
ORDINANCE NUMBER 5-O-99

AN ORDINANCE authorizing and providing for the issue of \$3,500,000 Water Revenue Bonds, Series 1999, of the City of Evanston, Cook County, Illinois, for the purpose of defraying the cost of improving and extending the present waterworks system of said City, prescribing all the details of said bonds, and providing for the collection, segregation and distribution of the revenue of the waterworks system of said City.

Adopted by the City Council on
the 25 day of January 1999.

Published in Pamphlet Form by the
Authority of the City Council on
the 2 day of ~~January~~ 1999.

February

TABLE OF CONTENTS

| | PAGE |
|--|------|
| PREAMBLES | 1 |
| SECTION 1. DEFINITIONS | 3 |
| SECTION 2. INCORPORATION OF PREAMBLES | 8 |
| SECTION 3. DETERMINATION TO ISSUE BONDS | 8 |
| SECTION 4. DETERMINATION OF USEFUL LIFE | 8 |
| SECTION 5. BOND DETAILS | 8 |
| SECTION 6. BOOK ENTRY PROVISIONS | 9 |
| SECTION 7. EXECUTION; AUTHENTICATION | 11 |
| SECTION 8. REDEMPTION | 12 |
| SECTION 9. AMENDMENT | 16 |
| SECTION 10. REGISTRATION OF BONDS; PERSONS TREATED AS OWNERS | 17 |
| SECTION 11. FORM OF BOND | 18 |
| SECTION 12. BONDS LIMITED OBLIGATIONS | 24 |
| SECTION 13. FISCAL YEAR AND DEPOSIT OF REVENUES | 24 |
| SECTION 14. ACCOUNTS AND FLOW OF FUNDS | 25 |
| SECTION 15. GENERAL COVENANTS | 29 |
| SECTION 16. PARITY BONDS | 35 |
| SECTION 17. SALE OF BONDS; BOND ORDER | 37 |
| SECTION 18. APPLICATION OF PROCEEDS | 39 |
| SECTION 19. CONTINUING DISCLOSURE | 40 |
| SECTION 20. TAX-EXEMPT BONDS | 41 |
| SECTION 21. PERTAINING TO THE BOND REGISTRAR | 54 |
| SECTION 22. PROVISIONS A CONTRACT | 55 |
| SECTION 23. DEFEASANCE | 56 |
| SECTION 24. SEVERABILITY | 56 |
| SECTION 25. SUPERSEDER | 56 |
| SECTION 26. PUBLICATION | 57 |

ORDINANCE No. 5-O-99

AN ORDINANCE authorizing and providing for the issue of \$3,500,000 Water Revenue Bonds, Series 1999, of the City of Evanston, Cook County, Illinois, for the purpose of defraying the cost of improving and extending the present waterworks system of said City, prescribing all the details of said bonds, and providing for the collection, segregation and distribution of the revenue of the waterworks system of said City.

PREAMBLES

WHEREAS

A. The City of Evanston, Cook County, Illinois (the "*City*"), has a population in excess of 25,000 as determined by the last official census and, accordingly, pursuant to the provisions of the 1970 Constitution of the State of Illinois and particularly Article VII, Section 6(a) thereof, the City is a home rule unit and as such may exercise any power or perform any function pertaining to its government and affairs, including, but not limited to, the power to tax and to incur debt.

B. Pursuant to the home rule powers of the City and the provisions of Division 129 of Article 11 of the Illinois Municipal Code, as amended (collectively, such constitutional grant of power and such Code being the "*Act*" as more particularly defined below), and other applicable law, the City has been and is authorized to issue water revenue bonds for waterworks system purposes.

C. The City Council of the City (the "*City Council*") has reviewed the status of the System (as defined below), and it is deemed advisable, necessary and for the best interests of the City that certain improvements and replacements be constructed and installed, including the replacement of a portion of a 36 inch feeder main to the Village of Skokie; replacement of a high lift pump and engine; improvements to the supervisory control and data acquisition (SCADA) system at the water treatment plant; new water billing system programs; and miscellaneous water

meter replacement; together with all necessary pipes, valves, fittings, connections, ancillary facilities and appurtenances, costs of engineering, legal and financing services, and contingencies, and the total estimated cost of such project (the "Project") is the sum of \$3,500,000, all in accordance with the preliminary plans and specifications, heretofore prepared by the Superintendent of Water and Sewers, and approved by the City Council, and now on file in the office of the City Clerk for public inspection.

D. The City does not have funds available for the purpose of paying the cost of the Project, and it is advisable for the City to provide funds by borrowing for the Project and in evidence thereof to issue its water revenue bonds.

E. Pursuant to the Act, and other applicable law, the City has been and is authorized to issue water revenue bonds for the Project.

F. The City has previously issued water revenue bonds, as follows:

| NAME AND SERIES | ORIGINAL AMOUNT (\$) | PURSUANT TO ORDINANCE | CURRENTLY OUTSTANDING (\$) |
|----------------------------------|----------------------|-----------------------|----------------------------|
| Water Revenue Bonds, Series 1992 | 3,600,000 | 39-O-92 | 2,935,000 |
| Water Revenue Bonds, Series 1997 | 8,775,000 | 112-O-97 | 8,775,000 |

all which said currently outstanding bonds aggregate the principal amount of \$11,710,000 (such bonds being the "Currently Outstanding Bonds").

G. Pursuant to the provisions of the ordinances (the "Currently Outstanding Bond Ordinances") adopted by the City Council authorizing the Currently Outstanding Bonds, no additional bonds shall be issued to share ratably and equally in the income derived from the operation of the System ("Parity Bonds" as defined below) unless the revenues for the fiscal year then next preceding were sufficient to comply with the specific restrictions set forth in the Currently Outstanding Bond Ordinances; and the City Council has caused an audit of the

earnings of the System to be made for the last preceding fiscal year and does hereby determine that such earnings comply with the covenants and restrictions provided for in and by each of the Currently Outstanding Bond Ordinances and, further, that such earnings were sufficient to permit the issuance of the proposed additional water revenue bonds for the Project as Parity Bonds as authorized by the provisions of this Ordinance.

H. The City Council does hereby determine that it is advisable and in the best interests of the City to borrow \$3,500,000 at this time pursuant to the Act as hereinafter defined for the purpose of paying the costs of the Project and, in evidence of such borrowing, to issue its water revenue bonds in the principal amount of such amount.

NOW THEREFORE Be It Ordained by the City Council of the City of Evanston, Cook County, Illinois, in the exercise of its home rule powers, as follows:

Section 1. Definitions. Words and terms used in this Ordinance shall have the meanings given them, unless the context or use clearly indicates another or different meaning is intended. Words and terms defined in the singular may be used in the plural and vice-versa. Reference to any gender shall be deemed to include the other and also inanimate persons such as corporations, where applicable.

A. The following words and terms are as defined in the preambles hereto.

City

City Council

Currently Outstanding Bonds

Currently Outstanding Bond Ordinances

Project

B. The following words and terms are defined as set forth.

“*Act*” means the Illinois Municipal Code, as supplemented and amended, and the home rule powers of the City under Section 6 of Article VII of the Illinois Constitution of 1970; and in the event of conflict between the provisions of said code and home rule powers, the home rule powers shall be deemed to supersede the provisions of said code.

“*Bond Order*” means the Bond Order as authorized to be executed by the Designated Officials of the City as set forth in Section 17 of this Ordinance and by which the final terms of the Bonds will be established.

“*Bond Register*” means the books of the City kept by the Bond Registrar to evidence the registration and transfer of the Bonds.

“*Bond Registrar*” means American National Bank and Trust Company of Chicago, Chicago, Illinois, a bank having trust powers, or a successor thereto or a successor designated as and bond registrar hereunder.

“*Bond Year*” for a series of bonds means a twelve-month period beginning the day after principal of Outstanding Bonds of any series are annually to become due (such day of the year being the *initial date*) and ending on the day preceding the next initial date; *e.g.*, for bonds with principal due on January 1 of various years, the Bond Year would be January 2 of a given year through January 1 of the next year.

“*Bonds*” means the not to exceed \$3,500,000 Water Revenue Bonds, Series 1999, authorized to be issued by this Ordinance.

“*Code*” means the Internal Revenue Code of 1986.

“*Defeasance Obligations*” means (i) noncallable direct full faith and credit obligations of the United States of America (“*Directs*”), (ii) certificates of participation in a trust comprised exclusively of Directs or cash, which certificates are noncallable and

nonredeemable, or (iii) obligations the complete and timely payment of which is fully guaranteed by the United States of America, which obligations are noncallable and nonredeemable.

"Depository" means The Depository Trust Company, an New York limited trust company, its successors, or a successor depository qualified to clear securities under applicable state and federal laws.

"Designated Officials" means the City Manager and Finance Director of the City, acting together.

"Financial Advisor" means R.V. Norene & Associates, Inc., the financial advisor to the City for the sale of the Bonds.

"Fiscal Year" means a twelve-month period beginning March 1 of a given year and ending on the last day of February of the following year, or such other fiscal year as the City may select.

"Maximum Annual Debt Service" means an amount of money equal to the highest future principal and interest requirement of all Outstanding Bonds required to be deposited into the Bond and Interest Account continued and maintained by this Ordinance in any Fiscal Year, including and subsequent to the Fiscal Year in which the computation is made; and, *provided*, that any Outstanding Bonds required to be redeemed pursuant to mandatory redemption from said Bond and Interest Account shall be treated as falling due on the date required to be redeemed (except in the case of failure to make any such mandatory redemption) and not on the stated maturity date of such Outstanding Bonds.

"Net Revenues" means Revenues minus Operation and Maintenance Costs.

“Operation and Maintenance Costs” means all costs of operating, maintaining and routine repair of the System, including wages, salaries, costs of materials and supplies, taxes, power, fuel, insurance, purchase of water or sewage treatment services (including all payments by the City pursuant to long term contracts for such services to the extent provided in such contracts); but excluding debt service, depreciation, or any reserve requirements; and otherwise determined in accordance with generally accepted accounting principles for municipal enterprise funds. Money in this account shall not be used to pay the costs of extraordinary or unusual repairs and maintenance, capital expenditures, or to provide for any transfer in lieu of corporate taxes, or general supervision or administrative charges by the City.

“Ordinance” means this Ordinance, numbered ___-O-99, and passed by the City Council on the ___ day of January 1999.

“Outstanding Bonds” means Currently Outstanding Bonds, Bonds and Parity Bonds which are outstanding and unpaid; *provided, however*, such term shall not include, for purposes of this Ordinance, any such Currently Outstanding Bonds which shall cease to be “Outstanding Bonds” under the applicable Currently Outstanding Bond Ordinance or any such Bonds or Parity Bonds (i) which have matured and for which moneys are on deposit with proper paying agents, or are otherwise properly available, sufficient to pay all principal thereof and interest thereon, or (ii) the provision for payment of which has been made by the City by the deposit in an irrevocable trust or escrow of funds, which may be invested in Defeasance Obligations, the principal of and interest on which will be sufficient, with any funds left uninvested, to pay at maturity or as called for redemption all the principal of and interest and redemption premium, if any, on such Currently Outstanding Bonds, Bonds or Parity Bonds.

"Parity Bonds" means a bond or bonds or any other obligation to be issued subsequent in time to the Bonds and which will share ratably and equally in the earnings of the System with then Outstanding Bonds.

"Revenues" means all gross revenues or income from whatever source derived from the System, including (i) investment income; (ii) connection, permit and inspection fees and the like; (iii) penalties and delinquency charges; (iv) capital development, reimbursement, or recovery charges and the like; (v) annexation or pre-annexation charges insofar as designated by the City Council as paid for System connection or service; but excluding expressly (a) non-recurring income from the sale of property of the System; (b) governmental or other grants; (c) advances or grants made from the City; and as otherwise determined in accordance with generally accepted accounting principles for municipal enterprise funds.

"System" refers to all property, real, personal or otherwise owned or to be owned by the City or under the control of the City, and used for waterworks purposes, and any and all further extensions, improvements and additions to the System.

"Tax-exempt" means, with respect to the Bonds, the status of interest paid and received thereon as not includible in the gross income of the owners thereof under the Code for federal income tax purposes except to the extent that such interest will be taken into account in computing an adjustment used in determining the alternative minimum tax for certain corporations and in computing the "branch profits tax" imposed on certain foreign corporations.

"Water Fund" means the *"Water Revenue Fund of the City of Evanston."*

C. Definitions also appear in the preambles hereto or in specific sections, as appear below. The table of contents preceding and headings in this Ordinance are for the convenience of the reader and are not a part of this Ordinance.

Section 2. Incorporation of Preambles. The City Council hereby finds that the recitals contained in the preambles to this Ordinance are true and correct and does incorporate them into this Ordinance by this reference.

Section 3. Determination To Issue Bonds . It is necessary and in the best interests of the City to issue the Bonds to acquire and construct the Project for the public health, safety and welfare; and it is hereby found and determined that such issuance is for a proper public purpose, is in the public interest, and is authorized by the Act and the Currently Outstanding Bond Ordinances.

Section 4. Determination of Useful Life. The City Council does hereby determine the period of usefulness of the System to be not less than 40 years from the date of the Bonds.

