

ORDINANCE NO. 337

AN ORDINANCE PROVIDING FOR THE ACQUISITION, CONSTRUCTION AND ERECTION OF IMPROVEMENTS TO THE WASTEWATER COLLECTION SYSTEM OF THE CITY OF MEXICO BEACH, FLORIDA; AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$2,303,100 SEWER SYSTEM REVENUE BONDS TO FINANCE A PORTION OF THE COST THEREOF; PLEDGING A LIEN ON THE NET REVENUES OF SAID SYSTEM TO SECURE THE PAYMENT THEREOF; PROVIDING FOR THE ISSUANCE OF TEMPORARY BOND ANTICIPATION NOTES; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SUCH BONDS; PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MEXICO BEACH, FLORIDA, as follows:

ARTICLE I

GENERAL

1.01. Authority for this Ordinance. This Ordinance is enacted pursuant to the provisions of Chapter 166, Part II, Florida Statutes, and other applicable provisions of law.

1.02. Findings. It is hereby found and determined that:

(A) For the benefit of its inhabitants, the City of Mexico Beach (hereinafter sometimes called the "Issuer") finds, determines and declares that it is necessary for the continued preservation of the health, welfare, convenience and safety of the Issuer and its inhabitants to construct improvements (the "Project") to the wastewater collection system (the "System") of the Issuer in accordance with certain plans and specifications now on file or to be filed with the City Clerk of the Issuer (the "Clerk").

(B) The Issuer has been advised by its Consulting Engineers that the cost of constructing the Project in accordance with said plans and specifications is estimated at \$4,606,200, which will be paid with the proceeds of the sale of the Bonds herein authorized, and a federal grant in the amount of \$2,303,100 and shall be deemed to include all expenses necessary, appurtenant or incidental thereto, including the cost of any land or interest therein or of any fixtures or equipment, or property necessary or convenient therefor, the cost of labor and materials to complete such construction, engineering and legal expenses, fiscal expenses, expenses for estimates of costs and revenues, expenses for plans, specifications and surveys, interest during construction, if any, administration expenses and all other necessary miscellaneous expenses.

(C) The Net Revenues, herein defined, to be derived annually from the rates, rentals, fees and other charges made and collected for the services and facilities of the System, all as herein defined, will be sufficient to pay the principal and interest on the Bonds herein authorized. It is estimated that the period of usefulness of the System will exceed forty-one (41) years.

(D) It is deemed necessary and desirable to pledge to the payment of the principal of, redemption premium, if any, and the interest on the Bonds herein authorized, a lien on the Net Revenues derived from the operation of the System. [The lien on the Net Revenues will be junior, inferior and subordinate to the rights of Bay County to collect treatment and other fees under the Treatment

Contract, the holders of revenue bonds to finance the pump station and interception lines to Tyndall Air Force Base and a lien on the water system revenue subject to a first and second lien held by GECC.]

(E) This Ordinance is declared to be and shall constitute a contract between the Issuer and the holders of all the Bonds; and the covenants and agreements herein set forth to be performed by the Issuer are and shall be for the equal benefit, protection and security of the holders of any and all the Bonds issued under this Ordinance shall be of equal rank and without preference, priority or distinction of any of the Bonds over any other, except as hereinafter provided.

(F) The Issuer is not, under this Ordinance obligated to levy any taxes on any real or personal property to pay the principal of or interest on the Bonds hereinafter authorized, or to pay the cost of maintaining, repairing and operating the System. The Bonds issued pursuant to this Ordinance shall not constitute a lien upon the System or any other property of the Issuer or any other property situated within its corporate limits, except the Net Revenues of the System in the manner provided herein.

1.03. Definitions. The following terms in this Ordinance shall have the following meanings unless the text otherwise expressly requires:

"Bond Registrar" shall mean the Clerk.

"Bond Service Requirement" for any Bond Year shall mean the sum of: (1) the amount required to pay the interest becoming due

on the Bonds during such Bond Year and (2) the amount required to pay the principal of the Bonds maturing in such Bond Year.

"Bond Year" shall mean the period beginning with September 1 and extending for a period of twelve (12) months thereafter.

"Bonds", shall mean the Bonds issued pursuant to this Ordinance and any additional parity bonds issued pursuant to Section 3.04(H) hereof, including but not limited to debt obligations entered into by the Issuer pursuant to Section 3.04 (H)(4) hereof.

"Clerk" shall mean the City Clerk of the Issuer.

"Consulting Engineers" shall mean qualified and recognized consulting engineers, having a favorable reputation for skill and experience in the management and operation of facilities of comparable size and character as the System, at the time retained by the Issuer to perform the acts and carry out the duties as herein provided for said Consulting Engineers.

"Federal Securities" shall mean direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, which are not redeemable prior to maturity at the option of the obligor.

"Fiscal Year" shall mean the period commencing on October 1st of each year and continuing to and including the succeeding September 30th.

"Government" shall have the same meaning as set forth in Section 2.03 hereof.

"Gross Revenues" or "Revenues" derived from operation of the System shall mean all moneys received from rates, fees, rentals or other charges or income received by the Issuer or accruing to it in the management and operation of the System, all calculated in accordance with sound accounting practice.

"Holder" or "holder of Bonds" or "owner" or "owner of Bonds" or any similar term shall mean any person who shall be the registered owner of any Bonds.

"Maximum Bond Service Requirement" shall mean, as of a particular date of calculation, the greatest amount of Bond Service Requirement for the then current or any future Bond Year.

"Mayor" shall mean the Mayor of the Issuer.

"Net Revenues" of the System shall mean the Gross Revenues thereof after deducting therefrom only the Operating Expenses of the same.

"Operating Expenses" of the System shall mean all current expenses, paid or accrued, for the operation, maintenance and repair of the System and its facilities, as calculated in accordance with sound accounting practice, and shall include, without limiting the generality of the foregoing, insurance premiums, administrative expenses of the Issuer related solely to the System, labor, cost of materials and supplies used for current operation, and charges for the accumulation of appropriate reserves for current expenses not annually recurrent but which are such as may be reasonably expected to be incurred in accordance with sound accounting practice. "Operating Expenses" shall not include any

allowance for depreciation or for renewals or replacements of capital assets of the System. The term "Operating Expenses" shall include payments classified pursuant to the Treatment Contract as a "cost of operation and maintenance" of the System.

"Ordinance" shall mean this Ordinance.

"Paying Agent" shall mean the Clerk.

"System" shall mean the complete wastewater system owned, operated and maintained by the Issuer, together with the Project, and any and all improvements, extensions and additions thereto.

"Treatment Contract" shall mean the Wastewater Treatment Contract between the Issuer and Bay County, Florida, as such agreement may be amended or supplemented from time to time. and shall also include any other agreement entered into by the Issuer providing for the treatment of wastewater from the System.

1.04. Construction of Project Authorized. The Issuer is hereby authorized to construct the Project as defined in Section 1.02(A) above.

