making surveys, audits, preliminary plans, other plans, specifications, estimates of costs and other preliminaries;

(3) The costs of appraising, printing, estimates, advice, services of engineers, architects, financial consultants, attorneys at law, clerical help, or other agents or employees;

(4) The costs of contingencies;

(5) The costs of the issuance of the Bond;

(6) The costs of funding any short-term financing, bond anticipation notes, and other temporary loans appertaining to the Project and of the incidental expenses incurred in connection with such loans;

(7) The costs of any properties, rights, easements, or other interest in properties, or any licenses, privileges, agreements and franchises; and

(8) All other expenses necessary or desirable and appertaining to the Project, as estimated or otherwise ascertained by the Council.

J. Council means the City Council of the City.

K. Improvement or Improve includes the extension, widening, lengthening, betterment, alteration, reconstruction, or other major improvement, or any combination thereof, of any properties pertaining to the Project or an interest therein, but does not mean general maintenance or repair.

L. Mayor means the de facto or de jure Mayor of the City, or his/her successor in functions, if any.

M. Net Revenues means Revenue of the System after the deduction of Operation and Maintenance Expenses.

N. Operation and Maintenance Expenses or any phrase of similar import means all reasonable and necessary current expenses of the City, paid or accrued, of operating, maintaining, and repairing the System or of levying, collecting, and otherwise administering the Net Revenues for the payment of the Bonds; and the term includes (except as limited by contract or otherwise limited by law) without limiting the generality of the foregoing:

(1) Engineering, auditing, reporting, legal, and other overhead expenses of the various City departments directly relating and reasonably allocable to the administration of the System;

(2) Fidelity bonds and property and liability insurance premiums appertaining to the System, or a reasonably allocable share of a premium of any blanket bond or policy pertaining thereto;

(3) Payments to pension, retirement, health, and hospitalization funds and other insurance;

(4) Any taxes, assessments, excise taxes, or other charges which may be lawfully imposed on the City, the System, revenues therefrom, or any privilege in connection with their operation;

(5) The reasonable charges of the bond registrar, fiscal or paying agent, commercial bank, trust bank, or other depository bank appertaining to the Bonds issued by the City or appertaining to the Project, if any;

(6) Contractual services, professional services, salaries, other administrative expenses, and the cost of materials, supplies, repairs, and labor, appertaining to the issuance of the Bonds and to the System; and

(7) All other administrative, general, and commercial expenses.

O. Project means the water and sewer improvement project described in Section 2 hereof and consisting generally of the construction and installation of improvements and betterments to the water and sewer system of the City.

P. Registered Owner means the purchaser of the Bonds and any subsequent transferee or purchaser of the Bonds.

Q. Reserve Fund means the "City of Payette Water and Sewer Revenue Bond Debt Service Reserve Fund" created by Section 13 of this Ordinance.

R. Revenue Fund means the "City of Payette Water and Sewer Revenue Fund," created by Section 11 of this Ordinance.

S. Revenue of the System means all revenues received by the City from its System and may include, at the discretion of the City, moneys derived from one, all, or any combination of revenue sources appertaining to the System, including, without limitation, rates, charges, rents, fees, and any other income derived from the operation or ownership of, the use of services

of, or the availability of or services appertaining to, or otherwise derived in connection with, the System or all or any part of any property appertaining to the System.

T. System means the combined domestic water supply and distribution system and the sanitary sewage collection and treatment system of the City, as the same now exists, including its assets, real and personal, tangible and intangible, and as it may later be added to, extended, and improved, and shall include buildings, structures, utilities, or other income producing water and sewer facilities from the operation of or in connection with which the revenues of the payment of the Bond to be issued hereunder will be derived, and the lands appertaining thereto, including, without limitation, any Improvement to be acquired with the proceeds of the Bonds.

U. Treasurer means the de facto or de jure Treasurer of the City, or his/her successor in functions, if any.

## Section 2: THE PROJECT

A. Project Description. The water and sewer improvement project consists of the acquisition, construction, and installation of improvements and betterments to the City's water and sewer system, consisting generally of waterline and sewerline improvements and extensions, including sewer lift pump stations and main pipelines, and related improvements, together with engineering and legal fees, administrative costs, and all other costs incidental thereto (the "Project").

B. Project Changes. The Council may make changes in the above-described plans prior to or in the course of actual construction, provided such changes are found necessary and desirable by the Council and that such changes do not substantially affect or alter the plans or the cost of the Project.

C. Costs. \$685,000 of the cost and expenses of construction and installation will be paid from the issuance and sale of the Bonds, hereinafter defined, authorized to be issued at a special election held within said City on May 12, 1987. The balance will be realized from other legally available funds, including grant funds from the State of Idaho and other grants.

## Section 3: BONDS AUTHORIZED

Fully registered water and sewer revenue bonds of the City, designated "City of Payette Water and Sewer Revenue Bonds, Series 1987" (the "Bonds"), in the aggregate principal amount of \$685,000, are hereby authorized to be issued, sold, and delivered pursuant to the Revenue Bond Act of the State of Idaho, the same being Sections 50-1027 through 50-1042, Idaho Code.