Section 5. Bond Details. There shall be issued and sold the Bonds in the aggregate principal amount of \$3,500,000. The Bonds shall each be designated "*Water Revenue Bond, Series 1999*"; be dated as of February 1, 1999, or such other date, not earlier than February 1, 1999, and not later than the date of issuance, as may be stated in the Bond Order (the "*Dated Date*"); and shall also bear the date of authentication thereof. The Bonds shall be in fully registered book-entry form (as more particularly described below and defined as "*Book Entry Form*"), shall be in denominations of \$5,000 or integral multiples thereof (but no single Bond shall represent principal maturing on more than one date), and shall be numbered consecutively in such fashion as shall be determined by the Bond Registrar. The Bonds shall mature serially on January 1 of the years from 2000 and up to and including the year 2014 (subject to the right of prior redemption) as shall be set forth in the Bond Order, and in such principal amounts as shall

be set forth in the Bond Order; *provided, however*, that the *sum* of the principal of and interest on the Bonds during any Bond Year shall not be less than \$300,000 nor more than \$340,000. Each Bond shall bear interest, at a rate not to exceed 9.00% per annum, from the later of its Dated Date as herein provided or from the most recent interest payment date to which interest has been paid or duly provided for, until the principal amount of such Bond is paid or duly provided for, such interest (computed upon the basis of a 360-day year of twelve 30-day months) being payable on January 1 and July 1 of each year, commencing on July 1, 1999. Interest on each Bond shall be paid by check or draft of the Bond Registrar, payable upon presentation thereof in lawful money of the United States of America, to the person in whose name such Bond is registered at the close of business on the applicable record date (the "*Record Date*"), and mailed to the registered owner of the Bond as shown in the Bond Registrar or at such other address furnished in writing by such Registered Owner, or in immediately available funds as may be agreed with the Depository for so long as the Depository is the registered owner as of a given Record Date. The Record Date shall be the 15th day of the month preceding any regular interest payment date or a redemption on the first day of any month and the 15th day preceding any other interest payment date which may be occasioned by a redemption of Bonds on a day other than the first day of any month. The principal of or redemption price due on the Bonds shall be payable in lawful money of the United States of America upon presentation thereof at the principal corporate trust office of the Bond Registrar located in the City of Chicago, Illinois, or at successor Bond Registrar and locality.

Section 6. Book Entry Provisions. The Bonds shall be initially issued in the form of a separate single fully registered Bond for each of the maturities of the Bonds. Upon initial issuance, the ownership of each such Bond shall be registered in the Bond Register in the name of the Depository or a designee or nominee of the Depository (the "*Nominee*"). Except as

otherwise expressly provided, all of the outstanding Bonds from time to time shall be registered in the Bond Register in the name of the Nominee (and accordingly in Book Entry Form as such term is used in this Ordinance). Any City officer, as representative of the City is hereby authorized, empowered and directed to execute and deliver a Letter of Representations or to utilize a previously executed Blanket Letter of Representations (either such being the "*Letter of Representations*") in customary form for the Depository, to effectuate such Book Entry Form for the Bonds. Without limiting the generality of the authority given with respect to entering into such Letter of Representations, it may contain provisions relating to (a) payment procedures, (b) transfers of the Bonds or of beneficial interests therein, (c) redemption notices and procedures unique to the Depository, (d) additional notices or communications, and (e) amendment from time to time to conform with changing customs and practices with respect to securities industry transfer and payment practices. With respect to Bonds registered in the Bond Register in the name of the Nominee, neither the City or its Director of Finance nor the Bond Registrar shall have any responsibility or obligation to any broker-dealer, bank or other financial institution for which the Depository holds Bonds from time to time as securities depository (each such broker-dealer, bank or other financial institution being referred to herein as a "*Depository Participant*") or to any person on behalf of whom such a Depository Participant holds an interest in the Bonds. Without limiting the meaning of the immediately preceding sentence, the City, the Director of Finance, and the Bond Registrar shall have no responsibility or obligation with respect to (a) the accuracy of the records of the Depository, the Nominee, or any Depository Participant with respect to any ownership interest in the Bonds, (b) the delivery to any Depository Participant or any other person, other than a registered owner of a Bond as shown in the Bond Register or as otherwise expressly provided in the Representations Letter, of any notice with respect to the Bonds, including any notice of redemption, or (c) the payment to

any Depository Participant or any other person, other than a registered owner of a Bond as shown in the Bond Register, of any amount with respect to principal or redemption price of or interest on the Bonds. No person other than a registered owner of a Bond as shown in the Bond Register shall receive a Bond certificate with respect to any Bond. In the event that (a) the City determines that the Depository is incapable of discharging its responsibilities described herein and in the Letter of Representations, (b) the agreement among the City, and Bond Registrar, and the Depository evidenced by the Letter of Representations shall be terminated for any reason or (c) the City determines that it is in the best interests of the City or of the beneficial owners of the Bonds either that they be able to obtain certificated Bonds or that another depository is preferable, the City shall notify the Depository and the Depository shall notify the Depository Participants, and the Bonds shall no longer be restricted to being registered in the Bond Register in the name of the Nominee. Alternatively, at such time, the City may determine that the Bonds shall be registered in the name of and deposited with a successor depository operating a system accommodating Book Entry Form, as may be acceptable to the City, or such depository's agent or designee, but if the City does not select such alternate book-entry system, then the Bonds shall be registered in whatever name or names registered owners of Bonds transferring or exchanging Bonds shall designate, in accordance with the provisions hereof.

Section 7. Execution; Authentication. The Bonds shall be executed on behalf of the City by the manual or duly authorized facsimile signature of its Mayor and attested by the manual or duly authorized facsimile signature of its City Clerk, as they may determine, and shall have impressed or imprinted thereon the corporate seal or facsimile thereof of the City. In case any such officer whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. All Bonds shall have

thereon a certificate of authentication, substantially in the form hereinafter set forth, duly executed by the Bond Registrar as authenticating agent of the City and showing the date of authentication. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Ordinance unless and until such certificate of authentication shall have been duly executed by the Bond Registrar by manual signature, and such certificate of authentication upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Ordinance. The certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds issued hereunder

Section 8. Redemption. The Bonds may be subject to redemption prior to maturity at the option of the City, from any available funds, in whole or in part on any date as provided in the Bond Order, and if in part, in such order of maturities as shall be selected by the City, and if less than an entire maturity, in integral multiples of \$5,000, selected by lot by the Bond Registrar as hereinafter provided, at the redemption price (expressed as a percentage of the principal amount being redeemed) of not to exceed 103% of par plus accrued interest to the date fixed for redemption, as provided in the Bond Order. Notwithstanding any other provision of this Ordinance, the Bond Order may provide for non-callable Bonds. With respect to an optional redemption of any Bond or Bonds, unless moneys sufficient to pay the redemption price of and interest on the Bonds to be redeemed shall have been received by the Bond Registrar prior to the giving of the notice of redemption, such notice may, at the option of the City, state that such redemption shall be conditional upon the receipt of such moneys by the Bond Registrar on or prior to the date fixed for redemption. If such moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds, and the Bond Registrar shall give

notice, in the same manner in which the notice of redemption shall have been given, that such moneys were not so received and that such Bonds will not be redeemed.

The City shall, at least 45 days prior to a redemption date (unless a shorter time period shall be satisfactory to the Bond Registrar), notify the Bond Registrar of such redemption date and of the maturities and principal amounts of Bonds to be redeemed. For purposes of any redemption of less than all of the Bonds of a single maturity, the particular Bonds or portions of Bonds to be redeemed shall be selected by lot not more than 60 days prior to the redemption date by the Bond Registrar for the Bonds of such maturity by such method of lottery as the Bond Registrar shall deem fair and appropriate; *provided*, that such lottery shall provide for the selection for redemption of Bonds or portions thereof so that any \$5,000 Bond or \$5,000 portion of a Bond shall be as likely to be called for redemption as any other such \$5,000 Bond or \$5,000 portion. The Bond Registrar shall promptly notify the City in writing of the Bonds or portions of Bonds selected for redemption and, in the case of any Bond selected for partial redemption, the principal amount thereof to be redeemed. Unless waived by the registered owner of Bonds to be redeemed, official notice of any such redemption shall be given by the Bond Registrar on behalf of the City by mailing the redemption notice by first class mail not less than 30 days and not more than 60 days prior to the date fixed for redemption to each registered owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such registered owner to the Bond Registrar. All official notices of redemption shall include the name of the Bonds and at least the information as follows:

- (a) the redemption date;
- (b) the redemption price;

(c) if less than all of the outstanding Bonds of a particular maturity are to be redeemed, the identification (and, in the case of partial redemption of Bonds within such maturity, the respective principal amounts) of the Bonds to be redeemed;

(d) a statement that on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption and that interest thereon shall cease to accrue from and after said date; and

(e) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal corporate trust office of the Bond Registrar.

Unless moneys sufficient to pay the redemption price and interest on the Bonds to be redeemed shall have been received by the Bond Registrar prior to the giving of such notice of redemption, such notice may, at the option of the City, state that said redemption shall be conditional upon the receipt of such moneys by the Bond Registrar on or prior to the date fixed for redemption. If such moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds, and the Bond Registrar shall give notice, in the same manner in which the notice of redemption was given, that such moneys were not so received and that such Bonds will not be redeemed. Official notice of redemption having been given as described, the Bonds or portions of Bonds so to be redeemed shall, subject to the provision for conditional redemption as stated above, become due and payable on the redemption date at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price), such Bonds or portions of Bonds shall cease to bear interest. Neither the failure to mail such redemption notice, nor any defect in any notice so mailed, to any particular registered owner of a Bond, shall affect the sufficiency of such notice with respect to other registered owners. Notice having been properly given, failure of a registered owner of a Bond to

receive such notice shall not be deemed to invalidate, limit or delay the effect of the notice or redemption action described in the notice. Such notice may be waived in writing by a registered owner of a Bond entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by registered owners shall be filed with the Bond Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver. In lieu of the foregoing notice, so long as the Bonds are held in Book Entry Form, notice may be given as provided in the Letter of Representations, and the giving of such notice shall constitute a waiver by the Depository and its Nominee, as registered owner, of the foregoing notice. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Paying Agent at the redemption price. The procedure for the payment of interest due as part of the redemption price shall be as herein provided for payment of interest otherwise due. Upon surrender for any partial redemption of any Bond, there shall be prepared for the registered owner a new Bond or Bonds of like tenor, of authorized denominations, of the same maturity, and bearing the same rate of interest in the amount of the unpaid principal. If any Bond or portion of Bond called for redemption shall not be so paid upon surrender thereof for redemption, the principal shall, until paid or duly provided for, bear interest from the redemption date at the rate borne by the Bond or portion of Bond so called for redemption. All Bonds which have been redeemed shall be cancelled and destroyed by the Bond Registrar and shall not be reissued. Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer. As part of their respective duties hereunder, the Bond Registrar and Paying Agent shall prepare and forward to the City a statement as to notice given with respect to each redemption together with copies of the notices as mailed and published.

Section 9. Amendment. The rights and obligations of the City and of the registered owners of Outstanding Bonds 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 and registered owners of not less than two-thirds of the principal amount of all Outstanding Bonds (excluding any of said bonds owned by or under the control of the City); *provided*, 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 permit the creation of a preference or priority of any Outstanding Bond or Outstanding Bonds over any other Outstanding Bond or Outstanding Bonds, or otherwise alter or impair the obligation of the City to pay the principal of, interest on or redemption price of any of the Outstanding Bonds at the time, place, rate, and in the currency provided therein, or alter or impair the obligations of the City with respect to the Tax-exempt status, the registration, transfer, exchange or notice of redemption of Bonds, without the express consent of the holders and registered owners of all the Outstanding Bonds affected; nor shall any such modification or amendment reduce the percentage of the holders and registered owners of Outstanding Bonds required for the written consent of such modification or amendment without the consent of the holders and owners of all of the Outstanding Bonds.

Ownership of Bonds for purposes of consent by the registered owners thereof shall be conclusively proved by the Bond Register. In obtaining or receiving the consents of registered owners, the City may establish reasonable rules of procedure including, without limitation, rules relating to (i) a record date to fix the registered owners who are entitled to vote, (ii) solicitation of proxies and (iii) a meeting of the registered owners for the taking of actions. The registered owners of Bonds may vote their Bond interest in fractional shares. In the event that Bonds are registered in the name or names of nominees or depositories, consent of such owners by proxy in accordance with the applicable customs of the securities industry or rules of the Securities

Exchange Commission, Municipal Securities Rulemaking Board or other association or agency having jurisdiction shall be sufficient.

Section 10. Registration of Bonds; Persons Treated as Owners. The City shall cause books (the Bond Register) for the registration and for the transfer of the Bonds as provided in this Ordinance to be kept at the principal corporate trust office of the Bond Registrar, which is hereby constituted and appointed the registrar of the City for the Bonds. The City is authorized to prepare, and the Bond Registrar or such other agent as the City may designate shall keep custody of, multiple Bond blanks executed by the City for use in the transfer and exchange of Bonds. Subject to the provisions of this Ordinance relating to the Bonds in Book Entry Form, any Bond may be transferred or exchanged, but only in the manner, subject to the limitations, and upon payment of the charges as set forth in this Ordinance. Upon surrender for transfer or exchange of any Bond at the principal corporate trust office of the Bond Registrar, duly endorsed by or accompanied by a written instrument or instruments of transfer or exchange in form satisfactory to the Bond Registrar and duly executed by the registered owner or an attorney for such owner duly authorized in writing, the City shall execute and the Bond Registrar shall authenticate, date and deliver in the name of the transferee or transferees or, in the case of an exchange, the registered owner, a new fully registered Bond or Bonds of like tenor, of the same maturity, bearing the same interest rate, of authorized denominations, for a like aggregate principal amount. The Bond Registrar shall not be required to transfer or exchange any Bond during the period from the close of business on the Record Date for an interest payment to the opening of business on such interest payment date or during the period of 15 days preceding the giving of notice of redemption of Bonds or to transfer or exchange any Bond all or a portion of which has been called for redemption. The execution by the City of any fully registered Bond shall constitute full and due authorization of such Bond, and the Bond Registrar shall thereby be authorized to authenticate, date and deliver such Bond; *provided, however*, the principal amount

of Bonds of each maturity authenticated by the Bond Registrar shall not at any one time exceed the authorized principal amount of Bonds for such maturity less the amount of such Bonds which have been paid. The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of the principal or redemption price of or interest on any Bond shall be made only to or upon the order of the registered owner thereof or said owner's legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid. No service charge shall be made for any transfer or exchange of Bonds, but the City or the Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Bonds except in the case of the issuance of a Bond or Bonds for the unredeemed portion of a Bond surrendered for redemption.

Section 11. Form of Bond. The Bonds shall be in substantially the form hereinafter set forth; *provided, however,* that if the text of the Bonds is to be printed in its entirety on the front side of the Bonds, then the second paragraph on the front side and the legend "See Reverse Side for Additional Provisions" shall be omitted and the text of paragraphs set forth for the reverse side shall be inserted immediately after the first paragraph.

