

Town of Bath
Water Revenue Bonds, Series 2002 A
(West Virginia DWTRF Program)

Date of Closing: December 9, 2002



TOWN OF BATH
WATER REVENUE BONDS, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

Closing Date: December 9, 2002

TRANSCRIPT OF PROCEEDINGS

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The closing of the sale of the Town of Bath Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program) will take place at the office of the West Virginia Water Development Authority in Charleston, West Virginia, at 9:00 a.m., prevailing time on December 9, 2002. No transaction shall be deemed to have been completed and no documents shall be deemed to have been delivered unless or until all transactions are complete and all documents delivered.

Mayor
Susan J. Webster

Recorder
Mary Roeser

Public Utility Director
Thomas G. Hall



Town of Bath

271 Wilkes Street, Suite A
Berkeley Springs, WV 25111
(304) 258-1102

Council Members
Janet Culp
Dore Duncan
Dale Lutman
Dore Hall
John Bohrer

December 4, 2002

VIA FACSIMILE: 304-284-4142

Francesca Tan, Esquire
Jackson Kelly PLLC
P.O. Box 619
Morgantown, WV 26507

RE: Town of Bath Water Revenue Bonds, Series 2002 A
(West Virginia DWTRF Program)

Dear Ms. Tan:

Due to a delay in the receipt of the Final Order from the Public Service Commission of West Virginia and the resulting delay in the closing date of the above-captioned bonds (the "Bonds"), we hereby authorize Jackson Kelly PLLC to change the dates on all the documents signed by us in connection with the Bonds from December 6, 2002 to December 9, 2002.

Very truly yours

Susan J. Webster
Mayor

Mary Roeser
Recorder

Richard G. Gay
Richard G. Gay, Esquire
Counsel to Town of Bath

The Nations Oldest Health Spa
Since 1748

12-02: 9:05PM ; 304 258 9655: #

CITIZENS NATIONAL BANK

Valley Road Branch
PO Box 130
Berkeley Springs, WV 25411-0130
304 - 258 - 9650

PO Box 130
212 So. Washington St.
Berkeley Springs, WV 25411-0130
304 - 258 - 1520

Hedgesville Branch
PO Box 350
Hedgesville, WV 25427-0350
304 - 754 - 3600

December 4, 2002

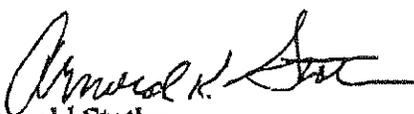
Via Fax: 304-284-4142
Francesca Tan, Esquire
Jackson Kelly PLLC
P.O. Box 619
Morgantown, WV 26507

Re: Town of Bath Water Revenue Bonds, Series 2002 A
(West Virginia DWTRF Program)

Dear Ms. Tan:

Due to a delay in the receipt of the Final Order from the Public Service commission of West Virginia and the resulting delay in the closing date of the above-captioned bonds (the "Bonds"), Citizens National Bank of Berkeley Springs hereby authorizes Jackson Kelly PLLC to change the dates on all the documents signed by us in connection with the Bonds from December 6, 2002 to December 9, 2002.

Very Truly yours,


Arnold Stotler
Vice President

State of West Virginia



Certificate

*I, Joe Manchin, III, Secretary of State of the
State of West Virginia, hereby certify that*

**THIS IS A TRUE COPY OF CHAPTER 8, ARTICLE 19, OF THE
WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS
OFFICE.**



*Given under my hand and the
Great Seal of the State of
West Virginia on*

November 15, 2002

IA

Secretary of State
Director of Personnel

ARTICLE 19.

MUNICIPAL AND COUNTY WATERWORKS AND
ELECTRIC POWER SYSTEMS.

**Part I. Municipal and County Water-
works and Electric Power Systems
Authorized; Definition.**

Sec.

8-19-1. Acquisition and operation of municipal and county waterworks and electric power systems; construction of improvements to municipal and county electric power systems; extension beyond corporate limits; definitions.

**Part II. Limitations on Sale or Lease of
Certain Municipal Waterworks.**

8-19-2. [Repealed.]

Part III. Right of Eminent Domain.

8-19-3. Right of eminent domain; limitations.

Part IV. Revenue Bond Financing.

8-19-4. Estimate of cost; ordinance or order for issuance of revenue bonds; interest on bonds; rates for services; exemption from taxation.

8-19-5. Publication of abstract of ordinance or order and notice; hearing.

8-19-6. Amount, negotiability and execution of bonds.

8-19-7. Bonds payable solely from revenues; not to constitute municipal or county indebtedness.

8-19-8. Lien of bondholders; deeds of trust; security agreements; priority of liens.

8-19-9. Covenants with bondholders.

8-19-10. Operating contract.

8-19-11. Rates or charges for water and electric power must be sufficient to pay bonds, etc.; disposition of surplus.

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8-19-12. Service charges; sinking fund; amount of bonds; additional bonds; surplus.

8-19-12a. Lien for delinquent service rates and charges; notice of delinquency; failure to cure delinquency; civil actions; deferral of filing fees and costs in magistrate court action; limitations with respect to foreclosure.

8-19-13. Discontinuance of water or electric power service for nonpayment of rates or charges.

8-19-14. Bonds for additions, betterments and improvements.

8-19-15. System of accounts; audit.

8-19-16. Protection and enforcement of rights of bondholders, etc.; receivership.

**Part V. Grants, Loans, Advances and
Agreements; Cumulative
Authority.**

8-19-17. Grants, loans, advances and agreements.

8-19-18. Additional and alternative method for constructing or improving and for financing waterworks or electric power system; cumulative authority.

**Part VI. Operation by Board;
Construction.**

8-19-19. Alternative procedure for acquisition, construction or improvement of waterworks or electric power system.

8-19-20. Article to be liberally construed.

8-19-21. Specifications for water mains and water service pipes.

Revision of chapter. — See note under the same catchline at the beginning of this chapter.

Revision of article. — Acts 1990, c. 141, amended and reenacted this article, substituting present §§ 8-19-1 to 8-19-20 for former §§ 8-19-1 to 8-19-12a, and 8-19-13 to 8-19-20 (enacted by Acts 1933, c. 26, §§ 1, 3-14 and amended by Acts 1933, 2nd Ex. Sess., c. 49; 1937, c. 52; 1939, c. 97, c. 98, § 10; 1949, c. 90; 1955, c. 133; 1961, cc. 104, 105; 1967, c. 105; 1969, c. 86; 1970, c. 7; 1971, c. 103; 1978, c. 72;

1980, c. 33; 1981, 1st Ex. Sess., c. 2; 1983, c. 151; 1984, c. 128; 1986, c. 118; 1986, 1st Ex. Sess., c. 18; 1989, c. 133). No detailed explanation of the changes made by the 1990 act was practicable, but, where appropriate, the historical citations to the former sections have been added to corresponding sections in the amended article.

Michie's Jurisprudence. — For general discussion of municipal waterworks, see 20 M.J., Water Companies and Waterworks.

Discretion. — Action under this article is discretionary with the municipality, and a discretionary act may not ordinarily be controlled by mandamus. *Hinkle v. Town of Franklin*, 118 W. Va. 585, 191 S.E. 291 (1937) (decided under prior law).

Legislative intent. — The purpose of this article is to allow a municipality to create a waterworks or electric power system. It is clear that the legislature desired that the municipality be allowed to borrow for the system so long as the municipality itself was not obligated for the debt. Allowing the municipality to make grants from time to time to its utility systems does not circumvent legislative intention provided that the municipality does not borrow the money to make the grant. *Op. Atty Gen.*, April

3, 1979 (decided under prior law).

It appears clear the legislature recognized the need for municipal utility systems; however, it did not wish the municipality to become generally obligated for the building or acquisition of the system. Financing is provided for primarily by revenue bonds, and bondholders are assured of a safe investment through the collection of sufficient user charges to service the bonds and maintain the assets of the system. *Op. Atty Gen.*, April 3, 1979 (decided under prior law).

Mandamus. — Mandamus does not lie to compel town to provide sufficient funds to pay for waterworks system. *Hinkle v. Town of Franklin*, 118 W. Va. 585, 191 S.E. 291 (1937) (decided under prior law).

PART I. MUNICIPAL AND COUNTY WATERWORKS AND ELECTRIC POWER SYSTEMS AUTHORIZED; DEFINITION.

§ 8-19-1. Acquisition and operation of municipal and county waterworks and electric power systems; construction of improvements to municipal and county electric power systems; extension beyond corporate limits; definitions.

(a) Subject to and in accordance with the provisions of this article, any municipality or county commission may acquire, construct, establish, extend, equip, repair, maintain and operate or lease to others for operation, a waterworks system or an electric power system or construct, maintain and operate additions, betterments and improvements to an existing waterworks system or an existing electric power system, notwithstanding any provision or limitation to the contrary in any other law or charter: Provided, That such municipality or county commission shall not serve or supply water facilities or electric power facilities or services within the corporate limits of any other municipality or county commission without the consent of the governing body of such other municipality or county commission.

(b) Any municipality or county commission which intends to file an application with the federal energy regulatory commission for a license to acquire, construct, establish, extend, maintain and operate, or lease to others for operation, an electric power system, shall give written notice by certified mail, return receipt requested, and shall give public notice by Class I legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code and the publication area shall be the municipality or county in which the system is to be located to the governing body of the municipality or the county commission in which such system is or shall be located or, if such system is or shall be located outside of a municipality or county, to the county commission of the county in which such system is or

shall be located, at least sixty days prior to the filing of such application: Provided, That the provisions of this subsection shall not apply to any municipality or county commission which, on the date of the passage of this act [Acts 1990, c. 141; March 10, 1990], has obtained a license from the federal energy regulatory commission to acquire, construct, establish, extend, maintain and operate, or lease to others for operation, an electric power system. If the municipality or county commission receiving such notice does not respond to the notice within sixty days of receipt of such notice, then such other municipality or the county commission shall be deemed to have consented to the application for the proposed electric power system. If such other municipality or the county commission notifies the municipality or county commission that it objects to the proposed electric power system, such other municipality or the county commission shall hold a public hearing on the proposed system within sixty days of receipt of such notice from the municipality or county commission.

(c) As used in this article:

(1) "Waterworks system" means a waterworks system in its entirety or any integral part thereof, including mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, pumping stations, intakes, wells, impounding reservoirs, pumps, machinery, purification plants, softening apparatus and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or to a water supply system.

(2) "Electric power system" means a system or facility which produces electric power in its entirety or provides for the distribution of electric power for local consumption and use or for distribution and resale or any combination thereof, or any integral part thereof, including, but not limited to, power lines and wires, power poles, guy wires, insulators, transformers, generators, cables, power line towers, voltage regulators, meters, power substations, machinery and all other facilities necessary, appropriate, useful or convenient or incidental in connection with or to an electric power supply system. (1933, Ex. Sess., c. 26, § 1; 1937, c. 52; 1939, c. 97; 1949, c. 90; 1955, c. 133; 1969, c. 86; 1978, c. 72; 1983, c. 151; 1986, c. 118; 1986, 1st Ex. Sess., c. 18; 1990, c. 141.)

Cross references. — Acquisition and operation of combined waterworks and sewerage systems, § 8-20-1 et seq.

ALR references. — Right to compel municipality to extend its water system, 48 ALR2d 1222.

PART II. LIMITATIONS ON SALE OR LEASE OF
CERTAIN MUNICIPAL WATERWORKS.

§ 8-19-2.

Repealed by Acts 1974, c. 78.

Editor's notes. — Former § 18-19-2, concerning limitations on sale or lease of certain municipal waterworks, was repealed by Acts 1974, c. 78.

PART III. RIGHT OF EMINENT DOMAIN.

§ 8-19-3. Right of eminent domain; limitations.

For the purpose of acquiring, constructing, establishing or extending any waterworks system or electric power system, or for the purpose of constructing any additions, betterments or improvements to any waterworks or electric power system, or for the purpose of acquiring any property necessary, appropriate, useful, convenient or incidental for or to any waterworks or electric power system, under the provisions of this article, the municipality or county commission shall have the right of eminent domain as provided in chapter fifty-four [§ 54-1-1 et seq.] of this code: Provided, That such right of eminent domain for the acquisition of a privately owned waterworks system, or electric power system, or any part thereof, shall not be exercised without prior approval of the public service commission, and in no event shall any municipality or county commission construct, establish or extend beyond the corporate limits of said municipality or county line a municipal or county waterworks or electric power system under the provisions of this article to supply service in competition with an existing privately or municipally or county owned waterworks or electric power system in such municipality or county or within the proposed extension of such system, unless a certificate of public convenience and necessity therefor shall have been issued by the public service commission: Provided, however, That a municipality or county commission may not exercise such right of eminent domain over a privately owned electric power system or any part thereof for the purpose of acquiring, constructing, establishing or extending an electric power system.

Subject to the provisions of this article and notwithstanding the provisions of section nineteen [§ 8-12-19], article twelve of this chapter to the contrary, a municipality or county commission may acquire, construct, establish, extend, equip, repair, maintain and operate, or lease to others for operation, electric generators or electric generating systems or electric transmission systems more than one mile beyond the corporate limits of such municipality or county line and said electric generation systems shall not be under the jurisdiction of the public service commission. (1933, Ex. Sess., c. 26, § 9; 1937, c. 52; 1969, c. 86; 1978, c. 72; 1983, c. 151; 1990, c. 141.)

