

4 certificates
transferred

4 certificates
of water bonds

Bill Allison
210 E. Washington
Bloomington

ORDINANCE NO. 12

AN ORDINANCE authorizing and providing for the issue of \$600,000 Waterworks Revenue Bonds, of the City of LeRoy, McLean County, Illinois, for the purpose of defraying the cost of constructing a waterworks system in and for said City.

* * *

WHEREAS, it is deemed advisable, necessary and in the best interests of the City of LeRoy in order to protect, promote and safeguard the public health of the inhabitants of said City that a waterworks system be constructed in and for said City, said system to consist of the following:

Water treatment plant, 8-inch water main extension to elevated tank; 250,000-gallon capacity elevated tank and appurtenances, and reinforced concrete elevated tank foundation on steel pile.

; together with all necessary equipment and appurtenances necessary to the operation of a complete waterworks supply and distribution system in accordance with the plans, specifications and cost estimate therefor heretofore approved by the City Council of this City and (now on file in the office of the City Clerk for public inspection; and

WHEREAS, the total estimated cost of the construction of such waterworks system as prepared by Farnsworth & Wylie, the Engineers for said City employed for that purpose, is the sum of \$600,000 including the purchase of land, legal and engineering cost and interest during construction; and

WHEREAS, the City does not have funds available for the purpose of paying such cost and in order to raise the funds required for such purpose it will be necessary that the City borrow money and in evidence thereof issue its Waterworks Revenue Bonds in the principal amount of \$600,000, said bonds to be payable solely and only out of the earnings to be derived from the operation of the waterworks system of said City; and

WHEREAS, pursuant to the provisions of Division 129 of Article 11 of the Illinois Municipal Code, this City is authorized to issue Waterworks Revenue Bonds in an amount sufficient to pay all or part of the cost of the construction of said waterworks system; and

WHEREAS, the United States of America (acting through the Farmers Home Administration, United States Department of Agriculture (hereinafter sometimes referred to as "government")), has indicated its intent to purchase such revenue bonds; and

WHEREAS, the complete waterworks supply and distribution system shall hereinafter be referred to throughout this ordinance as the "system";

NOW, THEREFORE, Be It Ordained by the City Council of the City of LeRoy, McLean County, Illinois, as follows:

Section 1. That the City Council of the City of LeRoy has caused an estimate to be made of the cost of constructing the system for said City, as described hereinabove in the preamble of this ordinance, and all in accordance with the detailed plans and specifications therefor heretofore approved on May 5, 1975, and now on file in the office of the City Clerk for public inspection and has heretofore estimated and does hereby estimate that the cost of the construction of said system is the sum of \$600,000.

Section 2. That the City Council does hereby determine the period of usefulness of said system to be forty (40) years from the date of completion of the construction thereof.

Section 3. That the City does not have sufficient funds available for the purpose of paying the cost of constructing said system and for the purpose of paying the cost thereof it will require the issuance of \$600,000 Waterworks Revenue Bonds of said City as hereinafter set out.

Section 4. That for the purpose of defraying the cost of the construction of the system of said City, as described hereinabove in the preamble of this ordinance, there be issued and sold waterworks revenue bonds of said City in the principal amount of \$600,000, which bonds shall be designated "Waterworks Revenue Bonds" and be dated as of the date of delivery of said bonds to the purchaser thereof. Said bonds shall be issued as fully registered bonds without coupons in accordance with the provisions hereinafter set out. Said bonds shall be numbered consecutively from R-1 to R-120, inclusive, be of the denomination of \$5,000 each, bear interest at the rate of 5% per annum, payable on the first January 1 after the date of said bonds and semiannually thereafter on July 1 and January 1 of each year and shall mature on January 1 in each of the years and in the amounts as follows:

<u>Year</u>	<u>Amount</u>
1977 through 1984, inclusive	\$ 5,000
1985 through 1994, inclusive	10,000
1995 through 2001, inclusive	15,000
2002 through 2006, inclusive	20,000
2007 through 2010, inclusive	25,000
2011 through 2014, inclusive	30,000
2015	35,000

Said bonds shall be subject to redemption and payment, as a whole or in part, at the option of the City, in the inverse order of their number, at any time and at a price of par and accrued interest to the date of redemption.

Written notice of its option to redeem and pay prior to their maturity any or all of said bonds which by their terms shall be subject to redemption and payment shall be given by the City in the manner and in the time as directed in Section 6 hereof.

Section 5. That both principal of and interest on said fully registered bonds shall be payable to the registered holder thereof in lawful money of the United States of America at the address of the holder as shown on the registration books of the City. The bonds shall be signed by the Mayor, sealed with the corporate seal of said City and attested by the City Clerk.