[Form of Bond - Front Side]

REGISTERED
No. _____

REGISTERED
\$ _____

UNITED STATES OF AMERICA

STATE OF ILLINOIS

COUNTY OF COOK

CITY OF EVANSTON

WATER REVENUE BOND, SERIES 1999

See Reverse Side for
Additional Provisions

Interest
Rate:

Maturity
Date:

Dated
Date: February 1, 1999

CUSIP _____

Registered Owner:

Principal Amount:

KNOW ALL PERSONS BY THESE PRESENTS that the City of Evanston, Cook County, Illinois, a municipality, home rule unit and political subdivision of the State of Illinois (the "City") hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns as hereinafter provided, solely from the Water Revenue Fund of the City as hereinafter provided and not otherwise, on the Maturity Date identified above (subject to right of prior redemption), the Principal Amount identified above and to pay interest (computed on the basis of a 360-day year of twelve 30-day months) on such Principal Amount from the later of the Dated Date of this Bond identified above or from the most recent interest payment date to which interest has been paid or duly provided for at the Interest Rate per annum identified above, such interest to be payable on July 1, 1999, and semiannually thereafter on January 1 and July 1 of each year until said Principal Amount is paid or duly provided for. Payment of interest shall be made to the Registered Owner hereof as

shown on the registration books of the City maintained by American National Bank and Trust Company of Chicago, in the City of Chicago, Illinois, as paying agent and bond registrar (the "*Bond Registrar*"), at the close of business on the applicable record date (the "*Record Date*"). The Record Date shall be the 15th day of the month preceding any regular interest payment date or a redemption on the first day of any month and the 15th day preceding any other interest payment date which may be occasioned by a redemption of Bonds on a day other than the first day of any month. Interest shall be paid by check or draft of the Bond Registrar, payable upon presentation in lawful money of the United States of America, mailed to the address of such Registered Owner as it appears on such registration books or at such other address furnished in writing by such Registered Owner to the Bond Registrar, or as otherwise agreed by the City and the Bond Registrar and a qualified securities clearing corporation as depository, or nominee, for so long as this Bond shall be in Book Entry Form as provided for same.

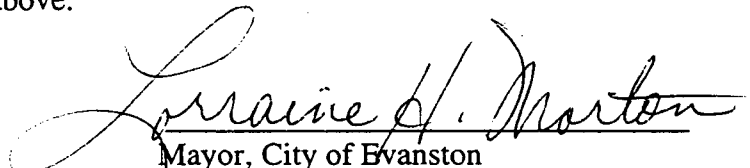
Reference is hereby made to the further provisions of this Bond set forth on the reverse hereof, and such further provisions shall for all purposes have the same effect as if set forth at this place.

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 and have happened and have been performed in regular and due form of law and that provision has been made for depositing into the Water Fund the entire Revenues received from the operation of the System to be applied in the manner as set forth in the Ordinance; and the City hereby covenants and agrees that it will fix and maintain rates for the use and service of the System and collect and account for the Revenues derived therefrom sufficient at all times to pay Operation and Maintenance Costs, to promptly pay principal of and interest on all bonds issued by the City which are payable solely from the Revenues of the System, and to provide an adequate depreciation fund, and to comply

with all the covenants of and to maintain the accounts created by the Ordinance. The City further covenants that in each Fiscal Year the Net Revenues shall be adequate to produce an amount sufficient to provide not less than 125% of the principal and interest requirements of all Outstanding Bonds for such Fiscal Year.


This Bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Bond Registrar.

IN WITNESS WHEREOF the City of Evanston, Cook County, Illinois, by its City Council, has caused this Bond to be executed with the manual or duly authorized facsimile signature of its Mayor and attested by the manual or duly authorized facsimile signature of its City Clerk and its corporate seal or a facsimile thereof to be impressed or reproduced hereon, all as appearing hereon and as of the Dated Date identified above.



Mayor, City of Evanston
Cook County, Illinois

ATTEST:



City Clerk, City of Evanston
Cook County, Illinois

[SEAL]

Bond Registrar and Paying Agent:

American National Bank and Trust
Company of Chicago
Chicago, Illinois

[Form of Certificate of Authentication]

CERTIFICATE OF AUTHENTICATION

Date of Authentication: _____, _____

This Bond is one of the Bonds described in the within-mentioned Ordinance and is one of the Water Revenue Bonds, Series 1999, of the City of Evanston, Cook County, Illinois.

American National Bank and Trust
Company of Chicago, as Bond
Registrar

[Form of Bond - Reverse Side]

**CITY OF EVANSTON, COOK COUNTY, ILLINOIS
WATER REVENUE BOND, SERIES 1999**

This bond and the bonds of the series of which it forms a part ("*Bond*" and "*Bonds*" respectively) are of an authorized issue of Three Million Five Hundred Thousand Dollars (\$3,500,000) of like Dated Date and tenor except as to maturity, privilege of redemption and rate of interest. The Bonds are payable solely from the Revenues derived from the operation of the waterworks system of the City (the "*System*") after payment of Operation and Maintenance Costs, and not otherwise, and are issued under authority of the provisions of Division 129 of Article 11 of the Illinois Municipal Code, as supplemented and amended, and as further supplemented and, where necessary, superseded, by the powers of the City as a home rule unit under the provisions of Section 6 of Article VII of the Illinois Constitution of 1970 (such code and powers being the "*Act*"), for the purpose of improving the System and providing for a certain refunding of water revenue bonds previously issued and payable from revenues of the System, all as more fully described in Ordinance Number ____-O-99, passed by the City Council of the City on the ____ day of January 1999 (the "*Ordinance*"), to which reference is hereby

expressly made for further definitions and terms and to all the provisions of which the holder and registered owner by the acceptance of this Bond assents. THIS BOND DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION.

This Bond is subject to provisions relating to amendment; registration, transfer and exchange; redemption and notice and procedure for redemption; and such other terms and provisions relating to security and payment as are set forth in the Ordinance.

Under the Act and the Ordinance, the Revenues from the operation of the System shall be deposited into the Water Fund, which shall be used only and is hereby pledged for paying Operation and Maintenance Costs, paying the principal of and interest on all bonds of the City that are payable by their terms only from the Revenues of the System, providing an adequate depreciation fund, and in making all payments required to maintain the accounts established under the terms of the Ordinance. Parity Bonds may be issued pursuant to the terms of the Ordinance. Outstanding Bonds issued and authenticated pursuant to the Ordinance are coequal as to the lien on the Revenues of the System for their payment and share ratably, without any preference, priority, or distinction, the one over the other, as to the source or method of payment and security of the Outstanding Bonds.

The City and the Bond Registrar may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof, premium, if any, hereon 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.

[Form of Assignment]

ASSIGNMENT

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

[Here insert identifying number such as TID, SSN, or other]

(Name and Address of Assignee)

the within Bond and does hereby irrevocably constitute and appoint _____

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

Dated: _____

Signature Guaranteed: _____

NOTICE: The signature to 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.

Section 12. Bonds Limited Obligations. The Bonds shall be payable solely from the Net Revenues as derived from the operation of the System, and shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory limitation.

Section 13. Fiscal Year and Deposit of Revenues. Upon the issuance of any of the Bonds, the entire System, for the purpose of this Ordinance and while any of the Bonds remain Outstanding Bonds, shall be operated on a Fiscal Year basis. All of the Revenues shall be set aside as collected and be deposited into a bank account separate and apart from all other City accounts and heretofore designated, accounted for and defined herein as the "Water Fund." The

Water Fund shall constitute a trust fund for the sole purpose of carrying out the covenants, terms and conditions of this Ordinance.

Section 14. Accounts and Flow of Funds. The functions and obligations of the Water Fund shall be continued and maintained by the maintenance in the Water Fund of separate special accounts (the "Accounts") designated severally the "Operation and Maintenance Account"; "Bond and Interest Account"; "Bond Reserve Account"; "Depreciation, Improvement and Extension Account"; and "Surplus Revenue Account." Until the Water Revenue Bonds, Series 1992, of the City, shall be no longer Outstanding Bonds under the definitions applicable to such Bonds, the provisions of Ordinance Number 39-O-92 (the "Series 1992 Bond Ordinance") shall govern the application of Revenues to the Accounts. Thereafter (and not before such time), there shall be set aside on a given day of each month as selected by the chief financial officer of the City, without any further official action or direction, all moneys held in the Water Fund of the City, in accordance with the following priorities:

A. *Operation and Maintenance Account.* There shall first be credited to the Operation and Maintenance Account an amount sufficient to pay the reasonable Operation and Maintenance Costs of the System for the current monthly period. Money in the Operation and Maintenance Account shall be used to pay Operation and Maintenance Costs. Money in this account shall not be used to pay the costs of extraordinary or unusual repairs and maintenance, capital expenditures, or to provide for any transfer in lieu of corporate taxes, or general supervision or administrative charges by the City.

B. *Bond and Interest Account.* There next shall be credited to the Bond and Interest Account and held, in cash and investments, a fractional amount of the interest becoming due on the next succeeding interest payment date on Outstanding Bonds and also a fractional amount of the principal becoming due or subject to mandatory redemption on the next succeeding principal

maturity or mandatory redemption date of Outstanding Bonds until there shall have been accumulated and held, in cash and investments, in the Bond and Interest Account in or before the month preceding such maturity date of interest or maturity or mandatory redemption date of principal, an amount sufficient to pay such principal or interest, or both. In computing the fractional amount to be set aside each month in the Bond and Interest Account, the fraction shall be so computed that a sufficient amount will be set aside in said Account and will be available for the prompt payment of such principal of and interest on all Outstanding Bonds and shall be not less than 1/6th of the interest becoming due on the next succeeding interest payment date and not less than 1/12th of the principal becoming due or subject to mandatory redemption on the next succeeding principal payment or mandatory redemption date on all Outstanding Bonds until there is sufficient money in said Account to pay such principal or interest, or both. In the event different series of Outstanding Bonds have different Bond Years, the requirement of depositing 1/6th of interest and 1/12th of principal as stated above shall be applied separately with respect to each such series. Credits to the Bond and Interest Account may be suspended in any Fiscal Year at such time as there shall be a sufficient sum, held in cash and investments, in said Account to meet principal and interest requirements in said Account for the balance of such Fiscal Year, but such credits shall again be resumed at the beginning of the next Fiscal Year. All moneys in said Account ("*Bond Moneys*") shall be used only for the purpose of paying interest on and principal of Outstanding Bonds as follows:

- (1) Bond Moneys shall be applied to the payment of interest when due and principal or redemption price when due at maturity or as redeemed pursuant to mandatory redemption from the Bond and Interest Account, or
- (2) On or before 65 days preceding any mandatory redemption date, Bond Moneys up to the amount of the redemption requirement on such mandatory redemption

date plus interest due on related Term Bonds on such date may be applied (a) to the purchase of Term Bonds of the maturity for which such mandatory redemption requirement was established at prices (including commissions and charges, if any) not exceeding par and accrued interest to such mandatory redemption date or (2) to the redemption of such Bonds, without premium, pursuant to optional redemption provisions applicable thereto. Upon the purchase or redemption of Term Bonds of any maturity pursuant to this paragraph (2), an amount equal to the principal amount of such Bonds or applicable portion thereof so purchased or redeemed shall be deducted from such mandatory redemption requirement thereafter to become due on such Bonds and any excess over the amount of such requirement shall be deducted from the future requirement for such Bonds as the City shall determine.

C. *Bond Reserve Account.* At the time of the delivery of any Bonds, there shall be on deposit to the credit of the Bond Reserve Account an amount equal to Maximum Annual Debt Service. The Bond Reserve Account shall be maintained in said amount. In the event of a withdrawal from the Bond Reserve Account resulting in the amount on deposit to the credit thereof being less than the required amount, the City covenants to replenish the Bond Reserve Account to the required amount at the rate of \$12,150 per month. In the event Parity Bonds are issued, the City will accumulate to the credit of the Bond Reserve Account the amount of Maximum Annual Debt Service at the rate of the greater of (1) \$12,150 per month or (2) such amount per month such that in not less than 100 months after delivery and with credits each month in the amount of not less than 1/100th of the difference between Maximum Annual Debt Service on all Outstanding Bonds and the amount on deposit to the credit of this Account at the time of such delivery. Amounts to the credit of the Bond Reserve Account shall be used to pay principal of or interest on the Outstanding Bonds at any time when there are insufficient funds

available in the Bond and Interest Account to pay the same and shall be transferred to said Account for said purpose.

D. *Depreciation, Improvement and Extension Account.* There next shall be credited to the Depreciation, Improvement and Extension Account the sum of \$5,100 per month, or such greater amount as may be designated from time to time by the City Council. The moneys in the Depreciation, Improvement and Extension Account shall be used (1) to provide an adequate allowance for depreciation as shall be determined from time to time by the City Council in its sole discretion, (2) to pay the cost of extraordinary maintenance, necessary repairs and replacements, or contingencies, or for improvements, repairs or replacements to the System required by any agency of the State of Illinois or the United States Government, in order that the System may at all times be able to render efficient service, (3) if not so needed, for improvements or extensions of the System, and (4) at any time required, for the payment of principal of or interest on any Outstanding Bonds when there are no other funds available for that purpose in order to prevent a default and shall be transferred to the Bond and Interest Account for such purpose. At any time as moneys on deposit to the credit of the Depreciation, Improvement and Extension Account exceed the sum of \$400,000, amounts in excess thereof may be transferred to any other account within the Water Fund of the City at the discretion of the City Council.

All proceeds received from the disposition of any property of the System shall be credited to Depreciation, Improvement and Extension Account.

E. *Surplus Revenue Account.* All revenues remaining in the Water Fund, after all credits have been made to the respective accounts hereinabove provided for, shall be credited to the Surplus Revenue Account, and the amount so credited shall be held and used for the following purposes:

1. For making up any deficiency necessary to credit accounts enumerated in paragraphs (A) to (D), inclusive, with the required amounts therefor for each month as hereinabove provided.