## ARTICLE II

### AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF REVENUE BONDS

2.01. Authorization of Revenue Bonds. Subject and pursuant to the provisions of this Ordinance, obligations of the Issuer to be known as "City of Mexico Beach, Florida, Wastewater Collection System Revenue Bonds" (hereinafter sometimes referred to as the "Bonds") are hereby authorized to be issued in an aggregate principal amount not exceeding Two Million Three Hundred Three Thousand and One Hundred Dollars (\$2,303,100) for the purpose of providing funds to pay a part of the cost of the Project provided for in Section 1.02(A) hereof.

2.02. Description of Bonds. The Bonds issued hereunder shall be fully registered Bonds; dated as of the date of their delivery; shall bear interest at a rate or rates to be fixed by ordinance or resolution of the City Council hereafter enacted or adopted, not exceeding the maximum rate permitted by law, payable on September 1 following the date of the Bonds, and annually thereafter on September 1 of each year; and at the request of the purchasers thereof may be issued as a single fully registered Bond payable in installments in the amounts and on September 1 of the years as determined by subsequent ordinance or resolution of the Issuer, or as a series of fully registered Bonds numbered consecutively from R-1 upward in order of maturity, in the denomination of \$1,000 each, or multiples or fractions thereof and maturing on September 1 in the amounts and years, not exceeding forty (40) years from date thereof, and subject to redemption, all as determined by

subsequent resolution of the Issuer. Bonds issued pursuant to this Ordinance shall bear a Series designation of their year of issuance and shall be called Series 19\_\_\_ Bonds.

2.03. Method of Payment. Both the principal of and interest on the Bonds shall be payable in lawful money of the United States of America, except that payment of interest on the Bonds on any interest payment date will be made to the person appearing as the registered owner thereof on the registration books of the Issuer maintained by the Bond Registrar on the 15th day of the month preceding such date, such interest to be paid by check or draft mailed to the registered owner at his address as it appears on such registration books; provided, however, that Bonds held by the United States of America, hereinafter called the "Government", shall be payable at the U.S. Department of Agriculture, 932 North Ferdon Boulevard, Suite B, Crestview, Florida, 32536 or at such other places as the Government shall from time to time in writing designate to the Issuer. The principal of the Bond is payable upon the presentation and surrender thereof at the principal office of the Paying Agent.

Bonds or principal installments thereof held by the Government may be redeemed on any interest due date without the payment of a premium. The Issuer shall have the right to call Bonds or principal installments thereof redeemable at no premium prior to calling Bonds or principal installments thereof redeemable at a premium. At least thirty (30) days prior to the redemption date written notice of any redemption shall be filed with the Paying



Agent and mailed, postage prepaid to all registered owners at their respective addresses as they appear upon the registration books of the Issuer. Provided, however, that failure to mail such notice to one or more owners of the Bonds shall not affect the validity of the proceedings for such redemption with respect to owners of Bonds to which notice was duly mailed hereunder.

2.04. Execution of Bonds. The Bonds shall be executed in the name of the Issuer by its Mayor by his or her manual or facsimile signature and the corporate seal of the Issuer shall be impressed thereon, attested by its Clerk by his manual or facsimile signature; provided, however, one of said signatures shall be manually subscribed. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. The validation certificate endorsed on the Bonds shall be executed by the Mayor by his or her manual or facsimile signature. Any Bond may be signed and sealed on behalf of the Issuer by such person who at the actual time of the execution of such Bonds shall hold the proper office of the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized. The Issuer may adopt and use for such purposes the facsimile signatures of any such persons who shall have held such offices at any time after the date of enactment of this

Ordinance notwithstanding that either or both shall have ceased to hold such office at the time the Bonds shall be actually sold and delivered.

2.05. Negotiability and Registration. The Bonds shall be and shall have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code - Investment Securities Law of the State of Florida; and each successive holder, in accepting any of said obligations, shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments.

The Bonds shall be registered, as to both principal and interest upon the books kept for the registration and transfer of Bonds by the Bond Registrar. No transfer of the Bonds shall be valid unless made at the office of the Bond Registrar by the registered owner or by his duly authorized agent or representative and shall be similarly noted on the Bonds. The Bond Registrar shall not be required to make any such transfer of Bonds during fifteen (15) days next preceding an interest payment date on the Bonds, or in the case of any proposed redemption of Bonds, after such Bonds have been selected for redemption. 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 or on account of the principal of any Bond and the interest on any Bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon

such Bond including the interest thereon to the extent of the sum or sums so paid.

The single fully registered Bond, if issued, may be exchanged by the owner thereof at any time, not more than ninety (90) days after surrender of such Bond to the Bond Registrar, for an equal aggregate principal amount of a series of Bonds in the denomination of \$1,000 or multiples or fractions thereof, maturing in the years and amounts corresponding to the years and amounts of the unpaid installments of principal of the single fully registered Bond, and in the form prescribed for a series of fully registered Bonds in Section 2.07 of this Ordinance; and if all of the series of fully registered Bonds outstanding shall be owned and held by a single holder, such Bonds may, in like manner, be exchanged at the expense of such holder, at any time, not more than ninety (90) days after surrender of such Bonds to the Bond Registrar, for a single fully registered Bond in principal amount equal to the aggregate principal amount of such series of fully registered Bonds surrendered, maturing in installments in years and amounts corresponding to the years and amounts of the maturities of such series of fully registered Bonds so surrendered and in the form prescribed for the single fully registered Bond in Section 2.07 of this Ordinance.

2.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall be mutilated, or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond or in lieu of and

substitution for the Bond destroyed, stolen or lost, upon the holder furnishing to the Issuer proof of his ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. All Bonds so surrendered shall be canceled by the Clerk of the Issuer. If any such Bonds shall have matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Any such duplicate Bonds issued pursuant to this section shall constitute original additional, contractual obligations on the part of the Issuer, whether or not the lost, stolen or destroyed Bonds be at any time found by anyone, and such duplicate Bonds shall be entitled to equal and proportionate benefits and rights as to lien on and source and security for payment from the funds, as hereinafter pledged, to the same extent as all other Bonds issued hereunder.

2.07. Form of Bonds. The text of the Bonds shall be in substantially the following form, with only such omissions, insertions and variations as may be necessary and desirable and approved by the Mayor prior to the issuance thereof (which approval may be presumed by his or her execution of the Bonds and the Issuer's delivery of the Bonds to the purchasers thereof):

[FORM OF SERIAL BOND]

No. \_\_\_\_\_

\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF FLORIDA  
COUNTY OF BAY  
CITY OF MEXICO BEACH  
WASTEWATER COLLECTION SYSTEM REVENUE BOND, SERIES 19 \_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that the City of Mexico Beach, Florida, a municipal corporation created and existing under and by virtue of the laws of the State of Florida (hereinafter sometimes referred to as the "Issuer"), for value received, hereby promises to pay to \_\_\_\_\_, or registered assigns, on the first day of September, \_\_\_\_\_, from the special funds hereinafter mentioned at \_\_\_\_\_, the principal sum of

\_\_\_\_\_ THOUSAND DOLLARS

and to pay interest thereon, from the date of the delivery of this Bond to the purchaser thereof solely from said special funds, at the rate of \_\_\_\_\_ percent (\_\_\_\_\_% ) per annum, payable on September 1, \_\_\_\_\_ and annually thereafter on the first day of September of each year until the principal is paid. The principal of and interest on this Bond shall be payable in lawful money of the United States of America. Payment of interest on this Bond on any interest payment date will be made to the person appearing as the registered owner hereof, on the Bond registration books of the Issuer maintained by the Bond Registrar on the 15th day of the month preceding such date, such interest to be paid by check or

mailed to the registered owner at his address as it appears  
in such registration books.

