

SUMMARY OF
ORDINANCE NO. 513

AN ORDINANCE OF THE CITY OF ROBERTS, IDAHO, AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF A PARITY LIEN WATER REVENUE BOND, SERIES 2003, IN THE PRINCIPAL AMOUNT OF \$600,000, FOR THE PURPOSE OF FINANCING THE CONSTRUCTION AND INSTALLATION OF IMPROVEMENTS TO THE DOMESTIC WATER SYSTEM OF THE CITY OF ROBERTS, JEFFERSON COUNTY, IDAHO; DESCRIBING THE BOND; PROVIDING FOR THE COLLECTION AND DISPOSITION OF REVENUES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BOND; ESTABLISHING FUNDS AND ACCOUNTS; PROVIDING COVENANTS RELATING TO THE BOND; PROVIDING FOR THE SALE OF THE BOND TO THE UNITED STATES OF AMERICA; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE

A summary of the principal provisions of Ordinance No. 513 of the City of Roberts, Jefferson County, Idaho, adopted on October 14, 2003, is as follows:

Section 1: Defines the terms and phrases used in the ordinance.

Section 2: Describes the water improvement project to be constructed with the proceeds of the Bond authorized by said Ordinance, and states that \$600,000 of the cost thereof is to be paid from the sale of the Bond of the City described in Section 3 and authorized at a special election held on August 6, 2002, and the balance of which is to be paid from grant funds and other legally available funds.

Section 3: Describes the City of Roberts Parity Lien Water Revenue Bond, Series 2003 (the "Bond"), and provides for the terms of payment and the maturity of the Bond.

Section 4: Provides for the manner and method of execution of the Bond.

Section 5: Provides for the place and manner of payment of the Bonds.

Section 6: Appoints the City Treasurer as Bond Registrar.

Section 7: Provides for the prepayment of the Bond.

Section 8: Provides for water rates and charges.

Section 9: Pledges the Net Revenues of the System for the payment of the Bond, on a parity with the City's outstanding Series 1989 Bonds.

Section 10: Establishes the "City of Roberts Water Project Capital Improvement Fund."

Section 11: Establishes the "City of Roberts Water Revenue Fund" and provides for use of revenues from the Water Revenue Account.

Section 12: Establishes the "City of Roberts Water and Sewer Revenue Bond Fund" and provides for deposits and payments into the Water Revenue Bond Account from water system revenues.

Section 13: Creates a special Water Bond Reserve Account within the Reserve Fund and provides for deposits into the Water Bond Reserve Account.

Section 14: Provides for the disposition of surplus funds.

Section 15: Establishes the conditions of and limitations on the issuance of additional bonds or other obligations.

Section 16: Provides for the investment of surplus funds.

Section 17: Provides certain general covenants of the City with the Registered Owner of the Bond.

Section 18: Provides certain special covenants of the City with respect to the exclusion of interest on the Bond from income taxation.

Section 19: Provides for method of amending the Ordinance and adopting supplemental ordinances.

Section 20: Recites that the Bond is issued pursuant to the Idaho Revenue Bond Act.

Section 21: Provides for remedies of the Registered Owner of the Bond.

Section 22: States that the Ordinance constitutes a contract with the Registered Owner of the Bond.

Section 23: Provides for severability.

Section 24: Repeals prior inconsistent ordinances, to the extent of any inconsistency.

Section 25: Provides for issuance of bond anticipation notes or other interim financing obligations.

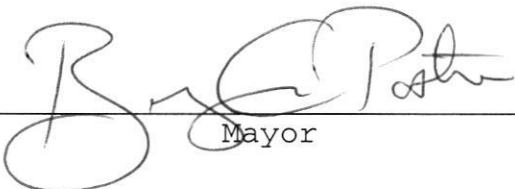
Section 26: Authorizes the Mayor, City Clerk, and City Treasurer to execute any additional documents necessary to sell and deliver the Bond.

Section 27: Provides for the publication of the Ordinance or a summary thereof and the effective date of the Ordinance.

The full text of Ordinance No. 513 is available at City Hall and will be provided to any citizen upon personal request during normal office hours.

DATED this 14th day of October, 2003.