The Bonds shall be in denominations of \$5,000 each or integral multiples thereof, shall be dated September 1, 1987, shall be issued only in fully registered form, shall be payable in order of maturity, and shall be substantially in the form set forth in Exhibit "A" attached hereto and by this reference incorporated herein. The Bonds shall be numbered separately in a consecutive series, in the manner and with any additional designation as the Bond Registrar deems necessary for the purposes of identification. The Bonds shall bear interest at a rate or rates not exceeding twelve percent (12%) per annum, payable semiannually on March 1 and September 1 of each year, commencing March 1, 1988, until maturity or prior redemption, in accordance with the following schedule, and shall mature on September 1 in the following years and principal amounts:

<u>Year</u>	<u>Principal Amount</u>
1989	\$ 5,000.00
1990	5,000.00
1991	5,000.00
1992	5,000.00
1993	20,000.00
1994	75,000.00
1995	80,000.00
1996	85,000.00
1997	90,000.00
1998	95,000.00
1999	105,000.00
2000	115,000.00

Section 4: PLACE AND MANNER OF PAYMENT

Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America to the Registered Owner thereof whose name and address appear on the Bond Register maintained by the Bond Registrar.

Payment of each installment of interest on the Bonds shall be made on its semiannual due date to the Registered Owner whose name appears on the Bond Register on the 15th day of the calendar month next preceding the interest payment date, at the address appearing on the Bond Register, and shall be paid by check or draft of the Bond Registrar mailed to such Registered Owner on the due date at such address, or at such other address as may be furnished in writing by such Registered Owner to the Bond Registrar. Interest shall be calculated on the basis of a 360-day year and twelve 30-day months.

Principal of the Bonds shall be payable to the Registered Owner upon presentation and surrender of the Bonds on the date of maturity or prior redemption, at the principal corporate trust office of the Bond Registrar.

#### Section 5: EXECUTION OF BONDS

The City shall cause the Bonds to be prepared, executed, authenticated, and delivered. The Bonds shall be lithographed or printed with engraved or lithographed borders. The Bonds shall be signed by the Mayor, countersigned by the Treasurer, and attested by the City Clerk (all of which signatures shall be by facsimile), and the facsimile seal of the City shall be imprinted thereon. The Bonds shall then be delivered to the Bond Registrar for authentication.

Until the Bonds are prepared, the City may, if deemed necessary by the Mayor, utilize a temporary bond which shall be typewritten, and which shall be delivered to the purchaser of the Bonds in lieu of definitive bonds, subject to the same provisions, limitations, and conditions as the Bonds. The temporary bond shall be dated as of the date of the Bonds, shall be in the denomination of \$685,000, shall be numbered T-1, shall be substantially of the tenor of the Bonds, but with such omissions, insertions, and variations as may be appropriate to temporary bonds, and shall be manually signed by the Mayor, the Treasurer, the City Clerk, and the Bond Registrar and shall have the seal of the City impressed thereon.

In case any of the officers who shall have signed or countersigned any of the Bonds shall cease to be such officer or officers of the City before the Bonds so signed or countersigned shall have been authenticated or delivered by the Bond Registrar, or issued by the City, such Bonds may nevertheless be authenticated, delivered, and issued and, upon such authentication, delivery, and issue, shall be as binding upon the City as though those who signed and countersigned the same had continued to be such officers of the City. Any Bond may also be signed and countersigned on behalf of the City by such persons as at the actual date of execution of such bonds shall be the proper officers of the City although at the original date of such Bond any such person shall not have been such officer of the City.

Only such of the Bonds as shall bear thereon a certificate of authentication in the form set forth in Exhibit "A," manually executed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this Ordinance, and such certificate of authentication shall be conclusive evidence that the Bonds so authenticated have been duly executed, authenticated, and delivered hereunder and are entitled to the benefits of this Ordinance.

#### Section 6: BOND REGISTRAR

The Corporate Trust Department of the Idaho First National Bank, Boise, Idaho, is hereby appointed as bond

registrar, transfer agent, and authenticating and paying agent, and is herein referred to as the "Bond Registrar." The Bond Registrar shall keep, or cause to be kept, at its principal corporate trust office, sufficient books for the registration and transfer of the Bonds which shall at all times be open to inspection by the City. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver the bonds transferred or exchanged in accordance with the provisions of the Bonds and this Ordinance and to carry out all of the Bond Registrar's powers and duties under this Ordinance.

The Bond Registrar shall be responsible for its representations contained in the certificate of authentication on the Bonds. The Bond Registrar may become the owner of the Bonds with the same rights as it would have if it were not the Bond Registrar.

The Bonds may be transferred only upon the books for the registration and transfer of bonds, upon the surrender thereof at the principal office of the Bond Registrar, together with a form of transfer duly executed by the Registered Owner or his attorney duly authorized in writing, substantially in the form set forth in the form of bond referred to in Section 3 hereof. Upon the transfer of any bond, there shall be issued in the name of the transferee or transferees a new fully registered bond or bonds of any authorized denomination or denominations and of the same maturity and interest rate, and of the same aggregate principal amount, as the surrendered bond. The new bond or bonds shall bear the same date as the date of the surrendered bond, but shall bear interest from the immediately preceding interest payment date to which interest has been paid or fully provided for.

The Bond Registrar shall not be required to exchange or transfer any bond within fifteen (15) days of an interest payment date or, in the case of any redemption of bonds, within fifteen (15) days of the redemption date.