Said bonds, together with the interest thereon, shall be payable solely from the revenues derived from the system and shall not, in any event, constitute an indebtedness of the City within the meaning of any constitutional or statutory limitation.

Section 6. That the fully registered bonds without coupons to be delivered to the United States of America shall be in substantially the following form:

(Form of Fully Registered Bond
without Coupons)

UNITED STATES OF AMERICA

STATE OF ILLINOIS COUNTY OF MC LEAN

CITY OF LE ROY

WATERWORKS REVENUE BOND

Number R-

\$5,000

KNOW ALL MEN BY THESE PRESENTS, that the City of LeRoy, McLean County, Illinois, for value received hereby promises to pay to the registered holder as hereinafter provided, solely from the Water Fund of the City of LeRoy, as hereinafter mentioned

and not otherwise, the sum of Five Thousand Dollars (\$5,000) on January 1, 19___, together with interest on said sum from date hereof until paid, at the rate of Five per cent (5%) per annum, payable on the first January 1 after the date of this bond, and semiannually thereafter on July 1 and January 1 in each year.

Both principal of and interest on this bond are hereby made payable in lawful money of the United States of America at the address of the registered holder as shown on the registration books of the City.

This bond and the series of which it forms a part, together with such additional parity bonds as may be hereafter issued under the provisions of the ordinance authorizing said bonds, is payable solely from revenues derived from the operation of the waterworks system of said City and not otherwise and is issued under authority of the provisions of Division 129 of Article 11 of the Illinois Municipal Code, and all laws amendatory thereof and supplemental thereto, and an ordinance duly adopted pursuant thereto by the City Council of said City on the 30th day of June, 1975, and published as required by law, for the purpose of paying the cost of constructing a waterworks system for said City, and this bond does not constitute an indebtedness of said City within any constitutional or statutory limitation. For a more complete statement of the source of payment of such bonds, the circumstances under which additional bonds may be issued on a parity therewith and a statement of the rights, duties and obligations of the City and the rights of the holders of the bonds, reference is made to the aforesaid ordinance, to all the provisions of which ordinance the holder hereof by the acceptance of this bond assents.

Start

This bond is one of an authorized issue of \$600,000. Said bonds shall be subject to redemption and payment, as a whole or in part, at the option of the City, in the inverse order of their number, at any time and at a price of par and accrued interest to the date of redemption. Notice of the redemption of any or all of said bonds shall be given by the City to the registered holder thereof by registered mail at least thirty (30) days prior to the date of redemption, and any such notice shall designate the time and place of redemption of said bonds, shall designate the serial number and the aggregate principal amount of the bonds to be redeemed, and shall indicate that on the designated date of redemption said bonds shall be redeemed by payment of the principal amount thereof and accrued interest thereon to the date of redemption and that from and after the designated redemption date interest in respect of said bonds so called for redemption shall cease if redemption moneys are available for the payment of the bonds so called for redemption.

This bond shall be registered as to principal and interest in the name of the holder in accordance with said ordinance, after which it shall be transferable only upon presentation to the Registrar of a written transfer duly acknowledged by the registered holder or his attorney, and such transfer shall be noted upon the bond and upon the books of the City kept for that purpose.

Under said Code and the ordinance adopted pursuant thereto authorizing the issuance of this bond and the series of which it forms a part, the revenues derived from the operation of the system of said City shall be deposited in a separate fund designated as the "Water Fund" of said City, which shall be used only for paying the cost of operation and maintenance of said system, providing an adequate depreciation fund and paying the

X

principal of and interest on the bonds of said City that are payable by their terms only from the revenues of said system, and in making all payments required to maintain the several special accounts established and created under the terms of the ordinance heretofore adopted and pursuant to which this bond is issued.

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the issuance of this bond, have been done, have happened and have been performed in regular and due form of law and that provision has been made for depositing in said Water Fund of said City the entire revenues received from the operation of said system to be applied in the manner as hereinabove set forth, and said City hereby covenants and agrees that it will fix and maintain rates for the use and service of said system and collect and account for revenues from said system sufficient at all times to pay the cost of maintenance and operation of said system, to provide an adequate depreciation fund, to pay promptly principal of and interest on all bonds issued by said City which by their terms are payable solely from the revenues of said system, and to comply with all the covenants of and to maintain the several accounts created and established by the ordinance heretofore adopted and pursuant to which this bond and the series of which it forms a part were issued.