This Bond is one of an authorized issue of Bonds in the aggregate principal amount of \$\_\_\_\_\_ of like date, tenor and effect, except as to number, denomination, and date of maturity, issued to finance a part of the cost of constructing improvements to the wastewater collection system of the Issuer, hereinafter referred to as the "System", under the authority of and in full compliance with the Constitution and Statutes of the State of Florida, particularly Chapter 166, Part II, Florida Statutes, the Charter of the City of Mexico Beach, Florida, and an ordinance duly enacted by the Issuer on \_\_\_\_\_, 1996, as supplemented and amended (herein referred to as the "Ordinance"), and is subject to all the terms and conditions of such Ordinance. All capitalized undefined terms used herein shall have the meaning set forth in the Ordinance. This Bond and the interest hereon are payable solely from and secured by a lien upon and pledge of the Net Revenues to be derived from the operation of the System of the Issuer. The lien on the Net Revenues will be junior, inferior and subordinate to the rights of Bay County to collect treatment and other fees under the Treatment Contract, the holders of revenue bonds to finance the pump station and interception lines to Tyndall Air Force Base and a lien on the water system revenue subject to a first and second lien held by GECC. It is expressly agreed by the owner of this Bond that the full faith and credit of the Issuer are not pledged to the payment of the principal of and interest on this Bond and

that such owner shall never have the right to require or compel the exercise of any ad valorem taxing power of the Issuer to the payment of such principal or interest or the cost of maintaining, repairing and operating the System. This Bond and the obligation evidenced hereby shall not constitute a lien upon the System or any part thereof or upon any other property of the Issuer or situated within its corporate limits, but shall constitute a lien only on the revenues pledged for the payment thereof, all in the manner provided in the Ordinance.

In and by the Ordinance the Issuer has covenanted and agreed with the owners of the Bonds of this issue that it will fix, establish, revise from time to time whenever necessary, maintain and collect always such fees, rates, rentals and other charges for the use of the product, services and facilities of the System which will always produce cash revenues sufficient to pay, and out of such funds pay the necessary expenses of operating and maintaining the System and which will be sufficient to pay, and out of such funds pay as the same shall become due the principal of and interest on the Bonds and all reserve, sinking fund or other payments required by the Ordinance and that such rates, rentals, fees or other charges will not be reduced so as to be insufficient to provide funds for such purposes.

(insert provisions for redemption)

provided, however, that Bonds held by the United States of America may be redeemed on any interest due date, including dates prior to September 1, \_\_\_\_\_, without the payment of a premium, that the

Issuer shall have the right to call Bonds redeemable at no premium prior to calling Bonds redeemable at a premium, and that notice of such redemption shall be given in the manner required by the Ordinance.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Bond, exist, have happened and have been performed, in regular and due form and time as required by the laws and Constitution of the State of Florida applicable thereto, and that the issuance of this Bond, and of the issue of Bonds of which this Bond is one, does not violate any constitutional, statutory or charter limitations or provisions.

This Bond is and has all the qualities and incidents of negotiable instruments under the Uniform Commercial Code - Investment Securities Law of the State of Florida.

This Bond is transferable by the owner hereof in person or by his attorney or legal representative at the office of the Bond Registrar in the manner and subject to the conditions provided in the Ordinance.



IN WITNESS WHEREOF, the City of Mexico Beach, Florida, has issued this Bond and has caused the same to be executed in its name and on its behalf by its Mayor and its corporate seal to be impressed hereon, attested and countersigned by its Clerk, all as of the \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

CITY OF MEXICO BEACH, FLORIDA

(SEAL)

By \_\_\_\_\_  
Mayor

ATTESTED AND COUNTERSIGNED:

\_\_\_\_\_  
Clerk

Approved as to the terms and  
correctness thereof:

\_\_\_\_\_  
City Attorney

FORM OF VALIDATION CERTIFICATE

This Bond is one of a series of Bonds which were validated by judgment of the Circuit Court for Bay County, Florida, rendered on \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Mayor

ASSIGNMENT

For valuable consideration, the \_\_\_\_\_ acting through the \_\_\_\_\_, does hereby assign, transfer and deliver to \_\_\_\_\_ all of its right, title and interest in and to this Bond and all rights belonging or appertaining to the assignor under and by virtue of this Bond.

\_\_\_\_\_  
By \_\_\_\_\_

Title \_\_\_\_\_

Witnesses:

\_\_\_\_\_  
\_\_\_\_\_

PROVISIONS FOR REGISTRATION

This Bond is registered as to both principal and interest on the books kept by the Clerk, as Bond Registrar, such registration being noted hereon by the Bond Registrar in the registration blank below, the interest being payable only to the registered holder, remitted by mail, and no transfer shall be valid unless made on said books by the registered holder or his legal representative and similarly noted in the registration blank below.

Date of Registration	Name and Address of Registered Owner	Signature of Bond Registrar
_____	_____	_____
_____	_____	_____
_____	_____	_____

[FORM OF SINGLE FULLY-REGISTERED BOND IF GOVERNMENT IS PURCHASER]  
No. R-1

UNITED STATES OF AMERICA  
STATE OF FLORIDA  
COUNTY OF BAY  
CITY OF MEXICO BEACH  
WASTEWATER COLLECTION SYSTEM REVENUE BOND, SERIES 19\_\_

KNOW ALL MEN BY THESE PRESENTS, that the City of Mexico Beach, Florida, a municipal corporation created and existing under and by virtue of the laws of the State of Florida (the "Issuer"), for value received, hereby promises to pay to the United States of America (the "Government") from the special funds hereinafter mentioned, the principal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) on the first day of September in the years and installments as follows:

<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>
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and to pay, solely from such special funds, interest on the principal sum from time to time remaining unpaid, from the date of the delivery of this Bond to the purchaser hereof, at the rate of \_\_\_\_\_ percent (\_\_\_\_\_% ) per annum, payable on September 1, \_\_\_\_\_, and annually thereafter on the first day of September of each year. Both principal of and interest on this Bond are payable to the Government at the offices of the United States Department of Agriculture, 932 North Ferdon Boulevard, Suite B, Crestview,

Florida 32536, or at such places as the Government shall from time to time in writing designate to the Issuer, in lawful money of the United States of America. Payments of principal and interest, including prepayments of installments of principal as hereinafter provided, shall be noted by the owner hereof on the Payment Record made a part of this Bond, and written notice of the making of such notation shall be promptly sent to the Issuer. Upon final payment of principal and interest, this Bond shall be surrendered to the Issuer.