CITY OF ROBERTS
Jefferson County, Idaho



Mayor

ATTEST:




City Clerk

ORDINANCE NO. 513

AN ORDINANCE OF THE CITY OF ROBERTS, IDAHO, AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF A PARITY LIEN WATER REVENUE BOND, SERIES 2003, IN THE PRINCIPAL AMOUNT OF \$600,000, FOR THE PURPOSE OF FINANCING THE CONSTRUCTION AND INSTALLATION OF IMPROVEMENTS TO THE DOMESTIC WATER SYSTEM OF THE CITY OF ROBERTS, JEFFERSON COUNTY, IDAHO; DESCRIBING THE BOND; PROVIDING FOR THE COLLECTION AND DISPOSITION OF REVENUES; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BOND; ESTABLISHING FUNDS AND ACCOUNTS; PROVIDING COVENANTS RELATING TO THE BOND; PROVIDING FOR THE SALE OF THE BOND TO THE UNITED STATES OF AMERICA; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Roberts, Jefferson County, Idaho (the "City"), is a municipal corporation organized and operating under the laws of the State of Idaho; and

WHEREAS, the City operates and maintains a domestic water system; and

WHEREAS, the City is authorized by the Constitution and laws of Idaho to issue revenue bonds to finance all or part of the cost of acquisition, construction, and installation of improvements and betterments to the domestic water system of the City; and

WHEREAS, the City Council (the "Council") of the City, by adoption of Ordinance No. 511 on June 11, 2002, ordered a special bond election to be held within the City on August 6, 2002, for the submission to the qualified electors of the City the question of whether or not the City should be authorized to issue its revenue bonds in the principal amount of not to exceed \$600,000 in order to provide funds for certain capital improvements to the City's domestic water system; and

WHEREAS, the requisite majority of the qualified electors of the City, at the special bond election of August 6, 2002, authorized the incurring of indebtedness and the issuance of revenue bonds in the amount of not to exceed \$600,000; and

WHEREAS, the Council heretofore, pursuant to Ordinance No. 481, adopted on May 2, 1989, authorized, issued, sold, and delivered the Water and Sewer Revenue Bonds, Series 1989, of the City, in the aggregate principal amount of \$180,000 (the "Series 1989 Bonds"), the payment of the principal of and interest on which bond is secured by a lien and pledge of the net revenues of the combined and consolidated domestic water and sanitary sewer system of the City, a portion of which Series 1989 Bonds remains outstanding; and

WHEREAS, Ordinance No. 481 authorizes the City to issue additional water and sewer bonds, payable from the net revenues of the City's combined and consolidated domestic water and sanitary sewer system on a parity of lien with the lien of the Series 1989 Bonds, upon compliance by the City with certain conditions; and

WHEREAS, the Council has determined that the public health, safety, and welfare will be furthered by the water improvement project described hereinafter and has further determined to issue water revenue bonds of the City, duly authorized by the electors of the City at the special bond election of August 6, 2002, in the aggregate principal amount of \$600,000 on a parity of lien with the Series 1989 Bonds; and

WHEREAS, Section 57-227, Idaho Code, authorizes the sale of water revenue bonds to the United States of America, at private sale in such manner as the Council may determine, and the Council has determined to issue its water revenue obligations in the form of a single, amortized water revenue bond in the aggregate principal amount of \$600,000 to the United States of America.

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

Section 1: DEFINITIONS

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

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

B. Additional Bonds means any bonds issued pursuant to Section 15 of this Ordinance.

C. Bond means the "City of Roberts Parity Lien Water Revenue Bond, Series 2003," herein authorized to be issued, sold, and delivered in the form of a single, fully registered, amortized revenue bond in the principal amount of \$600,000. The designation may be modified to reflect the actual year of issuance of the Bond.

D. Bond Fund means the "City of Roberts Water and Sewer Revenue Bond Fund" created by Ordinance No. 481, adopted on May 2, 1989, and referred to in Section 12 of this Ordinance, which shall include the Water Revenue Bond Account.

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

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

G. Capital Improvement Fund means the "City of Roberts Water Project Capital Improvement Fund" created by Section 10 of this Ordinance.

H. City means the City of Roberts, Jefferson County, Idaho.

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

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

(1) Preliminary expenses advanced by the City from funds available for the use therefore, or advanced by the Federal Government, or from any other source, with approval of the Council, or any combination thereof;

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

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

(4) The costs of contingencies;

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

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

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

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

K. Council means the City Council of the City.

L. Estimated Net Revenues means, for any year, the estimated Revenues of the System for such year less the estimated Operation and Maintenance Expenses for such year, based upon estimates prepared by the City Engineer or an independent engineer, or an independent certified public accountant. In computing Estimated Net Revenues, Revenues of the System may be adjusted as necessary to reflect any changed schedule of rates and charges.