2. For paying principal of and interest on any junior lien water revenue bonds (subordinate issue).

3. For transfer to any other account of the fund, or at the discretion of the City Council, for any lawful corporate purpose, including, but not limited to, any extraordinary costs of operation and maintenance of the System not otherwise provided for, or any authorized payments in lieu of taxes, general supervision and administrative charges by the City.

4. For any lawful corporate purpose, in the discretion of the City Council.

Section 15. General Covenants. Until the Water Revenue Bonds, Series 1992, of the City, shall be no longer Outstanding Bonds, the covenants and provisions of the Series 1992 Bond Ordinance shall apply for all Outstanding Bonds. Thereafter, the City covenants and agrees with the holders and registered owners of the Outstanding Bonds as follows:

A. *Investments.* Money to the credit of the Water Fund prior to the monthly accounting and to the credit of the Operation and Maintenance Account may be invested pursuant to any authorization granted to municipal corporations by Illinois statute or court decision. Moneys to the credit of the Bond and Interest Account, the Bond Reserve Account, the Depreciation, Improvement and Extension Account, and the Surplus Revenue Account may be invested from time to time in (a) direct full faith and credit obligations of the United States of America, whether bonds, notes, bills or otherwise called (collectively referred to herein as "*Directs*"); (b) certificates of participation in a trust or trust receipts from a trust comprised solely of *Directs*; (c) shares in a money market or mutual fund comprised more than 95% at all

times of Directs or agreements to repurchase such obligations; (d) obligations unconditionally guaranteed as to both principal and interest by the United States Government, (e) obligations which are tax-exempt under Section 103(a) of the Code but are not private activity bonds under Section 141(a) of the Code, if rated at the time of purchase "AA" or better by a nationally recognized ratings service for municipal bonds; (f) the Public Treasurers' Investment Pool of the State of Illinois; (g) certificates of deposit or time deposits of any bank, as defined by the Illinois Banking Act, provided such bank is insured by the Federal Deposit Insurance Corporation or a successor corporation to the Federal Deposit Insurance Corporation, and *provided further* that the principal of such deposits in excess of the insured amount is secured by a pledge of obligations as described in clauses (a), (b) or (c) above in the full principal amount of such excess. Such investments must also be legal and proper investments for the City. Such investments may be sold from time to time as funds may be needed for the purpose for which the Accounts have been created. To the extent moneys in the Accounts are held uninvested and on deposit in demand accounts, such amounts shall be added to the amount invested pursuant to clause (g) above, and the sum so derived subject to the limitations as set forth therein.

Investments in the Accounts shall mature or be subject to redemption at the option of the holder thereof prior to the time when needed. After making provision for the payment of any amount of excess arbitrage profits, as provided in the Code, attributable to investment earnings or profits to the Rebate Fund for the appropriate issue or issues of Outstanding Bonds, all earnings or profit, on any funds so invested in the Bond and Interest Account shall be retained therein. After making provision for the payment of any amount of excess arbitrage profits, as provided in the Code, attributable to investment earnings or profits to the Rebate Fund for the appropriate issue or issues of Outstanding Bonds, all earnings or profit, on any funds so invested in the Bond Reserve Account shall be credited upon receipt to the Bond and Interest Account.

The City may take credit for such earnings or profits (not transferred to the Rebate Fund) in any monthly accounting for the Bond and Interest Account in any Fiscal Year. All interest or profit earned on any funds so invested in other Accounts shall be credited to the Water Fund. Moneys in any of said accounts shall be invested by the City, if necessary, in investments restricted as to yield, which investments may be in United States Treasury Obligations—State and Local Government Series, if available, and to such end the Comptroller shall refer to any investment restrictions covenanted by the City or any officer thereof as part of the transcript of proceedings for the issuance of the Bonds, and to appropriate opinions of counsel.

B. Accounts Excesses. Any amounts to the credit of the Accounts in excess of the then current requirements therefor may be transferred by the City Council to such other Account or Accounts of the Water Fund as they may in their sole discretion designate.

C. Maintain System. The City will maintain the System in good repair and working order, will operate the same efficiently and faithfully, and will punctually perform all duties with respect thereto required by the Constitution and laws of the State of Illinois and the United States.

D. Rates. The City will establish and maintain at all times reasonable fees, charges and rates for all users of the service of the System, and provide for the collection thereof and for the segregation and application of the Revenues in the manner provided by this Ordinance, and sufficient at all times to pay the reasonable Operation and Maintenance Costs, to pay the principal of and interest on all revenue bonds of the City which by their terms are payable from the Revenues, and to provide for the creation and maintenance of the respective accounts as provided in Section 14 of this Ordinance, and from time to time make all needful and proper repairs, replacements, additions and betterments thereto, so that the System may at all times be operated properly and advantageously, and when any equipment or facility shall have

been worn out, destroyed or otherwise is insufficient for proper use, it shall be promptly replaced or repaired so that the value and efficiency of the System shall be at all times fully maintained. The City covenants that the City will establish and maintain fees, charges and rates that will be adequate to produce Net Revenues in an amount not less than 125% of the principal and interest requirements for all Outstanding Bonds for the then current Fiscal Year. In the event that the Bond Year for any series of Outstanding Bonds does not end on the first day of the Fiscal Year, then, for purposes of calculation hereunder, the requirement for any Fiscal Year shall be deemed to be the greater of the requirement of the two Bond Years occurring in part in such Fiscal Year.

Charges for service rendered the City shall be made against said City, and payment for the same from the corporate funds shall be made monthly into the Water Fund, as Revenues, in the same manner as other Revenues are required to be deposited. No free service of the System shall be furnished to any person, firm, organization or corporation, public or private, and to the extent permitted by law it is expressly herein covenanted and agreed that the City will not grant a franchise for the operation of any other or competing waterworks system within the City, and that the Bonds herein authorized to be executed shall constitute legally enforceable liens on the Revenues.

E. Rules. The City will establish such rules and regulations for the control and operation of the System necessary for the efficient and economical 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 purposes herein provided.

F. Accounting. The City will make and keep proper books and accounts (separate and apart from all other records and accounts of said City), in which complete entries shall be made of all transactions relating to the System, and hereby covenants that within 210 days following the close of each Fiscal Year it will cause the books and accounts of the System

to be audited annually by independent certified public accountants showing the receipts and disbursements on account of the System. Each such audit, in addition to whatever matters may be thought proper by the accountants to be included therein, shall, without limiting the generality of the foregoing, include the following:

1. A statement in detail of the income and expenditures of the system for such Fiscal Year, and including credits to the various accounts provided herein.
2. A balance sheet as of the end of such Fiscal Year.
3. The accountant's comment regarding the manner in which the City has carried out the accounting requirements of this ordinance, and the accountant's recommendations for any changes or improvements in the operation of the System.
4. A list of all 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.
5. The number of metered water customers and the number of unmetered water customers at the end of the year, and the quantity of water pumped and billed.

All expenses incurred in the making of the audit required by this section shall be regarded and paid as an Operation and Maintenance Cost. In addition, statements of revenues and expenditures of the System shall be furnished to the City Council at least quarterly during each Fiscal Year.

G. *No Sale, etc.* The City will not sell, lease, loan, mortgage, or in any manner dispose of or encumber the System (subject to the reserved right of the City to issue additional obligations as provided in Section 16 of this Ordinance); *provided, however*, that this covenant shall not prevent said City from disposing of any property which in the judgment of the City Council is no longer useful or profitable in the operation of the System. The proceeds from

the sale of any property shall be credited to the Depreciation, Improvement and Extension Account.

H. Contract; Enforcement. The provisions of this Ordinance shall constitute a contract between the City and the holders and registered owners of the Bonds, and after the issuance of the Bonds, no changes, additions or alterations of any kind shall be made hereto, except as hereinabove provided for amendments hereto. Any holder or registered owner of a Bond or Bonds issued hereunder may proceed by civil action, mandamus, or other proceeding to enforce or compel performance by the officials of said City of all duties required by law, the Act and this Ordinance, including the making and collecting of sufficient charges and rates for the water services supplied by the System and the application of the income and revenue therefrom.

I. Insurance. The City will carry insurance on the System of the kinds and in the amounts which are usually carried by private parties operating similar properties, covering such risks as shall be recommended by a competent insurance consultant employed by the City for the purpose of making such recommendations. Alternatively the City shall self-insure or provide insurance by means of a self-insurance pool with other units of local government, *provided* that either private insurance is not available at a reasonable cost or the City or the pool shall have assets or shall have created a self-insurance reserve fund in an amount as shall be determined by a competent insurance consultant to be not unreasonable in view of the risks insured. All moneys received for property loss under such insurance policies or from the self-insurance reserve fund or pool shall be deposited to the credit of the Depreciation, Improvement and Extension Account and used in making good the loss or damage in respect of which they were paid, either by repairing the property damaged or making replacement of the property destroyed, and provision for making good such loss or damage shall be made within 270 days from the date of the loss. The proceeds derived from any and all policies for workers'

compensation or public liability or from the self-insurance reserve fund or pool for such purposes shall be paid into the Operation and Maintenance Account and used in paying the claims on account of which they were received or shall be used to reimburse any account from which the claim was previously paid. The payment of premiums, regular payments to a pool and regular accumulations for a reserve fund required under the provisions of this covenant shall be considered an Operation and Maintenance Cost.

Section 16. Parity Bonds. It is hereby covenanted and agreed that, while any of the Bonds issued hereunder are Outstanding Bonds, the City will not issue any other bonds or obligations of any kind or nature having a pledge on the Revenues which is prior to the lien on the Revenues of the Bonds. Until the Water Revenue Bonds, Series 1992, of the City, shall be no longer Outstanding Bonds as provided in the Series 1992 Bond Ordinance, the covenants and provisions of the Series 1992 Bond Ordinance shall apply to the issuance of Parity Bonds and other obligations payable from the Revenues. Thereafter, no obligations or bonds of any kind shall be issued which are payable from the Revenues except upon compliance with one of the options (A) through (D) set out below.

A. Parity Bonds may be issued for the purpose of paying the cost of repairs, replacements, renewals, improvements and extensions to the System or for refunding Outstanding Bonds upon compliance with the following conditions:

1. The amounts required to be credited monthly to the respective accounts described in subsections (A) through (D), inclusive, of Section 14 of this Ordinance must have been credited in full up to the date of the authorization of such Parity Bonds by the City Council.

2. The Net Revenues of the System as shown by the most recently available audit of an independent certified public accountant, which audit shall be for either the

most recent Fiscal Year or the preceding Fiscal Year if (a) the most recent Fiscal Year has ended within 210 days of the date of issuance of the proposed Parity Bonds and (b) the audit for the most recent Fiscal Year is not yet available, or the Adjusted Net Revenues of the System for such year (as defined herein) must equal not less than 130% of Maximum Annual Debt Service for all Outstanding Bonds as computed immediately after the issuance of the proposed Parity Bonds; but only for those Fiscal Years in which the Outstanding Bonds immediately prior to any such issuance will continue to be Outstanding Bonds as provided herein.

3. In the event there shall have been a change in the rates of the System from the rates in effect for the immediately preceding Fiscal Year, which change is in effect at the time of the issuance of any such Parity Bonds, then the Net Revenues as provided in this subparagraph (2) shall be adjusted to reflect the Net Revenues of the System for the immediately preceding Fiscal Year as they would have been had said then existing rates been in effect during all of said year (the "*Adjusted Net Revenues*"). Any such Adjusted Net Revenues shall be evidenced by the certificate of a certified public accountant or an independent consulting engineer employed for that purpose, which certificate shall be approved by the City Council prior to the issuance of the Parity Bonds and filed with the City Clerk upon its approval.

B. Parity Bonds may be issued to refund Outstanding Bonds if, upon the issuance of such Parity Bonds, the amount of the principal and interest requirement for Outstanding Bonds for each Fiscal Year for which Outstanding Bonds immediately prior to such issuance will continue to be Outstanding Bonds as provided herein after the issuance of such Parity Bonds will not be greater than such requirement for each such Fiscal Year calculated immediately prior to the issuance of such Parity Bonds.

C. Parity Bonds may be issued to refund Outstanding Bonds in order to avoid or remedy default in the payment of principal of or interest on such Outstanding Bonds; *provided* they are issued to avoid such default not earlier than three months prior to the due date of such principal or interest.

D. Bonds or other obligations may be issued payable from the Revenues subordinate to the Outstanding Bonds. Such subordinate bonds shall be payable from or out of the Surplus Revenue Account or may be made payable from such other fund or account as may be provided therefor, upon the transfer of moneys from the Surplus Revenue Account to such other fund or account.

E. Parity Bonds may be issued payable on such payment dates as the City shall determine. In the event that the Bond Year for any series of Outstanding Bonds does not end on the first day of the Fiscal Year, then, for purposes of calculation hereunder, the requirement for any Fiscal Year shall be deemed to be the greater of the requirement of the two Bond Years occurring in part in such Fiscal Year.

Section 17. Sale of Bonds; Bond Order. The Designated Officials are hereby authorized to proceed, without any further authorization or direction whatsoever from the City Council, to sell and deliver the Bonds upon the terms as prescribed in this Ordinance. Reference is hereby made to the limitations set forth in Sections 5 and 8 of this Ordinance. The Bonds shall be sold and delivered to the best bidder at public sale (the "*Purchaser*") at the price of not less than 97% of the par value of the principal amount thereof plus accrued interest to the date of delivery. Such sale shall be made upon the advice (in the form of a written certificate or report) of the Financial Advisor that the net interest cost rate on the Bonds, calculated in accordance with customary market practice, does not exceed 7.00% and that the terms of the Bonds are fair and reasonable in view of current conditions in the bond markets.