This Bond represents an authorized issue of Bonds in the aggregate principal amount of \$\_\_\_\_\_ issued to finance a part of the cost of constructing improvements to the wastewater collection system of the Issuer (the "System"), under the authority of and in full compliance with the Constitution and Statutes of the State of Florida, particularly Chapter 166, Part II, Florida Statutes, the Charter of the City of Mexico Beach, Florida, and an ordinance duly enacted by the Issuer on \_\_\_\_\_, 1996, as supplemented and amended (the "Ordinance"), and is subject to all the terms and conditions of the Ordinance. All capitalized undefined terms used herein shall have the meaning set forth in the Ordinance.

This Bond and the interest hereon are payable solely from and secured by a lien upon and a pledge of the Net Revenues to be derived from the operation of the System of the Issuer. [The lien on the Net Revenues will be junior, inferior and subordinate to the rights of Bay County to collect treatment and other fees under the Treatment Contract, the holders of revenue bonds to finance the

pump station and interception lines to Tyndall Air Force Base and a lien on the water system revenue subject to a first and second lien held by GECC.] It is expressly agreed by the owner of this Bond that the full faith and credit of the Issuer are not pledged to the payment of the principal of and interest on this Bond and that such owner shall never have the right to require or compel the exercise of any ad valorem taxing power of the Issuer to the payment of such principal and interest or the cost of maintaining, repairing and operating the System of the Issuer. This Bond and the obligation evidenced hereby shall not constitute a lien upon the System or any part thereof or upon any other property of the Issuer or situated within its corporate limits, but shall constitute a lien only on the revenues pledged for the payment thereof, all in the manner provided in the Ordinance.

In and by the Ordinance the Issuer has covenanted and agreed with the owners of the Bonds of this issue that it will fix, establish, revise from time to time whenever necessary, maintain and collect always such fees, rates, rentals and other charges for the use of the product, services and facilities of the System which will always produce cash revenues which will be sufficient to pay, and out of such funds pay the necessary expenses of operating and maintaining the System and out of such funds pay, as the same shall become due, the principal of and interest on the Bonds and all reserve, sinking fund or other payments required by the Ordinance and that such rates, rentals, fees or other charges will not be

reduced so as to be insufficient to provide funds for such purposes.

As provided in the Ordinance, this Bond is exchangeable at the expense of the owner hereof at any time, not more than ninety days after surrender of this Bond to the Clerk, as Bond Registrar, for an equal aggregate principal amount of serial Bonds, registered as to both principal and interest, in the denomination of \$1,000 each, or multiples or fractions thereof, and maturing in the amounts and on September 1 of the years corresponding to the years and amounts of the unpaid installments of principal of this Bond, and in the form of such serial Bonds as provided for in the Ordinance.

The installments of principal payable upon this Bond may, at the option of the Issuer, be prepaid in whole or in part, but only in multiples of \$1,000, in inverse chronological order of the installments, on any interest payment date at par and accrued interest, without premium. Notice of such prepayment shall be given in the manner required by the Ordinance.

It is hereby certified and recited that all acts, conditions, and things required to exist, to happen and to be performed precedent to and in the issuance of this Bond, exist, have happened and have been performed, in regular and due form and time as required by the laws and Constitution of the State of Florida applicable thereto; and that the issuance of this Bond does not violate any constitutional or statutory limitations or provisions.

This Bond is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code - Investment Securities Law of the State of Florida.

This Bond is transferable by the registered owner hereof in person or by his attorney or legal representative at the office of the Bond Registrar in the manner and subject to the conditions provided in the Ordinance.

IN WITNESS WHEREOF, the City of Mexico Beach, Florida, has issued this Bond and has caused the same to be executed in its name and on its behalf by its Mayor and its corporate seal to be impressed hereon, attested and countersigned by its Clerk, all as of the \_\_\_\_ day of \_\_\_\_\_, 199\_\_.

CITY OF MEXICO BEACH, FLORIDA

(SEAL)

By \_\_\_\_\_  
Mayor

ATTESTED AND COUNTERSIGNED:

\_\_\_\_\_  
Clerk

Approved as to the terms and  
correctness thereof:

\_\_\_\_\_  
City Attorney

VALIDATION CERTIFICATE

This Bond is one of a series of bonds which were validated by judgment of the Circuit Court for Bay County, Florida, rendered on \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Mayor





ASSIGNMENT

For valuable consideration, the UNITED STATES OF AMERICA, acting through the UNITED STATES DEPARTMENT OF AGRICULTURE, does hereby assign, transfer and deliver to \_\_\_\_\_ all of its right, title and interest in and to this Bond and all rights belonging or appertaining to the assignor under and by virtue of this Bond.

U.S. DEPARTMENT OF AGRICULTURE

By \_\_\_\_\_

Title \_\_\_\_\_

Witnesses:

\_\_\_\_\_  
\_\_\_\_\_



PRINCIPAL INSTALLMENTS ON WHICH PAYMENTS HAVE  
BEEN MADE PRIOR TO DUE DATE

<u>Principal Due Date</u>	<u>Amount</u>	<u>Principal Prepaid</u>	<u>Principal Balance Due</u>	<u>Date Paid</u>	<u>Signature of Owner</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

[END OF FORM OF FULLY REGISTERED SINGLE BOND]

### ARTICLE III

#### COVENANTS, SPECIAL FUNDS AND APPLICATION THEREOF

3.01. Bonds Not to be Indebtedness of Issuer. The Bonds shall not be or constitute general obligations or indebtedness of the Issuer as "bonds" within the meaning of the Constitution of Florida, but shall be payable solely from and secured by a lien on the Net Revenues of the System of the Issuer. [The lien on the Net Revenues will be junior, inferior and subordinate to the rights of Bay County to collect treatment and other fees under the Treatment Contract, the holders of revenue bonds to finance the pump station and interception lines to Tyndall Air Force Base and a lien on the water system revenue subject to a first and second lien held by GECC.] No holder of any Bond issued hereunder shall ever have the right to compel the exercise of any ad valorem taxing power, to pay such Bond, the cost of operating and maintaining the System, or be entitled to payment of such Bond from any funds of the Issuer except from the Net Revenues derived from the operation of the System in the manner provided herein.

3.02. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all of the Bonds issued hereunder shall be secured forthwith equally and ratably by a pledge of and a lien upon the Net Revenues derived from the operation of the System, as now or hereafter constituted. [The lien on the Net Revenues will be junior, inferior and subordinate to the rights of Bay County to collect treatment and other fees under the Treatment Contract, the holders of revenue bonds to finance the pump station and

interception lines to Tyndall Air Force Base and a lien on the water system revenue subject to a first and second lien held by GECC.] The Issuer does hereby irrevocably pledge such funds to the payment of the principal of and interest on the Bonds issued pursuant to this Ordinance, and to the payment therefrom into the Sinking Fund, as hereinafter defined, at the times provided of the sums required to secure to the holders of the Bonds issued hereunder the payment of the principal of and interest thereon at the respective maturities of the Bonds so held by them. The Net Revenues shall immediately be subject to the lien of this pledge without any physical delivery thereof or further act, and the lien of this pledge shall be valid and binding as against all parties having claim of any kind in tort, contract or otherwise against the Issuer.