Construction. — Statutes pertaining to eminent domain must be strictly construed. *City of Mullens v. Union Power Co.*, 122 W. Va. 179, 7 S.E.2d 870 (1940) (decided under prior law).

“Approval.” — The words “without prior approval of the public service commission” appearing in this section, are not substantially different from the words “unless the consent and approval of the public service commission of West Virginia is first obtained,” appearing in § 24-2-12. *Lockard v. City of Salem*, 127 W. Va. 237, 32 S.E.2d 568 (1944) (decided under prior law).

Eminent domain. — Nowhere in the statutes is a municipality or other corporate body politic authorized by statute, expressly or by necessary implication, to exercise the power of eminent domain for the acquisition of the property and assets of an operating utility as such, except the acquisition of privately owned waterworks systems, provided for by this section. *City of Mullens v. Union Power Co.*, 122 W. Va. 179, 7 S.E.2d 870 (1940) (decided under prior law).

PART IV. REVENUE BOND FINANCING.

§ 8-19-4. Estimate of cost; ordinance or order for issuance of revenue bonds; interest on bonds; rates for services; exemption from taxation.

Whenever a municipality or county commission shall, under the provisions of this article, determine to acquire, by purchase or otherwise, construct, establish, extend or equip a waterworks system or an electric power system, or to construct any additions, betterments or improvements to any waterworks or electric power system, it shall cause an estimate to be made of the cost thereof, and may, by ordinance or order, provide for the issuance of revenue bonds under the provisions of this article, which ordinance or order shall set forth a brief description of the contemplated undertaking, the estimated cost thereof, the amount, rate or rates of interest, the time and place of payment, and other details in connection with the issuance of the bonds. Such bonds shall be in such form and shall be negotiated and sold in such manner and upon such terms as the governing body of such municipality or county commission may by ordinance or order specify. All such bonds and the interest thereon shall be exempt from all taxation by this state, or any county, municipality or county commission, political subdivision or agency thereof. Notwithstanding any other provision of this code to the contrary, the real and personal property which a municipality or county has acquired and constructed according to the provisions of this article, and any leasehold interest therein held by other persons, shall be deemed public property and shall be exempt from taxation by the state, or any county, municipality or other levying body, so long as the same is owned by such municipality or county: Provided, That with respect to electric power systems, this exemption for real and personal property shall be applicable only for such real and personal property (1) physically situate within the municipal or county boundaries of the municipality or county which acquired or constructed such electric power system and there was in place prior to the effective date of the amendments to this section made in the year one thousand nine hundred ninety-two an agreement between the municipality and the county commission for payments in lieu of tax, or (2) acquired or constructed with the written agreement of the county school board, county commission and any municipal authority within whose jurisdiction the electric power system is or is to be physically situate. Notwithstanding anything contained in this statute to the contrary, this exemption shall be applicable to any leasehold or similar interest held by persons other than a municipality or county only if acquired or constructed with the written agreement of the county school board, county commission and any municipal authority within whose jurisdiction the electric power system is or is to be physically situate: Provided, however, That payments made to any county commission, county school board or municipality in lieu of tax pursuant to such an agreement shall be distributed as if the payments resulted from ad valorem property taxation. Such bonds shall bear interest at a rate per annum set by the municipality or county commission, payable at such times, and shall be payable as to principal

at such times, not exceeding fifty years from their date, and at such place or places, within or without the state, as shall be prescribed in the ordinance or order providing for their issuance. Unless the governing body of the municipality or county commission shall otherwise determine, such ordinance or order shall also declare that a statutory mortgage lien shall exist upon the property so to be acquired, constructed, established, extended or equipped, fix minimum rates or charges for water or electricity to be collected prior to the payment of all of said bonds and shall pledge the revenues derived from the waterworks or electric power system for the purpose of paying such bonds and interest thereon, which pledge shall definitely fix and determine the amount of revenues which shall be necessary to be set apart and applied to the payment of the principal of and interest upon the bonds and the proportion of the balance of such revenues, which are to be set aside as a proper and adequate depreciation account, and the remainder shall be set aside for the reasonable and proper maintenance and operation thereof. The rates or charges to be charged for the services from such waterworks or electric power system shall be sufficient at all times to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal thereof as and when the same become due, and reasonable reserves therefor, and to provide for the repair, maintenance and operation of the waterworks or electric power system, and to provide an adequate depreciation fund, and to make any other payments which shall be required or provided for in the ordinance or order authorizing the issuance of said bonds. (1933, Ex. Sess., c. 26, § 3; 1933, 2nd Ex. Sess., c. 49; 1955, c. 133; 1969, c. 86; 1970, c. 7; 1978, c. 72; 1980, c. 33; 1981, 1st Ex. Sess., c. 2; 1984, c. 128; 1986, 1st Ex. Sess., c. 18; 1990, c. 141; 1992, c. 147.)

Editor's notes. — This section refers to "the effective date of the amendments to this section made in the year one thousand nine hundred

ninety-two." Acts 1992, c. 147 provided that the amendments to this section, made in 1992, take effect July 1, 1992.

§ 8-19-5. Publication of abstract of ordinance or order and notice; hearing.

After the ordinance or order for any project under this article has been adopted, an abstract of the ordinance or order, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance or order, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be the municipality or county. The notice to be published with said abstract of the ordinance or order shall state that said ordinance or order has been adopted, that the municipality or county commission contemplates the issuance of the bonds described in the ordinance or order, that any person interested may appear before the governing body, upon a certain date, which shall be not less than ten days subsequent to the date of the first publication of such abstract and notice and which shall not be prior to the date of the last publication by such abstract and notice, and present protests, and that a certified copy of the ordinance or order is on file

with the governing body for review by interested parties during the office hours of the governing body. At such hearing all protests and suggestions shall be heard and the governing body shall take such action as it considers proper in the premises: Provided, That if at such hearing written protest is filed by thirty percent or more of the freeholders of the municipality or county, then the governing body of said municipality or county shall not take further action unless four fifths of the qualified members of said governing body assent thereto. (1933, Ex. Sess., c. 26, § 4; 1967, c. 105; 1969, c. 86; 1971, c. 103; 1981, 1st Ex. Sess., c. 2; 1990, c. 141.)

§ 8-19-6. Amount, negotiability and execution of bonds.

Bonds herein provided for shall be issued in such amounts as may be necessary to provide sufficient funds to pay all costs of acquisition, construction, establishment, extension or equipment, including engineering, legal and other expenses, together with interest to a date six months subsequent to the estimated date of completion. Bonds issued under the provisions of this article are hereby declared to be negotiable instruments, and the same shall be executed by the proper legally constituted authorities of the municipality or county commission, and be sealed with the corporate seal of the municipality or certified by the county commission, and in case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. All signatures on the bonds or coupons and the corporate seal may be mechanically reproduced if authorized in the ordinance or order authorizing the issuance of the bonds. (1933, Ex. Sess., c. 26, § 5; 1933, 2nd Ex. Sess., c. 49, § 5; 1969, c. 86; 1970, c. 7; 1980, c. 33; 1981, 1st Ex. Sess., c. 2; 1984, c. 128; 1990, c. 141.)

§ 8-19-7. Bonds payable solely from revenues; not to constitute municipal or county indebtedness.

Bonds issued under the provisions of this article shall be payable solely from the revenues derived from such waterworks or electric power system, and such bonds shall not in any event constitute an indebtedness of such municipality or county within the meaning of any constitutional or statutory provision or limitation, and it shall be plainly stated on the face of each bond that the same has been issued under the provisions of this article, and that it does not constitute an indebtedness of such municipality or county within constitutional or statutory provision or limitation. Subject to the provisions of subsection (b), section twelve [§ 8-19-12(b)]-of this article, the ordinance or order authorizing the issuance of the bonds may contain such covenants and restrictions upon the issuance of additional revenue bonds thereafter as may be considered necessary or advisable for the assurance of payment of the bonds thereby authorized and as may thereafter be issued. (1933, Ex. Sess., c. 26, § 6; 1933, 2nd Ex. Sess., c. 49; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

§ 8-19-8. Lien of bondholders; deeds of trust; security agreements; priority of liens.

Unless the governing body shall otherwise determine in the ordinance or order authorizing the issuance of bonds under this article, there shall be and there is hereby created and granted a statutory mortgage lien upon the waterworks or electric power system so acquired, constructed, established, equipped, extended or improved from the proceeds of bonds hereby authorized to be issued, which shall exist in favor of the holder of said bonds and each of them, and to and in favor of the holder of the coupons attached to said bonds, and such waterworks or electric power system shall remain subject to such statutory mortgage lien until payment in full of the principal of and interest upon said bonds.

Any municipality or county commission in acquiring an existing waterworks system or in improving an existing waterworks or electric power system may provide that financing therefor may be made by issuing revenue bonds and delivering the same at such prices as may be agreed upon within the limitations prescribed in section six [§ 8-19-6] of this article. Any revenue bonds so issued to provide financing for such existing waterworks or electric power system or for any improvements to an existing waterworks or electric power system may be secured by a mortgage or deed of trust upon and security interest in the property so acquired or improved or any other interest of the municipality or county commission in property related thereto as determined by the municipality or county commission in the ordinance or order authorizing the issuance of such revenue bonds; and in such event the holders thereof shall have, in addition to any other remedies and rights prescribed by this article, such remedies and rights as may now or hereafter exist in law in the case of mortgages or deeds of trust on real property and security interests in personal property. Such mortgage or deed of trust, upon its recordation, shall have priority over all other liens or encumbrances, however created or arising, on the property covered by such mortgage or deed of trust, to the same extent and for the same amount as if the municipality or county were obligated to pay the full amount secured by such mortgage or deed of trust immediately upon the recordation of such mortgage or deed of trust and remained so obligated until the obligations secured are fully discharged. (1933, Ex. Sess., c. 26, § 7; 1933, 2nd Ex. Sess., c. 49; 1969, c. 86; 1978, c. 72; 1986, 1st Ex. Sess., c. 18; 1990, c. 141.)

§ 8-19-9. Covenants with bondholders.

Any ordinance or order authorizing the issuance of bonds hereunder, or any trust indenture with any banking institution or trust company within or without the state for the security of said bonds, which any such municipality or county commission is hereby empowered and authorized to enter into and execute, may contain covenants with the holders of such bonds as to:

(a) The purpose or purposes to which the proceeds of sale of such bonds or the revenues derived from said waterworks or electric power system may be

applied and the securing, use and disposition thereof, including, if deemed desirable, the appointment of a trustee or depository for any of such funds;

(b) The pledging of all or any part of the revenues derived from the ownership, control or operation of such waterworks or electric power system, including any part thereof heretofore or hereafter acquired, constructed, established, extended or equipped or derived from any other sources, to the payment of the principal of or interest thereon of bonds issued hereunder and for such reserve or other funds as may be considered necessary or desirable;

(c) The fixing, establishing and collecting of such rates or charges for the use of the services and facilities of the waterworks or electric power system, including the parts thereof heretofore or hereafter acquired, constructed, established, extended or equipped and the revision of same from time to time, as will always provide revenues at least sufficient to provide for all expenses of repair, maintenance and operation of such waterworks or electric power system, the payment of the principal of and interest upon all bonds or other obligations payable from the revenues of such waterworks or electric power system, and all reserve and other funds required by the terms of the ordinance or order authorizing the issuance of such bonds;

(d) The transfer from the general funds of the municipality or county commission to the account or accounts of the waterworks or electric power system of an amount equal to the cost of furnishing the municipality or county commission or any of its departments, boards or agencies or the county commission with the services and facilities of such waterworks or electric power system;

(e) Subject to the provisions of subsection (b), section twelve [§ 8-19-12(b)] of this article, limitations or restrictions upon the issuance of additional bonds or other obligations payable from the revenues of such waterworks or electric power system, and the rank or priority, as to lien and source and security for payment from the revenues of such waterworks or electric power system, between bonds payable from such revenues;

(f) The manner and terms upon which all bonds and other obligations issued hereunder may be declared immediately due and payable upon the happening of a default in the payment of the principal of or interest thereon, or in the performance of any covenant or agreement with bondholders, and the manner and terms upon which such defaults may be declared cured and the acceleration of the maturity of such bonds rescinded and repealed;

(g) Budgets for the annual repair, maintenance and operation of such waterworks or electric power system and restrictions and limitations upon expenditures for such purposes, and the manner of adoption, modification, repeal or amendment thereof, including the approval of such budgets by consulting engineers designated by holders of bonds issued hereunder;

(h) The amounts of insurance to be maintained upon such waterworks or electric power system, or any part thereof, and the use and disposition of the proceeds of any insurance; and

(i) The keeping of books of account, relating to such undertakings and the audit and inspection thereof, and the furnishing to the holders of bonds issued hereunder or their representatives, reports prepared, certified or approved by accountants designated or approved by the holders of bonds issued hereunder.

Any such ordinance, order or trust indenture may also contain such other additional covenants as shall be considered necessary or desirable for the security of the holders of bonds issued hereunder, notwithstanding that such other covenants are not expressly enumerated above, it being the intention hereof to grant to municipalities or county commissions plenary power and authority to make any and all covenants or agreements necessary in order to secure greater marketability for bonds issued hereunder as fully and to the same extent as such covenants or agreements could be made by a private corporation rendering similar services and facilities and to grant to municipalities and counties full and complete power and authority to enter into any contracts, covenants or agreements with holders of bonds issued hereunder not inconsistent with the constitution of this state. (1955, c. 133; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

§ 8-19-10. Operating contract.