The rights and obligations of the City and of the holders of the series of bonds of which this bond is one may be modified or amended at any time with the consent of the City and of the holders of not less than seventy-five per cent (75%) in principal amount of bonds of the series of which this bond is one, and including all bonds which may hereafter be issued and on a parity with the

series of bonds of which this bond is one, then outstanding (excluding any of said bonds owned by or under the control of the City), in the manner, to the extent, and upon the terms provided in the ordinance authorizing the issue of the series of bonds of which this is one; provided that no such modification or amendment shall extend or change the maturity or the date of redemption prior to maturity, or reduce the interest rate on or otherwise alter or impair the obligation of the City to pay the principal or interest at the time and place and at the rate and in the currency provided therein of any bond without the express consent of the holder or registered owner of such bond, nor permit the creation by the City of any preference or priority of any revenue bond or bonds of the series of which this bond is one over any other bond or bonds of such series and including any bonds which may hereafter be issued and be on a parity with this bond and the series of which it forms a part, nor reduce the percentage of such outstanding revenue bonds required for the affirmative vote or written consent to an amendment or modification, all as more fully set forth in said ordinance authorizing this bond and the series of which it forms a part.

IN WITNESS WHEREOF, the said City of LeRoy, McLean County, Illinois, by its City Council, has caused this bond to be signed by its Mayor, its corporate seal to be hereto affixed and attested by the City Clerk, and this bond to be dated _____, 197__.

Mayor, City of LeRoy

Attest:

City Clerk, City of LeRoy

(Form of Registration to appear on back of bond)

PROVISIONS FOR REGISTRATION

This bond shall be registered on the books of the City of LeRoy kept for the purpose by the City Treasurer as Bond Registrar. The principal and interest on this bond shall be payable only to or upon the order of the registered holder or his legal representative.

REGISTRATION

<u>Date of Registration</u>	<u>Name of Registered Holder</u>	<u>Signature of Registrar</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Section 7. That upon the issuance of any of the revenue bonds herein provided for, the system of said City, for the purpose of this ordinance, shall be operated on a fiscal year basis commencing the first day of May and ending the last day of April of each year. From and after the delivery of any bonds issued under the provisions of this ordinance and so long as any of the revenue bonds authorized to be issued under the terms of this ordinance remain outstanding and unpaid, the revenues from any source whatsoever derived from the operation of the said system of said City, including all future improvements and extensions thereof, shall be set aside as collected and be kept separate and apart from all other City funds and deposited as a separate fund, which fund shall be designated as the "Water Fund of the City of LeRoy" and which fund shall be used and held for use only in paying the cost of operation and maintenance of said system, providing an adequate depreciation fund, paying the principal of and interest upon all revenue bonds of said City which by their terms are payable solely from the revenues derived from the said system of said City, and for the creation, establishment and maintenance of and the expenditure from the respective accounts hereinafter provided for in Section 8 of this ordinance.

Section 8. That there be and there are hereby created and established separate accounts of said "Water Fund" to be designated severally "Operation and Maintenance Account", "Bond and Interest Sinking Fund Account", "Depreciation Account", and "Bond and Interest Reserve and Redemption Account", into each of which said separate accounts there shall be paid on the first business day of each month without any further official action or direction and in the order in which said accounts are hereinafter mentioned, all moneys held in the Water Fund of said City, in accordance with the following provisions:

(a) There shall be paid into the Operation and Maintenance Account on the first business day of each month an amount sufficient to pay the reasonable expense of operation, maintenance and repair of said system for the current month and the next succeeding month, including, without limiting the generality of the foregoing, salaries, wages, taxes, costs of materials and supplies, insurance, power, fuel, reasonable repairs and extensions necessary to render efficient service.

At the time of delivery of the bonds there shall be deposited in said Operation and Maintenance Account the sum of \$10,000, ~~such amount to be derived from advance-connection fees.~~

(b) There shall be paid into the Bond and Interest Sinking Fund Account on the first business day of each month, after the required payments have been made into the Account above described, a fractional amount of the interest becoming due on the next succeeding interest payment date on all outstanding bonds authorized to be issued under the terms of this ordinance and including the interest to become due on all bonds as may be issued in the future on a parity with and to share ratably and equally in the earnings of the system with the bonds herein authorized and under the conditions hereinafter set out (such bonds to be issued in the future being hereinafter referred to as "bonds hereafter issued and on a parity with the bonds herein authorized") and there shall be paid into the Bond and Interest Sinking Fund Account on the first business day of each month a fractional amount of the principal becoming due on the next succeeding principal maturity date of all of said bonds authorized to be issued under the terms of this ordinance and including the principal to become due on all bonds as may be hereafter issued and on a parity with the bonds herein authorized until there shall have been accumulated in the Bond and Interest Sinking Fund Account

on or before the day preceding such current maturity date of interest or principal, or both, an amount sufficient to pay such principal or interest or both, of all bonds issued hereunder and including the maturing principal or interest, or both, of all bonds hereafter issued and on a parity with the bonds herein authorized and maturing by their terms on such current maturity date.