3.03. Application of Bond Proceeds. The Issuer hereby covenants that it will establish with a depository in the State of Florida, which is a member of the Federal Deposit Insurance Corporation and which is eligible under the laws of the State of Florida to receive municipal funds, a separate account or accounts (herein collectively called the "Construction Account") into which shall be deposited the proceeds from the sale of the Bonds herein authorized (except such portion thereof as shall be necessary to pay interest on the Bonds during the construction of the Project, which shall be deposited to the Sinking Fund) required to assure payment in full of the cost of the Project. Withdrawals from the Construction Account shall be made only for such purposes as shall have been

previously specified in the Project cost estimates and as shall be approved by the Consulting Engineers for the Project.

The Issuer's share of any liquidated damages or other moneys paid by defaulting contractors or their sureties, and all proceeds of insurance compensating for damages to the Project during the period of construction, shall be deposited in the Construction Account to assure completion of the Project.

Moneys in the Construction Account shall be secured by the depository bank in accordance with U.S. Treasury Department Circular 176 and in the manner prescribed by the Laws of the State of Florida relating to the securing of public funds. When the moneys on deposit in the Construction Account exceed the estimated disbursements on the account of the Project for the next 90 days, the Issuer may direct the depository bank to invest such excess funds in direct obligations of or obligations the principal of and interest on which are guaranteed by the United States of America, which shall be subject to redemption at any time at face value by the holder thereof. The earnings from any such investment shall be deposited in the Construction Account.

When the construction of the Project has been completed and all construction costs have been paid in full, all funds remaining in the Construction Account shall be deposited in the Sinking Fund hereinafter established, and the Construction Account shall be closed.

All moneys deposited in said Construction Account shall be and constitute a trust fund created for the purposes stated, and there

is hereby created a lien upon such fund in favor of the holders of the Bonds until the moneys thereof shall have been applied in accordance with this Ordinance.

3.04. Covenants of the Issuer. So long as any of the principal of or interest on any of the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Sinking Fund herein established, including the Reserve Account therein, a sum sufficient to pay, when due, the entire principal of the Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer covenants with the holders of any and all of the Bonds issued pursuant to this Ordinance, as follows:

(A) Annual Budget of Operating Expenses. The Issuer covenants and agrees that on or before the date of completion of construction of the Project, or the date of delivery of the Bonds to the purchasers thereof if the System shall then be revenue producing, it will adopt a budget of Operating Expenses for the System (the "Annual Budget") for the remainder of the then current Fiscal Year and thereafter, on or before the first day of each Fiscal Year during which any of the Bonds are outstanding, it will adopt an Annual Budget of Operating Expenses for the ensuing Fiscal Year, and will mail a copy of such budget or amendments thereto to any requesting holder of a Bond. The Issuer covenants that the Operating Expenses incurred in any year will not exceed the reasonable and necessary amounts required therefor, and that it will not expend any amount or incur any obligations for operations, maintenance and repair in excess of the amount provided for Operating



Expenses in the Annual Budget, except upon ordinance by its City Council that such expenses are necessary to operate and maintain the System.

(B) Revenue Fund. The Issuer covenants and agrees that as soon as the Bonds shall be delivered to the purchasers thereof, it will establish with a depository in the State of Florida, which is a member of the Federal Deposit Insurance Corporation and which is eligible under the laws of the State of Florida to receive municipal funds, and maintain so long as any of the Bonds are Outstanding, a special fund to be known as the "City of Mexico Beach Sewer Revenue Fund", hereinafter called the "Revenue Fund". Into such Revenue Fund the Issuer shall deposit promptly as received all Net Revenues derived from the operation of the System. The Revenue Fund shall be held by the Issuer separate and apart from all other funds and shall be expended and used only in the manner and order specified in paragraphs (C), (D) and (E) of this Section.

(C) Operation and Maintenance Fund. The Issuer hereby agrees to establish with a depository in the State of Florida, which is a member of the Federal Deposit Insurance Corporation, and which is eligible under the Laws of the State of Florida to receive municipal funds, a special fund to be known as the "City of Mexico Beach Sewer Operation and Maintenance Fund" which is to be used exclusively for the purpose of receiving funds to be transferred monthly by the Issuer from the Revenue Fund and for paying, as they accrue, the Operating Expenses of the System pursuant to the Annual

Budget or pursuant to ordinances by its City Council that such expenses are necessary to operate and maintain the System as provided for in 3.04(A) above. The Issuer shall transfer on or before the 15th day of each month from the Revenue Fund and deposit to the credit of the Operation and Maintenance Fund a sum sufficient to pay the Operating Expenses of the System for the current month, all in accordance with the Annual Budget or pursuant to ordinances as provided for herein. Any balance remaining in the Operation and Maintenance Fund at the end of the Fiscal Year and not required to pay costs incurred during said Fiscal Year shall be deposited promptly into the Revenue Fund.

(D) Revenue Bond and Interest Sinking Fund. The Issuer covenants and agrees that as soon as the Bonds are delivered to the purchasers thereof, it will establish with a depository in the State of Florida, which is a member of the Federal Deposit Insurance Corporation, and which is eligible under the laws of the State of Florida to receive municipal funds, and shall maintain so long as any of the Bonds are outstanding, a special fund or funds, collectively called the "City of Mexico Beach Sewer Revenue Bonds, Series 19\_\_, Bond and Interest Sinking Fund," hereinafter called the "Sinking Fund," to be used exclusively for the purposes hereinafter mentioned. After making the transfers required in paragraph (C), the Issuer shall transfer on or before the 15th day of each month from the Revenue Fund and deposit to the credit of the Sinking Fund the following amounts, in the following order:

(1) Beginning on the 15th day of the month following delivery of the Bonds, an equal pro rata sum sufficient to pay interest on the Bonds on the next ensuing interest payment date when taking into consideration the months remaining until such interest payment date, and the funds on deposit in the Sinking Fund for interest, if any. Thereafter, a sum equal to 1/12 of the amount of one year's interest on all the Bonds then Outstanding, together with the amount of any deficiency in prior deposits for interest; and

(2) Beginning on the 15th day of the month following delivery of the Bonds, an equal pro rata sum sufficient to pay principal due on the next ensuing principal payment date when taking into consideration the months remaining until such principal payment date, and the funds on deposit in the Sinking Fund for principal, if any. Thereafter, a sum equal to 1/12 of the principal of the Bonds maturing on the next succeeding anniversary date, together with the amount of any deficiency in prior deposits for principal.