Any such municipality or county commission may enter into contracts or agreements with any persons for (1) the repair, maintenance and operation and management of the facilities and properties of said waterworks or electric power system, or any part thereof, or (2) the collection and disbursement of the income and revenues therefor, or for both (1) and (2), for such period of time and under such terms and conditions as shall be agreed upon between such municipality or county commission and such persons. Any such municipality or county commission shall have plenary power and authority to provide in the ordinance or order authorizing the issuance of bonds hereunder, or in any trust indenture securing such bonds, that such contracts or agreements shall be valid and binding upon the municipality and county commission as long as any of said bonds, or interest thereon, is outstanding and unpaid. (1955, c. 133; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

§ 8-19-11. Rates or charges for water and electric power must be sufficient to pay bonds, etc.; disposition of surplus.

Rates or charges for water or electric power fixed precedent to the issuance of bonds shall not be reduced until all of said bonds shall have been fully paid, and may, whenever necessary, be increased in amounts sufficient to provide for the payment of the principal of and interest upon such bonds, and to provide proper funds for the depreciation account and repair, maintenance and operation charges. If any surplus shall be accumulated in the repair, maintenance and operation fund which shall be in excess of the cost of repairing, maintaining and operating the waterworks or electric power system during the remainder of the fiscal year then current, and the cost of repairing, maintaining and operating the said waterworks or electric power system during the fiscal year then next ensuing, then any such excess may be transferred to either the depreciation account or to the bond and interest redemption account, and if any surplus shall be accumulated in the depreciation account over and

above that which the municipality or county commission shall find may be necessary for the probable replacements which may be needed during the then present fiscal year, and the next ensuing fiscal year, such excess may be transferred to the bond and interest redemption account, and, if any surplus shall exist in the bond and interest redemption account, the same shall be applied insofar as possible in the purchase or retirement of outstanding revenue bonds payable from such account. (1933, Ex. Sess., c. 26, § 8; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

§ 8-19-12. Service charges; sinking fund; amount of bonds; additional bonds; surplus.

(a) Every municipality or county commission issuing bonds under the provisions of this article shall thereafter, so long as any of such bonds remain outstanding, repair, maintain and operate its waterworks or electric power system as hereinafter provided and shall charge, collect and account for revenues therefrom as will be sufficient to pay all repair, maintenance and operation costs, provide a depreciation fund, retire the bonds and pay the interest requirements of the bonds as the same become due. The ordinance or order pursuant to which any such bonds are issued shall pledge the revenues derived from the waterworks or electric power system to the purposes aforesaid and shall definitely fix and determine the amount of revenues which shall be necessary and set apart in a special fund for the bond requirements. The amounts as and when so set apart into said special fund for the bond requirements shall be remitted to the West Virginia municipal bond commission to be retained and paid out by said commission consistent with the provisions of this article and the ordinance or order pursuant to which such bonds have been issued: Provided, That payment of principal of and interest on any bonds owned by the United States of America or any agency or department thereof may be made by the municipality or county commission directly to the United States of America or said agency or department thereof. The bonds hereby authorized shall be issued in such amounts as may be determined necessary to provide funds for the purpose for which they are authorized, and in determining the amount of bonds to be issued it shall be proper to include interest on the bonds for a period not beyond six months from the estimated date of completion.

(b) If the proceeds of the bonds, because of error or otherwise, shall be less than the cost of the property or undertaking for which authorized, additional bonds may be issued to provide the amount of such deficit and such additional bonds shall be considered to be of the same issue and shall be entitled to payment from the same fund without preference or priority over the bonds first authorized and issued.

(c) If the proceeds of the bonds shall exceed the cost of the property or undertaking, the surplus shall be converted into the fund thereon. (1933, Ex. Sess., c. 26, § 11; 1969, c. 86; 1978, c. 72; 1986, c. 118; 1990, c. 141.)

§ 8-19-12a. Lien for delinquent service rates and charges; notice of delinquency; failure to cure delinquency; civil actions; deferral of filing fees and costs in magistrate court action; limitations with respect to foreclosure.

(a) Whenever any rates and charges for water services or facilities furnished remain unpaid for a period of thirty days after the same become due and payable, the user of the services and facilities provided shall be delinquent and the user shall be held liable at law until such time as all such rates and charges are fully paid.

(b) All rates or charges for water service whenever delinquent, as provided by ordinance of the municipality, shall be liens of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes for the amount thereof upon the real property served, and the municipality shall have plenary power and authority from time to time to enforce such lien in a civil action to recover the money due for such services rendered plus court fees and costs and a reasonable attorney's fee: Provided, That an owner of real property may not be held liable for the delinquent rates or charges for services or facilities of a tenant, nor shall any lien attach to real property for the reason of delinquent rates or charges for services or facilities of a tenant of such real property, unless the owner has contracted directly with the municipality to purchase such services or facilities.

(c) Municipalities are hereby granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of the delinquent rates and charges. If the municipality collects the delinquent account, plus fees and costs, from its customer or other responsible party, the municipality shall pay to the magistrate court the filing fees or other fees and costs which were previously deferred.

(d) No municipality may foreclose upon the premises served by it for delinquent rates or charges for which a lien is authorized by this section except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county wherein the municipality lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the municipality had exhausted all other remedies for the collection of debts with respect to such delinquencies prior to the bringing of such action. In no event shall foreclosure procedures be instituted by any municipality or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought. (1989, c. 133; 1990, cc. 140, 141.)

Editor's notes. — This section was amended twice in 1990, first by c. 141 (passed March 10, and in effect from passage) and then by c. 140 (passed March 10, and effective 90 days from passage). The text set out above reflects the amendment by c. 140. As amended by c. 141, this section read: "(a) Whenever any rates and charges for water services or facilities furnished remain unpaid for a period of thirty days after the same become due and payable, the property and the owner thereof, as well as the user of the services and facilities provided, shall be delinquent and the owner, user and property shall be held liable at law until such time as all such rates and charges are fully paid: Provided, That in the event the user is a tenant, the property owner shall be given notice of any said delinquency by certified mail, return receipt requested, and the user shall be given such notice by first-class mail: Provided, however, That failure of the user to cure the delinquency within a thirty-day period after receipt of such notice shall constitute grounds to terminate the user's lease of the premises concerned.

"(b) All rates or charges for water service whenever delinquent, as provided by ordinance of the municipality or order of the county commission, shall be liens of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes for the amount thereof upon the real property served, and the municipality or county commission shall have plenary power and authority from time to time to enforce such lien in a civil action to recover the money due for such services rendered plus court fees and costs and a reasonable attorney's fee: Provided, That a municipality or

County commission shall have exhausted all remedies available against such delinquent users before it may proceed in a civil action against the owner.

"(c) Municipalities and county commissions are hereby granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of the delinquent rates and charges. If the municipality or county commission collects the delinquent account, plus fees and costs, from its customer or other responsible party, the municipality or county commission shall pay to the magistrate court the filing fees or other fees and costs which were previously deferred.

"(d) No municipality or county commission may foreclose upon the premises served by it for delinquent rates or charges for which a lien is authorized by this section except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county or the county wherein the municipality lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the municipality or county commission had exhausted all other remedies for the collection of debts with respect to such delinquencies prior to the bringing of such action. In no event shall foreclosure procedures be instituted by any municipality or county commission or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought."

§ 8-19-13. Discontinuance of water or electric power service for nonpayment of rates or charges.

Any such municipality or county commission shall also have plenary power and authority, and may covenant with the holders of any bonds issued hereunder, to shut off and discontinue the supplying of the water or electric power service of said waterworks or electric power system for the nonpayment of the rates or charges for said water or electric power service. (1955, c. 133; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

§ 8-19-14. Bonds for additions, betterments and improvements.

Whenever any municipality or county commission shall now or hereafter own and operate a waterworks or electric power system, whether acquired, constructed, established, extended or equipped under the provisions of this article or not, and shall desire to construct additions, betterments or improvements thereto, it may issue revenue bonds under the provisions of this article to pay for the same, and the procedure therefor, including the fixing of rates or charges and the computation of the amount thereof, and the power and authority in connection therewith, shall be the same as in this article provided for the issuance of bonds for the acquisition, construction, establishment, extension or equipment of a waterworks system or electric power system in a

municipality or county which has not heretofore owned and operated a waterworks or electric power system: Provided, That nothing in this article shall be construed as authorizing any municipality or county commission to impair or commit a breach of the obligation of any valid lien or contract created or entered into by it, the intention being to authorize the pledging, setting aside and segregation of such revenues for the construction of such additions, betterments or improvements only where and to the extent consistent with outstanding obligations of such municipality or county commission, and in accordance with the provisions of this article. (1933, Ex. Sess., c. 26, § 10; 1933, 2nd Ex. Sess., c. 49; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

§ 8-19-15. System of accounts; audit.

Any municipality or county commission operating a waterworks or electric power system under the provisions of this article shall set up and maintain a proper system of accounts in accordance with the requirements of the public service commission, showing the amount of revenues received from such waterworks or electric power system and the application of the same. At least once each year such municipality or county commission shall cause such accounts to be properly audited, and a report of such audit shall be open to the public for inspection at all reasonable times. (1939, c. 98, § 10; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

§ 8-19-16. Protection and enforcement of rights of bondholders, etc.; receivership.

Any holder of any bonds issued under the provisions of this article or of any coupons representing interest accrued thereon may by civil action, mandamus or other proper proceeding enforce the statutory mortgage lien created and granted in section eight of this article, protect and enforce any and all rights granted hereunder or under any such ordinance, order or trust indenture, and may enforce and compel performance of all duties required by the provisions of this article or by any such ordinance, order or trust indenture to be performed by the municipality or county commission, or by the governing body or any officer, including the making and collecting of reasonable and sufficient rates or charges for services rendered by the waterworks or electric power system. If there be default in the payment of the principal or interest upon any of such bonds, or of both principal and interest, any court having jurisdiction shall appoint a receiver to administer said waterworks or electric power system on behalf of the municipality or county commission, and the bondholders or trustee, or both, with power to charge and collect rates or charges sufficient to provide for the retirement of the bonds and pay the interest thereon, and for the payment of the repair, maintenance and operation expenses, and such receiver shall apply the revenues in conformity with the provisions of this article and the ordinance or order pursuant to which such bonds have been issued or any trust indenture, or both. (1933, Ex. Sess., c. 26, § 12; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

Rules of Civil Procedure. — As to receivers, see Rule 66.

PART V. GRANTS, LOANS, ADVANCES AND AGREEMENTS; CUMULATIVE
AUTHORITY.

§ 8-19-17. Grants, loans, advances and agreements.

As an alternative to, or in conjunction with, the issuance of revenue bonds authorized by this article, any municipality or county commission is hereby empowered and authorized to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, or otherwise enter into agreement, including, but not limited to, agreements of indemnity, assurance or guarantee with respect to, and for the purpose of financing part or all of, the cost of acquisition, construction, establishment, extension or equipment of waterworks or electric power systems and the construction of additions, betterments and improvements to existing waterworks systems or to existing electric power systems, and for the other purposes herein authorized, from or with any authorized agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, or the municipality's or county's financial obligations contained in such other agreements, which need not bear interest, may be repaid out of the proceeds of bonds authorized to be issued under the provisions of this article, the revenues of or proceeds from the said waterworks system or electric power system or grants to the municipality or county commission from any agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment, and may be secured in the manner provided in sections eight, nine and sixteen [§§ 8-19-8, 8-19-9 and 8-19-16] of this article to secure bonds issued under the provisions of this article, but shall not otherwise be subject to the requirements of sections eleven and twelve [§§ 8-19-11 and 8-19-12] of this article, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any agency of the state, the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual.

In no event shall any such loan or temporary advance or agreement be a general obligation of the municipality or county and such loans or temporary advances or agreements, including the interest thereon, shall be paid solely from the sources specified in this section. (1961, c. 105; 1969, c. 86; 1978, c. 72; 1981, 1st Ex. Sess., c. 2; 1986, c. 118; 1986, 1st Ex. Sess., c. 18; 1990, c. 141.)

County financing of municipality. — A Att'y Gen., Apr. 1, 1985, No. 6 (decided under county commission may finance the acquisition prior law).
of a waterworks system by a municipality. Op.

§ 8-19-18. Additional and alternative method for constructing or improving and for financing waterworks or electric power system; cumulative authority.

This article shall, without reference to any other statute or charter provision, be deemed full authority for the acquisition, construction, establishment, extension, equipment, additions, betterment, improvement, repair, maintenance and operation of or to a waterworks or electric power system or for the construction of any additions, betterments, improvements, repairs, maintenance or operation of or to an existing electric power system as herein provided and for the issuance and sale of the bonds or the alternative methods of financing by this article authorized, and shall be construed as an additional and alternative method therefor and for the financing thereof, and no petition, referendum or election or other or further proceeding with respect to any such undertaking or to the issuance or sale of bonds or the alternative methods of financing under the provisions of this article and no publication of any resolution, ordinance, order, notice or proceeding relating to any such undertaking or to the issuance or sale of such bonds or the alternative methods of financing shall be required, except as prescribed by this article, any provisions of other statutes of the state to the contrary notwithstanding: Provided, That all functions, powers and duties of the state division of health shall remain unaffected by this article.