#### Section 7: REDEMPTION

Bonds maturing on or before September 1, 1995, shall not be subject to call or redemption prior to their stated dates of maturity. On any principal payment date on or after September 1, 1995, at the election of the City, the Series 1987 Bonds maturing on or after September 1, 1996, shall be subject to redemption, in whole or in part, in inverse order of maturity (and by lot selected by the Bond Registrar within a maturity), upon notice as hereinafter provided, at the following redemption prices, expressed as a percentage of the principal amount of the Bonds to be so redeemed, plus accrued interest to the redemption date:

Redemption Dates

Redemption Prices

September 1, 1995	101%
September 1, 1996 and thereafter	100%

Notice of redemption of any Bonds shall be given by mailing of notice by the Bond Registrar to the Registered Owner of any Bond being called for redemption not less than thirty nor more than forty-five days prior to the redemption date by first class mail, postage prepaid, at the address appearing on the Bond Register, or at such other address as may be furnished in writing by such Registered Owner to the Bond Registrar. The foregoing requirements shall be deemed to be complied with when notice is mailed as provided herein, regardless of whether or not it is actually received by the owner of such Bond. The Bonds so called for redemption shall cease to accrue interest on the specified redemption date, provided funds for such redemption are on deposit at the place of payment at such time, and shall not be deemed to be outstanding as of such redemption date.

Section 8: CHARGES

The City has established, may from time to time revise, and shall maintain and collect water and sewer rates and charges for furnishing the services of the System to its customers, which rates and charges are, and shall continue to be, uniform as to all persons or properties which are of the same class, which rates and charges shall be collected from the users thereof.

Section 9: PLEDGE OF REVENUES

The Net Revenues of the System are hereby pledged for the payment of the Bonds, and shall be used and applied in the order of priority provided in Section 11 of this Ordinance.

The City shall establish, revise, maintain, and collect charges sufficient, with other revenues received, after taking into consideration anticipated delinquencies, to provide Net Revenues equal to not less than 1.25 times the sum of the combined aggregate amount of the principal of and interest on the Bonds, which shall become due the next succeeding fiscal year.

Section 10: THE CAPITAL IMPROVEMENT FUND

There is hereby created a special fund and account known as the "City of Payette Water and Sewer Capital Improvement Fund" (the "Capital Improvement Fund"), into which shall be deposited all of the proceeds of the sale of the Bonds, to be used and applied for the payment of a portion of the cost and expense of the construction and installation of the Project, including the payment of the principal of and interest on all outstanding bond anticipation notes or other interim financing, if any. Any

interest earnings on moneys invested from the Capital Improvement Fund shall remain in and be used for the purposes of the Capital Improvement Fund. The City's share of any liquidated damages or other moneys paid by defaulting contractors or their sureties will be deposited into said Capital Improvement Fund to assure the completion of the Project.

When the Project has been completed and all costs related thereto have been paid in full, any balance remaining in the Capital Improvement Fund shall be deposited into the Bond Fund described in Section 12 of this Ordinance.

Section 11: THE REVENUE FUND

There is hereby created a special fund and account to be known as the "City of Payette Water and Sewer Revenue Fund" (the "Revenue Fund"), which shall be maintained by the Treasurer and into which the Revenue of the System shall be deposited forthwith upon its receipt.

A. Use of Revenues. The Revenue of the System shall be used for the payment of the following obligations in the following order of priority:

(1) First Charge and Lien: The costs of Operation and Maintenance Expenses.

(2) Second Charge and Lien: The principal of and interest on the Bonds by payment into the Bond Fund, as provided in Section 12 of this Ordinance.

(3) Third Charge and Lien: To maintain the Debt Service Reserve Fund; and

(4) To administer surplus funds.

B. Interest earnings on deposits in the Revenue Fund shall remain in and be used for the purposes of the Revenue Fund.

C. Surplus Funds. Funds remaining in the Revenue Fund after having been applied to designated funds for the purposes provided in this section shall constitute surplus funds and may be used for the purposes set forth in Section 14 of this Ordinance.

Section 12: THE BOND FUND

There is hereby created a special fund and account known as the "City of Payette Water and Sewer Revenue Bond Fund" (the "Bond Fund"), into which shall be deposited, from Net Revenues, the following described revenues:

A. On the fifteenth business day immediately preceding each maturity date or interest payment date of the Bonds, so long as any Bonds outstanding, the Treasurer shall withdraw from the Revenue Fund and transfer to the Bond Registrar for deposit in the Bond Fund the amount required for the payment of interest, or principal and interest, and redemption premium, if any, as the case may be, then due.

B. If the City for any reason shall fail to make such required deposit from the Revenue Fund, then an amount equal to the deficiency shall be deposited into the Bond Fund out of the Reserve Fund.

C. The Bond Registrar shall pay out of the Bond Fund (i) on or before each interest payment date for any of the Bonds, the amount required for the interest payable on such date; (ii) on or before each principal installment due date, the amount required for the principal installment payable on such due date; and (iii) on or before any redemption date for the Bonds, the amount required for the payment of principal of, interest, and any required redemption premium, on the Bonds then to be redeemed. The Bond Registrar shall also pay out of the Bond Fund the accrued interest included in the purchase price of the Bonds on the first interest payment date on the Bonds.