Nothing in this Section shall require the Designated Officials to sell the Bonds if in their judgment, aided by the Financial Advisor, the conditions in the bond markets shall have markedly deteriorated from the time of adoption thereof, but the Designated Officials shall have the authority to sell the Bonds in any event so long as the limitations set forth in this Ordinance and the conditions of this Section shall have been met. Upon the sale of the Bonds, the Designated Officials and any other officers of the City as shall be appropriate, shall be and are hereby authorized and directed to approve or execute, or both, such documents of sale of the Bonds as may be necessary, including, without limitation, the Bond Order, Preliminary Official Statement, Official Statement, Bond Purchase Contract (as hereinafter defined), and closing documents. Prior to the execution and delivery of any such Bond Purchase Contract, the Designated Officials shall find and determine that no person holding any office of the City either by election or appointment, is in any manner interested either directly or indirectly, in his own name or in the name of any other person, association, trust or corporation in said Contract with the Purchaser for the purchase of the Bonds. The distribution of the Preliminary Official Statement relating to the Bonds presented before this meeting is hereby in all respects authorized and approved, and the proposed use by the Purchaser of an Official Statement (in substantially the form of the Preliminary Official Statement but with appropriate variations to reflect the final terms of the Bonds) is hereby approved. A bond purchase contract for the sale of the Bonds to the Purchaser (the "*Bond Purchase Contract*"), as comprised of the Official Notice of Sale and Official Bid Form, is hereby in all respects authorized and approved. Upon the sale of the Bonds, the Designated Officials shall prepare the Bond Order, which shall include the pertinent details of sale as provided herein, and such shall be entered into the records of the City and made available to all City Council members at the next public meeting thereof.

Section 18. Application of Proceeds. The proceeds derived from the sale of the Bonds shall be used as follows:

A. Accrued interest shall be credited to the Bond and Interest Account.

B. The amount necessary from the proceeds of the Bonds shall be used to pay costs of issuance of the Bonds and shall be deposited into a separate fund to be designated the "*Expense Fund.*" Any disbursements from such fund shall be made from time to time as necessary. Any excess in said fund shall be deposited into the Project Fund hereinafter created after six months from the date of issuance of the Bonds.

C. The remaining proceeds of the Bonds shall be deposited into the "*Waterworks Construction Fund Account (1999) of the City of Evanston*", hereby created (the "*Project Fund*"). The money in the Project Fund shall be held for the benefit of the City for the purposes herein provided, and for the benefit of the registered owners of the Bonds hereby authorized as their interests may appear, and said funds shall be withdrawn from time to time by the Comptroller of the City only upon submission to him of the following:

(1) An order signed by the Mayor and City Clerk, or such other officers that may from time to time be by law authorized to sign and countersign orders on the Comptroller of the City, 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; and

(2) For each order for withdrawal of funds by the Comptroller for payment to a contractor or contractors for work done in connection with the construction of the Project, such order shall be accompanied by a certificate executed by the engineer in charge of the construction, stating the nature of the work completed and the amount due and payable thereon.

The costs of engineering, legal and financing services, the costs of surveys, designs, soundings, borings, rights-of-way, and all other necessary and incidental expenses, shall be deemed items of cost of construction of the Project. The moneys deposited into the Project Fund may be temporarily invested from time to time in lawful investments for City funds. All payments received as principal or interest derived from such investments shall be credited to the Project Fund. Said fund may be closed by action of the Comptroller upon its being fully depleted.

Section 19. Continuing Disclosure. The Mayor or the City Clerk of the City is hereby authorized, empowered and directed to execute and deliver the Continuing Disclosure Undertaking (the "*Continuing Disclosure Undertaking*") substantially in the form attached hereto as *Exhibit A* to this Ordinance, made a part hereof by this reference, and hereby approved; the officer signatory to such Continuing Disclosure Undertaking being hereby authorized and directed to execute same, his or her execution to constitute conclusive proof of action in accordance with this Ordinance, and approval of all completions or revisions necessary or appropriate to such undertaking. When the Continuing Disclosure Undertaking is executed and delivered on behalf of the City as herein provided, the Continuing Disclosure Undertaking will be binding upon the City and the officers, employees and agents of the City, and the officers, employees and agents of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Continuing Disclosure Undertaking as executed. Notwithstanding any other provision of this Ordinance, the sole remedies for failure to comply with the Continuing Disclosure Undertaking shall be the ability of the beneficial owner of any Bond to seek mandamus or specific performance by court order, to cause the City to comply with its obligations under the Continuing Disclosure Undertaking.

Section 20. Tax-exempt Bonds. The following certifications, representations and covenants are made relating to the Tax-exempt status of the Bonds.

20.01. Covenant. The City covenants not to take any action or to neglect or refuse to take any action which would cause the Bonds not to be Tax-exempt.

20.02. Additional Definitions. Certain additional definitions for this Section are as follows:

“Bond Counsel” means Chapman and Cutler or any other nationally recognized firm of attorneys experienced in the field of municipal bonds whose opinions are generally accepted by purchasers of municipal bonds.

“Bond Fund” for purposes of this section refers to that portion of the Bond and Interest Account allocable to the Bonds.

“Closing” means the first date on which the City is receiving the purchase price for the Bonds.

“Commingled Fund” means any fund or account containing both Gross Proceeds and an amount in excess of \$25,000 that are not Gross Proceeds if the amounts in the fund or account are invested and accounted for, collectively, without regard to the source of funds deposited in the fund or account. An open-ended regulated investment company under Section 851 of the Code is not a Commingled Fund.

“Control” means the possession, directly or indirectly through others, of either of the following discretionary and non-ministerial rights or powers over another entity:

- (a) to approve and to remove without cause a controlling portion of the governing body of a Controlled Entity; or
- (b) to require the use of funds or assets of a Controlled Entity for any purpose.

“Controlled Entity” means any entity or one of a group of entities that is subject to Control by a Controlling Entity or group of Controlling Entities.

“Controlling Entity” means any entity or one of a group of entities directly or indirectly having Control of any entities or group of entities.

“Controlled Group” means a group of entities directly or indirectly subject to Control by the same entity or group of entities, including the entity that has Control of the other entities.

“Costs of Issuance” means the costs of issuing the Bonds, including underwriter’s discount and legal fees, but not including the fees for any Credit Facility described at 20.27 of this Section.

“Credit Facility” means the municipal bond insurance policy, if any, procured for the Bonds and issued by a Credit Facility Provider.

“Credit Facility Provider” means an insurance company issuing a Credit Facility for the Bonds.

“De minimis Amount of Original Issue Discount or Premium” means (a) any original issue discount or premium that does not exceed two percent of the stated redemption price at maturity of the Bonds plus (b) any original issue premium that is attributable exclusively to reasonable underwriter’s compensation.

“External Commingled Fund” means a Commingled Fund in which the City and all members of the same Controlled Group as the City own, in the aggregate, not more than ten percent of the beneficial interests.

“GIC” means (a) any investment that has specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate and (b) any agreement to supply investments on two or more future dates (*e.g.*, a forward supply contract).

“Gross Proceeds” means allocable amounts in the Bond Fund, the Expense Fund, the Escrow Account, and the Reserve Fund.

“Other System Accounts” means certain other accounts of the Water Fund in which money may be available to pay the Bonds, and consist of the Depreciation, Improvement and Extension Account and the Surplus Revenue Account.

“Placed-in-Service” means the date on which, based on all facts and circumstances (a) a facility has reached a degree of completion that would permit its operation at substantially its design level and (b) the facility is, in fact, in operation at such level.

“Qualified Administrative Costs of Investments” means (a) reasonable, direct administrative costs (other than carrying costs) such as separately stated brokerage or selling commissions (other than a broker’s commission paid on behalf of either the City or the provider of a GIC to the extent such commission exceeds the present value of annual payments equal to 0.05 percent of the weighted average amount reasonably expected to be invested each year of the term of the GIC (for this purpose, present value is computed using the taxable discount rate used to compute the commission or, if not readily ascertainable, a reasonable taxable discount rate)), but not legal and accounting fees, recordkeeping, custody and similar costs; (b) all administrative costs, direct or indirect, incurred by a publicly offered regulated investment company or an External Commingled Fund; or (c) in the case of purpose investments, costs or expenses paid

directly to purchase, carry, sell or retire the investment and costs of issuing, carrying, or repaying the Bonds, and any placement agent fee or underwriter's discount.

"Qualified Tax Exempt Obligations" means (a) any obligation described in Section 103(a) of the Code, the interest on which is excludable from gross income of any owner thereof for federal income tax purposes and is not an item of tax preference for purposes of the alternative minimum tax imposed by Section 55 of the Code; (b) an interest in a regulated investment company to the extent that at least ninety-five percent of the income to the holder of the interest is interest that is excludable from gross income under Section 103 of the Code of any owner thereof for federal income tax purposes and is not an item of tax preference for purposes of the alternative minimum tax imposed by Section 55 of the Code; and (c) certificates of indebtedness issued by the United States Treasury pursuant to the Demand Deposit State and Local Government Series program described in 31 C.F.R. part 344.

"Rebate Fund" means the fund, if any, established when necessary as described at 20.19 of this Section.

"Rebate Provisions" means the rebate requirements contained in Section 148(f) of the Code and in the Regulations.

"Regulations" means United States Treasury Regulations dealing with the tax-exempt bond provisions of the Code.

"Reimbursed Expenditures" means amounts, if any, used from Sale Proceeds and investment earnings thereon to reimburse the City for an expenditure paid prior to Closing.

"Reserve Fund" means the amount allocable to the Bonds on deposit to the credit of the Bond Reserve Account under this Ordinance.

"Sale Proceeds" means amounts actually or constructively received from the sale of the Bonds, including (a) amounts used to pay underwriter's discount or compensation and accrued interest, other than accrued interest for a period not greater than one year before Closing but only if it is to be paid within one year after Closing and (b) amounts derived from the sale of any right that is part of the terms of a Bond or is otherwise associated with a Bond (e.g., a redemption right).

"Sale Proceeds Funds" means funds into which Sale Proceeds are deposited, being the Bond Fund (amount of accrued interest only), the Expense Fund, and the Project Fund.

"Tax Certificate" means any certificate or certificates (or relevant portions) to be executed by an officer of the City charged (among others) with the responsibility of issuing the Bonds (including the Mayor, the City Manager and the Director of Finance)

setting forth certifications, representations or covenants relating to the Tax-exempt status of the Bonds, treated collectively.

“Yield” means that discount rate which when used in computing the present value of all payments of principal and interest paid and to be paid on an obligation (using semiannual compounding on the basis of a 360-day year) produces an amount equal to the obligation’s purchase price (or in the case of the Bonds, the issue price as noted in 19.19), including accrued interest.

“Yield Reduction Payment” means a rebate payment or any other amount paid to the United States in the same manner as rebate amounts are required to be paid or at such other time or in such manner as the Internal Revenue Service may prescribe that will be treated as a reduction in Yield of an investment under the Regulations.

20.03. *Purpose of the Bonds.* The Bonds are being issued to finance the Project in a prudent manner consistent with the revenue needs of the City. A breakdown of the sources and uses of funds will be provided in the Tax Certificate at Closing.

20.04. *The Project — Binding Commitment and Timing.* The City has incurred or will, within six months of the Closing, incur a substantial binding obligation (not subject to contingencies within the control of the City or any member of the same Controlled Group as the City) to a third party to expend at least five percent of the Sale Proceeds of the portion of the Bonds allocable to the Project (the “Project Portion”) on the Project. It is expected that the work of acquiring and constructing the Project and the expenditure of amounts deposited into the Project Fund will continue to proceed with due diligence through a date not later than three years after the Dated Date of the Bonds, at which time it is anticipated that all Sale Proceeds and investment earnings thereon will have been spent. It is expected that the Sale Proceeds deposited into the Project Fund, including investment earnings on the Project Fund will be spent to pay costs of the Project with due diligence and in accordance with the estimated drawdown schedule to be contained in the Tax Certificate.

20.05. *Reimbursement.* None of the Sale Proceeds or investment earnings thereon will be used for Reimbursed Expenditures.

20.06. *Working Capital.* All amounts in the Sale Proceeds Funds will be used, directly or indirectly, to pay Capital Expenditures of the Project, other than amounts spent for the following:

(a) an amount not to exceed five percent of the Sale Proceeds of the Bonds for working capital expenditures directly related to Capital Expenditures financed by the Project;

(b) payments of interest on the Bonds for a period commencing at Closing and ending on the later of the date three years after Closing or one year after the date on which the Project is Placed-in-Service;

(c) Costs of Issuance and Qualified Administrative Costs of Investments;

(d) payments of rebate or Yield Reduction Payments made to the United States under the Regulations; and

(e) principal of or interest on the Bonds paid from unexpected excess Sale Proceeds and investment earnings thereon.

20.07. Consequences of Contrary Expenditure. The City acknowledges that if amounts in the Sale Proceeds Funds and investment earnings thereon are spent for purposes other than as described at 20.06 hereof, a like amount of then available funds of the City will be treated as unspent Sale Proceeds.

20.08. Investment of Bond Proceeds. Not more than 50% of the Sale Proceeds of the Bonds and investment earnings thereon are or will be invested in investments (other than Qualified Tax Exempt Obligations) having a Yield that is substantially guaranteed for four years or more. No portion of the Bonds is being issued solely for the purpose of investing a portion of Sale Proceeds or investment earnings thereon at a Yield higher than the Yield on the Bonds.

20.09. No Grants. None of the Sale Proceeds or investment earnings thereon will be used to make grants to any person.

20.10. Hedges. Neither the City nor any member of the same Controlled Group as the City has entered into or expects to enter into any hedge (*e.g.*, an interest rate swap, interest rate cap, futures contract, forward contract or an option) with respect to the Bonds. The City acknowledges that any such hedge could affect the calculation of Bond Yield under the Regulations, and that the Internal Revenue Service could recalculate Bond Yield if the failure to account for the hedge fails to clearly reflect the economic substance of the transaction.

20.11. Abusive Transactions. Neither the City nor any member of the same Controlled Group as the City has employed a device or entered into any arrangements or understandings in connection with the issuance of the Bonds, or in connection with any transaction or series of transactions related to the issuance of the Bonds, to obtain a material financial advantage based on arbitrage. Neither the City nor any member of the same Controlled Group as the City will realize any material financial advantage based on arbitrage in connection with the issuance of the Bonds, or in connection with any transaction or series of transactions related to the issuance of the Bonds.