In computing the fractional amount of the interest and principal requirements of the bonds herein authorized and to be set aside each month in said Bond and Interest Sinking Fund Account for the payment thereof, the fraction shall be so computed that sufficient funds will be set aside in said Account and be available for the prompt payment of such principal of and interest on the revenue bonds herein authorized as the same will become due.

All moneys in said Account shall be used only for the purpose of paying interest and principal on the bonds hereby authorized as the same shall become due and including principal and interest on all bonds hereafter issued and on a parity with the bonds herein authorized.

At the time of delivery of the bonds there shall be deposited in said Bond and Interest Sinking Fund Account the sum of \$ 10,000, such amount being equal to the interest estimated to accrue on said bonds during the estimated time necessary to complete the construction of the proposed system.

(c) Beginning on September 1, 19 15, there shall be paid into the Depreciation Account on the first business day of each month after the required payments have been made into the accounts above referred to, the sum of \$ 150 each month until such Account aggregates the sum of \$ 18,000 and thereafter no additional payments shall be made into said Account except that when any money is paid out of such Account, monthly payments into such Account shall be resumed and continued until such Account has been restored to the aggregate amount of \$ 18,000.

The moneys in said Account shall be used to pay the cost of such replacements and repairs to the system as may be necessary from time to time for the continued effective and efficient operation of the system, except that the funds held in said Account to the extent necessary to prevent or remedy a default in the payment of the interest on or principal of any bonds of said City which by their terms are payable from the income and revenue of said system shall be used for that purpose and shall be transferred to the Bond and Interest Sinking Fund Account, and whenever such an amount is withdrawn from said Account and so transferred to said Bond and Interest Sinking Fund Account, the amount so transferred shall be added to the amount to be next and thereafter paid into said Depreciation Account until full reimbursement to said Account has been made.

Each expenditure to be made from the Depreciation Account to pay the cost of necessary replacements and repairs to the system, as above provided for, shall be made only after a consulting engineer employed for that purpose has certified that such expenditure is necessary to the continued effective and efficient operation of the system of said City.

At the time of delivery of the bonds there shall be deposited in said Depreciation Account the sum of \$ 100, ~~such amount to be derived from advance connection fees.~~

(d) Beginning on September 1, 1975, there shall be paid into the Bond and Interest Reserve and Redemption Account on the first business day of each month after the required payments have been made into the accounts above referred to, the sum of \$ 150. each month until such account aggregates the sum of \$ 18,000 and thereafter no additional payments shall be made into said account except that when any money is paid out of such account monthly payments into such account shall be resumed and continued until such account has been restored to the aggregate amount of \$ 18,000.

At the time of delivery of the bonds there shall be deposited in said Bond and Interest Reserve and Redemption Account the sum of \$ 100. ~~such amount to be derived from advance connection fees.~~

After all the required payments into the accounts hereinabove described have been made, including the payment of any deficiencies, and when there is on deposit in the Depreciation Account and in the Bond and Interest Reserve and Redemption Account the full maximum amounts required to be accumulated in each of said accounts, then all moneys remaining in the Water Fund may be used for the purpose of calling and redeeming any outstanding bonds of the City which by their terms are payable from the income and revenues of the system as said bonds become redeemable according to their terms, or, such moneys may be used for the purpose of constructing extensions and improvements to the system of said City.

(e) The moneys in any of the Accounts created by subparagraphs (c) and (d), as hereinabove created and set forth in this section, and upon the written approval of the government so long as the government is the holder of any of said bonds, may by resolution adopted by the City Council of said City be invested from time to time by the Treasurer of said City in interest bearing bonds or other direct and general obligations of the United States Government and maturing in not more than ten (10) years after the purchase date thereof, and such securities shall be sold from time to time by said Treasurer pursuant to a resolution of the City Council of said City as funds may be needed for the purpose for which said Accounts have been created. All accrued interest received from any such bonds or obligations shall be considered and treated as income and revenue of the system and be deposited as received in the "Water Fund" of the City.

That money in each of the several Accounts above described shall be kept separate and apart from all other funds and moneys of the City and shall be deposited in The Le Roy State Bank, Le Roy, Illinois, which bank is located and doing business in the State of Illinois and was organized under the laws of the State of Illinois, and whose deposits are insured under the provisions of the Federal Deposit Insurance Act, or its successor.

Section 9. That it is hereby covenanted and agreed that the revenues of the system are to be paid into the various special Accounts hereinabove established and created in the order in which said Accounts have been listed, and if within any period of time the revenues are insufficient to place the required amounts in any of said Accounts, the deficiencies shall be made up during the following period or periods after payments into all the Accounts enjoying a prior claim of revenues have been made in full.