D. Interest earnings on deposits in the Bond Fund shall remain in the Bond Fund.

#### Section 13: DEBT SERVICE RESERVE FUND

A. Deposits. There is hereby created a fund to be known and designated the "City of Payette Water and Sewer Revenue Bond Debt Service Reserve Fund" (the "Reserve Fund") which shall be maintained by the Treasurer. Simultaneously with the issuance of the Bonds, there shall be transferred from the proceeds of the Bonds to the Reserve Fund the sum of \$68,500, which sum shall be maintained as a debt service reserve fund for the Bonds until the Bonds have been paid in full. In no event shall the amount accumulated in the Reserve Fund exceed the sum of \$68,500.

B. Deficiencies or Withdrawals. Whenever any moneys are withdrawn from the Reserve Fund to pay the principal of or interest on the Bonds, or if a deficiency exists in such Fund, the amount so withdrawn or the amount of such deficiency shall be restored by monthly deposits from Net Revenues until there has been restored therein the gross amount provided heretofore in subdivision A of this Section.

C. Refunding. In the event Refunding Bonds are ever issued, the amount set aside into the Reserve Fund to secure the payment of the Bonds may be used to retire bonds or may be held in the Reserve Fund to secure payment of the refunding bonds issued,

to refund the outstanding refunding bonds, or may be held in the Reserve Fund to secure the payment of any other issue or series of bonds payable out of the Bond Fund and issued on a parity with the Bonds.

D. Investments. All moneys in the Reserve Fund may be kept in cash or deposited in institutions permitted by law in an amount in each institution not greater than the amount insured by any department or agency of the United States Government, or may be invested and reinvested in any legal investment permitted for City moneys maturing not later than the last maturity date of any outstanding bonds. Interest earned on any such investment shall be deposited, directly as earned, into the Bond Fund.

E. Reserve Equivalent. The City may, at its option, if additional funds are needed for completion of the Project, withdraw the funds within the Reserve Fund and substitute therefor an insurance policy or letter of credit issued by a municipal bond insurance company or a commercial bank having a long-term debt credit rating, at the time the insurance policy or letter of credit is issued, of at least A as determined by Moody's Investors Services, or its successor, in which the insurance company or commercial bank agrees unconditionally to provide the City with funds in an amount which equals the Reserve Fund requirement specified in Paragraph A hereinabove.

#### Section 14: SURPLUS FUNDS

Funds remaining in the Revenue Fund after having been applied to or designated funds for the purposes provided in Section 11A of this Ordinance shall constitute surplus funds and may be used for any of the following purposes:

A. To pay the costs of unusual or extraordinary maintenance of or repair to the System;

B. To pay the principal of and interest on any subordinate lien obligations which may have been issued to provide water or sewer facilities in or for the City;

C. To improve, extend, enlarge, or replace any water or sewer facilities;

D. To acquire or construct additional water or sewer facilities in or for the City;

E. To call or redeem prior to their fixed dates of maturity any Bonds, parity bonds, or subordinate lien obligations issued to provide water or sewer facilities for the City; and

F. For any other lawful purpose.

Section 15: ADDITIONAL BONDS OR OTHER OBLIGATIONS

A. Limitation Upon Issuance of Parity Obligations.

Nothing contained in this Ordinance shall be construed in such a manner as to prevent the issuance by the City of additional bonds or other additional obligations payable from the Net Revenues on a parity with, but neither prior nor superior to, the lien of the Bonds herein authorized; provided, however, that before any such additional parity bonds or other additional parity obligations are authorized or actually issued:

(1) The City is not, and has not been, in default as to any payments required by the provisions of this Ordinance for a period of not less than twelve (12) months immediately preceding the issuance of such additional parity bonds or other additional parity obligations.

(2) The Net Revenues of the System for the past twelve (12) consecutive months immediately preceding the year of the issuance of such additional parity obligations shall have been sufficient to pay the Operation and Maintenance Expenses of the System for said past twelve (12) months, and, in addition, sufficient so that the Net Revenues for such preceding year equal an amount representing 125% of the annual principal and interest requirements of the outstanding Bonds and any other obligations of the City payable from the Net Revenues of the System, plus the average annual principal and interest requirements of the bonds or other obligations proposed to be issued; provided, this limitation may be waived or modified by the written consent of the Registered Owners of 75% of the principal amount of the Bonds;

(3) A written certification by the City engineer or an independent engineer, if requested, that the 125% Net Revenue requirement of subsection (2) above has been satisfied, shall be obtained and filed with the City, which certification shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell, and deliver said additional bonds or other additional obligations on a parity with the Bonds authorized herein.

B. Parity Bonds to Complete Project. In the event grant funds, plus the proceeds of the Bonds provided for in this Ordinance, are insufficient to complete the Project, then parity bonds may be issued to complete the Project, and the restrictions set forth in this Section pertaining to the issuance of parity bonds shall not apply.

C. Subordinate Lien Bonds. No provision of this Ordinance or of any instrument appertaining thereto shall be deemed to limit or restrict the power of the City to issue bonds, notes or warrants, or to make pledges of the revenues which shall

be subordinate as to the lien of the Bonds and which shall provide for compliance with the current provisions hereof prior to the application of any funds to said subordinate purpose.

D. Refunding. The restrictions with respect to the issuance of parity obligations shall not apply if such additional parity bonds proposed to be issued are for the sole purpose of refunding outstanding water and sewer revenue bonds.

Section 16: INVESTMENTS

Surplus funds in any of the Funds set forth in this Ordinance may be invested in securities as permitted by law.