This article shall be construed as cumulative authority for any undertaking herein authorized, and shall not be construed to repeal any existing laws with respect thereto. (1933, Ex. Sess., c. 26, § 13; 1969, c. 86; 1978, c. 72; 1986, 1st Ex. Sess., c. 18; 1990, c. 141.)

PART VI. OPERATION BY BOARD; CONSTRUCTION.

§ 8-19-19. Alternative procedure for acquisition, construction or improvement of waterworks or electric power system.

As an alternative to the procedures hereinabove provided, any municipality or county commission is hereby empowered and authorized to acquire, construct, establish, extend, equip, repair, maintain and operate a waterworks or an electric power system or to construct, maintain and operate additions, betterments and improvements to an existing waterworks system or an existing electric power system, whether acquired, constructed, established, extended or equipped under the provisions of this article or not, and to collect the revenues therefrom for the services rendered thereby, through the supervision and control of a committee, by whatever name called, composed of all or a portion of the governing body, or of a board or commission appointed by such

governing body, as may be provided by the governing body, and if such alternative is followed, said committee, board or commission shall have and be limited to all the powers, authority and duties granted to and imposed upon a board as provided in article sixteen [§ 8-16-1 et seq.] of this chapter. (1961, c. 104; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

§ 8-19-20. Article to be liberally construed.

This article is necessary for the public health, safety and welfare and shall be liberally construed to effectuate its purposes. (1933, Ex. Sess., c. 26, § 14; 1969, c. 86; 1990, c. 141.)

§ 8-19-21. Specifications for water mains and water service pipes.

Considering the importance of public fire protection, any state or local government, public service district, public or private utility which installs, constructs, maintains, or upgrades water mains, shall ensure that all new mains specifically intended to provide fire protection are supplied by mains which are not less than six inches in diameter. A permit or other written approval shall be obtained from the department of health and human resources for each hydrant or group of hydrants installed in compliance with section nine [§ 16-1-9], article one, chapter sixteen of the West Virginia code as amended: Provided, That all newly constructed water distribution systems transferred to a public or private utility shall have mains at least six inches in diameter where fire flows are desired or required by the public or private utility: Provided, however, That the utility providing service has sufficient hydraulic capacity as determined by the department of health and human resources. (1994, c. 31.)

ARTICLE 20.

COMBINED WATERWORKS AND SEWERAGE SYSTEMS.

Part I. Combined Waterworks and Sewerage Systems Authorized; Definitions.

- Sec. 8-20-1. Acquisition and operation of combined waterworks and sewerage systems; extension beyond corporate limits; definitions.
- 8-20-1a. Cooperation with other governmental units.
- 8-20-1b. Severance of combined system.

Part II. Right of Eminent Domain.

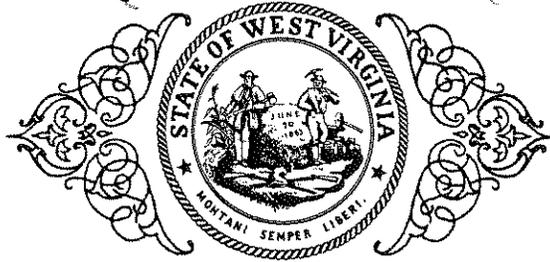
- 8-20-2. Right of eminent domain; limitations.

Part III. Revenue Bond Financing.

- 8-20-3. Ordinance describing project; contents.

- Sec. 8-20-4. Publication of abstract of ordinance and notice; hearing.
- 8-20-5. Amount, negotiability and execution of bonds; refund of outstanding obligations or securities by sale or exchange of bonds.
- 8-20-6. Bonds payable solely from revenues; not to constitute municipal indebtedness.
- 8-20-7. Lien of bondholders.
- 8-20-8. Covenants with bondholders.
- 8-20-9. Operating contract.
- 8-20-10. Power and authority of municipality to enact ordinances and make rules and regulations and fix rates or charges; change in rates or charges; failure to cure delinquency; delinquent rates

State of West Virginia



Certificate

*I, Joe Manchin, III, Secretary of State of the
State of West Virginia, hereby certify that*

**THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13C, OF THE
WEST VIRGINIA CODE, AND CHAPTER 16, ARTICLE 13C, OF THE
2002 CUMULATIVE SUPPLEMENT TO THE WEST VIRGINIA CODE,
AS INDICATED BY THE RECORDS OF THIS OFFICE.**



*Given under my hand and the
Great Seal of the State of
West Virginia on*

November 15, 2002

Joe Manchin III
Secretary of State
Debra M. Pearson

1B

shall thereupon be authorized and empowered to charge and collect from each person connected to the project such rates and charges customarily paid by customers of such utility or governmental agency for similar wastewater or water services. All such agreements shall have terms of duration equal to or greater than the period necessary for the cost of the project to be paid in full, and may otherwise contain such terms and conditions as may be mutually agreed to by the parties, and shall be presented as part of the application to the public service commission required by section ten (c) [§ 16-13B-10(c)] hereof.

(b) Immediately upon the final payment of all assessment fees due under all assessment certificates issued in connection with a wastewater or water project constructed within an assessment district, the assessment district shall transfer and convey all of its right, title and interest in and to such project to the utility or governmental agency providing wastewater or water services, as the case may be. (1992, c. 150.)

§ 16-13B-22. Liberal construction.

This article being necessary for the public health, safety and welfare, it shall be liberally construed to effectuate the purpose hereof. (1992, c. 150.)

ARTICLE 13C.

DRINKING WATER TREATMENT REVOLVING FUND ACT.

<p>Sec. 16-13C-1. Definitions. 16-13C-2. Designation of division of health as state instrumentality; rules; small systems; disadvantaged communities. 16-13C-3. Drinking water treatment revolv-</p>	<p>Sec. ing fund; duties of division of health and water development authority; set-aside accounts. 16-13C-4. Management of funds. 16-13C-5. Remedies to enforce payment. 16-13C-6. Construction of article.</p>
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§ 16-13C-1. Definitions.

Unless the context in which used clearly requires a different meaning, as used in this article:

- (1) "Authority" means the water development authority provided for in section four [§ 22C-1-4], article one, chapter twenty-two-c of this code.
- (2) "Capacity development" means the technical, managerial and financial capability of a public water system.
- (3) "Cost" means the cost of all labor, materials, machinery, equipment, lands, property, rights and easements, plans and specifications and all other expenses necessary or incident to the acquisition, construction, improvement, expansion, extension, repair or rehabilitation of all or part of a project.
- (4) "Disadvantaged community" means the service area of a public water system that meets affordability criteria established after public review and comment by the state.

(5) "Federal safe drinking water act" means the federal statute commonly known as the "Safe Drinking Water Act", 42 U.S.C. 300f et seq., as enacted, amended, and as may be subsequently amended.

(6) "Fund" means the West Virginia drinking water treatment revolving fund created in this article.

(7) "Instrumentality" means the division of health which has the primary responsibility for administering the fund and this article pursuant to requirements of the federal safe drinking water act.

(8) "Local entity" means any municipality, public utility, or person, including any individual, firm, partnership, association, not-for-profit corporation or other corporation organized and existing under the laws of the state which may construct and operate an eligible project.

(9) "Public water system" means that term as defined in section nine-a [§ 16-1-9a], article one, chapter sixteen of the code.

(10) "Project" means a project for improving a drinking water system for the purpose of achieving or maintaining compliance with applicable state and federal drinking water regulations.

(11) "Set-aside accounts" means those accounts that shall be set up for activities required by the federal Safe Drinking Water Act and the moneys for these accounts may be taken from the federal capitalization grant for these nonproject activities before the capitalization grant is deposited into the fund.

(12) "Small system" means a public water system serving ten thousand or fewer persons. (1997, c. 225; 1998, c. 170.)

§ 16-13C-2. Designation of division of health as state instrumentality; rules; small systems; disadvantaged communities.

(a) The division of health shall act as the instrumentality that is hereby empowered to enter into capitalization agreements with the United States Environmental Protection Agency, to accept capitalization grant awards made under the federal safe drinking water act, and to direct the administration and management of the drinking water treatment revolving fund created in this article in accordance with the requirements of federal law.

(b) The division of health shall propose rules for legislative approval in accordance with provisions of article three [§§ 29A-3-1 et seq.], chapter twenty-nine-a of the code for the purpose of effecting the administration of the provisions of this article. The rules shall include, but are not limited to, establishing requirements for: (1) Capacity development; (2) environmental review; (3) disadvantaged community designation; (4) receipt and disbursement of fund moneys; and (5) establishment of a drinking water treatment revolving fund program to direct the financial management of the fund to water systems and establish the interest rates and repayment terms of the loans.

(c) Two percent of the annual federal capitalization grants made to this state shall be utilized to provide technical assistance services for small systems to assist those systems in maintaining compliance with the federal safe

drinking water act. The division of health shall enter into contracts to provide technical assistance services for small systems with such nonprofit organizations that: (1) Have a membership that represent at least twenty-five percent of the small systems of this state; and (2) have at least five years experience in providing on-site technical assistance to small systems.

(d) The division of health shall, in accordance with the provisions of the federal safe drinking water act, establish a program for loan subsidies to disadvantaged communities. Thirty percent of the annual federal capitalization grants made to this state shall be dedicated to the funding of projects for disadvantaged communities. (1997, c. 225.)

§ 16-13C-3. Drinking water treatment revolving fund; duties of division of health and water development authority; set-aside accounts.

(a) There is continued in the office of the state treasurer a permanent and perpetual special fund to be known as the "West Virginia drinking water treatment revolving fund". The fund shall be administered and managed in accordance with the provisions of the federal Safe Drinking Water Act. The division of health may draw all or a portion of those moneys available under capitalization agreements and with the capitalization grant awards from the United States environmental protection agency under the federal Safe Drinking Water Act and to deposit such moneys into the fund and the set-aside accounts.

(b) The fund, less the set-aside account moneys, shall be administered and managed by the water development authority under the direction of the division of health. The fund shall be comprised of moneys appropriated to the fund by the Legislature, moneys allocated to the state by the federal government expressly for the purpose of establishing and maintaining a drinking water treatment revolving fund and set-aside accounts, all receipts from loans made from the fund, all income from the investment of moneys held in the fund, and all other sums designated for deposits to the fund from any source, public or private. Moneys in the fund shall be used solely to make loans or provide other allowable financial assistance to eligible projects for public water systems, as described in the federal Safe Drinking Water Act.

(c) In order to carry out the administration and management of the fund, the authority and the division of health are authorized to employ officers, employees, agents, advisors and consultants, including attorneys, financial advisors, engineers, other technical advisors and public accountants, and notwithstanding any provisions of this code to the contrary, to determine their duties and compensation without the approval of any other agency or instrumentality.

(d) The authority shall propose legislative rules for promulgation in accordance with the provisions of article three [§§ 29A-3-1 et seq.], chapter twenty-nine-a of this code to govern the pledge of loans to secure bonds of the authority.

(e) Disbursements from the fund shall be authorized for payment by the director of the authority or the director's designee. Moneys in the fund shall

not be commingled with other money of the authority. If not needed for immediate use or disbursement, moneys in the fund may be invested or reinvested by the authority in obligations or securities which are considered lawful investments for public funds under this code.

(f) Pursuant to the provisions of the federal Safe Drinking Water Act, set-aside accounts shall be set up in accounts separate from the drinking water treatment revolving fund. These set-aside accounts shall include, but not be limited to, administration costs, source water protection, operator training and certification, technical assistance to systems, local assistance, and other state activities permitted by the federal Safe Drinking Water Act. The division of health shall establish and administer the set-aside accounts as permitted by the federal Safe Drinking Water Act. An application fee may be charged and deposited into the administrative account to defray the cost of administering the program. (1997, c. 225; 1998, c. 170.)

§ 16-13C-4. Management of funds.

The authority shall manage the funds received pursuant to the provisions of this article for accounting purposes. The authority shall cause an audit of its books and accounts to be made at least once each fiscal year and the cost thereof may be defrayed as administrative expense under provisions of this article. The audit shall be conducted by a certified public accountant and provide an auditor's opinion on the fund financial statements, a report on the internal controls and a report prepared in compliance with the provisions of the drinking water treatment revolving fund. (1997, c. 225.)

§ 16-13C-5. Remedies to enforce payment.

(a) In order to ensure the timely payment of all sums due and owing to the fund under a revolving fund loan agreement made between the state and a local entity, and notwithstanding any provisions of this code to the contrary, the authority has and may, at its option, exercise the following rights and remedies in the event of any default by a local entity under a loan agreement:

(1) The authority may directly impose, in its own name and for its own benefit, service charges upon all users of a project funded by a loan distributed to a local entity pursuant to this article, and may proceed directly to enforce and collect the service charges, together with all necessary costs of the enforcement and collection.

(2) The authority may exercise, in its own name or in the name of and as the agent for a particular local entity, all of the rights, powers and remedies of the local entity with respect to the project or which may be conferred upon the local entity by statute, rule, regulation or judicial decision, including all rights and remedies with respect to users of the project funded by the loan distributed to that local entity pursuant to this article.

(3) The authority may, by civil action, mandamus or other judicial or administrative proceeding, compel performance by a local entity of all the terms and conditions of the loan agreement between the state and that local entity including:

- (A) The adjustment of service charges as required to repay the loan or otherwise satisfy the terms of the loan agreement;
 - (B) The enforcement and collection of service charges; and
 - (C) The enforcement by the local entity of all rights and remedies conferred by statute, rule, regulation or judicial decision.
- (b) The rights and remedies enumerated in this article are in addition to rights and remedies conferred upon the authority by law or pursuant to the loan agreement. (1997, c. 225.)