M. Mayor means the Mayor of the City, or his/her successor in functions, if any.

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

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

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

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

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

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

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

(6) Contractual services, professional services, salaries, other administrative expenses, and the cost of materials, supplies, repairs, and labor, pertaining to the issuance of the Bond and to the ordinary operation of the System; and

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

P. Ordinance means this Ordinance No. 513, adopted on October 14, 2003.

Q. Project means the water system improvement project described in Section 2 of this Ordinance.

R. Registered Owner means the purchaser of the Bond and any subsequent transferee or purchaser of the Bond.

S. Reserve Fund means the "City of Roberts Water and Sewer Revenue Bond Debt Service Reserve Fund," created by Ordinance No. 481, adopted on May 2, 1989, and referred to in Section 13 of this Ordinance, which shall include the Water Bond Reserve Account.

T. Revenue Fund means the "City of Roberts Water and Sewer Revenue Fund" created by Ordinance No. 481, adopted on May 2, 1989, and referred to in Section 11 of this Ordinance, and which shall include the Water Revenue Account.

U. Revenue of the System means all revenues received by the City from its System and may include, at the discretion of the City, moneys derived from one, all, or any combination of revenue sources pertaining to the System, including, without limitation, rates, charges, rents, fees, and any other income derived from the operation or ownership of, the use of services of, or the availability of or services pertaining to, or otherwise derived in connection with, the System or all or any part of any property pertaining to the System.

V. Series 1989 Bonds means the City of Roberts Water and Sewer Revenue Bonds, Series 1989, issued in the initial aggregate principal amount of \$180,000 pursuant to Ordinance No. 481, adopted on May 2, 1989.

W. System, for purposes of this Ordinance, means the domestic water system of the City, as the same now exists, including its assets, real and personal, tangible and intangible, and as it may later be added to, extended, and improved, and shall include buildings, structures, utilities, or other income producing water facilities from the operation of or in connection with which the revenues of the payment of the Bond to be issued hereunder will be derived, and the lands pertaining thereto.

X. Treasurer means the Treasurer of the City, or his/her successor in functions, if any.

Y. Water Bond Reserve Account means the special account, within the Reserve Fund, created by Section 13 of this Ordinance.

Z. Water Revenue Account means the special account, within the Revenue Fund, created by Section 11 of this Ordinance.

AA. Water Revenue Bond Account means the special account, within the Bond Fund, created by Section 12 of this Ordinance.

Section 2: THE PROJECT

A. Project Description. The water improvement project consists of the acquisition, construction, and installation of certain capital improvements and betterments to the City's domestic water system, consisting generally of, but not limited to, new distribution pipelines, valves, fire hydrants, meters, associated street repair, 300,000 gallon concrete storage reservoir, booster pumping station, and related improvements, together with costs of engineering, legal, accounting, and other necessary professional services, costs of bond issuance, interest on borrowed funds during construction, and related costs (the "Project").

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

C. Costs. The total estimated cost of the Project is \$1,700,000. \$600,000 of the cost and expenses of construction and installation of the Project will be paid from the issuance and sale of the Bond, hereinafter defined, authorized to be issued at a special election held within said City on August 6, 2002. Any balance will be realized from other legally available funds, including grant and loan funds.

Section 3: THE BOND

The Bond, designated "City of Roberts Parity Lien Water Revenue Bond, Series 2003" (the "Bond"), in the aggregate principal amount of \$600,000, is hereby authorized to be issued, sold, and delivered pursuant to the Revenue Bond Act of the State of Idaho, the same being Sections 50-1027 through 50-1042, Idaho Code, and pursuant to Section 57-227 and Title 57, Chapter 9, Idaho Code. The designation of the Bond is hereby authorized to be modified to accurately reflect the year it is delivered.

The Bond shall consist of a single, transferable, amortized revenue bond, substantially in the form annexed hereto as Exhibit "A," shall be issued in fully registered form, shall be dated as of the date of its delivery, and shall bear interest on the unpaid balance, at the lower of the rate charged by the United States of America at the time of loan approval or at the time of loan closing.

The Bond shall be payable in equal annual installments of principal and interest, with the first installment of principal and interest being due one year from the date of delivery of the Bond, and annually thereafter until maturity. The final annual installment may be in such greater or lesser amount as is necessary to fully pay said Bond. The principal of and interest on the Bond shall be fully paid within thirty (30) years from its date.

The sale of the Bond to the United States of America (hereinafter the "Registered Owner"), is hereby authorized and approved. The Registered Owner thereof shall have the right, at its expense, to convert said single bond to fully registered serial bonds, without coupons.

