

ORDINANCE NO. 318

BE IT ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF BARLING, ARKANSAS (THE "CITY"), AN ORDINANCE REQUIRING THAT CERTAIN REVENUES DERIVED FROM THE OPERATION OF THE CITY'S WATER AND SEWER SYSTEM BE DIRECTED TOWARDS FUNDING A WATER AND SEWER CAPITAL IMPROVEMENT FUND.

WHEREAS, on October 26, 2004, the City adopted Ordinance No. 317 (the "Ordinance"), which authorized the issuance of up to \$5,000,000 in Water and Sewer Revenue and Refunding Bonds, Series 2004 (the "Bonds"); and

WHEREAS, based upon City financial records as of the date of the issuance of the Bonds, the City possessed revenues generated from the operation of its water and sewer facilities (the "Facilities") that are approximately 170% over and above all debt service and operations and maintenance costs associated with the Facilities; and

WHEREAS, the City desires to earmark certain revenues generated from the operation of the Facilities towards the funding of water and sewer capital improvement fund as set forth herein;

NOW, THEREFORE, BE IT ORDAINED, ENACTED AND RESOLVED by the City as follows:

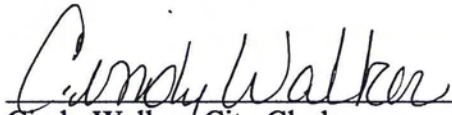
1. Beginning as of the first month after the City's receipt of each of its annual water and sewer financial audits, should the Facilities generate Revenues (defined below) as reflected in each annual audit that are equal to or greater than 130% of the debt service and operations and maintenance expenses associated with the Facilities (the "Cash Flow Coverage Test"), then the City shall pay into a specially designated fund entitled "Water and Sewer Capital Improvement Fund" the greater of (a) \$2,500 per month or (b) 3% of the gross monthly Revenues. As used herein, the term "Revenues" shall mean all sales and receipts received by the City from its sale of water and wastewater services before operations and maintenance expenses and water purchase costs and sewer fees paid. Should the City in any year fail to meet or exceed the Cash Flow Coverage Test, then the City shall be excused during said year from depositing funds into the Water and Sewer Capital Improvement Fund; provided, that the City's obligation to deposit such funds shall be renewed once the Cash Flow Coverage Test is subsequently met during subsequent years.
2. All money held in the Water and Sewer Capital Improvement Fund shall be deposited in Permitted Investments, as said term is defined in the Ordinance, and shall be used only to redeem prior to scheduled maturity any Bonds or other indebtedness that the City may incur in connection with its ownership,

improvement or expansion of the Facilities or to fund any future water or sewer improvements that the City might pursue.

3. **Permanent Nature of Ordinance.** It is acknowledged and understood that this Ordinance is being adopted in connection with the City's issuance and sale of its Water and Sewer Revenue Bonds, Series 2004 (the "Bonds"), and that the provisions of this Ordinance represent a material aspects associated with the issuance of the Bonds. Accordingly, this Ordinance is hereby deemed, considered, resolved and ordained to be permanent in nature and not subject to rescission or revocation so long as the Bonds remain outstanding.

This Ordinance was adopted by the City on this 9th day of November 2004.

CITY OF BARLING, ARKANSAS


Cindy Walker, City Clerk


Jerry Barling, Mayor