§ 16-13C-6. Construction of article.

The provisions of this article shall be liberally construed to the end that its beneficial purposes may be effected. Insofar as the provisions of this article are inconsistent with the provisions of any other general, special or local law, the provisions of this article are controlling. (1997, c. 225.)

ARTICLE 13D.

REGIONAL WATER AND WASTEWATER AUTHORITY ACT.

- | | |
|---|--|
| <p>Sec.
16-13D-1. Statement of purpose.
16-13D-2. Definitions.
16-13D-3. Joint exercise of powers by certain public agencies; agreements among agencies, contents; submission to public service commission; filing of agreement; prohibition against competition; retirement of bonds.
16-13D-4. Furnishing of funds, personnel or services by certain public agencies, agreements for purchase, sale, distribution, transmission, transportation and treatment of water or wastewater; terms and conditions.
16-13D-5. Declaration of authority organization, when quasi-governmental public corporation.
16-13D-6. Governing body; appointments; terms of members, voting rights.
16-13D-7. Meetings of governing body; annual audit.</p> | <p>Sec.
16-13D-8. Powers of governing body.
16-13D-9. Revenue bonds.
16-13D-10. Items included in cost of properties.
16-13D-11. Bonds may be secured by trust indenture.
16-13D-12. Sinking fund for revenue bonds.
16-13D-13. Collection, etc., of revenues and enforcement of covenants; default; suit, etc., by bondholder or trustee to compel performance of duties; appointment and powers of receiver.
16-13D-14. Statutory mortgage lien created; foreclosure thereof.
16-13D-15. Rates and charges.
16-13D-16. Refunding revenue bonds.
16-13D-17. Exemption of bonds from taxation.
16-13D-18. Bonds made legal investments.
16-13D-19. Invalidity of part.
16-13D-20. Article to be liberally construed.
16-13D-21. Citation of article.</p> |
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§ 16-13D-1. Statement of purpose.

It is the purpose of this article, to permit certain public agencies to make the most efficient use of their powers relating to public water supplies and the transportation and treatment of wastewater by enabling them to cooperate with other public agencies on a basis of mutual advantage and thereby to provide services and facilities to participating public agencies and to provide

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VOLUME 5A

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2002 SUPPLEMENT

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from any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument. (1958, c. 14; 1980, c. 60; 1981, c. 124; 1986, c. 118; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted “stormwater systems or stormwater management systems” and “stormwater system or associated stormwater management system”.

ARTICLE 13C.

DRINKING WATER TREATMENT REVOLVING FUND ACT.

§ 16-13C-2. Designation of division of health as state instrumentality; rules; small systems; disadvantaged communities.

Code of State Rules References. — Drinking water treatment revolving fund, 64CSR49, effective June 1, 1998. Public water systems capacity development, 64CSR61, effective May 14, 1999.

ARTICLE 19.

ANATOMICAL GIFT ACT.

Sec.

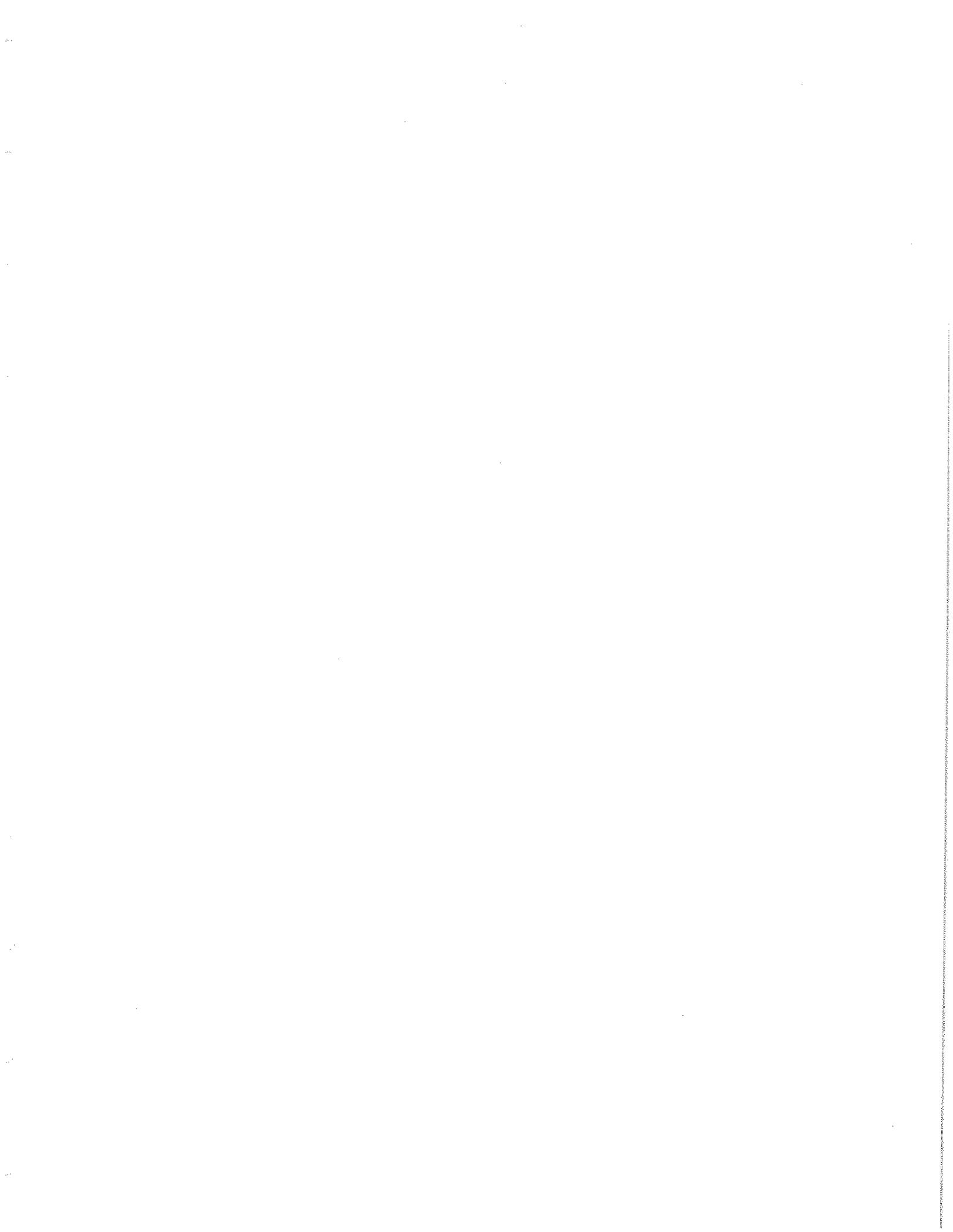
16-19-2. Making, amending, revoking, and refusing to make anatomical gifts by individual.

§ 16-19-2. Making, amending, revoking, and refusing to make anatomical gifts by individual.

(a) An individual who is at least eighteen years of age may:

- (1) Make an anatomical gift for any of the purposes stated in subsection (a), section six [16-19-6] of this article;
- (2) Limit an anatomical gift to one or more of those purposes; or
- (3) Refuse to make an anatomical gift.

(b) An anatomical gift may be made only by a document of gift signed by the donor. If the donor is unable to sign a document of gift and intends to make an anatomical gift, the document of gift must be signed by another individual and by two witnesses, all of whom have signed at the direction and in the presence of the donor and of each other, and state that it has been so signed.



ATTACHMENT #1

CHAPTER ONE HUNDRED AND SEVENTY THREE
OF THE ACTS OF THE LEGISLATURE OF 1872

An act to amend the charter of the town of Bath,
in the County of Morgan.

(Passed February 28, 1872.)

Be it enacted by the Legislature of West Virginia:

1. That the town of Bath, in the County of Morgan, as originally laid off into lots, streets and alleys, and as the same may hereafter be further laid off and extended into lots, streets and alleys, shall be and remain a town corporated by the name of the "Town of Bath", and as such shall have perpetual succession, and common seal, and by that name may sue and be sued, plead and be impleaded, contract, and be contracted with, and may purchase, take and hold real and personal estate needful for the purposes of the said corporation.
2. There shall be a mayor, recorder, and five councilmen, who together, shall form a common council.
3. All the corporate powers of the said town shall be exercised by the said council, or under their authority, except when otherwise provided.
4. The mayor, recorder, and common council must be residents in said town and entitled to vote for members of the common council. Their term of office shall be for one year, and until their successors shall have been duly elected and qualified.
5. The mayor, recorder, and councilmen shall be elected by the Citizens of the said Town, who may be qualified to vote under this act.
6. The first election under this act shall be held on the first Saturday in May, 1872, at the Court House in said town, under the supervision of any justice of Morgan County, and annually, thereafter, there shall be an election on the same day of each year, at such place, and under such supervision, rules, and regulations as the council may prescribe. The person conducting each election shall grant a certificate to the person elected, whose terms of office shall commence on the first day of June thereafter. All such elections shall be governed by the laws in force for the time being, so far as applicable, for the election of county officers. Whenever two or more persons shall receive an equal number of votes for the same office the person or persons under whose supervision the election was held shall decide by lot, which of them shall be returned elected, and shall make return accordingly. All contested elections shall be heard and determined by the council for the time being.
7. All persons resident in said town for three months next preceding the day of election, and qualified to vote for members of the legislature of this state, and none others, shall be entitled to vote for members of the said council.

8. Whenever a vacancy shall occur from any cause, in the office of mayor, recorder, or councilmen, the council for the time shall by a vote of majority of those present fill the vacancy for the unexpired term.

9. There shall be a sergeant, an assessor, and a commissioner of the streets of said town, who shall be appointed by the council thereof, and hold their offices during its pleasure. The sergeant shall be ex-officio treasurer of said town. The offices of the recorder and assessor may be held by the same person, or other wise, as the council may from time to time determine.

10. The mayor, recorder, and councilmen, and other officers provided for by this act, shall each before entering upon the duties of his office take and subscribe an oath that he will support the constitution of the United States, and the constitution of this state, and faithfully and impartially discharge the duties of his office so long as he shall continue therein. Said oath or affirmation may be taken before any person legally authorized to administer oaths, or before the mayor or recorder of said town.

11. The council shall be presided over by the mayor, or in his absence by the recorder or one of the councilman, selected by the council.

12. The council shall be caused to be kept in a well bound book, an accurate record of all its proceedings, by-laws, acts, orders and resolutions, which shall be fully indexed, and open to the inspection of the citizens of the town.

13. The proceedings of each meeting of the council shall be read and corrected, if erroneous, at the succeeding meeting, and signed by the person presiding for the time being.

14. Upon the call of any member of the council, the yeas and nays shall be called, upon any question, and recorded in the journal. The presiding officer may vote as a member of the council, and in all cases of a tie the person presiding shall give the casting vote.

15. The said council shall have power to re-survey said town, and for this purpose may employ a competent engineer, to open new streets, and extend widen and repair old streets; to curb and pave streets, side-walks and gutters, and to alter, improve and light the same, and shall have control of all the avenues for public use in said town, to have the same kept in good order and free from obstructions on or over them; to order and direct the paving and curbing of all side-walks and foot-ways for public use, in said town, to be done and kept in good order by the owners or occupants of the adjacent property; to establish and regulate markets, to prescribe the time for holding the same, and what articles shall be sold only therein; to prevent injury or annoyance to the public or individuals, from anything dangerous, offensive or unwholesome; to prevent hogs, cattle, horses and other animals, and fowls of every kind from going at large in said town; to protect places of divine worship; to cause be abated anything which in the opinion of a majority, of the whole council, shall be a nuisance; to regulate the keeping of gun-powder, and other combustibles; to provide for the burial of the dead, and for this purpose, may acquire and hold the necessary land for a cemetery, near, or convenient, to said town, and provide for its improvement and security; to provide for the regular building of houses and other structures in said town; to provide for shade and ornamental trees; to provide for the making of division fences and

the drainage of lots; to make regulations for guarding against danger and damage from fires; to protect the citizens and property of said town, and to preserve peace and good order therein, and for this purpose to appoint, when necessary, a police force, to assist the sergeant in the discharge of his duties; to prescribe the powers and define the duties of the officers appointed by the council, fix their time of service and compensation, require and take from them bonds, when deemed necessary, payable to the said town by its corporate name, with such sureties, and in such penalty, as the council shall see fit, conditioned for the faithful discharge of their duties, and remove them at pleasure; to erect or authorize, or prohibit, the erection of gas-works or water works in, or near said town; to provide for the purity of the water, and the healthfulness of the town; to regulate and provide for the weighing and measuring of hay, coal, wood and other articles sold, or for sale, in said town, and regulate the transportation thereof through the streets; to provide a revenue for the said town, and appropriate the same to its expenses; to provide for the annual assessment of the taxable persons and property in said town; to adopt rules and regulations for the transaction of business, and for the government and regulation of its own body; and generally, to do all such things as they may deem necessary and proper to promote the interest, prosperity, peace and good order of the people of the said town.