In the event that the Bond is purchased by the United States of America, the City hereby agrees to comply with the requirements of the United States of America as contained in the letter dated August 14, 2002, and entitled "Loan and Grant Approval Conditions, City of Roberts Water System Improvement Project," and in the Form RUS Bulletin 1780-27, Loan Resolution, pertaining to the Project.

Section 4: EXECUTION

The Bond shall be executed by the manual signature of the Mayor, countersigned by the manual signature of the Treasurer, and attested by the manual signature of the City Clerk, and the seal of the City shall be impressed thereon.

Section 5: PLACE AND MANNER OF PAYMENT

Both principal of and interest on the Bond shall be payable in lawful money of the United States of America to the Registered Owner thereof, at the address of such Registered Owner as shown on the registration records of the City, or at such other address as shall be designated in writing to the City by the Registered Owner.

Section 6: BOND REGISTRAR

The Treasurer is hereby appointed as bond registrar, transfer agent and paying agent, and is herein referred to as the "Bond Registrar." The Bond Registrar shall keep, or cause to be

kept, sufficient books for the registration and transfer of the Bond. The Bond Registrar is authorized, on behalf of the City, to carry out all of the Bond Registrar's powers and duties under this Ordinance.

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

This Section is intended to provide the system of registration required by Chapter 9, Title 57, Idaho Code.

Section 7: PREPAYMENT; NO DEFEASANCE

The City reserves the right, at its option, to prepay, on any principal payment date, the principal amount outstanding on the Bond, in whole or in part. Partial prepayments shall be made in the amount of \$1,000 or multiples thereof. No partial prepayment shall extend or postpone the due date of any subsequent installment. Prepayments shall be made without penalty. Notice of any intended prepayment shall be mailed by certified mail to the Registered Owner of the Bond at its address appearing on the Bond Register, at least thirty (30) days prior to the prepayment date.

So long as the Bond is held by the United States of America as Registered Owner, the Bond shall not be subject to defeasance prior to maturity, in whole or in part.

Section 8: CHARGES

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

Section 9: PLEDGE OF REVENUES

The Net Revenues of the System are hereby pledged for the payment of the Bond on a parity with the lien of the Series 1989

Bonds, and shall be used and applied in the order of priority provided in Section 11 of this Ordinance.

The City shall establish, revise, maintain, and collect charges sufficient, with other revenues received, after taking into consideration anticipated delinquencies, to provide Net Revenues equal to not less than 1.20 times the average annual debt service on the Bond, the Series 1989 Bonds, and any Additional Bonds issued in accordance with Section 15 of this Ordinance.

Section 10: THE CAPITAL IMPROVEMENT FUND

There is hereby created a special fund and account known as the "City of Roberts Water Project Capital Improvement Fund" (the "Capital Improvement Fund"), into which shall be deposited all of the proceeds of the sale of the Bond, to be used and applied for the payment of a portion of the cost and expense of the construction and installation of the Project, including the payment of the principal of and interest on all outstanding bond anticipation notes or other interim financing. Any interest earnings on moneys invested from the Capital Improvement Fund shall remain in and be used for the purposes of the Capital Improvement Fund. The City's share of any liquidated damages or other moneys paid by defaulting contractors or their sureties will be deposited into said Capital Improvement Fund to assure the completion of the Project.

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

Section 11: THE REVENUE FUND - WATER REVENUE ACCOUNT

There has heretofore been created a special fund, designated the "City of Roberts Water and Sewer Revenue Fund" (the "Revenue Fund"), which shall be maintained by the Treasurer and into which the Revenue of the System shall be deposited immediately upon its receipt.

A. There is hereby created, within the Revenue Fund, the "Water Revenue Account," which shall be maintained by the Treasurer and into which the Revenue of the System shall be deposited forthwith upon its receipt.

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

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

(2) Second Charge and Lien: The principal of and interest on the Bond, the Series 1989 Bonds, and any Additional Bonds, by payment into the Bond Fund, as provided in Section 12 of this Ordinance.

(3) Third Charge and Lien: To maintain the Water Bond Reserve Account within the Reserve Fund as provided by Section 13 of this Ordinance; and

(4) To administer surplus funds.

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

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

Section 12: THE BOND FUND - WATER REVENUE BOND ACCOUNT

There has heretofore been created, by Ordinance No. 481, adopted on May 2, 1989, a special fund, designated the "City of Roberts Water and Sewer Revenue Bond Fund" (the "Bond Fund"). There is hereby created within the Bond Fund a special account, designated the "Water Revenue Bond Account," into which shall be deposited, from Net Revenues of the System, in addition to the amounts to be deposited into the Bond Fund as required under Ordinance No. 481, the following amounts:

A. Such amounts, in approximately equal monthly installments from the Water Revenue Account, as will cause to be accumulated, not less than ten (10) days prior to each semiannual payment date, the amount sufficient to make each semiannual principal and interest payment on the Bond as the same becomes due. The moneys herein allocated shall be used solely to pay currently maturing installments of principal and interest on the Bond.