Section 10. That while the bonds, authorized hereunder or any of them remain outstanding or unpaid, rates charged for the use and service of the system shall be sufficient at all times to pay the cost of operation and maintenance, to provide, establish and maintain the Accounts referred to and described in Section 8 of this ordinance, to pay the interest on and principal of all bonds which by their terms are payable from the revenues of said system and authorized to be issued under the terms of this ordinance and including the principal of and interest on all bonds hereafter issued and on a parity with the bonds herein authorized and to carry out the covenants of this ordinance. And there shall be charged against all users of said system, including the City of LeRoy, such rates and amounts for water service as shall be adequate to meet the requirements of this Section. Compensation

for services rendered the City of LeRoy shall be charged against the said City and payment for the same from the corporate funds shall be made monthly into the Water Fund created by this ordinance in the same manner as other revenues are required to be deposited. No free service of the system shall be supplied the City or to any other person, firm, organization or corporation, public or private, and to the extent permitted by law, said City further covenants not to grant any competing franchise for the operation of such a system in said City.

Section 11. That the City of LeRoy hereby covenants and agrees with the holders of said bonds and coupons hereby authorized that so long as such bonds or any of them remain outstanding and unpaid, either as to principal or interest, that any holder of a bond or bonds issued hereunder, or of any of the coupons representing interest accrued thereon, may, either in law or in equity, by suit, action, mandamus or other proceedings, enforce or compel performance by the officials of said City of all duties required by law and by this ordinance, including the making and collecting of sufficient rates for services and segregating the revenues of said system and the application thereof to the respective Accounts created by this ordinance and in the time and manner as herein provided.

Section 12. That it is hereby covenanted and agreed with the holder of the bonds herein authorized that said City will not issue any parity bonds or other parity obligations of said City payable from or in any way creating a charge upon the income and revenue to be derived from the operation of said system, except as herein provided:

A. Said City reserves the right to issue additional bonds from time to time for the sole purpose of paying the cost of the completion of the construction of the system to be made

in accordance with the plans and specifications referred to in the preambles hereof, for which the \$600,000 principal amount of bonds are authorized herein, and any such additional bonds shall share ratably and equally in the revenues of the system with the bonds authorized by this ordinance; provided, however, that the need of such financing shall be evidenced by a certificate of the independent consulting engineer in responsible charge of constructing said system (i) giving a reasonably detailed description of the work remaining to be completed and an estimate of the cost thereof and the time of completion thereof and (ii) stating in reasonably itemized detail all expenditures made from the proceeds of the \$600,000 principal amount of bonds authorized hereunder as to the amount and purpose; provided further, however, that while the government is the holder of any of the bonds herein authorized, written approval of such financing shall be obtained from the government and evidence of such approval placed on file with the City Clerk prior to the adoption of any proceedings authorizing the issuance of such additional bonds.

B. Said City further reserves the right to issue additional bonds for construction of necessary improvements, extensions, repairs and rehabilitations to the properties comprising said system to share ratably and equally in the revenues of said system only whenever all of the following conditions are met:

1. The net revenues derived from the operation of the system for the completed fiscal year immediately preceding the date of the adoption of any ordinance authorizing the issuance of additional revenue bonds shall have been equal to at least 120% of the average annual principal and interest requirements for all succeeding fiscal years on all the revenue bonds of the City payable from the revenues to be derived from the operation of the system then outstanding and the additional revenue bonds then proposed to be issued, and all the payments required to be made by the City into the Depreciation Account, and the Bond and Interest Reserve and Redemption

Account, shall have been made up to and including the date of the adoption of any such ordinance authorizing the issuance of additional revenue bonds. That for the purpose of this Section, net revenues shall be defined as the annual gross revenues of the entire said system less the cost of the operation and maintenance of said system for such year and shall be certified to by an independent certified public accountant.

2. Any such additional revenue bonds which may be issued in compliance with the provisions contained hereinabove shall be payable as to principal on January 1 in each year in which principal falls due and shall be payable as to interest on July 1 and January 1 in each year in which interest falls due.

In addition to the foregoing and notwithstanding the foregoing restrictions, if, prior to the payment of the bonds hereby authorized, it shall be found desirable to refund part or all of the bonds hereby authorized and then outstanding, said bonds may be refunded notwithstanding the restrictions as to the issuance of additional bonds set forth in this Section (with the consent of the holders thereof unless the bonds to be refunded are subject to redemption and provision for call and redemption thereof is duly made), and any refunding bonds so issued shall share ratably and equally in the income and revenue of said system with the portion of the bonds hereby authorized which are not refunded; provided, further, that if any such bonds are refunded in such manner that the interest rate is increased or the refunding bonds mature at a date earlier than the maturity of any of the bonds not refunded, then such refunding bonds shall not share ratably and equally in the income and revenue of said system with the portion of the bonds remaining outstanding authorized under this ordinance, except that if it is found necessary to refund any maturity of the bonds provided for by this ordinance at maturity or within one year of maturity thereof in order to prevent default, such refunding bonds may be issued to share ratably and equally in the income and revenue of said system with the portion of the bonds hereby authorized which are not refunded notwithstanding the fact that the interest rate is increased, provided, however, that such refunding bonds shall not mature at a date earlier than the maturity of any of said bonds not refunded and then outstanding.