16. To carry into effect these enumerated powers, and all other powers conferred upon the said town, or its council, expressly, or by implication, by this or any futher act of the legislature of this state, and the said council shall have power to make and pass all needful order, by-laws, ordinances, resolutions, rules and regulations, not contrary to the constitution and laws of this state, and to prescribe, impose and enforce reasonable fines, penalties and imprisonment to the county jail, or such other place as they may provide, for a term not exceeding thirty days, for violations thereof; such fines, penalties and imprisonment, shall be recovered and enforced under the judgment of the mayor, or the persons lawfully exercising his functions. And the council, with the consent of the proper authorities of the county of Morgan, entered of record, may use the jail of said county for any purposes for which the use of a jail may be needed by them.

17. The council shall cause to be annually made up and entered on its journal, an accurate estimate of all sums which are, or may become lawfully chargeable on said town, and which ought to be paid within one year, and it shall order a levy of so much as may in its opinion be necessary to pay the same.

18. The levy so ordered shall be upon all male persons, resident in said town, over the age of eighteen years, dogs, hogs, and other animals, and all real and personal estate within said town, subject to state or county taxes: Provided, that the tax so levied upon property do not exceed twenty-five cents on every one hundred dollars of the value thereof, upon persons one dollar and fifty cents per head and upon dogs three dollars per head.

19. Whenever anything for which a state license is to be done in said town, the council may require a town license therefor, and may impose a tax thereon for the use of the town; and the council may in any case require from the person licensed a bond with such sureties, and in such penalty and with such conditions as it may deem proper, and may revoke such license at any time, if the conditions of such bond be broken. An no license to sell spiritous liquors, wine, ale, beer, porter, or drinks of like nature within said town, or within one mile thereof shall be granted by the board of supervisors of Morgan County without the consent of the municipal authorities of said town.

20. The sergeant shall collect the town taxes, levies and licenses and after thirty days from the time they are placed in his hands for collection, he may distrain and sell therefor, in like manner as the officers collecting the state taxes may do, and he shall have in all other respects the same power to enforce the payment and collection thereof. He shall do and perform all the other acts pertaining to the office of sergeant of a corporation, and of a police officer within said town. And he shall have all the powers, rights and privileges within the corporate jurisdiction of said town, in regard to the arrest of persons, the collection of claims, and the execution, levying and return of process, that can be legally exercised by a constable, and he shall be entitled to the same compensation therefor; and he and his sureties shall be liable to all the fines, penalties and forfeitures that a constable is legally liable to for any failure or dereliction in his office, to be recovered in the same manner, and in the same courts that such fines, penalties and forfeitures are recovered against a constable.

21. There shall be a lien on real estate for the town taxes assessed thereon, from the commencement of the year from which they are assessed. Such lien shall have priority over all other liens, except the lien for taxes due the state, and may be enforced by the council in the same manner provided for by law for the enforcement of the lien for county taxes, or in such other manner as the council may by ordinance prescribe.

22. The mayor shall be the chief executive officer of the said town. He shall take care that all orders, by-laws, ordinances, acts and resolutions of the council are faithfully executed. He shall be ex-officio, a justice and conservator of the peace within the municipal jurisdiction of the said town, and shall within the same, possess and exercise all the jurisdiction, powers and duties vested by law in justices, and shall in all respects be subject to, and governed by the laws in force, for the time being, in relation to justices. He shall have control of the police of said town, and may appoint special police officers when he deems it necessary, and it shall be his duty especially to see that the peace and good order of the town are preserved, and that persons and property therein are protected, and to this end he may cause the arrest and detention of all riotous and disorderly person, before issuing his warrant therefor. He shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment, he may commit the part to prison until the fine and costs are paid, but the term of imprisonment in such case shall not exceed thirty days. He shall receive a compensation for his services, to be fixed by the council, which shall not be increased during the term for which he shall have been elected.

23. The recorder shall keep a journal of the proceedings of the council, and have charge of and preserve the records of the town. In the absence of the mayor, or during any vacancy in the office of mayor, he shall perform the duties of mayor, and be invested with all his powers.

24. The sergeant, as treasurer, shall have charge of all moneys belonging to the said corporation; and no money shall be paid out by him, except as it shall have been appropriated by the council; he shall pay the same upon the certificate or recorder, or, in his absence, upon the certificate of the mayor, and not otherwise. If he fails to collect, account for, and pay over all, or any part of the moneys that shall come into his hands belonging to said

town, when thereto required by the council, it shall be lawful for the council to recover the same by motion in the corporate name of said town, in any court of Morgan County, or where the sum does not exceed one hundred dollars, before the justice of said County having jurisdiction over the said town.

25. It shall be the duty of the assessor to make and assessment of the persons and property within said town, subject to taxation, substantially in the manner and form in which such assessments are made by the assessor of the County, and to return the same to the council, on or before the first day of July in each year.

26. It shall be the duty of the commissioner of streets to superintend the opening and repair of roads, streets, alleys, sidewalks, footways, drains and gutters, within said town, and to put and keep the same in good repair, and to carry into execution all the resolutions, orders and ordinances of the council in relation thereto; and for this purpose, he shall have all the powers and perform all the duties, by law conferred upon, and required of, surveyors of roads in a county, and shall be subject to the same pains and penalties, imposed by law upon such surveyors, for neglect of duty. And the said town, and taxable persons and property therein, shall be exempt from all expenses and liabilities for the construction of repairs of roads or bridges outside of said town.

27. All acts and resolutions, either of the general assembly of Virginia, of the legislature of West Virginia, in conflict with the provisions of this act are hereby repealed.

TOWN CHARTER

Editor's note: -- The legislature, in its 1969 revision and consolidation of chapters 8 and 8A of the Code of West Virginia into a new chapter 8, recognized, in section 8-1-6, "that when the provisions of existing special legislative charters are compared with and are considered in the light of the provisions of this chapter, (i.e., the new chapter 8), there are five basic possibilities as to the relationship between such charter provisions and the provisions of this chapter, namely: (1) As to any particular charter provisions, such charter provisions may be inconsistent or in conflict with the pertinent provisions of this chapter; (2) although relating to the same subject matter and although not inconsistent or in conflict with any provisions of this chapter, certain charter provisions may be sufficiently different from pertinent provisions of this chapter as to indicate, as a matter of practical construction, that either the charter provisions or the provisions of this chapter, but not both, should be applicable; (3) although varying in certain respects, certain charter provisions may be similar to and in essential harmony with corresponding provisions of this chapter; (4) as to any particular charter provisions, there may be no counterpart of such provisions in this chapter; and (5) as to any provisions in this chapter, there may be no counterpart charter provisions."

Section 8-1-6, therefore, sets forth certain rules to be applied, in addition to the usual and ordinary rules of statutory construction, with respect to construction and applicability of legislative charters, and it is suggested that users of this town code refer to West Virginia Code 8-1-6, in determining the present construction and applicability of any portion of the town charter to any given situation.

See WV Code 8-1-6

ORDINANCE A

Amending and Supplementing certain provisions of the Charter relative to licenses and privilege taxes.

Councilman Jack M. Hunter, presented the following Resolution and requested its immediate consideration and adoption as an ordinance of the Town of Bath.

WHEREAS, the Charter for the Town of Bath granted by the West Virginia Legislature in 1872 and known as Chapter 173 of the Acts of the Legislature of 1872, gives rather wide powers to the common council of the Town of Bath in the matter of enacting licenses and privilege taxes, however, Chapter 8 of the official Code of West Virginia (1931) applies to towns of the same classification as the Town of Bath, and Section 10 of Article 4 of said Chapter 8, permits the Town of Bath to adopt certain applicable provision or provisions of said Chapter 8, and it is thought advisable for the common council of the Town of Bath to adopt Section 10 of Article 4 of said Chapter 8, as a part of the charter of said Town of Bath and thereby incorporate said Section 10 in and as a part of said Charter; now therefore.

BE IT ORDAINED by the Common Council of the Town of Bath, --

That from and after the effective date of this Ordinance, Section 10 of Article 4 of Chapter 8 of the official Code of West Virginia (1931), shall be adopted as part and parcel of the Charter of the Town of Bath, and thereafter, said Section 10 shall be a part of the general powers of the Council, and together with the general powers enumerated in said Charter, the same shall become a part of the plenary power and authority of this Council to be exercised by ordinance or resolution as the case may require.

(Passed and became effective as of September 17, 1940)

ORDINANCE B

Amending and Supplementing certain provisions of the Charter relative to elections, eligibility and terms of municipal officers.

Councilman Jack M. Hunter, moved the immediate consideration leading to the adoption of the following Ordinance.

WHEREAS, under the Charter for the Town of Bath granted by West Virginia Legislature in 1872 and known as Chapter 173 of the Acts of the Legislature of 1872, find the time of the election of the Mayor, Recorder and Councilman as the first Saturday in May of each year (Section 6), with the terms of the officers beginning on the first day of June thereafter (Section 6), and continuing one year and until their successors have been duly elected and qualified (Section 4); and, the said Charter (Section 4) and a subsequent Ordinance further providing for certain qualifications for said Mayor, Recorder and Councilmen; which provisions of said Charter and said prior Ordinances are now antiquated and not in keeping with the fiscal year established by the State or compatible with the (recent) provisions of Article 3 of Chapter 8 of the official Code of West Virginia; and

WHEREAS, in the interest of municipal economy and more in keeping with the town and fiscal policies of the State, it is thought advisable for the Common Council of the Town of Bath to adopt Section 4, 9 and 12 of Article 3 of said Chapter 8, as part and parcel of the said Chapter of the Town of Bath and thereby make applicable the provisions of said Section 4, 9 and 12 of Article 3, Chapter 8 of said Code, the same to operate as amendments to the Charter; now therefore.

BE IT ORDAINED BY the Common Council of the Town of Bath, --

That from and after the effective date of this Ordinance, Sections 4, 9 and 12 of Article 3 of Chapter 8 of the official Code of West Virginia (1931) shall be adopted as part and parcel of the Charter of the Town of Bath, the provisions of said Sections to operate as amendments to said Charter, providing (hereafter) that the regular elections for officers of the Town of Bath shall be held biennially on the first Tuesday in June (said Section 4), and, that said officers must be residents of said Town of Bath and must be legal voters entitled to vote for members of its Council, and for the year proceeding their election must have been assessed with and paid taxes upon at least one hundred dollars worth of real or personal property there in (said Section 9) and further providing for the duration of the terms of said officers, the same to begin on the first day of July following election and shall be for two years (said Section 12).

- Elections every two years.
- First Tuesday in June
- Must have been assessed & paid personal property tax

CHAPTER CLXXII.

An Act to authorize the council of the city of Wheeling, to correct erroneous assessments of property.

Passed February 28, 1852.

Be it enacted by the Legislature of West Virginia:

1. The council of the city of Wheeling, shall have jurisdiction to hear, try and determine all applications to correct the assessments of the city assessor, of real and personal property within the city of Wheeling, and the said council shall have authority to correct all erroneous assessments of property, by placing such erroneously assessed property at its true value, whenever it shall be made to appear to them, that the same is assessed either too high or too low.

Authority to correct erroneous assessments.

2. This act shall not apply to any assessment made for state, county or township purposes.

Not to apply to state, county or township purposes.

CHAPTER CLXXIII.

An Act to amend the charter of the town of Bath, in the county of Morgan.

Passed February 28, 1852.

Be it enacted by the Legislature of West Virginia:

1. That the town of Bath, in the county of Morgan, originally laid off into lots, streets and alleys, and as the same may hereafter be further laid off and extended into lots, streets and alleys, shall be and remain a town corporate by the name of the "town of Bath," and as such shall have perpetual succession, and a common seal, and by that name may sue and be sued, plead and be impleaded, contract, and be contracted with, and may purchase, take and hold real and personal estate needful for the purposes of the said corporation.

as incorporation.

Powers of corporation.

2. There shall be a mayor, recorder, and five councilmen, who together, shall form a common council.

Common council

3. All the corporate powers of the said town shall be exercised by the said council, or under their authority, except when otherwise provided.

4. The mayor, recorder, and common council must be residents in said town and entitled to vote for members of the common council. Their term of office shall be for one year, and until their successors shall have been duly elected and qualified.

5. The mayor, recorder, and councilmen shall be elected by the citizens of the said town, who may be qualified to vote under this act.

6. The first election under this act shall be held on the first Saturday in May, 1872, at the court-house in said town, under the supervision of any justice of Morgan county, and annually, thereafter, there shall be an election on the same day of each year, at such place, and under such supervision, rules, and regulations as the council may prescribe. The persons conducting each election shall grant a certificate to the persons elected, whose terms of office shall commence on the first day of June thereafter. All such elections shall be governed by the laws in force for the time being, so far as applicable, for the election of county officers. Whenever two or more persons shall receive an equal number of votes for the same office the person or persons under whose supervision the election was held shall decide by lot, which of them shall be returned elected, and shall make return accordingly. All contested elections shall be heard and determined by the council for the time being.

7. All persons resident in said town for three months next preceding the day of election, and qualified to vote for members of the legislature of this state, and none others, shall be entitled to vote for members of the said council.

8. Whenever a vacancy shall occur from any cause, in the office of mayor, recorder, or councilmen, the council for the time shall by a vote of a majority of those present fill the vacancy for the unexpired term.

9. There shall be a sergeant, an assessor, and a collector of the streets of said town, who shall be appointed by the council, and hold their offices during its pleasure. The sergeant shall be ex-officio treasurer of said town. The offices of recorder and assessor may be held by the same person, or otherwise, as the council may determine from time to time.