B. If the City for any reason shall fail to accumulate within the Water Revenue Bond Fund sufficient moneys to make the required semiannual principal and interest payment on the Bond as the same becomes due, then an amount equal to the deficiency shall be deposited into the Water Revenue Bond Fund, not less than ten (10) days prior to such payment date, from the Water Bond Reserve Account of the Reserve Fund, described hereinafter.

Section 13: DEBT SERVICE RESERVE FUND - WATER BOND RESERVE ACCOUNT

A. Deposits. There has heretofore been created, by Ordinance No. 481, adopted on May 2, 1989, a special fund known as the "City of Roberts Water and Sewer Revenue Bond Debt Service Reserve Fund" (the "Reserve Fund"), which shall be maintained by the Treasurer so long as the Bond remains outstanding. There is hereby created, within the Reserve Fund, a special account designated the "Water Bond Reserve Account," which shall be maintained by the Treasurer so long as the Bond remains outstanding. In addition to any deposits required by Ordinance No. 481, there shall be deposited into the Water Bond Reserve Account, within one year from the date of issuance of the Bond, from Net Revenues, an amount equal to one-tenth of an annual payment of principal and interest on the Bond, and a like sum shall be deposited therein from Net Revenues on each anniversary date of the Bond thereafter, during the life of the Bond. The sum so accumulated shall be maintained as a debt service reserve fund for the Bond, or any serial bonds to which the Bond may be converted, until the Bond or serial bonds have been paid in full. The City shall establish such Accounts within the Water Bond Reserve Account, and shall comply with such restrictions on the investment of moneys in such Accounts, as may be required by the Tax Certificate executed by the City at the time of the delivery of the Bond.

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

C. Refunding. In the event refunding bonds are ever issued, the amount set aside into the Water Bond Reserve Account to secure the payment of the Bond may be used to retire bonds or may be held in the Reserve Fund to secure payment of the refunding bonds issued, to refund the outstanding refunding bonds, or may be held in the Reserve Fund to secure the payment of any other issue or series of bonds payable out of the Bond Fund and issued on a parity with the Bond.

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

any such investment shall be deposited, directly as earned, into the Bond Fund.

Section 14: SURPLUS FUNDS

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

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

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

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

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

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

F. For any other lawful purpose.

Section 15: ADDITIONAL BONDS OR OTHER OBLIGATIONS

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

(1) Any consent required by the Loan and Grant Approval Conditions and Loan Resolution referred to in Section 3 of this Ordinance shall have been obtained.

(2) The principal of and interest on the Additional Bonds shall be payable from the Bond Fund and further secured by the Reserve Fund, the Reserve Requirement for which shall be increased in proportion to the principal amount of the Additional Bonds being issued.

(3) Prior to the delivery of any Additional Bonds, the City shall have on file at the office of the City Clerk a

certificate of a licensed professional engineer, who may be the City engineer, or a certificate of an independent certified public accountant, dated prior to the authorization of such Additional Bonds, showing that the Estimated Net Revenues, determined and adjusted as hereafter provided, for each fiscal year after the issuance of such Additional Bonds, will equal at least 1.20 times the amount required for the payment of the average annual principal of and interest on the Bond, the Series 1989 Bonds, and any Additional Bonds then outstanding, plus the Additional Bonds proposed to be issued. In addition, so long as the Bond is outstanding, the City shall, prior to the issuance of the Additional Bonds, have on file a written certificate of a licensed professional engineer or independent certified public accountant showing that the Net Revenues for the fiscal year immediately preceding the date of the ordinance authorizing the Additional Bonds have been sufficient to pay an amount representing 120% of the average annual principal and interest requirements on all outstanding water revenue bonds and the Additional Bonds to be proposed to be issued.