20.12. Use of Proceeds. (a) The funds and accounts established or maintained under this Ordinance are the Water Fund, the Operations and Maintenance Account, the Bond Fund, the Reserve Fund, the Other System Accounts, the Expense Fund, and the Project Fund. Only the Sale Proceeds Funds will receive Sale Proceeds.

(b) Principal of and interest on the Bonds will be paid from the Bond Fund.

(c) Costs of Issuance incurred in connection with the issuance of the Bonds will be paid from the Expense Fund. Within 6 months of Closing, the Expense Fund will be closed and any money in such fund transferred to the Project Fund.

(d) The costs of the Project will be paid from the Project Fund and no other moneys (except for investment earnings on amounts in the Project Fund) are expected to be deposited therein.

20.13. Purpose of Bond Fund. The Bond Fund will be used primarily to achieve a proper matching of revenues and earnings with principal and interest payments on the Bonds in each bond year. It is expected that the Bond Fund will be depleted at least once a year, except for a reasonable carry over amount not to exceed the greater of (a) the earnings on the investment of moneys in the Bond Fund for the immediately preceding bond year or (b) 1/12th of the principal and interest payments on the Bonds for the immediately preceding bond year.

20.14. The Reserve Fund. The City represents that the Reserve Fund is required in connection with the issuance of the Bonds, based on the certificate of the Financial Advisor.

20.15. Other Funds and Accounts. The Other System Accounts will not contain any Sale Proceeds. No amounts in any such account are expected to be used to pay debt service on the Bonds. Because amounts in such funds are available for uses other than the payment of debt service on the Bonds, there are no assurances that such amounts would be available to pay principal or interest on the Bonds or the obligations under a Credit Facility or any other credit enhancement or liquidity device with respect to the Bonds, even if the City encounters financial difficulties.

20.16. No Representations. Reserved.

20.17. No Other Gross Proceeds. (a) Except (i) for the funds identified in the definition of Gross Proceeds, and (ii) for a Credit Facility, if any; after the issuance of the Bonds, neither the City nor any member of the same Controlled Group as the City has or will have any property, including cash or securities that constitutes:

(1) Sale Proceeds;

(2) amounts in any fund and account with respect to the Bonds (other than the Rebate Fund);

(3) amounts that have a sufficiently direct nexus to the Bonds or to the governmental purpose of the Bonds to conclude that the amounts would have been used for that governmental purpose if the Bonds were not used or to be used for that governmental purpose (the mere availability or preliminary earmarking of such amounts for a governmental purpose, however, does not itself establish such a sufficient nexus);

(4) amounts in a debt service fund, redemption fund, reserve fund, replacement fund or any similar fund to the extent reasonably expected to be used directly or indirectly to pay principal of or interest on the Bonds or any amounts for which there is provided, directly or indirectly, a reasonable assurance that the amount will be available to pay principal of or interest on the Bonds or any credit enhancement or liquidity device with respect to the Bonds (including the Credit Facility as defined), even if the City encounters financial difficulties;

(5) any amounts held pursuant to any agreement (such as an agreement to maintain certain levels of types of assets) made for the benefit of the holders of the Bonds or any credit enhancement provider (including the Credit Facility as defined), including any liquidity device or negative pledge (any amount pledged to pay principal of or interest on an issue held under an agreement to maintain the amount at a particular level for the direct or indirect benefit of holders of the Bonds or a guarantor of the bonds); or

(6) amounts actually or constructively received from the investment and reinvestment of the amounts described in (1) or (2) above.

(b) No compensating balance, liquidity account, negative pledge of property held for investment purposes or similar arrangement exists with respect to, in any way, the Bonds or any credit enhancement or liquidity device related to the Bonds (including the Credit Facility as defined).

(c) The term of the Bonds is not longer than is reasonably necessary for the governmental purposes of the Bonds. The average reasonably expected remaining economic life of the Project is at least 15 years. The weighted average maturity of the Bonds does not exceed 15 years and does not exceed 120 percent of the average reasonably expected economic life of such facilities.

20.18. Compliance with Rebate Provisions. The City covenants to take such actions and make, or cause to be made, all calculations, transfers and payments that may be necessary to comply with the Rebate Provisions applicable to the Bonds. The City will make, or cause to be made, rebate payments with respect to the Bonds in accordance with law.

20.19. Rebate Fund. The appropriate officers of the City are hereby authorized to create and establish a special fund to be known as the "Water Revenue Bonds, Series 1999, Rebate Fund" (the "*Rebate Fund*"), which, if created, shall be continuously held, invested, expended and accounted for in accordance with this Ordinance and the Tax Certificate. Moneys in the Rebate Fund shall not be considered moneys held for the benefit of the holders of the Bonds. Except as provided in the Regulations, moneys in the Rebate Fund (including earnings and deposits therein) shall be held in trust for payment to the United States as required by the Rebate Provisions and by the Regulations.

20.20. Records. The City agrees to keep and retain or cause to be kept and retained until six years after the Bonds are paid in full adequate records with respect to the investment of all

Gross Proceeds and amounts in the Rebate Fund. Such records shall include (a) purchase price; (b) purchase date; (c) type of investment; (d) accrued interest paid; (e) interest rate; (f) principal amount; (g) maturity date; (h) interest payment date; (i) date of liquidation; and (j) receipt upon liquidation. If any investment becomes Gross Proceeds on a date other than the date such investment is purchased, the records required to be kept shall include the fair market value of such investment on the date it becomes Gross Proceeds. If any investment is retained after the date the last Bond is retired, the records required to be kept shall include the fair market value of such investment on the date the last Bond is retired. Amounts or investments will be segregated whenever necessary to maintain these records.

20.21. Fair Market Value; Certificates of Deposit and Investment Agreements. In making investments of Gross Proceeds, the City shall take into account prudent investment standards including the date on which moneys to be invested may be needed. The City shall provide that all amounts which constitute Gross Proceeds and any amounts in the Rebate Fund shall be invested at all times to the greatest extent practicable in investments permitted under this Ordinance, and no amounts may be held as cash or be invested in zero Yield investments other than obligations of the United States purchased directly from the United States; *provided, however,* that in the event moneys cannot be invested, other than as provided in this sentence, due to the denomination, price or availability of investments, such amounts shall be invested in an interest bearing deposit account of a bank with a Yield not less than that paid to the general public or held uninvested (but uninvested amounts shall be held to the minimum amount necessary). For purposes of determining the purchase price of investments (for either yield restriction or rebate purposes), Gross Proceeds and any amounts in the Rebate Fund that are invested in certificates of deposit or in GICs shall be invested only in accordance with the following provisions:

(a) Investments in certificates of deposit of banks or savings and loan associations that have a fixed interest rate, fixed payment schedules and substantial penalties for early withdrawal shall be made only if either (i) the Yield on the certificate of deposit (A) is not less than the Yield on reasonably comparable direct obligations of the United States and (B) is not less than the highest Yield that is published or posted by the provider to be currently available from the provider on reasonably comparable certificates of deposit offered to the public or (ii) the investment is an investment in a GIC and qualifies under paragraph (b) below.

(b) Investments in GICs shall be made only if

(i) a bona fide solicitation is made for a specified GIC and at least three bona fide bids from different providers that have no material financial interest in the Bonds (*e.g.*, as underwriters or brokers) are received;

(ii) the highest-yielding GIC for which a qualifying bid is made (determined net of broker's fees) is in fact purchased;

(iii) the Yield on the GIC (determined net of broker's fees) is not less than the Yield then available from the provider on reasonably comparable GICs, if any, offered to other persons from a source of funds other than Gross Proceeds of tax-exempt obligations;

(iv) the determination of the terms of the GIC takes into account as a significant factor the reasonably expected drawdown schedule for the amounts to be invested, except for amounts deposited in the Bond Fund;

(v) the terms of the GIC, including collateral security requirements, are reasonable;

(vi) the obligor on the GIC certifies the administrative costs that it is paying or expects to pay to third parties in connection with the GIC;

(vii) any agent used to conduct the bidding for the GIC does not bid to provide the GIC;

(viii) all bidders for the GIC have equal opportunity to bid so that, for example, no bidder is given the opportunity to review others bids (a last look) before bidding; and

(ix) all bidders for the GICs are reasonably competitive providers of investments of the type purchased.

Moneys to be rebated to the United States shall be invested to mature on or prior to the anticipated rebate payment date. All investments made with Gross Proceeds or amounts in the Rebate Fund shall be bought and sold at fair market value. The fair market value of an investment is the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction. Except for investments specifically described in this section and United States Treasury obligations that are purchased directly from the United States Treasury, only investments that are traded on an established securities market, within the meaning of regulations promulgated under Section 1273 of the Code, will be purchased with Gross Proceeds. In general, an "established securities market" includes: (i) property that is listed on a national securities exchange, an interdealer quotation system or certain foreign exchanges; (ii) property that is traded on a Commodities Futures Trading Commission designated board of trade or an interbank market; (iii) property that appears on a quotation medium; and (iv) property for which price quotations are readily available from dealers and brokers. A debt instrument is not treated as traded on an established market solely because it is convertible into property which is so traded. An investment of Gross Proceeds in an External Commingled Fund shall be made only to the extent that such investment is made without an intent to reduce the amount to be rebated to the United States Government or to create a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the rebate or Yield restriction requirements not been relevant to the City. An investment of Gross Proceeds shall be made in a

Commingled Fund other than an External Commingled Fund only if the investments made by such Commingled Fund satisfy the provisions of this paragraph 20.21.

20.22. *Arbitrage Elections.* Upon consultation with Bond Counsel, City officers may make arbitrage elections in a Tax Certificate or other certificate given in the future.

20.23 *Issue Price.* For purposes of determining the Yield on the Bonds, the purchase price of the Bonds is equal to the first offering price at which the Purchaser have sold at least ten percent of each maturity of the Bonds or is equal to par, plus accrued interest, if the Purchaser does not intend to resell the Bonds.

20.24. *Yield Limits.* (a) Except as provided in (b), (c) or (d) as follows, all Gross Proceeds shall be invested at market prices and at a Yield (after taking into account any Yield Reduction Payments) not in excess of the Yield on the Bonds.

(b) The following may be invested without Yield restriction:

- (1) amounts invested in Qualified Tax Exempt Obligations;
- (2) amounts in the Rebate Fund;
- (3) amounts on deposit in the Bond Fund that have not been on deposit under the Ordinance for more than 13 months, so long as the Bond Fund continues to qualify as a bona fide debt service fund as described in 20.13 of this Section;
- (4) amounts on deposit in the Project Fund prior to the earlier of three years after Closing or the completion (or abandonment) of the Project;
- (5) amounts in the Expense Fund prior to the earlier of three years after Closing or the payment of all expenses to be paid from that fund;
- (6) all amounts for the first 30 days after they become Gross Proceeds; and
- (7) all amounts derived from the investment of Sale Proceeds and investment earnings thereon for a period of one year from the date received.

(c) An amount not to exceed the lesser of \$100,000 or five percent of the Sale Proceeds may be invested without regard to Yield restriction.

(d) The amount on deposit in the Reserve Fund that is allocable to the Bonds under the Regulations may be invested without regard to Yield restriction to the extent it does not exceed the least of the amounts computed pursuant to (1), (2), (3) or (4) below:

- (1) 100% of the maximum annual debt service on the Bonds;
- (2) 125% of the average annual debt service on the Bonds;

(3) ten percent of the stated principal amount of the Bonds (because the Bonds have a De minimis Amount of Original Issue Discount or Premium);

(4) the amount required to be held in the Reserve Fund, which is the amount required to provide protection to the owner of Bonds if the City should encounter financial difficulties.

20.25. Continuing Nature of Yield Limits. Except as provided at 20.35, once moneys are subject to the Yield limits of 20.24 hereof, such moneys remain Yield restricted until they cease to be Gross Proceeds.

20.26. Federal Guarantees. Except for investments in the Escrow Account or meeting the requirements of 20.24(b) or (d) hereof, investments of Gross Proceeds shall not be made in (a) investments constituting obligations of or guaranteed, directly or indirectly, by the United States (except obligations of the United States Treasury, obligations guaranteed by the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the Student Loan Marketing Association, any guarantee by the Bonneville Power Authority pursuant to the Northwest Power Act (16 U.S.C. 839d) as in effect on the date of enactment of the Tax Reform Act of 1984, or investments in obligations issued pursuant to Section 21B(d)(3) of the Federal Home Loan Bank Act, as amended (*e.g.*, Refcorp Strips)); or (b) federally insured deposits or accounts (as defined in Section 149(b)(4)(B) of the Code). No portion of the payment of principal or interest on the Bonds or any credit enhancement or liquidity device relating to the foregoing (including the Credit Facility as defined) is or will be guaranteed, directly or indirectly (in whole or in part), by the United States (or any agency or instrumentality thereof). No portion of the Gross Proceeds has been or will be used to make loans the payment of principal or interest with respect to which is or will be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof).

20.27. Treatment of Certain Credit Facility Fees. If appropriate representations are made in the Certificate of the Credit Facility Provider, as to which the City has no reason to believe are untrue, the fee paid to the Credit Facility Provider with respect to the Credit Facility may be treated as interest in computing Bond Yield. Neither the City nor any member of the same Controlled Group as the City is a Related Person as defined in Section 144(a)(3) of the Code to the Credit Facility Provider. The fee paid to the Credit Facility Provider shall not exceed ten percent of the Sale Proceeds. Other than the fee paid to the Credit Facility Provider, neither the Credit Facility Provider nor any person who is a Related Person to the Credit Facility Provider within the meaning of Section 144(a)(3) of the Code will use any Sale Proceeds or investment earnings thereon.

20.28. Payment and Use Tests. (a) No more than five percent of the proceeds of the Bonds, and investment earnings thereon will be used, directly or indirectly, in whole or in part, in any activity carried on by any person other than a state or local governmental unit.