Section 17: GENERAL COVENANTS

For the protection and security of the Bonds, it is covenanted and agreed to and with the Registered Owners of the Bonds from time to time, that the City will perform the following covenants:

A. Complete Project. It will complete the construction of the Project with all practical dispatch and in a sound and economical manner.

B. Operate System. It will operate the System in an efficient and economical manner and prescribe, revise, and collect such charges in connection therewith so that the services, facilities, and properties of the System may be furnished at the lowest possible cost consistent with sound economy and prudent management.

C. Good Repair. It will operate, maintain, preserve, and keep the System and every part hereof in good repair, working order, and condition.

D. Preserve Security. It will preserve and protect the security of the Bonds and the rights of the Registered Owners thereof.

E. Collect Revenues. It will collect and hold in trust the revenues and other funds pledged to the payment of the Bonds and apply such revenue or other funds only as provided in this Ordinance.

F. Service Bonds. It will pay and cause to be paid punctually the principal of the Bonds and the interest thereon on the date or dates and at the place or places and in the manner mentioned in the Bonds, and in accordance with this Ordinance.

G. Pay Claims. It will pay and discharge any and all lawful claims for labor, materials, and supplies which, if unpaid,

might by law become a lien or charge upon the Revenue of the System, or any part of said Revenue of the System, or any funds in the hands of the Treasurer, prior or superior to the lien of the Bonds or which might impair the security of the Bonds, to the end that the priority and security of the Bonds shall be fully preserved and protected.

H. Encumbrances. It will not mortgage or otherwise encumber, sell, lease, or dispose of the System or any part thereof, nor enter into any lease or agreement which would impair or impede the operation of the System or any part thereof necessary to secure adequate revenues for the payment of the principal of and interest on the Bonds, nor which would otherwise impair or impede the rights of the Registered Owners of the Bonds with respect to such revenues of the operation of the System without provisions for the retirement of the Bonds then outstanding from the proceeds thereof.

I. Insurance. It will procure and keep in force insurance upon all buildings and structures of the System and the machinery and equipment therein, which are usually insured by entities operating like property, in good and responsible insurance companies. The amount of the insurance shall be such as may be required to adequately protect it and the Registered Owner of the Bonds from loss due to any casualty, and in the event of any such loss, the proceeds shall be used to repair or restore the System or for the payment of the Bonds issued under this Ordinance.

J. Fidelity Bonds. It will procure suitable fidelity bonds covering all of its officers and other employees charged with the operation of the System and the collection and disbursement of revenues therefrom.

K. Engineers. It will employ consulting engineers of acknowledged reputation, skill, and experience in the improvement and operation of the System for any unusual or extraordinary items of maintenance, repair, or betterments as shall be required from time to time, all reports, estimates, and recommendations of such consulting engineers to be filed with the Clerk and furnished to the Registered Owners of the Bonds issued hereunder, upon request.

L. Accounts. It will keep proper and separate accounts and records in which complete and separate entries shall be made of all transactions relating to the System, and it will furnish complete operating and income statements upon request.

M. Delinquencies. It will not furnish water or sewer service to any customer whatsoever free of charge, and it shall not later than sixty (60) days after the end of each calendar

year, take such legal action as may be reasonable to enforce collection of all collectible delinquent accounts.

Section 18: SPECIAL COVENANTS

The City further covenants and agrees:

A. The Bonds are qualified tax-exempt obligations within the meaning and for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, and the City will not designate more than \$10,000,000, including the Bonds, as qualified tax-exempt obligations during the calendar year.

B. None of the proceeds of the Bonds will be used directly or indirectly (i) to make or finance loans to persons or (ii) in any trade or business carried on by any person (other than use as a member of the general public). For purposes of the preceding sentence, the term "person" does not include a government unit other than the United States or any agency or instrumentality thereof, and the term "trade or business" means any activity carried on by a person other than a natural person.

C. The Bonds are not private activity bonds within the meaning of the Internal Revenue Code of 1986.

D. The aggregate face amount of all tax-exempt bonds, including the Bonds, issued by the City during the calendar year in which the Bonds are issued, will not exceed \$5,000,000.

E. The City will take no action which would cause the Bonds to become arbitrage bonds within the meaning of Section 148 of the Internal Revenue Code.

Section 19: DATE OF SALE

The Bonds shall be sold, at a price of not less than par plus accrued interest to date of delivery, at public sale on Monday, August 3, 1987. The Board shall meet at 8:00 P.M., Mountain Daylight Time, on said date, at the Payette City Hall, 700 Center Avenue, Payette, Idaho, for the purpose of receiving sealed bids for the purchase of the Bonds. The bids will be publicly opened, examined, and declared at such time and place, and considered at a meeting of the Council on said date. All bids shall be accompanied by a good faith deposit in the amount of \$34,250, in the form of a cashier's or certified check payable to the Treasurer of the city. At said meeting, the Council shall accept the bid providing the lowest net interest cost to the City, and shall return the deposits of all other bidders. Said sale shall be held, and notice thereof given, substantially in accordance with Sections 57-215 and 57-216, Idaho Code.