Section 13. That the City covenants and agrees with the holders of said bonds hereby authorized that so long as the bonds or any of them remain outstanding and unpaid, either as to principal or interest:

(a) That the City will maintain said system and all improvements and extensions thereto in continuous, effective and efficient operation, will operate the same efficiently and faithfully and punctually perform all duties with respect thereto required by the Constitution and laws of the State of Illinois.

City (b) That the City will establish and maintain at all times reasonable charges and rates for the use and service of said system and provide for the collection thereof, and the segregation and application of the revenues of said system in the manner provided by this ordinance and sufficient at all times to pay the cost of operation and maintenance, to pay the interest on and principal of all revenue bonds of said ~~Village~~ Village which by their terms are payable from the revenues of said system, and to provide for the continuation and maintenance of the respective Accounts as described in Section 8 of this ordinance, and from time to time make all needful and proper replacements thereto so that it may at all times be operated properly, advantageously, continuously, effectively and efficiently, and when any equipment or facilities shall have been worn out, destroyed or otherwise insufficient for proper use, it shall be promptly replaced or repaired so that the value and efficiency of the said system shall be at all times fully maintained.

(c) That the City will establish such rules and regulations for the control and operation of said system necessary for the efficient, economical and continuous operation thereof, and rates and charges shall be fixed and revised from time to time as may be necessary to produce funds sufficient for all the purposes herein provided until all of the bonds authorized by this ordinance have been paid in full, both as to principal and interest.

(d) That the City will maintain and keep proper books of records and accounts (separate from all other records and accounts of said City) in which complete entries shall be made of all transactions relating to the said system, and hereby covenants that it will cause the books and accounts of said system to be audited by certified public accountants and within not more than sixty (60) days after the close of each annual fiscal period and will file with the original purchasers of said bonds complete operating income statements of said system in reasonable detail covering such annual period and will furnish upon written request not more than sixty (60) days after the close of each annual fiscal period copies of such operation and income statements to any holder of any of said bonds herein authorized and will permit any holder or holders or any purchaser of said bonds then outstanding to inspect at all reasonable

times said system and all records and accounts and data relating thereto, and to furnish to the government and to any holder or holders or any purchaser of said bonds then outstanding all data and information relating to said system which may be reasonably requested. Each audit, in addition to whatever matters may be thought proper by the accountant to be included therein, shall without limiting the generality of the foregoing, include the following:

(1) A statement in detail of the income and revenue and expenditures of the system for such fiscal year.

(2) The accountant's comment regarding the method in which the City has carried out the requirements of this ordinance, and the accountant's recommendations for any changes or improvements in the financial operation of said system.

(3) A list of all the insurance policies in force at the end of the fiscal year, setting out as to each policy the amount of the policy, the risks covered, the name of the insurer and the expiration date of the policy.

(4) Information concerning the number of customers served by said system at the end of the fiscal year.

All expenses incurred in the making of such audit shall be regarded and paid as a maintenance and operation expense.

(e) That so long as any of the bonds authorized hereunder are outstanding the City will not sell, lease, loan, mortgage or in any manner dispose of or encumber said system or any improvements and extensions thereto, except for the issuance of additional bonds as provided for in Section 12 of this ordinance, until all of said bonds hereby authorized shall be paid in full, both principal and interest, or unless and until provision shall have been made for the payment thereof, and that said City will take no action in relation to said system which would unfavorably affect the security of the bonds herein authorized or the prompt payment of the principal and interest thereon.

(f) That the City will carry and maintain all risk insurance including public liability insurance upon all of the properties forming a part of the system of the City which may be of an insurable nature, such insurance to be of the type and kind and for such amount or amounts which are usually carried by other municipalities, private companies or operators of similar properties rendering services of a similar character

in similar communities, and all moneys received for loss under such insurance policies shall be deposited in the Operation and Maintenance Account and used only in making good the loss or damage in respect of which they were paid either by repairing the property damaged or by replacing the property destroyed and provision for making good such loss or damage shall be made within ninety (90) days from date of the loss or for the payment of the principal of and interest on the bonds authorized to be issued under the terms of this ordinance and including the principal and interest on bonds hereafter issued and on a parity with the bonds herein authorized. The payment of premiums for all insurance policies required under the provisions of this covenant shall be considered a maintenance and operation expense.