(b) The payment of more than five percent of the principal of or the interest on the Bonds will not be, directly or indirectly (i) secured by any interest in (A) property used or to be

used in any activity carried on by any person other than a state or local governmental unit or (B) payments in respect of such property or (ii) on a present value basis, derived from payments (whether or not to the City or a member of the same Controlled Group as the City) in respect of property, or borrowed money, used or to be used in any activity carried on by any person other than a state or local governmental unit.

(c) No more than the lesser of \$5,000,000 or five percent of the Sale Proceeds of the Bonds, and investment earnings thereon, will be used, directly or indirectly, to make or finance loans to any persons.

(d) No users of any portion of the facilities constituting the System or the Project, each considered separately, other than a state or local governmental unit, will use more than five percent of such facilities, each considered separately, on any basis other than the same basis as the general public; and no person other than a state or local governmental unit will be a user of more than five percent of such System or Project, each considered separately, as a result of (i) ownership, (ii) actual or beneficial use pursuant to a lease or a management, service, incentive payment, research or output contract, or (iii) any other similar arrangement, agreement or understanding, whether written or oral.

(e) The City has not and will not enter into any arrangement that conveys to any person, other than a state or local government unit, special legal entitlements to any portion of the System or the facilities constituting the Project that is available for use by the general public. No person, other than a state or local governmental unit, is receiving or will receive any special economic benefit from use of the System or any portion of the facilities constituting the Project that is not available for use by the general public.

20.29. *I.R.S. Form 8038-G.* The information contained in the Information Return for Tax-Exempt Governmental Obligations, Form 8038-G, shall be true and complete. The City will file Form 8038-G (and all other required information reporting forms) in a timely manner.

20.30. *Termination; Interest of City in Rebate Fund.* The terms and provisions set forth in this Section shall terminate at the later of (a) 75 days after the Bonds have been fully paid and retired or (b) the date on which all amounts remaining on deposit in the Rebate Fund, if any, shall have been paid to or upon the order of the United States and any other payments required to satisfy the Rebate Provisions of the Code have been made to the United States. Notwithstanding the foregoing, the provisions of 20.18 hereof shall not terminate until the sixth anniversary of the date the Bonds are fully paid and retired.

20.31. *No Common Plan of Financing.* Since a date which is not less than 15 days prior to the date of adoption of this Ordinance, neither the City nor any member of the same Controlled Group as the City has sold or delivered any obligations other than the Bonds that are reasonably expected to be paid out of substantially the same source of funds as the Bonds. Neither the City nor any member of the same Controlled Group as the City will sell or deliver within 15 days after the date hereof any obligations other than the Bonds that are reasonably expected to be paid out of substantially the same source of funds as the Bonds. No obligations

other than the Bonds are being sold on the same date as the Bonds, will be issued at Closing or were or are being offered pursuant to a single offering document.

20.32. *No Sale of the System or the Project.* (a) Other than as provided in the next sentence, none of the facilities constituting the System or the Project has been, is expected to be, or will be sold or otherwise disposed of, in whole or in part, prior to the earlier of (i) the last date of the reasonably expected economic life to the City of the property (determined on the date of issuance of the Bonds) or (ii) the last maturity date of the Bonds. The City may dispose of personal property in the ordinary course of an established government program prior to the earlier of (i) the last date of the reasonably expected economic life to the City of the property (determined on the date of issuance of the Bonds) or (ii) the last maturity of the Bonds, provided: (A) the weighted average maturity of the Bonds financing the personal property is not greater than 120 percent of the reasonably expected actual use of that property for governmental purposes; (B) the City reasonably expects on the issue date that the fair market value of that property on the date of disposition will be not greater than 25 percent of its cost; (C) the property is no longer suitable for its governmental purposes on the date of disposition; and (D) the City deposits amounts received from the disposition in a commingled fund with substantial tax or other governmental revenues and the City reasonably expects to spend the amounts on governmental programs within six months from the date of the commingling.

(b) The City acknowledges that if bond-financed property is sold or otherwise disposed of in a manner contrary to (a) above, such sale or disposition may constitute a "deliberate action" within the meaning of the Regulations that may require remedial actions to prevent the Bonds from becoming private activity bonds. The City shall promptly contact Bond Counsel if a sale or other disposition of Bond-financed property is considered by the City.

20.33. *Future Events.* The City acknowledges that any changes in facts or expectations from those set forth herein or in the Tax Certificate may result in different Yield restrictions or rebate requirements from those set forth herein. The City shall promptly contact Bond Counsel if such changes do occur.

20.34. *No Representations. Reserved.*

20.35. *Permitted Changes; Opinion of Bond Counsel.* The Yield restrictions contained at 20.24 or any other restriction or covenant contained herein need not be observed or may be changed if the City receives an opinion of Bond Counsel to the effect that such nonobservance or change will not result in the loss of any exemption for the purpose of federal income taxation to which interest on the Bonds is otherwise entitled.

20.36. *Expectations.* The City Council has reviewed the facts, estimates and circumstances set forth herein. Such facts and estimates are true and are not incomplete in any material respect. On the basis of such facts and estimates, the City adopts the expectations contained herein. On the basis of such facts, estimates, circumstances and expectations, it is not expected that the Sale Proceeds or any other moneys or property will be used in a manner that will cause the Bonds to be arbitrage bonds within the meaning of the Rebate Provisions and the

Regulations. Such expectations are reasonable and there are no other facts, estimates and circumstances that would materially change such expectations.

The City Council hereby authorizes the Tax Certificate to contain such further covenants and certifications as may be necessary to assure that the Bonds be Tax-exempt. In connection therewith, the City and the City Council further agree: (a) through their officers, to make such further specific covenants, representations as shall be truthful, and assurances as may be necessary or advisable; (b) to consult with Bond Counsel and to comply with such advice as may be given; (c) to pay to the United States, as necessary, such sums of money representing required rebates of excess arbitrage profits relating to the Bonds; (d) to file such forms, statements, and supporting documents as may be required and in a timely manner; and (e) if deemed necessary or advisable by their officers, to employ and pay fiscal agents, financial advisors, attorneys, and other persons to assist the City in such compliance.

Section 21. Pertaining to the Bond Registrar. If requested by the Bond Registrar, any officer of the City is authorized to execute standard forms of agreements between the City and the Bond Registrar with respect to the obligations and duties of the Bond Registrar under this Ordinance. In addition to the terms of such agreements and subject to modification thereby, the Bond Registrar by acceptance of duties under this Ordinance agrees (a) to act as bond registrar, paying agent, authenticating agent, and transfer agent as provided herein; (b) to maintain a list of Bondholders as set forth herein and to furnish such list to the City upon request, but otherwise to keep such list confidential to the extent permitted by law; (c) to cancel and/or destroy Bonds which have been paid at maturity or upon redemption or submitted for exchange or transfer; (d) to furnish the City at least annually a certificate with respect to Bonds cancelled and/or destroyed; and (e) to furnish the City at least annually an audit confirmation of Bonds paid, Bonds outstanding and payments made with respect to interest on the Bonds. The City covenants with respect to the Bond Registrar, and the Bond Registrar further covenants and agrees as follows: (A) The City shall at all times retain a Bond Registrar with respect to the Bonds; it will maintain at the designated office(s) of such Bond Registrar a place or places where Bonds may be presented for payment, registration, transfer or exchange; and it will require that the Bond Registrar properly maintain the Bond Register and perform the other duties and

obligations imposed upon it by this Ordinance in a manner consistent with the standards, customs and practices of the municipal securities industry. (B) The Bond Registrar shall signify its acceptance of the duties and obligations imposed upon it by this Ordinance by executing the certificate of authentication on any Bond, and by such execution the Bond Registrar shall be deemed to have certified to the City that it has all requisite power to accept and has accepted such duties and obligations not only with respect to the Bond so authenticated but with respect to all the Bonds. Any Bond Registrar shall be the agent of the City and shall not be liable in connection with the performance of its duties except for its own negligence or willful wrongdoing. Any Bond Registrar shall, however, be responsible for any representation in its certificate of authentication on Bonds. (C) The City may remove the Bond Registrar at any time. In case at any time the Bond Registrar shall resign, shall be removed, shall become incapable of acting, or shall be adjudicated a bankrupt or insolvent, or if a receiver, liquidator, or conservator of the Bond Registrar or of the property thereof shall be appointed, or if any public officer shall take charge or control of the Bond Registrar or of the property or affairs thereof, the City covenants and agrees that it will thereupon appoint a successor Bond Registrar. The City shall give notice of any such appointment made by it to each registered owner of any Bond within twenty days after such appointment in the same manner, or as nearly the same as may be practicable, as for a redemption of Bonds. Any Bond Registrar appointed under the provisions of this Section shall be a bank, trust company, or national banking association maintaining its principal corporate trust office in Illinois, and having capital and surplus and undivided profits in excess of \$50,000,000. The City Clerk of the City is hereby directed to file a certified copy of this Ordinance with the Bond Registrar.

Section 22. Provisions a Contract. The provisions of this Ordinance shall constitute a contract between the City and the holders and registered owners of the Outstanding Bonds; and

no changes, additions, or alterations of any kind shall be made hereto, except as herein provided, so long as there are any Outstanding Bonds.

Section 23. Defeasance. Bonds which are no longer Outstanding Bonds as defined in this Ordinance shall cease to have any lien on or right to receive or be paid from Revenues and shall no longer have the benefits of any covenant for the holders or registered owners of Outstanding Bonds as set forth herein relating to payment or security of payment.

Section 24. Severability. 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 25. Superseder. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are to the extent of such conflict hereby superseded.

Section 26. *Publication.* This Ordinance within ten (10) days after its passage by the City Council shall be published once in pamphlet form by authority of the City Council, and shall thereupon be in full force and effect immediately.

PASSED: January 25, 1999.

VOTE

AYES: Aldermen Drummer, Wynne, Bernstein, Kent, Moran,
Engelman, Rainey, Feldman and Newman

NAYS: None

ABSENT: None

APPROVED: ^{February} ~~January~~ 1, 1999

Lorraine H. Norton
Mayor

ATTEST:

Mary P. Morris
City Clerk

EXHIBIT A

CONTINUING DISCLOSURE UNDERTAKING FOR THE PURPOSE OF PROVIDING CONTINUING DISCLOSURE INFORMATION UNDER SECTION (b)(5) OF RULE 15c2-12

This Continuing Disclosure Undertaking (this "*Undertaking*") is executed and delivered by the City of Evanston, Cook County, Illinois (the "*City*"), in connection with the issuance of Water Revenue Bonds, Series 1999 (the "*Bonds*"). The Bonds are being issued pursuant to an ordinance adopted by the City Council of the City on the 25th day of January 1999 and a Bond Order executed by designated officers of the City on the 25th day of January 1999.

In consideration of the issuance of the Bonds by the City and the purchase of such Bonds by the beneficial owners thereof, the City covenants and agrees as follows:

1. **PURPOSE OF THIS UNDERTAKING.** This Undertaking is executed and delivered by the City as of the date set forth below, for the benefit of the beneficial owners of the Bonds and in order to assist the Participating Underwriters in complying with the requirements of the Rule (as defined below). The City represents that it will be the only obligated person with respect to the Bonds at the time the Bonds are delivered to the Participating Underwriters and that no other person is expected to become so committed at any time after issuance of the Bonds.

2. **DEFINITIONS.** The terms set forth below shall have the following meanings in this Undertaking, unless the context clearly otherwise requires.

Annual Financial Information means the financial information and operating data described in *Exhibit I*.

Annual Financial Information Disclosure means the dissemination of disclosure concerning Annual Financial Information and the dissemination of the Audited Financial Statements as set forth in Section 4.

Audited Financial Statements means the audited financial statements of the City prepared pursuant to the standards and as described in *Exhibit I*.

Commission means the Securities and Exchange Commission.

Dissemination Agent means any agent designated as such in writing by the City and which has filed with the City a written acceptance of such designation, and such agent's successors and assigns.

Exchange Act means the Securities Exchange Act of 1934, as amended.

Material Event means the occurrence of any of the Events with respect to the Bonds set forth in *Exhibit II* that is material, as materiality is interpreted under the Exchange Act.

Material Events Disclosure means dissemination of a notice of a Material Event as set forth in Section 5.

MSRB means the Municipal Securities Rulemaking Board.

NRMSIRs means, as of any date, all Nationally Recognized Municipal Securities Information Repositories then recognized by the Securities and Exchange Commission for purposes of the Rule. As of the date of this Undertaking, the NRMSIRs are:

Bloomberg Municipal Repositories
P.O. Box 840
Princeton, NJ 08542-0840
Phone: (609) 279-3200
Fax: (609) 279-5962
E-Mail: Munis@Bloomberg.com

Kenny Information Systems, Inc.
65 Broadway - 16th Floor
New York, NY 10006
Attn: Kenny Repository Service
Phone: (212) 770-4595
Fax: (212) 797-7994

DPC Data Inc.
One Executive Drive
Fort Lee, NJ 07024
Phone: (201) 346-0701
Fax: (201) 947-0107
E-Mail: nrmsir@dpcdata.com

Thomson NRMSIR
Attn: Municipal Disclosure
395 Hudson Street, 3rd Floor
New York, NY 10014
Phone: (212) 807-5001; (800) 689-8466
Fax: (212) 989-2078
E-Mail: Disclosure @ Muller.com

The names and addresses of all current NRMSIRs should be verified each time information is delivered pursuant to this Undertaking.

Participating Underwriter means each broker, dealer or municipal securities dealer acting as an underwriter in the primary offering of the Bonds.

Rule means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Exchange Act, as the same may be amended from time to time.

SID means any public or private repository designated by the State as the state repository and recognized as such by the Securities and Exchange Commission for purposes of the Rule. As of the date of this Undertaking there is no SID.

3. CUSIP NUMBER/FINAL OFFICIAL STATEMENT.

The CUSIP Number of the Bonds are as follows:

| YEAR | CUSIP |
|------|--------------|
| 2000 | 299263 _____ |
| 2001 | 299263 _____ |
| 2002 | 299263 _____ |
| 2003 | 299263 _____ |
| 2004 | 299263 _____ |
| 2005 | 299263 _____ |
| 2006 | 299263 _____ |
| 2007 | 299263 _____ |
| 2008 | 299263 _____ |
| 2009 | 299263 _____ |
| 2010 | 299263 _____ |
| 2011 | 299263 _____ |
| 2012 | 299263 _____ |
| 2013 | 299263 _____ |
| 2014 | 299263 _____ |

The Final Official Statement relating to the Bonds is dated January 25, 1999 (the "*Final Official Statement*").