Section 20: NOTICE OF SALE

The Notice of Sale, as prepared by the City's bond counsel, in conjunction with the City's financial consultant, attached hereto as Exhibit "B" and by this reference incorporated herein, is hereby approved. The Mayor and City Clerk are hereby authorized and directed to execute the Notice of Sale on behalf of the City, and to call for bids for the sale of the Bonds, such bids to be received on August 3, 1987, all in the manner more particularly set forth in the Notice of Sale. The Notice of Sale shall be published in The Independent-Enterprise, a newspaper of general circulation within the City, once each week for three (3) consecutive weeks, the first such publication being at least 21 full days before the said 3rd day of August, 1987. The City's financial consultant is authorized and directed to cause the Notice of Sale and the Official Statement pertaining to the sale of the Bonds to be distributed to such municipal bond broker-dealers, such banking institutions, and to such other persons as may be interested in purchasing the Bonds herein offered for sale.

Section 21: AMENDMENTS

A. The City from time to time and at any time may adopt an ordinance or ordinances supplemental hereto, which ordinance or ordinances thereafter shall become a part of this Ordinance, for any one or more of all of the following purposes:

(1) To add to the covenants and agreements of the City in this Ordinance, other covenants and agreements thereafter to be observed, which shall not adversely affect the interest of the Registered Owners of the Bonds, or to surrender any right or power herein reserved.

(2) To make such provisions for the purpose of curing any ambiguities or of curing, correcting, or supplementing any defective provisions contained in this Ordinance, or any ordinance authorizing future bonds in regard to matters or questions arising under such ordinances as the Council may deem necessary or desirable and not inconsistent with such ordinances and which shall not adversely affect, in any material respect, the interest of the Registered Owners of the Bonds.

Any such supplemental ordinance may be adopted without the consent of the Registered Owners of the Bonds at any time outstanding, notwithstanding any of the provisions of subsection B of this Section.

B. With the consent of the Registered Owners of not less than 75% in aggregate principal amount of the Bonds at the time outstanding, the Council may adopt an ordinance or ordinances supplemental hereto for the purpose of adding any provisions to or

changing in any manner or eliminating any of the provisions of this Ordinance or of any supplemental ordinance; provided, however, that no such supplemental ordinance shall:

(1) Extend the fixed maturities of the Bonds, or reduce the rate of interest thereon, or extend the time of payments of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, if applicable, without the consent of the Registered Owners of the Bonds so affected; or

(2) Reduce the aforesaid percentage of the Registered Owners required to approve any such supplemental ordinance, without the consent of the Registered Owners of the Bonds then outstanding.

It shall not be necessary for the consent of the Registered Owners under this subsection B to approve the particular form of any proposed supplemental ordinance, but it shall be sufficient if such consent shall approve the substance thereof.

C. Upon the adoption of any supplemental ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, and obligations of the City under this Ordinance and the Registered Owners of the Bonds outstanding hereunder shall thereafter be determined, exercised, and enforced thereunder, subject in all respects to such modification and amendments, and all terms and conditions of any such supplemental ordinance shall be deemed to be part of the terms and conditions of this Ordinance for any and all purposes.

D. Any Bonds executed and delivered after the execution of any supplemental ordinance adopted pursuant to the provisions of this Section may have a notation as to any matter provided for in such supplemental ordinance, and if such supplemental ordinance shall so provide, new bonds so modified as to conform, in the opinion of the Council, to any modification of this Ordinance contained in any such supplemental ordinance, may be prepared and delivered without cost to the Registered Owners of any affected Bonds then outstanding, upon surrender for cancellation of such Bonds.

#### Section 22: VALIDITY OF ISSUANCE

The Bonds are issued pursuant to the Idaho Revenue Bond Act, being Idaho Code Sections 50-1027 through 50-1042. This recital is conclusive evidence of the validity of the Bonds and the regularity of their issuance.

Section 23: REGISTERED OWNER'S REMEDIES - RECEIVER

By action or suit in equity, the Registered Owners or subsequent owners of the Bonds may, in the event of a material violation of any of the foregoing covenants, cause the appointment of a receiver, which receiver may enter and take possession of the System and any Net Revenues for the payment of the Bonds, prescribe fees to be derived from the System, and collect, receive, and apply all Net Revenues of other moneys pledged for the payment of the Bonds in the same manner as the City might do in accordance with the obligations of the City.

Section 24: ORDINANCE A CONTRACT

The provisions of this Ordinance shall constitute a contract between the City and the Registered Owners so long as the Bonds hereby authorized remains unpaid.

Section 25: DETERMINATION

The Council does hereby find, determine, and declare that it is essential to the public interest, welfare, and convenience of the City and the inhabitants thereof to undertake the Project and to construct the improvements, with said Project being paid for in part by the issuance of the Bonds in conformity with the Idaho Code.

Section 26: SEVERABILITY

If any one or more of the covenants or agreements provided in this Ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements in this Ordinance and shall in no way affect the validity of the other provisions of this Ordinance or of the Bonds.

Section 27: REPEALER

All prior ordinances inconsistent herewith are hereby repealed and shall, to the extent of such inconsistency, have no further force or effect.

Section 28: BOND ANTICIPATION NOTES

Pending the issuance and sale of the Bonds, the City may, by resolution, authorize the issuance and sale of bond anticipation notes in an aggregate amount which, together with interest to accrue thereon prior to issuance and sale of the Bonds, shall not exceed \$685,000, to provide funds to pay the costs of construction and installation of the Project. Such bond

anticipation notes, together with interest accrued thereon, shall be payable from the proceeds of the sale of the Bonds.