(4) In determining Estimated Net Revenues, the Net Revenues for the past twelve (12) consecutive months immediately preceding the year of the proposed Additional Bonds shall be adjusted by such engineer or accountant to take into consideration changes in Net Revenues estimated to occur under one or more of the following conditions for each year after delivery of the Additional Bonds for so long as the Bond, the Series 1989 Bonds, and any Additional Bonds, including the Additional Bonds to be issued, shall be outstanding:

- a. any increase or decrease in Net Revenues which would result if any change in rates or charges adopted prior to the date of such certificate and subsequent to the beginning of such twelve (12) month period had been in force during the full twelve (12) month period;
- b. any increase or decrease in Net Revenues estimated by such engineer or accountant to result from any additions, betterments, and improvements to and extension of any facilities of the System which (i) become fully operational during such twelve (12) month period, (ii) were under construction at the time of such certificate, or (iii) will be constructed from the proceeds of the Additional Bonds to be issued; and/or
- c. the additional Net Revenue which would have been received if any customers added to the System prior to the date of such certificate and

subsequent to the beginning of such twelve (12) month period were customers for the entire period.

(5) The foregoing limitations, or any of them, may be waived or modified by the written consent of the Registered Owner of the Bond.

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

C. Subordinate Lien Bonds. No provision of this Ordinance shall be deemed to limit or restrict the power of the City to issue bonds, notes or warrants, or to make pledges of the revenues which shall be subordinate as to the lien of the Bond and which shall provide for compliance with the current provisions hereof prior to the application of any funds to said subordinate purpose, provided that any consent required by the Loan and Grant Approval Conditions and Loan Resolution referred to in Section 3 of this Ordinance shall have been obtained.

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

Section 16: INVESTMENTS

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

Section 17: GENERAL COVENANTS

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

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

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

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

D. Corporate Status. It will maintain its status as a municipal corporation of the State of Idaho and will take no steps to disincorporate or otherwise change its corporate status.

E. Preserve Security. It will preserve and protect the security of the Bond and the rights of the Registered Owner thereof.

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

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

H. Pay Claims. It will pay and discharge any and all lawful claims for labor, materials, and supplies which, if unpaid, might by law become a lien or charge upon the Revenue of the System, or any part of said Revenue of the System, or any funds in the hands of the Treasurer, prior or superior to the lien of the Bond or which might impair the security of the Bond, to the end that the priority and security of the Bond shall be fully preserved and protected.

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

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

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

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

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

N. Delinquencies. It will not furnish water or sewer service to any customer whatsoever free of charge, and it shall not later than sixty (60) days after an account becomes delinquent, take such legal action as may be reasonable to enforce collection of any collectible delinquent account.

Section 18: SPECIAL COVENANTS

The City further covenants and agrees:

A. In accordance with Section 149(a) of the Internal Revenue Code of 1986, as amended (the "Code"), the Bond, and any serial bonds to which it may be converted, shall be issued and remain in fully registered form in order that interest thereon be excluded from gross income of the owner or owners for federal income tax purposes. The City covenants and agrees that it will take no action to permit the Bond, or any serial bonds to which it may be converted, to be issued in or converted to bearer or coupon form.

B. The Bond is hereby designated as a "qualified tax-exempt obligation" within the meaning and for the purposes of Section 265(b)(3) of the Code, and the City does not reasonably anticipate that it will designate more than \$10,000,000, including the Bond, as qualified tax-exempt obligations during the calendar year in which the Bond is issued.

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

carried on by a person other than a natural person. The City further covenants and agrees to take no action which would cause the Bond to be a "private activity bond," nor will it omit to take any action necessary to prevent the Bond from becoming a "private activity bond," within the meaning of Section 141 of the Code.

D. The City has general taxing powers. The Bond is not a "private activity bond" within the meaning of Section 141 of the Code. 95% or more of the net proceeds of the Bond is to be used for the local governmental activities of the City. The City has no subordinate entities. The City has not issued, and does not reasonably anticipate that it will issue, tax-exempt obligations in the calendar year in which the Bond is issued in a face amount which exceeds \$5,000,000. Accordingly, under Section 148(f)(4)(D) of the Code, the City is not required to pay rebates to the United States under Section 148(f) of the Code.

E. The Mayor, Clerk, and Treasurer, and other appropriate officials of the City, or any one or more of such officials, as may be appropriate, are each hereby authorized and directed to execute, on behalf of the City, such certificate or certificates as shall be necessary to establish that the Bond is not an "arbitrage bond" within the meaning of Section 148 of the Code and the Treasury Regulations promulgated thereunder, and to establish that interest on the Bond is not and will not become includable in the gross income of the owner(s) of the Bond under the Code and applicable regulations. The City covenants and agrees that no use will be made of the proceeds of the Bond, or any funds of the City which may, pursuant to Section 148 of the Code and applicable regulations, be deemed to be proceeds of the Bond, which would cause the Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code. The City further covenants to comply throughout the term of the Bond with the requirements of Section 148 of the Code and the regulations promulgated thereunder in order to prevent the Bond from becoming an "arbitrage bond."