4. ANNUAL FINANCIAL INFORMATION DISCLOSURE. Subject to Section 9 of this Undertaking, the City hereby covenants that it will disseminate its Annual Financial Information and its Audited Financial Statements (in the form and by the dates set forth in *Exhibit I*) to each NRMSIR and to the SID, if any. The City is required to deliver such information in such manner and by such time so that such entities receive the information by the dates specified. If any part of the Annual Financial Information can no longer be generated because the operations to which it is related have been materially changed or discontinued, the City will disseminate a statement to such effect as part of its Annual Financial Information for the year in which such event first occurs. If any amendment is made to this Undertaking, the Annual Financial Information for the year in which such amendment is made (or in any notice or supplement provided to each NRMSIR and the SID, if any) shall contain a narrative description of the reasons for such amendment and its impact on the type of information being provided.

5. EVENTS NOTIFICATION; MATERIAL EVENTS DISCLOSURE. Subject to Section 9 of this Undertaking, the City hereby covenants that it will disseminate in a timely manner Material Events Disclosure to each NRMSIR or to the MSRB and to the SID, if any. Notwithstanding the foregoing, notice of optional or unscheduled redemption of any Bonds or defeasance of any Bonds need not be given under this Undertaking any earlier than the notice (if any) of such redemption or defeasance is given to the Bondholders pursuant to the Ordinance.

6. DUTY TO UPDATE NRMSIRs/SID. The City shall determine, in the manner it deems appropriate, the names and addresses of the then existing NRMSIRs and SID each time it is required to file information with such entities.

7. CONSEQUENCES OF FAILURE OF THE CITY TO PROVIDE INFORMATION. The City shall give notice in a timely manner to each NRMSIR or to the MSRB and to the SID, if any, of any failure to provide Annual Financial Information Disclosure when the same is due hereunder. In the event of a failure of the City to comply with any provision of this Undertaking, the beneficial owner of any Bond may seek mandamus or specific performance by court order, to cause the City to comply with its obligations under this Undertaking. A default under this Undertaking shall not be deemed a default under the Ordinance, and the sole remedy under this Undertaking in the event of any failure of the City to comply with this Undertaking shall be an action to compel performance.

8. AMENDMENTS; WAIVER. Notwithstanding any other provision of this Undertaking, the City by ordinance authorizing such amendment or waiver, may amend this Undertaking, and any provision of this Undertaking may be waived, if: (a) the amendment or waiver is made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of the City, or type of business conducted; (b) this Undertaking, as amended, or the provision, as waived, would have complied with the requirements of the Rule at the time of the primary offering, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and (c) the amendment or waiver does not materially impair the interests of the beneficial owners of the Bonds, as determined either by parties unaffiliated with the City (such as Bond Counsel).

9. TERMINATION OF UNDERTAKING. The Undertaking of the City shall be terminated hereunder if the City shall no longer have any legal liability for any obligation on or relating to payment of the Bonds under the Ordinance. The City shall give notice in a timely manner if this Section is applicable to each NRMSIR or to the MSRB and to the SID, if any.

10. DISSEMINATION AGENT. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Undertaking, and may discharge any such Agent, with or without appointing a successor Dissemination Agent.

11. ADDITIONAL INFORMATION. Nothing in this Undertaking shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Undertaking or any other means of communication, or including any other information in any Annual Financial Information Disclosure or notice of occurrence of a Material Event, in addition to that which is required by this Undertaking. If the City chooses to include any information from any document or notice of occurrence of a Material Event in addition to that which is specifically required by this Undertaking, the City shall have no obligation under this Undertaking to update such information or include it in any future disclosure or notice of occurrence of a Material Event.

12. BENEFICIARIES. This Undertaking has been executed in order to assist the Participating Underwriters in complying with the Rule; however, this Undertaking shall inure solely to the benefit of the City, the Dissemination Agent, if any, and the beneficial owners of the Bonds, and shall create no rights in any other person or entity.

13. RECORDKEEPING. The City shall maintain records of all Annual Financial Information Disclosure and Material Events Disclosure including the content of such disclosure, the names of the entities with whom such disclosure was filed and the date of filing such disclosure.

14. ASSIGNMENT. The City shall not transfer its obligations under the Ordinance unless the transferee agrees to assume all obligations of the City under this Undertaking or to execute an Undertaking under the Rule.

15. GOVERNING LAW. This Undertaking shall be governed by the laws of the State of Illinois.

Date: February 1, 1999

CITY OF EVANSTON
COOK COUNTY, ILLINOIS

By: Lorraine A. Morton

Its: Mayor
Address: 2100 Ridge Avenue
Evanston, Illinois

60201

EXHIBIT I
ANNUAL FINANCIAL INFORMATION AND TIMING AND AUDITED
FINANCIAL STATEMENTS

Annual Financial Information means the financial information and operating data of the type contained in the Official Statement as follows:

- Table A — Water Fund Audited Balance Sheet
- Table B — Water Fund Operation and Maintenance Account - Revenues and Operating Expenses
- table entitled “Water System Statistical Data”
- table entitled “Water-Allocations - Users of the Evanston Water System”
- table entitled “History of Water Rates”
- table entitled “Ten Largest Customers”
- all of the tables under the caption “Financial Information”

Information by Reference. All or a portion of the Annual Financial Information and the Audited Financial Statements as set forth below may be included by reference to other documents which have been submitted to each NRMSIR and to the SID, if any, or filed with the Commission. If the information included by reference is contained in a Final Official Statement, the Final Official Statement must be available from the MSRB; the Final Official Statement need not be available from each NRMSIR, the SID, if any, or the Commission. The City shall clearly identify each such item of information included by reference.

Time for Providing. Annual Financial Information will be provided to each NRMSIR and to the SID, if any, within 210 days after the last day of the City’s fiscal year. Audited Financial Statements as described below should be filed on or before the time of filing the Annual Financial Information, if available at such time. If Audited Financial Statements are not available within 210 days after the last day of the City’s fiscal year, unaudited financial statements shall be filed within such time.

Preparation of Audited Financial Statements Audited Financial Statements will be prepared according to Generally Accepted Accounting Principles as applicable to governmental units (i.e. as subject to the pronouncements of the Governmental Standards Accounting Board and subject to any express requirements of State law). Audited Financial Statements will be provided to each NRMSIR and to the SID, if any, on or before the time of filing the Annual Financial Information or, if unavailable at such time, within 30 days after availability to the City.

Annual Financial Information Changes If any change is made to the Annual Financial Information as permitted by Section 4 of the Undertaking, the City will disseminate a notice of such change as required by Section 4.

EXHIBIT II
EVENTS FOR WHICH MATERIAL EVENTS DISCLOSURE IS REQUIRED

1. Principal and interest payment delinquencies
2. Non-scheduled payment defaults
3. Unscheduled draws on debt service reserves reflecting financial difficulties
4. Unscheduled draws on credit enhancements reflecting financial difficulties
5. Substitution of credit or liquidity providers, or their failure to perform
6. Adverse tax opinions or events affecting the tax-exempt status of the security
7. Modifications to the rights of security holders
8. Bond calls
9. Defeasances
10. Release, substitution or sale of property securing repayment of the securities
11. Rating changes

Note: Some of the foregoing events may not be applicable to the Bonds.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

BOND ORDER

We, Roger D. Crum and William A. Stafford, do hereby certify that we are, respectively, the City Manager and the Finance Director and Comptroller of the City of Evanston, Cook County, Illinois (the "City"); and as such officers, we have reviewed the books, records, minutes and files of the City, and from such review and based on our authority, we do further certify as follows:

1. On January __, 1999, the City Council adopted Ordinance Number ____-O-99 of the City entitled:

AN ORDINANCE authorizing and providing for the issue of \$3,500,000 Water Revenue Bonds, Series 1999, of the City of Evanston, Cook County, Illinois, for the purpose of defraying the cost of improving and extending the present waterworks system of said City, prescribing all the details of said bonds, and providing for the collection, segregation and distribution of the revenue of the waterworks system of said City.

(the "Bond Ordinance").

2. The Bond Ordinance, in accordance with delegated limits, authorizes us to establish a final maturity and rate schedule for the Bonds (as authorized and defined in the Bond Ordinance).
3. The Bonds have been sold at public sale to _____, the Purchaser, at a purchase price of \$ _____, being not less than 97% of the par value of the Bonds.
4. The final schedule for the Bonds is as follows:

Principal Amount: \$3,500,000

Dated: February 1, 1998.

Due: Serially, on January 1 of the years, in the amounts, and bearing interest at the rates percent per annum as follows:

| YEAR | AMOUNT (\$) | RATE (%) |
|------|-------------|----------|
| 2000 | 190,000 | |
| 2001 | 185,000 | |
| 2002 | 190,000 | |
| 2003 | 195,000 | |
| 2004 | 205,000 | |
| 2005 | 210,000 | |
| 2006 | 220,000 | |
| 2007 | 230,000 | |
| 2008 | 235,000 | |
| 2009 | 245,000 | |
| 2010 | 255,000 | |
| 2011 | 265,000 | |
| 2012 | 280,000 | |
| 2013 | 290,000 | |
| 2014 | 305,000 | |

5. Accordingly, the principal of and interest on the Bonds are computed as follows:

| FOR THE BOND YEAR | Amount (\$) |
|-------------------|-------------|
| 1999 | _____ |
| 2000 | _____ |
| 2001 | _____ |
| 2002 | _____ |
| 2003 | _____ |
| 2004 | _____ |
| 2005 | _____ |
| 2006 | _____ |
| 2007 | _____ |
| 2008 | _____ |
| 2009 | _____ |
| 2010 | _____ |
| 2011 | _____ |
| 2012 | _____ |
| 2013 | _____ |
| 2014 | _____ |

6. The final terms of redemption for the Bonds are as follows: Those of the Bonds due on or after January 1, 2014, are subject to redemption prior to maturity, at the option of the City, from any available funds, in whole or in part, on any date on or after July 1, 2009, and if in part, in any order of maturity as selected by the City, and if

less than an entire maturity, in integral multiples of \$5,000, selected by lot by the Bond Registrar, at the redemption price of par plus accrued interest to the date of redemption.

7. All other terms are as required and provided in the Bond Ordinance.
8. Please be further advised that we find and determine that no person holding any office of the City either by election or appointment, is in any manner interested, either directly or indirectly, in his own name or in the name of any other person, associate, trust or corporation, in the Bond Purchase Contract with the Purchaser as such terms are defined in the Bond Ordinance.
9. Finally, please be advised that this Bond Order shall be entered into the records of the City and made available to all Aldermen.

IN WITNESS WHEREOF we have hereunto affixed our official signatures this ____ day of
January 1999.

Roger D. Crum
City Manager

William A. Stafford
Finance Director and Comptroller

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

AVAILABILITY OF BOND ORDER

I, the undersigned, do hereby certify that I am the duly qualified and acting City Clerk of the City of Evanston, Cook County, Illinois (the "City"), and as such official I am the keeper of the official journal of proceedings, books, records, minutes and files of the City and of the City Council (the "City Council") thereof.

I do further certify that I made available to all members of the City Council at the regular meeting of the Board held on the 25 day of January 1999, a Bond Order, as such term is defined in Ordinance Number 5-O-99 and entitled:

AN ORDINANCE authorizing and providing for the issue of \$3,500,000 Water Revenue Bonds, Series 1999, of the City of Evanston, Cook County, Illinois, for the purpose of defraying the cost of improving and extending the present waterworks system of said City, prescribing all the details of said bonds, and providing for the collection, segregation and distribution of the revenue of the waterworks system of said City.

which Bond Order is responsive to such Ordinance; a true, correct and complete copy of which said Bond Order as provided at said meeting being attached hereto.

IN WITNESS WHEREOF I hereunto affix my official signature and the seal of the City this 2 day of February 1999.



City Clerk
City of Evanston
Cook County, Illinois

[SEAL]

**FINANCIAL ADVISOR'S
CERTIFICATE RE: BOND SALE**

I, the undersigned, do hereby certify that I am an officer of R.V. Norene & Associates, Inc., Chicago, Illinois (the "*Financial Advisor*"), and as such officer I do further certify as follows:

1. The Financial Advisor is the duly appointed financial advisor to the City of Evanston, Cook County, Illinois (the "*City*"), in connection with the issuance of \$3,500,000 Water Revenue Bonds, Series 1999, of the City (the "*Bonds*").

2. The Bonds have been sold to _____
(the "*Purchaser*"), and the City is to receive \$_____ being _____% of the par value of the principal amount of the Bonds plus accrued interest from the sale of the Bonds.

3. The Bonds were sold to the Purchaser by the City at public (competitive) sale at which _____ bids were received. The bid of the Purchaser was the lowest conforming bid. In our opinion, the terms of the Bonds are fair and reasonable in view of current conditions in the bond market.

4. The Reserve Fund created or maintained in connection with the Bonds is of the size and type that is customarily required in financings of the size and nature of the Bonds. Such a requirement provides the holders of the Bonds some measure of protection and work-out time should the City encounter financial difficulties. The failure to provide for this fund at its current size would materially adversely affect the interest rates or Yields at which the Bonds could be sold.

5. Each of the following conditions to sale of the Bonds has been met:

(a) No interest is greater than 7.00%.

(b) Principal of and interest on the Bonds is not less than \$300,000 and not more than \$340,000 in any given year.

(c) No redemption price exceeds 103%.

6. All of the other limitations and conditions regarding the sale of the Bonds to the Purchaser set forth in the ordinance authorizing the issuance of the Bonds have as of this date been met.

IN WITNESS WHEREOF I hereunto affix our name and my signature this ____ day of January 1999.

R. V. NORENE & ASSOCIATES, INC.

By: Ronald V. Norene
Title: President