(3) After fulfillment of the requirements of paragraphs (D)(1) and (2), the Issuer shall transfer on or before the 15th day of each month from the Revenue Fund and deposit to the credit of a special account in the Sinking Fund created pursuant to this Ordinance called the "Reserve Account", the sum of one-twelfth of one-tenth of the Maximum Bond Service Requirement until such time as the funds and investments therein shall equal the Maximum Bond Service Requirement, and monthly thereafter such amount as may be

necessary to maintain the Maximum Bond Service Requirement in the Reserve Account, but not exceeding one-twelfth of one-tenth of the Maximum Bond Service Requirement monthly. Moneys in the Reserve Account shall be used only for (1) paying the principal of and interest on the Bonds in the event that the moneys in the Sinking Fund shall ever be insufficient to meet such payments, (2) paying the cost of repairing or replacing any damage to the System which shall be caused by an unforeseen catastrophe, (3) constructing improvements or extensions to the System which shall increase its Net Revenues and which shall be approved by the Consulting Engineers, if the Issuer shall not then be in default under any of the provisions of this Ordinance, and (4) repaying governmental advances as provided in Section 3.04(U) of this Ordinance.

(E) Transfer of Excess Funds and Provisions for Deficiencies.

Subject to the provisions for the disposition of revenues in paragraphs (C) and (D), which are cumulative, the Issuer shall either (i) transfer on or before the 15th day of each month the balance of excess funds in the Revenue Fund to a special account hereby created and established, to be known as the "City of Mexico Beach Sewer Revenue Bonds Redemption Account", hereinafter referred to as the Redemption Account for prompt use in redeeming Bonds in inverse numerical and maturity order or acquiring Outstanding Bonds for retirement at not to exceed the price of par and accrued interest, subject to such minimum aggregate principal amount of Bonds that may be redeemed as may be specified by subsequent ordinance or resolution of the Issuer or (ii) use such excess funds

for any lawful purpose, including but not limited to making any payments required to be made pursuant to the Treatment Contract.

If at any time the funds on deposit in the Revenue Fund shall be insufficient to make any payment or deposit required by this Ordinance, the Issuer covenants and agrees that it will make such necessary deposit or payment from any other funds of the Issuer derived from sources other than ad valorem taxation and which may be legally available for such purpose. Provided, however, this covenant shall not be read to prohibit the use of such funds for any municipal purpose of the Issuer. Furthermore, this covenant shall not be deemed to be a pledge of or a lien on any legally available funds of the Issuer, other than the Net Revenues of the System.

(F) Trust Funds. The funds and accounts created and established by this Ordinance shall constitute trust funds for the purpose provided herein for such funds. All of such funds, except as hereinafter provided, shall be continuously secured in the same manner as municipal deposits of funds are required to be secured by the laws of the State of Florida. Moneys on deposit to the credit of the Reserve Account shall be invested by the depository bank, upon request by the Issuer, in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America and which shall be subject to redemption at face value at any time by the holder thereof at the option of such holder; and the moneys on deposit to the credit of the Sinking Fund, Revenue Fund, and moneys in the Redemption Account may be so

invested in such obligations which shall mature not later than fifteen (15) days prior to the date on which such moneys shall be needed to pay the principal of and interest on the Bonds in the manner herein provided. The securities so purchased as an investment of funds shall be deemed at all times to be a part of the account from which the said investment was withdrawn, and the interest accruing thereon and any profit realized therefrom shall be credited to such account, except as expressly provided in this Ordinance, and any loss resulting from such investment shall likewise be charged to said account.

(G) Rates and Charges. The Issuer covenants and agrees to maintain and collect, so long as any of the Bonds are outstanding, such schedule of rates and charges for the services and facilities of the System which will produce revenues which will be sufficient to pay the Operating Expenses of the System and which will be sufficient to provide for the payment of the principal and interest, reserve fund and all other funds and all other payments on all requirements for the Bonds herein authorized; and the Issuer covenants and agrees that so long as any of the Bonds are outstanding and unpaid, at the same time and in like manner that the Issuer prepares its Annual Budget of the Operating Expenses, the Issuer shall annually prepare an estimate of Net Revenues to be derived from the operation of the System for the ensuing Fiscal Year, and to the extent that said Net Revenues are insufficient to pay the debt service requirements on the Bonds during such ensuing year, build up and maintain the required reserve enumerated in paragraph

(D) and pay Operating Expenses, the Issuer shall from time to time revise the fees and rates charged for the use of the services and facilities of the System sufficiently to provide the funds required. Such rates, rentals, fees and charges will never be reduced so as to be insufficient to provide funds for such purposes.

(H) Issuance of Other Obligations.

(1) The Issuer covenants and agrees that in the event the cost of construction or completion of the Project shall exceed the dollar amount of Bonds herein authorized, it shall deposit into the Construction Account the amount of such excess out of funds available to it for such purpose, and the Issuer may provide such excess, and only such excess, through the issuance of parity bonds conforming to the requirements of paragraph (3) of this subsection; but except to complete the Project, it will not issue any other obligations payable from or secured by the Net Revenues of the System or any other security pledged to secure payment of the Bonds herein authorized, unless the conditions hereinafter set forth shall be met, or unless the lien of such obligations is junior and subordinate in all respects to the lien of the Bonds.

(2) The Issuer shall have the right to add wastewater facilities and related auxiliary facilities, by the issuance of one or more additional series of bonds to be secured by a parity lien on and ratably payable from the Net Revenues of the System and any other security pledged to these Bonds, provided in each instance that:

(a) The facility or facilities to be built from the proceeds of the additional parity bonds is or are made a part of the System or its or their revenues are pledged as additional security for the additional parity bonds and the outstanding Bonds.

(b) The Issuer is in compliance with all covenants and undertakings in connection with all of its Bonds then outstanding and payable from the revenues of the System or any part thereof and has not been in default as to any payments required to be made under this Ordinance for a period of at least the next preceding 24 months, or if at such time the Bonds shall have not been outstanding for 24 months then for the period that the Bonds have been outstanding.

(c) The annual Net Revenues for the Fiscal Year next preceding the issuance of additional parity bonds are certified by an independent public accountant employed by the Issuer, to have been equal to at least one and twenty hundredths (1.20) times the average annual requirements for principal and interest on all the Bonds then outstanding and payable from such pledged revenues, together with 100% of all amounts required to be paid by the Issuer under the ordinances and ordinances authorizing the Prior Bonds.

(d) The estimated average annual Net Revenues of the facility or facilities to be constructed and acquired with the proceeds of such additional bonds (and any other funds pledged as security), when added to the estimated future average



annual Net Revenues of the then existing System shall be at least one and twenty hundredths (1.20) times the average annual debt service requirements for principal and interest on all outstanding Bonds payable from the revenues of the System and on the additional Bonds proposed to be issued, together with 100% of all amounts required to be paid by the Issuer under the ordinances and ordinances authorizing the Prior Bonds. Estimates of future revenues and operating expenses shall be furnished by recognized independent consulting engineers and approved by the City Council of the Issuer and by the Mayor thereof, and shall be forecast over a period of not less than ten years from the date of the additional bonds proposed to be issued. Provided, however, the conditions provided by this paragraph and by the next preceding paragraph (c) may be waived or modified by the written consent of the holders of seventy-five percent (75%) of the Bonds then outstanding.