10. The mayor, recorder, and councilmen, and all other officers provided for by this act, shall each before entering upon the duties of his office take and subscribe an oath that he will support the constitution of the United States, and the constitution of this state, and faithfully and impartially discharge the duties of his office so long as he shall continue therein. Said oath or affirmation may be taken before any person legally authorized to administer oaths, or before the mayor or recorder of said town.

11. The council shall be presided over by the mayor, or in his absence by the recorder or one of the councilmen, selected by the council.

12. The council shall be caused to be kept in a well-bound book, an accurate record of all its proceedings, by laws, acts, orders, and resolutions, which shall be fully indexed, and open to the inspection of the citizens of the town.

13. The proceedings of each meeting of the council shall be read and corrected, if erroneous, at the succeeding meeting, and signed by the person presiding for the time being.

14. Upon the call of any member of the council, the yeas and nays shall be called, upon any question, and recorded in the journal. The presiding officer may vote as a member of the council, and in all cases of a tie the presiding officer shall give the casting vote.

15. The said council shall have power to re-survey said town, and for this purpose may employ a competent engineer, to open new streets, and extend, widen and repair old streets; to curb and pave streets, side-walks and gutters, and to alter, improve and light the same, and shall have control of all the avenues for public use in said town,

Charter of Bath.

[Ch. 178.]

to have the same kept in good order and free from obstructions on or over them; to order and direct the paving and curbing of all side walks and foot-ways for public use, in said town, to be done and kept in good order by the owners or occupants of the adjacent property; to establish and regulate markets, to prescribe the time for holding the same, and what articles shall be sold only therein; to prevent injury or annoyance to the public or individuals, from anything dangerous, offensive or unwholesome; to prevent hogs, cattle, horses and other animals, and fowls of every kind from going at large in said town; to protect places of divine worship; to cause to be abated anything which in the opinion of a majority of the whole council, shall be a nuisance; to regulate the keeping of gun-powder, and other combustibles; to provide for the burial of the dead, and for this purpose, may acquire and hold the necessary land for a cemetery, near, or convenient, to said town, and provide for its improvement and security; to provide for the regular building of houses and other structures in said town; to provide for shade and ornamental trees; to provide for the making of division fences and the drainage of lots; to make regulations for guarding against danger and damage from fires; to protect the citizens and property of said town, and to preserve peace and good order therein, and for this purpose to appoint, when necessary, a police force, to assist the sergeant in the discharge of his duties; to prescribe the powers and define the duties of the officers appointed by the council, fix their time of service and compensation, require and take from them bonds, when deemed necessary, payable to the said town by its corporate name, with such sureties, and in such penalty, as the council shall see fit, conditioned for the faithful discharge of their duties, and remove them at pleasure; to erect or authorize, or prohibit, the erection of gas-works or water works in, or near, said town; to provide for the purity of the water, and the healthfulness of the town; to regulate and provide for the weighing and measuring of hay, coal, wood and other articles sold, or for sale, in said town, and regulate the transportation thereof through the streets; to provide a revenue for the said town, and appropriate the same to its expenses; to provide for the annual assessment of the taxable persons and property in said town; to adopt rules and regulations for the transac-

Charter of Bath.

[Ch. 178.]

tion of business, and for the government and regulation of its own body; and generally, to do all such things as they may deem necessary and proper to promote the interest, prosperity, peace and good order of the people of the said town.

Further powers
of council.

16. To carry into effect these enumerated powers, and all other powers conferred upon the said town, or its council, expressly, or by implication, by this or any future act of the legislature of this state, the said council shall have power to make and pass all needful orders, by-laws, ordinances, resolutions, rules and regulations, not contrary to the constitution and laws of this state, and to prescribe, impose and enforce reasonable fines, penalties and imprisonment in the county jail, or such other place as they may provide, for a term not exceeding thirty days, for violations thereof; such fines, penalties and imprisonment, shall be recovered and enforced under the judgment of the mayor, or the persons lawfully exercising his functions. And the council, with the consent of the proper authorities of the county of Morgan, entered of record, may use the jail of said county for any purposes for which the use of a jail shall may be needed, by them.

Annual estimate
of all sums
and levy.

17. The council shall cause to be annually made up and entered on its journal, an accurate estimate of all sums which are, or may become lawfully chargeable on said town, and which ought to be paid within one year, and it shall order a levy of so much as may in its opinion be necessary to pay the same.

What may be
taxed.

18. The levy so ordered shall be upon all male persons, resident in said town, over the age of eighteen years, dogs, hogs, and other animals, and all real and personal estate within said town, subject to state or county taxes: Provided, That the tax so levied upon property do not exceed twenty-five cents on every one hundred dollars of the value thereof, upon persons one dollar and fifty cents per head, and upon dogs three dollars per head.

to license.

19. Whenever anything for which a state license is to be done in said town, the council may require a town license therefor, and may impose a tax thereon for the use of the town; and the council may in any case require

from the person licensed a bond with such sureties, and in such penalty and with such conditions as it may deem proper, and may revoke such license at any time; if the conditions of such bond be broken. And no license to sell spirituous liquors, wine, ale, beer, porter, or drinks of like nature within said town, or within one mile thereof like nature shall be granted by the board of supervisors of Morgan county without the consent of the municipal authorities of said town.

Supervisors not to grant license without consent of council.

20. The sergeant shall collect the town taxes, levies and licenses, and after thirty days from the time they are placed in his hands for collection, he may distrain and sell therefor, in like manner as the officers collecting the state taxes may do, and he shall have in all other respects the same power to enforce the payment and collection thereof. He shall do and perform all the other acts pertaining to the office of sergeant of a corporation, and of a police officer within said town. And he shall have all the powers, rights and privileges within the corporate jurisdiction of said town, in regard to the arrest of persons, the collection of claims, and the execution, levying and return of process, that can be legally exercised by a constable, and he shall be entitled to the same compensation therefor; and he and his sureties shall be liable to all the fines, penalties and forfeitures that a constable is legally liable to for any failure or dereliction in his office, to be recovered in the same manner, and in the same courts that such fines, penalties and forfeitures are recovered against a constable.

Lien for taxes.

21. There shall be a lien on real estate for the town taxes assessed thereon, from the commencement of the year for which they are assessed. Such lien shall have priority over all other liens, except the lien for taxes due the state, and may be enforced by the council in the same manner provided for by law for the enforcement of the lien for county taxes, or in such other manner as the council may by ordinance prescribe.

How enforced.

22. The mayor shall be the chief executive officer of said town. He shall take care that all orders, by-laws, ordinances, acts and resolutions of the council are faithfully executed. He shall be ex-officio, a justice and conservator of the peace within the municipal jurisdiction of the

Mayor: his duties, powers and compensation.

said town, and shall, within the same, possess and exercise all the jurisdiction, powers and duties vested by law in justices, and shall in all respects be subject to, and governed by the laws in force, for the time being, in relation to justices. He shall have control of the police of said town, and may appoint special police officers when he deems it necessary, and it shall be his duty especially to see that the peace and good order of the town are preserved, and that persons and property therein are protected, and to this end he may cause the arrest and detention of all riotous and disorderly persons, before issuing his warrant therefor. He shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof; and in default of such payment, he may commit the party to prison until the fine and costs are paid, but the term of imprisonment in such case shall not exceed thirty days. He shall receive a compensation for his services, to be fixed by the council, which shall not be increased during the term for which he shall have been elected.

Recorder: his duties and powers.

23. The recorder shall keep a journal of the proceedings of the council, and have charge of and preserve the records of the town. In the absence of the mayor, or during any vacancy in the office of mayor, he shall perform the duties of mayor, and be invested with all his powers.

Sergeant: his duties and liabilities.

24. The sergeant, as treasurer, shall have charge of all moneys belonging to the said corporation; and no money shall be paid out by him, except as it shall have been appropriated by the council; he shall pay the same upon the certificate of the recorder, or, in his absence, upon the certificate of the mayor, and not otherwise. If he fail to collect, account for, and pay over all, or any part of the moneys that shall come into his hands belonging to said town, when thereto required by the council, it shall be lawful for the council to recover the same by motion in the corporate name of said town, in any court of Morgan county, or where the sum does not exceed one hundred dollars, before the justice for said county having jurisdiction over said town.

Assessor; his duties.

25. It shall be the duty of the assessor to make an assessment of the persons and property within said town, subject to taxation, substantially in the manner and form in which such assessments are made by the assessor of the county, and to return the same to the council, on or before the first day of July in each year.

Commissioner of streets; his duties and powers.

26. It shall be the duty of the commissioner of streets to superintend the opening and repair of roads, streets, alleys, sidewalks, footways, drains and gutters, within said town, and to put and keep the same in good repair, and to carry into execution all the resolutions, orders and ordinances of the council in relation thereto; and for this purpose, he shall have all the powers and perform all the duties, by law conferred upon, and required of, surveyors of roads in a county, and shall be subject to the same pains and penalties, imposed by law upon such surveyors, for neglect of duty. And the said town, and taxable persons and property therein, shall be exempt from all expenses and liabilities for the construction or repairs of roads or bridges outside of said town.

Town exempted from road tax.

Inconsistent act and resolutions repealed.

27. All acts and resolutions, either of the general assembly of Virginia, or of the legislature of West Virginia, in conflict with the provisions of this act are hereby repealed.

I, C. A. Blankenship, Clerk of the House of Delegates of the West Virginia Legislature, hereby certify, as Keeper of the rolls and Publisher of the Acts of the Legislature, that according to the records in my said office, the foregoing instrument of writing is a true and perfect copy of Chapter 173, Acts of the Legislature, passed February 28, 1872, relating to amendment of the Charter of the Town of Bath, in the County of Morgan, West Virginia.

Given under my hand this the 3rd day of January, 1979.

C. A. Blankenship

C. A. Blankenship, Clerk

to the place wherethence with said Cumberland came from the southwest. Alfred Chapman art; thence west Harrison Abram to Commerce at southwest corner of public road, (including lands of John J. said lands to New water mark on the place of beginning.

2. The municipal mayor, five council members and a superintendent whom shall be a corporation, (with) except the records by the council together shall be

3. The bond in such penalty, dollars, as the council

4. The mayor and alleys, and been elected and be a body political "berland," and a common seal, and shall and be impleaded other property charge their debt order and well.

5. All corporations by the said corporation otherwise provided

6. The term (ies,) for one year elected and qualified

CHAPTER 1 - Governing Body

Section 2-101 Time and Place of Regular Meetings

The Council shall hold regular meetings at 7:30PM, on the first and third Monday of each month in the Council Chambers, at the Town Hall. The Mayor, the Recorder, or any three members of the Council may call special meetings as deemed necessary.

The town shall make available, in advance, the time and place of all regularly scheduled meetings of the Council and the time, place and purpose of all special meetings of the Council to the public and news media:

A notice shall be posted by the Town Recorder at the front door of the Town Hall stating the time and place fixed and entered on record by Council for the holding of regularly scheduled meetings. If a particular regularly scheduled meeting is cancelled, a notice of such cancellation shall be posted at the front door of the Town Hall.

A notice shall be posted by the Town Recorder at the front door of the Town Hall at least two days before a special meeting is to be held, stating the time, place and purpose for which such special meeting shall be held. If the special meeting is cancelled, a notice of such cancellation shall be posted at the front door of the Town Hall.

Section 2-102 Who is to preside at meetings; quorum; interested members of Council not to vote

The mayor shall serve as the presiding officer at all meetings of the Council, or if the mayor is absent, the recorder or a member of the Council, selected by a majority of the members present, shall preside. A quorum, consisting of a majority of the members of the Council, must be present in order to transact business. No member of the Council shall vote upon any ordinance, order, measure, resolution, or proposition, in which he or she may be interested in other than as a citizen of said municipality.

Section 2-103 Tie vote; Mayor and Recorder may vote

The mayor and recorder shall have votes as members of the Common Council. In the case of a tie, the presiding officer at the time shall cast the tiebreaking vote, unless he has previously voted. If the mayor or recorder presides at meetings of the governing body of said municipality, he may elect not to vote on issues decided by the Council. However, this choice does not restrict his right to cast a tie-breaking vote.

Section 2-104 Order of Business

Unless dispensed with by a 2/3 majority of the members present, the Council shall observe the following regular order of business:

- 1) Call to order by presiding officer
- 2) Roll call by the recorder
- 3) Reading of minutes of the previous meeting by the recorder and approval or correction
- 4) Old business - unfinished business
- 5) Reports from committees
- 6) Reports from officers of the town
- 7) Hearing of grievances of citizens
- 8) Communications from the mayor
- 9) New business
- 10) Adjournment

Section 2-105 Rules of Order

The rules of order and parliamentary procedure contained in Roberts Rules of Order, Revised shall govern the transaction of business by and before the Council insofar as they are not in conflict with provisions of this Code.

Every motion or proposition shall, at the request of either the Mayor or any member, be reduced to writing.

Section 2-106 Standing Committees

The following standing committees are hereby established: Street, Finance, Water, Ordinance, Cemetery, Relations and Grievance, and Fire Department. Committees shall consist of three (3) members appointed by and from the Council. Special committees may be established and members appointed by the Mayor.

Section 2-107 Ordinance Adoption

All ordinances shall be presented in writing and no ordinance shall be amended after its first reading as to change its general purpose. All ordinances shall be read twice by title unless a member of the governing body demands that the ordinance be read in full. No ordinance shall be presented for second reading or considered for final passage at the meeting at which it is introduced, and there shall be at least one week intervening between each meeting at which it is presented.