The proceeds derived from any and all policies for public liability shall be paid into the Operation and Maintenance Account and used in paying the claims on account of which they were received.

(g) That the City will require of all its officers or employees handling any revenues of the system, that such officers or employees shall, before receiving any of the revenues of said system, furnish a surety bond with a surety company authorized to do business in the State of Illinois, as surety on said bond, and payable to the City, such bond to be in the principal amount of all funds of the City possible to be in the custody of such officer or employee at any one time, and such bond to be conditioned upon the faithful discharge of his duties, and such bond to be acceptable to and approved by the City Council of the City and to be filed in the office of the City Clerk.

(h) That the City will require its City Treasurer to execute a fidelity bond in an amount not less than \$75,000 with a surety company to be approved by the government and the amount of such bond shall not be reduced without the prior written consent of the government so long as the government shall be the holder of any of the bonds herein authorized. The City and the United States of America shall be named as co-obligees on said bond.

(i) That the City, at least 30 days prior to the beginning of each fiscal year, will prepare a budget for the ensuing fiscal year covering the operation of the system, its anticipated revenues and operation and maintenance expenses and the payments to be made into the various funds as provided in this ordinance during such fiscal year and the City covenants that a copy of such budget will be forwarded promptly to the government prior to its final adoption so long as the government shall be the holder of any of the bonds.

start

Section 14. That the provisions of this ordinance shall constitute a contract between the City and the holders of the bonds herein authorized to be issued and after the issuance of said bonds, no changes, additions or alterations of any kind shall be made herein, except as hereinbefore provided, until such time as all of said bonds issued hereunder and the interest thereon shall be paid in full, or unless and until provision shall have been made for the payment of all such bonds and interest thereon in full, provided that this ordinance may from time to time be modified or amended by a supplemental ordinance adopted by the City Council with the written consent of the holders of not less than seventy-five per cent of the principal amount of all bonds authorized by this ordinance and all bonds hereafter issued on a parity therewith, then outstanding (excluding any of said bonds owned by or under the control of the City); provided, however, that no such modification or amendment shall extend or change the maturity of, or date of redemption prior to maturity, or reduce the interest rate on, or otherwise alter or impair the obligation of the City to pay the principal of and interest on the bonds herein authorized at the time, place and at the rate and in currency provided therein of any bond herein authorized then outstanding, without express consent of the holder of such bond, nor shall any such modification or amendment permit the creation of a preference or priority of any bond or bonds over any other bond or bonds, nor reduce the percentage of the holders of outstanding bonds required for the written consent of such modification or amendment. Each such consent must be accompanied by proof of ownership of the bonds for which consent is given, which proof must be in a form approved by the City Council and each such consent and proof of ownership must be on file with the City Clerk prior to the adoption of such modifying or amendatory ordinance.



Section 15. That the sale of the bonds herein authorized to the United States of America acting through the Farmers Home Administration, United States Department of Agriculture, at the price of par and accrued interest to the date of delivery is hereby ratified, confirmed and approved and after execution of said bonds as herein provided, said bonds shall be delivered to said purchaser upon payment in accordance with the contract of sale.

That the proceeds derived from the sale of the bonds hereby authorized, exclusive of the interest accruing on the bonds during the estimated period of construction, shall be placed by the City Treasurer in a special account to be designated the "Construction Fund Account of the City of LeRoy" which is hereby created, which funds shall be kept separate and apart from all other funds of the City and deposited in LeRoy State Bank, in LeRoy, Illinois, which said Bank be, and is hereby designated as the Depository for funds of said Construction Fund Account. Said funds shall be held and used solely to construct the proposed system as provided for by this ordinance, and shall be held for the benefit of said City for the purpose herein provided, and the benefit of the holder or holders of the bonds hereby authorized as their interest may appear, and said funds shall be withdrawn from said Depository from time to time by the City Treasurer only upon submission by him to said Depository of the following:

(a) A duplicate of the order signed by the Mayor and Clerk of said City (and countersigned by the County Supervisor of the Farmers Home Administration so long as the government is the holder of any of the bonds herein authorized) stating specifically the purpose for which the order is issued and indicating that the payment for which the order is issued has been approved by the City Council of said City; and

(b) Each withdrawal of funds by the Treasurer for payment for work done or services performed in connection with the construction of said project shall also be accompanied by a certificate executed by the engineer in charge of the construction of said system, stating the nature of the work completed, and the amount due and payable thereon.