(3) Except to the extent provided in (4) below, the Issuer hereby covenants and agrees that in the event additional series of parity bonds are issued, it will provide that said parity bonds shall mature according to a schedule which most closely approximates equal annual installments of combined principal and interest payments for such parity bonds and all other bonds payable from the revenues of the System; and it will adjust the required deposits into and the maximum amount to be maintained in the Sinking Fund, including the Reserve Account therein, on the same

basis as hereinabove prescribed, to reflect the average annual debt service on the additional bonds; and it will make such additional bonds. If in any subsequently issued series of bonds secured by a parity lien on the revenues of the System it is provided that excess revenues shall be used to redeem bonds in advance of scheduled maturity, or if the Issuer at its option undertakes to redeem outstanding Bonds in advance of scheduled maturity, the Issuer covenants that calls of bonds will be applied to each series of bonds on an equal pro rata basis (reflecting the proportion of the original amount of each series of Bonds outstanding at the time of such call) to the extent that this may be accomplished in accordance with the call provisions of the respective bond series, but the Issuer shall have the right to call any or all outstanding Bonds which may be called at par prior to calling any bonds that are callable at a premium.

(4) Notwithstanding the foregoing, or any provision of the Ordinance to the contrary, the Issuer may enter into one or more loan agreements with the City of Gulf Breeze, Florida providing for the borrowing of funds from the City of Gulf Breeze, Florida Variable Rate Demand Revenue Bonds, Series 1995A, provided (i) the holder of the Bonds has consented in writing to the execution of such agreement or agreements.

(I) Disposal of Facilities. The Issuer covenants and agrees that, so long as any of the Bonds are outstanding, it will maintain its corporate identity and existence and will not sell or otherwise dispose of any of the System facilities or any part thereof, and,

except as provided for above, it will not create or permit to be created any charge or lien on the revenues thereof ranking equal to or prior to the charge or lien of these Bonds. Notwithstanding the foregoing, the Issuer may at any time permanently abandon the use of, or sell at fair market value, any of its System facilities, provided that:

(1) It is in compliance with all covenants and undertakings in connection with all of its Bonds then outstanding and payable from the revenues of the System, and the debt service reserve for such bonds has been fully established;

(2) It will, in the event of sale, apply the proceeds to either (a) redemption of outstanding Bonds in accordance with the provisions governing repayment of Bonds in advance of maturity, or (b) replacement of the facility so disposed of by another facility the revenues of which shall be incorporated into the System as hereinbefore provided;

(3) It has certified, prior to any abandonment of use, that the facility to be abandoned is no longer economically feasible of producing Net Revenues; and

(4) It has certified that the estimated Net Revenues of the remaining System facilities for the next succeeding Fiscal Year, plus the estimated Gross Revenues of the facility, if any, to be added to the System, satisfy the earnings test hereinbefore provided in this subsection governing issuance of additional parity bonds.

(J) Insurance on System. While any of the Bonds shall remain outstanding, the Issuer shall carry at least the following insurance coverage:

(1) Fire and extended coverage insurance on the insurable portions of the System in amounts sufficient to provide for not less than full recovery whenever a loss from perils insured against does not exceed eighty percent (80%) of the full insurable value of the damaged facility.

In the event of any damage to or destruction of any facility or facilities of the System, the Issuer shall deposit the insurance proceeds in the Reserve Account and promptly arrange for the application thereof to the repair or reconstruction of the damaged or destroyed portion thereof.

(2) Public liability insurance relating to the operation of the System, to the extent of any statutory waiver of sovereign immunity applicable to the Issuer from claims for bodily injury, death or either of such occurrences; and not less than \$10,000 against claims for damage to property of others which may arise from the Issuer's operation of the System.

(3) If the Issuer owns or operates a vehicle in the operation of the System, vehicular public liability and property damage insurance to the extent of any statutory waiver of sovereign immunity applicable to the Issuer to protect the Issuer from claims for bodily injury and death, and not less than \$10,000 against claims for damage to property of others which may arise from the Issuer's operation of vehicles.

(4) All such insurance shall be carried for the benefit of the holders of the Bonds. All moneys received for losses under any of such insurance, except public liability are hereby pledged by the Issuer as security for the Bonds herein authorized, until and unless such proceeds are used to remedy the loss or damage for which such proceeds are received, either by repairing the property damaged or replacing the property destroyed within ninety (90) days from the receipt of such proceeds.

(K) Maintenance of System. The Issuer will complete the construction of the Project as provided for in this Ordinance in an economical and efficient manner with all practicable dispatch, and thereafter will maintain the System in good condition and continuously operate the same in an efficient manner and at a reasonable cost.

(L) No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by its System nor will any preferential rates be established for users of the same class; and if the Issuer shall avail itself of the facilities or services provided by the System, or any part thereof, then the same rates, fees or charges applicable to other customers receiving like service under similar circumstances shall be charged to the Issuer. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds sufficient sums to pay such charges. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and

accounted for in the same manner as other revenues derived from such operation of the System.

(M) Failure of User to Pay for Services. Upon failure of any user to pay for services rendered within sixty (60) days, the Issuer shall shut off the connection of such user and shall not furnish him or permit him to receive from the System further service until all obligations owed by him to the Issuer on account of services shall have been paid in full. This covenant shall not, however, prevent the Issuer from causing any System connection to be shut off sooner.

(N) Enforcement of Collections. The Issuer will diligently enforce and collect the rates, fees and other charges for the services and facilities of the System, and will take all reasonable steps, actions and proceedings for the enforcement and collection of such rates, charges and fees as shall become delinquent to the full extent permitted or authorized by law, and will maintain accurate records with respect thereof. All such fees, rates, charges and revenues herein pledged shall, as collected, be held in trust to be applied as provided in this Ordinance and not otherwise.

(O) Compliance with Laws and Regulations. The Issuer covenants and agrees to perform and comply with, in every respect, any loan agreements relating hereto which it might have with the Government, or with any other governmental agency and all applicable State laws and regulations and to continually operate and maintain the System in good condition. All provisions of the

Letter of Conditions of the Government dated as of March 25, 1996, as amended and supplemented, are incorporated herein by reference as if fully set forth at length.

(P) Remedies. Any owner of the Bonds issued under the provisions hereof may either at law or in equity, by suit, action, mandamus or other proceedings in any court of competent jurisdiction, protect and enforce any and all rights, including the right to the appointment of a receiver, existing under the laws of the State of Florida, or granted and contained in this Ordinance, and may enforce and compel the performance of all duties required by this Ordinance or by any applicable State or Federal statutes to be performed by the Issuer or by any officer thereof.

Nothing herein, however, shall be construed to grant to any holder of such Bonds any lien on any real property of the Issuer.

(Q) Records and Audits. The Issuer shall keep books and records of the revenues of the System, which such books and records shall be kept separate and apart from all other books, records and accounts of the Issuer, and any owner of a Bond or Bonds issued pursuant to this Ordinance shall have the right to, at all reasonable times, inspect all records, accounts and data of the Issuer relating thereto.