F. The City will comply with the information reporting requirements of Section 149(e) of the Code.

G. None of the proceeds of the Bond will be used to reimburse the City for capital expenditures made prior to the date of delivery of the Bond unless the City, not later than 60 days after the payment of such expenditure, shall have adopted an official intent resolution as provided by Section 1.150-2 of the Treasury Regulations.

Section 19: AMENDMENTS

A. The City from time to time and at any time may adopt an ordinance or ordinances supplemental hereto, which ordinance or

ordinances thereafter shall become a part of this Ordinance, for any one or more of all of the following purposes:

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

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

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

B. With the consent of the Registered Owner of not less than 75% in aggregate principal amount of the Bond at the time outstanding, the Council may adopt an ordinance or ordinances supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Ordinance or of any supplemental ordinance; provided, however, that no such supplemental ordinance shall:

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

(2) Reduce the aforesaid percentage of the Registered Owner required to approve any such supplemental ordinance.

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

C. Upon the adoption of any supplemental ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, and obligations of the City under this Ordinance and the Registered Owner of the Bond outstanding

hereunder shall thereafter be determined, exercised, and enforced thereunder, subject in all respects to such modification and amendments, and all terms and conditions of any such supplemental ordinance shall be deemed to be part of the terms and conditions of this Ordinance for any and all purposes.

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

Section 20: VALIDITY OF ISSUANCE

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

Section 21: REGISTERED OWNER'S REMEDIES - RECEIVER

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

Section 22: ORDINANCE A CONTRACT

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

Section 23: SEVERABILITY

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

Section 24: REPEALER

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

Section 25: BOND ANTICIPATION NOTES

Pending the issuance and sale of the Bond, the City may, by resolution of the Council, authorize the issuance and sale of bond anticipation notes or other interim financing obligations in an aggregate amount which, together with interest to accrue thereon prior to issuance and sale of the Bond, shall not exceed \$600,000, to provide funds to pay the Cost of Project. Such bond anticipation notes or other interim financing obligations together with interest accrued thereon, shall be payable from the proceeds of the sale of the Bond.

Section 26: AUTHORIZATION

The Mayor, City Clerk, and City Treasurer, or any one of such officers, as may be appropriate to the circumstances, are hereby authorized to execute, on behalf of the City, all such additional documents as may be necessary to effect the sale and delivery of the Bond.

Section 27: PUBLICATION AND EFFECTIVE DATE


This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, substantially in the form annexed hereto as Exhibit "B," shall be published once in the official newspaper of the City, and shall take effect immediately upon passage, approval, and publication.

DATED this 14th day of October, 2003.

CITY OF ROBERTS
Jefferson County, Idaho

By 
Mayor

ATTEST:


City Clerk

(S E A L)

[Form of Bond]

UNITED STATES OF AMERICA

Registered
No. One

Registered
\$600,000.00

STATE OF IDAHO

COUNTY OF JEFFERSON

CITY OF ROBERTS

PARITY LIEN WATER REVENUE BOND, SERIES 2003

THE CITY OF ROBERTS, Jefferson County, Idaho (the "City"), for value received, promises to pay from the special fund hereinafter described and in the manner hereinafter set forth, and not otherwise, to the United States of America, as the registered owner hereof, the principal sum of

SIX HUNDRED THOUSAND AND 00/100 DOLLARS

(\$600,000), together with interest on the unpaid balance at the rate of _____ percent (____%) per annum. Said principal and interest shall be paid in equal annual installments of \$_____, with the first installment of principal and interest being due on _____, and annually on the same date of each year thereafter until maturity, with all principal of and interest on the Bond being fully paid within thirty (30) years from its date. The final annual installment may be in such greater or lesser amount as is necessary fully to pay the Bond.

This Bond shall be registered as to principal and interest in the name of the original owner and any subsequent owners in a registration book in the office of the City Treasurer, who shall be the Bond Registrar. This Bond is transferable only upon said book, by notation thereon, by the registered owner hereof in person or by its attorney duly authorized in writing.

Both principal of and interest on this Bond shall be payable in lawful money of the United States of America, to the registered owner. Any owner of this Bond subsequent to its original owner is hereby placed on notice of all payment of both principal of and interest on this Bond prior to its transfer to him and all subsequent owners hereof hereby acknowledge that they have ascertained the actual unpaid principal amount of this Bond as of the date of transfer to them and hereby release the City from all obligations as to all principal and interest paid by the City prior to such date.

The City has reserved the right, at its option, to prepay the principal amount outstanding, in whole or, in the manner hereinafter provided, in part, at any time this Bond is held by the United States of America or any subsequent transferee.