Section 29: PUBLICATION

This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

DATED this 6th day of July, 1987.

CITY OF PAYETTE  
Payette County, Idaho

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Mayor

ATTEST:

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City Clerk

( S E A L )

MCMkaj176



shall be paid to the registered owner upon presentation and surrender of this Bond at the principal corporate trust office of the Bond Registrar, on or after the date of maturity or prior redemption.

Reference is hereby made to additional provisions of this Bond set forth on the reverse side hereof, and such additional provisions shall for all purposes have the same effect as if set forth in this space.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Resolution until the Certificate of Authentication hereon shall have been manually signed by the Bond Registrar.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions, and things required by the Constitution and statutes of the State of Idaho to exist, to have happened, been done, and performed precedent to and in the issuance of this Bond have happened, been done, and performed, and that the issuance of this Bond and the Bonds of this issue does not violate any Constitutional, statutory, or other limitation upon the amount of bonded indebtedness that the City may incur.

IN WITNESS WHEREOF, the City of Payette, Idaho, has caused this Bond to be executed by the facsimile signature of the Mayor, countersigned by the facsimile signature of its Treasurer, and attested by the facsimile signature of its City Clerk, and a facsimile of the seal of the City to be imprinted hereon, as of this first day of September, 1987.

CITY OF PAYETTE  
Payette County, Idaho

[facsimile signature]  
Mayor

COUNTERSIGNED:

[facsimile signature]  
Treasurer

ATTEST:

\_\_\_\_\_  
City Clerk

[FACSIMILE SEAL]

CERTIFICATION OF AUTHENTICATION

Date of Authentication:

This Bond is one of the City of Payette Water and Sewer Revenue Bonds, Series 1987, dated as of September 1, 1987, described in the within-mentioned Bond Ordinance.

THE IDAHO FIRST NATIONAL BANK,  
as Bond Registrar

By: \_\_\_\_\_  
Authorized Officer

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[Reverse Side of Bond]

ADDITIONAL BOND PROVISIONS

This Bond is one of a duly authorized issue of Bonds of like date, tenor, denomination and effect, except for variations required to state numbers, rates of interest, and dates of maturity, aggregating \$685,000 in principal amount. The Bonds are issued pursuant to and in full compliance with the Constitution and statutes of the State of Idaho, particularly Sections 50-1027 through 50-1042, Idaho Code, and proceedings duly adopted and authorized by the City Council of the City acting for and on behalf of the City, more particularly the Bond Ordinance, and also pursuant to the legal authorization of a Special Election duly noticed, held, and conducted within said City on May 12, 1987.

Bonds maturing on or before September 1, 1995, are not subject to call or redemption prior to their stated dates of maturity. The City has reserved the right to redeem any Bonds maturing on or after September 1, 1996, on any interest payment date on or after September 1, 1995, in whole or in part, in inverse order of maturity (and by lot selected by the Bond Registrar within a maturity), at the following redemption prices, expressed as a percentage of the principal amount of the Series 1987 Bonds to be so redeemed, plus accrued interest to the redemption date:

<u>Redemption Dates</u>	<u>Redemption Prices</u>
September 1, 1995	101%
September 1, 1996, and thereafter	100%

Notice of any intended redemption shall be given by mailing of notice to the Registered Owner of any Series 1987 Bond being called for redemption not less than thirty nor more than forty-five days prior to the redemption date by first class mail, postage prepaid, at the address appearing on the Bond Register. The requirements of the Bond Ordinance shall be deemed to be complied with when notice is mailed as herein provided, regardless of whether or not it is actually received by the owner of such Bond. Interest on all of such Bonds so called for redemption shall cease to accrue on the specified redemption date unless such Bond or Bonds so called for redemption are not redeemed upon presentation made pursuant to such call.

This Bond and the Bonds of this issue are issued for the purpose of providing funds to pay the costs of capital improvements to the water and sewer facilities of the City, as more fully described in the Bond Ordinance.

This Bond creates a first lien and charge upon the net Revenues of the System (as said terms are defined in the Bond Ordinance), superior to all other charges of any kind or nature. This Bond is a limited obligation of the City and is payable as to principal and interest solely from a special fund created by the Bond Ordinance and designated "City of Payette Water and Sewer Revenue Bond Fund" (the "Bond Fund"). For a more particular description of said Bond Fund, the revenues to be deposited therein, and the nature and extent of the security afforded thereby, reference is made to the provisions of the Bond Ordinance pursuant to which this Bond is issued, and such Bond Fund will be maintained.

This Bond is transferable by the registered owner hereof in person, or by his attorney duly authorized in writing, upon presentation and surrender of this Bond at the principal corporate trust office of the Bond Registrar. Upon such transfer, a new Bond, of the same denomination, maturity, and interest rate, will be issued to the transferee, in exchange therefor.

Reference is hereby made to the Bond Ordinance for the covenants and declarations of the City and other terms and conditions under which this Bond and the Bonds of this issue have been issued. The covenants contained herein and in the Bond Ordinance may be discharged by making provision, at any time, for the payment of the principal of and interest on this Bond in the manner provided in the Bond Ordinance.

The City and the Bond Registrar may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payments of principal hereof and interest due hereon and for all other purposes, and neither the City nor the Bond Registrar shall be affected by any notice to the contrary.