So long as any of the Bonds shall be outstanding, the Issuer will furnish on or before one hundred eighty (180) days after the close of each Fiscal Year, to any Bond owner who shall request the same in writing, copies of an annual audit report prepared by an independent public accountant or an auditing official of the State

of Florida, covering for the preceding Fiscal Year, in reasonable detail, the financial condition and record of operation of the System and any other facilities the revenues of which are pledged to the payment of the Bonds.

(R) Connection with System. The Issuer will, to the full extent permitted by law, require all lands, buildings, residences and structures within its corporate limits which can use the facilities and services of the System to connect therewith and use the facilities and services thereof, and to cease the use of all other facilities. The Issuer will not grant a franchise for the operation of any competing wastewater system until all Bonds issued hereunder, together with interest thereon, shall have been paid in full.

(S) Fidelity Bond. The Issuer will require each employee who may have possession of money derived from the operation of the System to be covered by a fidelity bond written by a responsible indemnity company in an amount fully adequate to protect the Issuer from loss, all in compliance with the conditions imposed by the Government's Letter of Conditions.

(T) Government Approval of Extensions and Financing. Anything herein to the contrary notwithstanding, if the Government is the purchaser of any of the Bonds, the Issuer will not borrow any money from any source or enter into any contract or agreement or incur any other liability in connection with making extensions or improvements other than normal maintenance of the System, or make any substantial extensions or substantial enlargements of the



System, or permit others to do so, without obtaining the prior written consent of the Government, while the Government continues to own any of the Bonds.

(U) Reimbursement of Advances and Interest Thereon. While the Government shall be the owner of any of the Bonds, the Government shall have the right to make advances for the payment of insurance premiums and/or other advances which, in the opinion of the Government, may be required to protect the Government's security interest. In the event of any such advances, the Issuer covenants and agrees to repay the same, together with interest thereon at the same rate per annum as specified in the Bonds, upon demand made at any time after any such expenditure by the Government. Any such amounts due the Government shall be reimbursed from the Reserve Account and payments required by this Ordinance to be made to the Reserve Account shall be increased each month by 1/12 of the amount so advanced by the Government.

## ARTICLE IV

### MISCELLANEOUS PROVISIONS

4.01. Modification or Amendment. No material modification or amendment of this Ordinance, or of any ordinance amendatory hereof or supplemental hereto, may be made without the consent in writing of the owners of two-thirds or more in principal amount of the Bonds then outstanding; provided, however, that no modification or amendment shall permit a change in the maturity of such Bonds or a reduction in the rate of interest thereon, or in the amount of the principal obligation, or affect the unconditional promise of the Issuer to charge and collect such rates, fees and charges for the use of the services and facilities of the System and apply the same as herein provided, or reduce the number of such Bonds the written consent of the owners of which are required by this Section for such modifications or amendments, without the consent of the owners of all such Bonds.

4.02. Creation of Superior Liens. The Issuer covenants that it will not issue any other bonds, certificates or obligations of any kind or nature or create or cause or permit to be created any debt, lien, pledge, assignment or encumbrance or charge payable from or enjoying a lien upon the revenues of the System ranking prior and superior to the lien created by this Ordinance, for the benefit of the Bonds herein authorized.

4.03. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions of this Ordinance should be held contrary to any express provision of law or contrary to the

policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions of this Ordinance or of the Bonds issued hereunder.

4.04. Notes Authorized for Interim Financing. Pursuant to authority granted by Section 215.431, Florida Statutes, the Issuer is authorized to issue its negotiable notes from time to time for the purposes authorized by this Ordinance, and for the purpose of obtaining interim financing. Prior to the sale of the Bonds authorized by this Ordinance, the Issuer may issue its notes as hereafter provided and as provided in Section 215.431, Florida Statutes. The notes, if any, shall be issued only with the approval of the Government. Any such notes authorized by the Issuer shall be issued upon the adoption of an ordinance or resolution by the Issuer specifying the amount of notes to be issued, the maturity of such notes, the denomination, date and the rate of interest which shall be borne by such notes which shall not be at a rate greater than the highest rate authorized by law. Any such notes issued may be sold in the manner provided by Section 215.431, Florida Statutes.

4.05 Validation Authorized. The Issuer's Attorney is hereby authorized and directed to institute appropriate proceedings in the Circuit Court in and for Bay County, Florida, for the validation of said Bonds and the proper officers of the Issuer are hereby

authorized to verify on behalf of the Issuer the pleadings in such proceedings.

4.06. Bonds Authorized to be Sold at Public or Private Sale. The Bonds may be sold at public or private sale at such rate or rates of interest as shall be determined by the Issuer.

4.07. Conflicts Repealed. All provisions of the Charter of the Issuer and all ordinances and resolutions of the Issuer which are in conflict or inconsistent with this Ordinance are, to the extent of such conflict or inconsistency hereby repealed.

4.08. Tax Covenant. The Issuer covenants to the purchasers of the Bonds provided for in this Ordinance that the Issuer will not make any use of the proceeds of the Bonds at any time during the term of the Bonds which, if such use had been reasonably expected on the date the Bonds were issued, would have caused such bonds to be "arbitrage bonds" within the meaning of the Internal Revenue Code of 1986, as amended. The Issuer will comply with the requirements of the Code and any valid and applicable rule and regulations promulgated thereunder necessary to ensure the exclusion of interest on the Bonds from the gross income of the holders thereof for purposes of federal income taxation.

4.09. Defeasance. If, at any time, the Issuer shall have paid, or shall have made provision for payment of, the principal, interest and redemption premiums, if any, with respect to all the Bonds herein authorized, then, and in that event, the pledge of and lien on the funds pledged in favor of the owners of the Bonds shall be no longer in effect. For purposes of the preceding sentence,

deposit of sufficient cash and/or Federal Securities or bank certificates of deposit fully secured as to principal and interest by Federal Securities (or deposit of any other securities or investments which may be authorized by law from time to time and sufficient under such law to effect such a defeasance) in irrevocable trust with a banking institution or trust company, for the sole benefit of the owners of the Bonds in an aggregate principal amount which, together with interest to accrue thereon, will be sufficient to make timely payment of the principal of and redemption premiums, if any, and interest on the Bonds in accordance with their terms, the paying agents' fees and expenses with respect thereto and any other expenses occasioned by escrow arrangements or provision for redemption, shall be considered "provision for payment". Nothing herein shall be deemed to require the Issuer to call any Bonds for redemption prior to maturity pursuant to any applicable optional redemption provisions, or to impair the discretion of the Issuer in determining whether to exercise any such option for early redemption, except that if any of the Bonds shall be held by the Government, the Bonds shall be called for redemption as a whole within a period not exceeding six months from the date of such deposit, unless the Government shall agree otherwise in writing. Government held obligations will not be defeased.

4.10. Effective Date. This Ordinance shall take effect upon adoption by the City Council.

Enacted at a Special meeting of the City Council on the 17th day of February, 1997.

CITY COUNCIL OF THE CITY OF  
MEXICO BEACH, FLORIDA

(SEAL)

By: James H. Taylor  
Mayor Pro Tem

ATTEST:

Patricia L. Hutchinson  
Clerk

APPROVED AS TO FORM

Paul J. [Signature]  
City Attorney