Prepayments shall be made on the date, at the place, and in the manner provided herein for making regularly scheduled installments, and partial prepayments shall be in the amount of \$1,000.00 or multiples thereof, plus accrued interest to the date of such prepayment. Any such prepayment shall be made without penalty, additional interest, or charges.

Notice of any such intended prepayment shall be mailed by registered mail to the registered owner of the Bond at the address appearing on the registration records of the City, or at such other address as designated in writing to the City by the registered owner, at least thirty (30) days prior to the prepayment date. Interest on this Bond shall cease to accrue as to the amount of principal being prepaid after the date fixed for prepayment if notice has been properly given and funds equal to the amount of prepayment have been deposited at the place of payment at that time.

This Bond, upon the surrender hereof at the office of the City Treasurer may, at the option of the registered owner and at its expense, be exchanged for serial bonds, without coupons, in registered form, in the aggregate principal amount then remaining unpaid, bearing the same interest rate, maturing annually in each of the remaining years of the original term of this Bond, and dated as of the year during which the surrender and exchange is effected. Serial bonds so issued shall be redeemable according to the provisions of Ordinance No. 513 of the City, adopted on October 14, 2003 (the "Bond Ordinance"), pursuant to which this Bond was issued.

This Bond is issued for the purpose of paying a portion of the cost of the construction and installation of improvements to the City's domestic water system (the "Project"), pursuant to the Idaho Revenue Bond Act (being Idaho Code Sections 50-1027 through 50-1042), and pursuant to Idaho Code, Title 57, Chapters 2 and 9, and also pursuant to the Bond Ordinance and a special election held within the City on August 6, 2002.

This Bond creates a lien and charge upon the Net Revenue of the City's domestic water System equal to the lien of the Series 1989 Bonds (as said capitalized terms are defined in the Bond Ordinance) and superior to all other charges of any kind and nature, except the charges necessary to pay the principal of and interest on any future parity bonds. This Bond is a limited obligation of the City and is payable as to principal and interest solely from a special fund, designated the Water Revenue Bond Account, created within the City of Roberts Water and Sewer

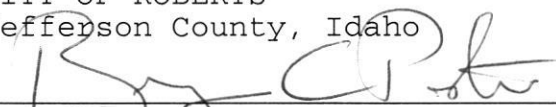
Revenue Bond Fund (the "Bond Fund"), created by the Bond Ordinance. For a more particular description of said Bond Fund, the revenues to be deposited therein, and the nature and extent of the security afforded thereby, reference is made to the provisions of the Bond Ordinance pursuant to which this Bond is issued, and such Bond Fund will be maintained.


This Bond does not now and shall never constitute an indebtedness of the City within the meaning of any State Constitutional provision or statutory limitation, nor a charge against the general credit or taxing powers of the City.

The City has covenanted with the registered owner of the Bond to keep and perform all covenants and agreements contained in the Bond Ordinance, and the City will establish, maintain, collect, and account for rates and charges for service furnished by or through the System, including all extensions and improvements thereto hereafter constructed or acquired by the City, sufficient to pay the principal of and interest on the Bond as they fall due, provided such rates must be reasonable rates for the type, kind, and character of the services rendered.

IT IS HEREBY CERTIFIED, RECITED, and DECLARED that all conditions, acts, and things essential to the validity of this Bond do exist, have happened, and have been done, and that every requirement of law affecting the issue hereof has been duly complied with; that the Net Revenues to be derived from the operation of the System, including any future improvements, additions, or extensions thereto, have been and are hereby pledged and will be set aside into the Bond Fund in amounts sufficient for the payment of principal of and interest on this Bond.


IN WITNESS WHEREOF, the City of Roberts, Jefferson County, Idaho, under its corporate seal, has caused this Bond to be signed in its corporate name by its Mayor, countersigned by the Treasurer thereof, and attested by the City Clerk, this 14th day of October, 2003.

CITY OF ROBERTS
Jefferson County, Idaho


Mayor


City Treasurer



ATTEST


City Clerk
(S E A L)

* * * * *

REGISTRATION CERTIFICATE

(No writing to be placed herein except by the Bond Registrar)

This Bond shall be payable only to the order of the registered owner or its legal representative.

| <u>Date of</u> <u>Registration</u> | <u>Name and Address of</u> <u>Registered Owner</u> | <u>Signature of</u> <u>Bond Registrar</u> |
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| | United States of America Department of Agriculture Finance Office 1520 Market Street St. Louis, MO 63103 | |
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