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LEGAL OPINION

It is hereby certified that the following is a true and complete copy of the legal opinion of Lindsay, Hart, Neil & Weigler, of Boise, Idaho, which opinion was dated the date of delivery of and payment for the Bonds described therein, an original of which was delivered to me on said date, and is a part of the permanent records of the City of Payette, Idaho.

CITY OF PAYETTE  
Payette County, Idaho

[facsimile signature]

\_\_\_\_\_  
Clerk

[ INSERT LEGAL OPINION OF LINDSAY, HART, NEIL & WEIGLER ]  
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The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -- as tenants in common	UNIF TRFS MIN ACT..... (Cust)           (Minor)
TEN ENT -- as tenants by the entireties	under Uniform Transfer to Minors Act..... (State)
JT TEN -- as joint tenants with right of survivorship and not as tenants in common	

Additional abbreviations may also be used although not in the above list.  
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ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

Name of Transferee: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
Tax Identification No. \_\_\_\_\_

the within Bond and hereby irrevocably constitutes and appoints

\_\_\_\_\_  
of \_\_\_\_\_,

to transfer said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Registered Owner

NOTE: The signature on this Assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

SIGNATURE GUARANTEED:

\_\_\_\_\_  
Bank, Trust Company or Member  
Firm of the New York Stock  
Exchange

\_\_\_\_\_  
Authorized Officer

MCMkaj179

NOTICE OF SALE

CITY OF PAYETTE  
Payette County, Idaho

CITY OF PAYETTE WATER AND SEWER BONDS, SERIES 1987  
PRINCIPAL AMOUNT \$685,000

NOTICE IS HEREBY GIVEN that sealed bids will be received until 12:00 o'clock noon, Mountain Daylight Time, on

MONDAY, AUGUST 3, 1987

at the office of the City Treasurer of the City of Payette, at Payette City Hall, 700 Center Avenue, Payette, Idaho 83661, for the above issue of City of Payette Water and Sewer Revenue Bonds, Series 1987, in the principal amount of \$685,000 (the "Bonds"). The bids will be publicly opened, examined, and declared at a meeting of the City Council of the City of Payette to be held at 8:00 P.M., Mountain Daylight Time, on Monday, August 3, 1987.

The Bonds will be in denominations of \$5,000 each or integral multiples thereof, will be dated September 1, 1987, will bear interest at a rate or rates not exceeding twelve percent (12%) per annum, payable semiannually on March 1 and September 1 of each year, commencing March 1, 1988, until maturity or prior redemption, and will be due serially on September 1 in the years and amounts as follows:

<u>Year</u>	<u>Principal Amount</u>
1989	\$ 5,000.00
1990	5,000.00
1991	5,000.00
1992	5,000.00
1993	20,000.00
1994	75,000.00
1995	80,000.00
1996	85,000.00
1997	90,000.00
1998	95,000.00
1999	105,000.00
2000	115,000.00

Bonds maturing on or before September 1, 1995, are not subject to call or redemption prior to their stated dates of maturity. On any principal payment date on or after September 1,

1995, Bonds maturing on or after September 1, 1996, are subject to call and redemption prior to their stated maturity date, in whole or in part, in inverse order of maturity (and by lot selected by the Bond Registrar within a maturity), at the following prices, expressed as a percentage of the principal amount, plus accrued interest to the date of redemption:

<u>Redemption Date</u>	<u>Redemption Price</u>
September 1, 1995	101%
September 1, 1996, and thereafter	100%

Notice of any intended redemption of any Bonds shall be given not less than 30 nor more than 45 days prior to the redemption date by first class mail, postage prepaid, to the registered owner of any Bond to be redeemed at the address appearing on the Bond Register. Interest on all of the Bonds so called for redemption shall cease to accrue on the date fixed for redemption unless such Bond or Bonds so called for redemption are not redeemed upon presentation made pursuant to such call.

All bids must be accompanied by a good faith deposit in the amount of \$34,250, in the form of a cashier's or certified check payable to the Treasurer of the City of Payette. Interest will not be allowed on the good faith deposit.

The Bonds will be awarded to the highest and best bidder considering interest rate or rates specified and any premium bid. No bids below the par value of the Bonds will be considered. Bidders will be permitted to bid different rates of interest. The maximum differential between the highest and lowest rate shall not exceed 3.0% per annum. All Bonds maturing at the same time shall bear the same interest rate.

The City of Payette reserves the right to reject any or all bids and to waive, to the extent permitted by law, any irregularity or informality in any bid.

The Bonds will be delivered to the purchaser at Boise, Idaho, or at such other place agreed to by the City. Payment for the Bonds must be made in Federal Reserve Bank funds or other funds acceptable and immediately available to the City.

The approving legal opinion will be furnished by the law firm of Lindsay, Hart, Neil & Weigler, Boise, Idaho, without charge to the purchaser, and will be printed on the Bonds. The City has designated the Bonds as "qualified tax-exempt obligations" for the purposes of purchase by financial institutions.

Copies of the Official Statement, Notice of Sale, and other related information with respect to the Bonds may be

obtained from the Public Finance Department of The Idaho First National Bank, Boise, Idaho, telephone: (208) 383-7240, or the Payette City Treasurer, telephone: (208) 642-3377.

DATED this 6th day of July, 1987.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

MCMkaj221