Within sixty (60) days after completion of the work in accordance with the plans and specifications therefor, hereinabove referred to in this ordinance, and after all costs have been paid in connection with the construction thereof, the engineers shall certify to the City Council of the City the fact that the system has been completed according to the plans and specifications therefor and upon approval of the completion of the work based upon such engineer's certificate by the City Council, and after all costs have been paid, the Mayor, Clerk and Engineer of the City shall execute a certificate and file it with the Depositary certifying that the work has been completed in accordance with the plans and specifications, that all costs have been paid, and if at that time any funds remain in said Construction Fund Account the same shall be transmitted by said Depositary to the Treasurer of said City and be by said Treasurer deposited in the Bond and Interest Reserve and Redemption Account hereinabove established and described in Section 8 of this ordinance and be used to redeem bonds issued under the terms of this ordinance to the nearest Five Thousand Dollars (\$5,000) and any excess funds then remaining shall be paid into the Bond and Interest Reserve and Redemption Account.

The cost of engineering, legal and financial services, the cost of surveys, designs, soundings, borings, rights of way, inspection charges, and all other necessary and incidental expenses, including interest accruing on said bonds during the construction period to the extent such interest is not paid from income and revenue, shall be deemed items of cost of construction of the system in accordance with the plans and specifications therefor heretofore approved and on file in the office of the City Clerk and referred to in the preambles hereof.

That from the proceeds of the sale of said bonds, the sum of \$ 10,000 shall be deposited in the "Water Fund" of the City and be deposited by the Treasurer of the City into the Bond and Interest Sinking Fund Account hereinabove created in Section 8 of this ordinance to pay the interest accruing on said bonds during the estimated time necessary to complete the construction of the proposed system.

Section 16. That if any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

Section 17. That within ten (10) days after the passage of this ordinance and its approval by the Mayor, this ordinance shall be published once in the LeRoy Journal, a newspaper published and of general circulation in said City, and if no petition is filed with the Clerk of said City within twenty-one (21) days after the date of the publication of this ordinance, then this ordinance shall be in full force and effect.

Section 18. That, to the extent permitted by law, and so long as the United States of America, acting through the Farmers Home Administration, is the holder of any of the bonds herein authorized, the City and this ordinance shall be subject to the Loan Agreement dated June 30, 1975.

Section 19. That the principal proceeds of the sale of said bonds shall be devoted to and used with due diligence for the completion of the project for which said bonds are hereby authorized to be issued. The City Council represents and certifies that:

(1) said City expects, within six months after the delivery of said bonds, to incur substantial binding obligations equal to at least 2-1/2% of the estimated total project cost to commence construction of the said project;

(2) said City expects that over 85% of the spendable proceeds of said bonds, including investment proceeds, will be expended on or before January 1, 1978, for the purpose of paying the cost of said project, said date being within three years following the date of issue of said bonds;

(3) work on the said project is expected to proceed with due diligence to completion;

(4) said project has not been and is not expected to be sold or otherwise disposed of in whole or in part prior to the last maturity of said bonds;

(5) all of the principal proceeds of the bonds are needed for the purpose stated in the form of bond above set out, including expenses incidental to such purpose and to the issuance of the bonds; and

(6) to the best of the knowledge and belief of the City Council, there are no facts, estimates or circumstances that would materially change the conclusions and representations set out in this Section.

The City Council of said City also certifies and further covenant with the purchasers and holders of said bonds from time to time outstanding that so long as any of said bonds remain outstanding, moneys on deposit in any fund or account in connection with said bonds, whether or not such moneys were derived from the proceeds of the sale of said bonds or from any other sources, will not be used in a manner which will cause such bonds to be "arbitrage bonds" within the meaning of Section 103(d) of the Internal Revenue Code of 1954, as amended, and any lawful regulations promulgated or proposed thereunder, including Sections 1.103-13 and 1.103-14 of the Income Tax Regulations (26 CFR Part 1), as the same presently exist, or may from time to time hereafter be amended, supplemented or revised. The City Council reserves the right, however, to make any investment of such moneys permitted by state law if, when and to the extent that said Section 103(d) or regulations promulgated thereunder shall be repealed or relaxed or shall be held void by final decision of a court of competent jurisdiction, but only if any investment made by virtue of such repeal, relaxation or decision would not, in the opinion of counsel of recognized competence in such matters, result in making the interest on said bonds subject to federal income taxation.

Section 20 That all ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

Passed by the City Council of the City of LeRoy on the
30th day of June, 1975.

Approved this 30th day of June, 1975.

Recorded, deposited and filed in the office of the City
Clerk of said City, this 30th day of June, 1975.

(CITY)
(SEAL)
(HERE)

O. J. Pere
Mayor

Attest:

Janita Bagley
City Clerk

Published in the LeRoy Journal on the 3rd day of July,
1975.

###