The first reading of an ordinance proposed at a council meeting shall be for information and the question shall be: "Shall the proposition be rejected?" If no objection be made or the question to reject be lost, the ordinance shall go on to a second reading without further question, at which time it shall be subject to amendment or debate and ready for final passage.

At least five days before the meeting at which a proposed ordinance, the principal object of which is the raising of revenue for the municipality, is to be finally adopted, the governing body shall cause notice of the proposed adoption of said proposed ordinance to be published as a Class 1-0 legal advertisement in compliance with the provisions of WV Code 59-3-1 et seq. and the publication area for such publication shall be the municipality. The notice shall state the subject matter and general title or titles of such proposed ordinance, the date, time and place of the proposed final vote on adoption, and the place or places within the municipality where such proposed ordinance may be inspected by the public. A reasonable number of copies of the proposed ordinance shall be kept at such place or places and be made available for public inspection. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

Mayor
Susan J. Webster

Public Utility Chairman
David Welch



Council Personnel
Janet Culp
John Bohrer
Sharon Durand

Town Hall
Office of the Mayor

Town of Bath

103 Wilkes Street
Berkeley Springs, WV 25411
(304) 258-1102

OATH OF OFFICE

STATE OF WEST VIRGINIA:

I, Susan J. Webster, do solemnly swear that I will support the Constitution of the United States and the constitution of the State of West Virginia, that I will uphold the ordinances and statutes of the Town of Bath, and that I will honestly and faithfully perform the duties imposed upon me under the provisions of law as provided to the best of my skill and judgement so help me God.

Susan J. Webster
(Signature)

This oath of office administered by Municipal Judge Charles Andrew Carington

This oath of office witnessed by Dale L. Linton

On this 29th Day of June 2007

Town of Bath

271 Wilkes Street
Berkeley Springs, WV 25411

OATH OF OFFICE

STATE OF WEST VIRGINIA:

I, John Kiley, do solemnly swear that I will support the Constitution of the United States and the constitution of the State of West Virginia, that I will uphold the ordinances and statutes of the TOWN OF BATH, and that I will honestly and faithfully perform the duties imposed upon me under the provisions of law as **RECORDER for the Town of Bath**, to the best of my skill and judgement. So help me God.

John Kiley
Signature

This Oath of Office administered on September 3, 2002
Date

By: Susan Webster

Witnessed By: Marge McCumber

Mayor
Susan J. Webster
Public Utility Chairman
David Welch



Council Personnel
Janet Colp
John Bohrer
Sharon Durand
Town Hall
Office of the Mayor

Town of Bath

103 Wilkes Street
Berkeley Springs, WV 25411
(304) 258-1102

OATH OF OFFICE

STATE OF WEST VIRGINIA:

I, JOHN BOHRER, do solemnly swear that I will support the Constitution of the United States and the constitution of the State of West Virginia, that I will uphold the ordinances and statutes of the Town of Bath, and that I will honestly and faithfully perform the duties imposed upon me under the provisions of law as provided to the best of my skill and judgement so help me God.

John M. Bohrer
(Signature)

This oath of office administered by Susan J. Webster, Mayor

This oath of office witnessed by David M. Hall

On this 29th Day of JUNE 2001

Susan J. Webster

Public Utility Chairman
David Welch



Janet Colp
John Bohrer
Sharon Durand

Town Hall
Office of the Mag

Town of Bath

103 Wilkes Street
Berkeley Springs, WV 25411
(304) 258-1102

OATH OF OFFICE

STATE OF WEST VIRGINIA:

I, DAVID M. HALL, do solemnly swear that I will support the Constitution of the United States and the constitution of the State of West Virginia, that I will uphold the ordinances and statutes of the Town of Bath, and that I will honestly and faithfully perform the duties imposed upon me under the provisions of law as provided to the best of my skill and judgement so help me God.

David M. Hall

(Signature)

This oath of office administered by Jessie Webster, Mayor

This oath of office witnessed by John Bohrer

On this 24th Day of 2001

Susan J. Webster

Public Utility Chairman
David Welch



Council President
Janet Cole
John Bohrer
Sharon Burand

Town Hall
Office of the M

Town of Bath

103 Wilkes Street
Berkeley Springs, WV 25411
(304) 258-1102

OATH OF OFFICE

STATE OF WEST VIRGINIA:

I, DALE LUTMAN, do solemnly swear that I will support the Constitution of the United States and the constitution of the State of West Virginia, that I will uphold the ordinances and statutes of the Town of Bath, and that I will honestly and faithfully perform the duties imposed upon me under the provisions of law as provided to the best of my skill and judgement so help me God.

Dale Lutman
(Signature)

This oath of office administered by *Susan J. Webster*

This oath of office witnessed by *Janet C. Cole*

On this *29th* Day of *June 2001*

Mayor
Susan J. Webster
Public Utility Chairman
David Welch



Council Presider
Janet Culp
John Bohrer
Sharon Dorand
Town Hall
Office of the Mayor

Town of Bath

103 Wilkes Street
Berkeley Springs, WV 25411
(304) 258-1102

OATH OF OFFICE

STATE OF WEST VIRGINIA:

I, Janet C. Culp, do solemnly swear that I will support the Constitution of the United States and the constitution of the State of West Virginia, that I will uphold the ordinances and statutes of the Town of Bath, and that I will honestly and faithfully perform the duties imposed upon me under the provisions of law as provided to the best of my skill and judgement so help me God.

Janet C. Culp
(Signature)

This oath of office administered by Susan J. Webster, Mayor

This oath of office witnessed by Thomas R. Free

On this 29th Day of June 2001

Susan J. Webster

Public Utility Chairman
David Welch



Council President
Janet Cole
John Bohrer
Sharon Duranc

Town Hall
Office of the M

Town of Bath

103 Wilkes Street
Berkeley Springs, WV 25411
(304) 258-1102

OATH OF OFFICE

STATE OF WEST VIRGINIA:

I, DAVE DWAN, do solemnly swear that I will support the Constitution of the United States and the constitution of the State of West Virginia, that I will uphold the ordinances and statutes of the Town of Bath, and that I will honestly and faithfully perform the duties imposed upon me under the provisions of law as provided to the best of my skill and judgement so help me God.

[Signature]
(Signature)

This oath of office administered by Susan J. Webster, Mayor

This oath of office witnessed by Murray Hodge, Church of the Holy Spirit

On this 29th Day of June 2001

RULES OF PROCEDURE
OF THE TOWN OF BATH

RESOLUTION ESTABLISHING RULES BY WHICH THE DATE, TIME, PLACE AND AGENDA OF ALL REGULARLY SCHEDULED MEETINGS AND THE DATE, TIME, PLACE AND PURPOSE OF ALL SPECIAL MEETINGS ARE TO BE MADE AVAILABLE, IN ADVANCE, TO THE PUBLIC AND NEWS MEDIA AND PROVIDING WHEN THIS RESOLUTION AND SUCH RULES SHALL TAKE EFFECT.

Be it Resolved and Ordered by the Council of the Town of Bath, Morgan County, West Virginia:

Section 1. Statutory Mandate for The Rules. The rules established in and by this Resolution are mandated by and promulgated pursuant to Chapter 6, Article 9A of the Code of West Virginia, 1931, as amended (the "Act"), and other applicable provisions of law. The provisions of the Act, as amended from time to time, are incorporated herein as if fully set out herein.

Section 2. Findings and Determinations. It is hereby found, determined and declared as follows:

(A) Section 3 of the Act requires each governing body, as defined in the Act, to promulgate rules by which the date, time, place and agenda of all regularly scheduled meetings and the date, time, place and purpose of all special meetings are made available, in advance, to the public and news media.

(B) The Council of the Town of Bath (the "Council"), Morgan County, West Virginia (the "Town"), is the governing body of the Town within the meaning of the Act.

(C) Accordingly, it is hereby ordered that the rules set out in Section 3 hereof be promulgated and established as the Rules of Procedure of the Council.

Section 3. Rules. The following are hereby promulgated and established as the Rules of Procedure of the Council:

Rule No. 1. Notice of Regularly Scheduled Meetings. Immediately after adoption of this Resolution and in July of each year thereafter, the Council shall instruct the Recorder to, and the Recorder shall, post, and leave posted throughout the year to which it applies, at the regular meeting place of the Council, where notices customarily are posted, a notice setting forth the date, time and place of the Council's regularly scheduled meetings for the ensuing year. In addition, a copy of the agenda for each regularly scheduled meeting shall also be posted at the same location by the Recorder not less than 72 hours before such regular meeting is to be held.

The Council shall also instruct the Recorder to, and the Recorder shall, distribute to each of the newspapers and other news media listed below a notice identical to that posted:

<u>News Media</u>	<u>Address</u>
Morgan Messenger	P.O. Box 567 Berkeley Springs, WV 25411

A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed above, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail. In July of each year after the adoption of this Resolution, the Council shall review the above list and shall amend such list as needed, in the opinion of the Council, to reflect properly all the newspapers and other news media that customarily cover news of the area served by the Council. In addition, a copy of the agenda for each regularly scheduled meeting shall also be distributed to the news media by the Recorder not less than 72 hours before such regular meeting is to be held.

In the event of any modification to the date, time, place or agenda of a regularly scheduled meeting of the Council, notice of such modification shall immediately be given to the public and news media by posting at the place and distributing to the news media in the manner set forth above not less than 48 hours before such regular meeting is to be held. A copy of the notice of such modification shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Rule No. 2. Notice of Special Meetings. Not less than 72 hours prior to the date set for any special meeting of the Council, the Council shall instruct the Recorder to, and the Recorder shall, post at the regular meeting place of the Council, where notices customarily are posted, a notice setting forth the date, time, place and purpose or purposes of such special meeting. Business at such special meeting shall be limited to the purpose or purposes specified in said notice.

As soon as practical after the posting of said notice, but not less than 72 hours prior to the date set for such special meeting, the Recorder shall distribute to each of the newspapers and other news media listed in Rule No. 1 hereof, a notice identical to that posted. Amendments made to such news media list, as provided for in said Rule No. 1, shall be incorporated by reference in this Rule No. 2. A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed in said Rule No. 1, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail.

A copy of such notice posted and distributed pursuant to this Rule No. 2 shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Rule No. 3. Emergency Meetings. The Council may hold a meeting without providing the notice to the public and news media required by Rule No. 1 and Rule No. 2 hereof only in the event of an emergency requiring immediate official action. The existence for such an emergency requiring immediate official action shall be determined by the Council and shall be attested to in a certificate by the Recorder describing such emergency and setting forth the reason or reasons immediate official action is required, which certificate shall be attached to and made a part of the minutes of such emergency meeting.

Rule No. 4. Executive Sessions. The Council may hold an executive session during a regular, special or emergency meeting in accordance with Section 4 of the Act. During the open portion of the meeting, prior to convening an executive session, the Mayor shall identify the authorization under Section 4 of the Act for holding the executive session and present it to the Council and to the general public, but no decision may be made in the executive session. An executive session may be held only upon a majority affirmative vote of the Council members present. The Council may hold an executive session and exclude the public only when a closed session is required for any of the actions permitted under Section 4 of the Act.

Rule No. 5. Minutes. The Council shall provide for the preparation of written minutes of all of its meetings. Subject to the exceptions set forth in Section 4 of the Act, minutes of all meetings except minutes of executive sessions, if any are taken, shall be available to the public within a reasonable time after the meeting and shall include, at least, the following information:

- (1) The date, time and place of the meeting;
- (2) The name of each Council member present and absent;
- (3) All motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing the same and their disposition; and

- (4) The results of all votes and, upon the request of a Council member, the vote of each Council member, by name.

Rule No. 6. No Actions by Reference. Except as otherwise expressly provided by law, the Council may not deliberate, vote, or otherwise take official action upon any matter by reference to a letter, number or other designation or other secret device or method, which may render it difficult for persons attending a meeting to understand what is being deliberated, voted or acted upon. However, this rule does not prohibit the Council from deliberating, voting or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted or acted upon, are available for public inspection at the meeting. The Council may not vote by secret or written ballot.

Rule No. 7. Broadcasting of Meetings. Except as otherwise provided in this rule, any radio or television station is entitled to broadcast all or any part of a Council meeting required to be open. The Council may regulate the placement and use of equipment necessary for broadcasting, photographing, filming or recording a meeting, so as to prevent undue interference with the meeting. The Council shall allow the equipment to be placed within the meeting room in such a way as to permit its intended use, and the ordinary use of the equipment may not be declared to constitute undue interference; provided, that if the Council, in good faith, determines that the size of the meeting room is such that all the members of the public present and the equipment and personnel necessary for broadcasting, photographing, filming and tape-recording the meeting cannot be accommodated in the meeting room without unduly interfering with the meeting and an adequate alternative meeting room is not readily available, then the Council, acting in good faith and consistent with the purposes of this rule, may require the pooling of the equipment and the personnel operating it.

Rule No. 8. Telephonic Meetings. Council meetings may be held by telephone conference or other electronic means. All Council members participating by telephone or other electronic means must be audible to all those personally present.

Section 4. Committee Meetings. All meetings of any committee of the Council shall be subject to the Rules of Procedure set forth in Section 3 hereof.

Section 5. Conflicting Provisions Repealed. All resolutions, orders and rules, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflicts, hereby repealed.

Section 6. Effective Time. This Resolution and the Rules of Procedure promulgated hereby shall take effect immediately upon the adoption hereof.

Adopted this 15th day of October, 2002.

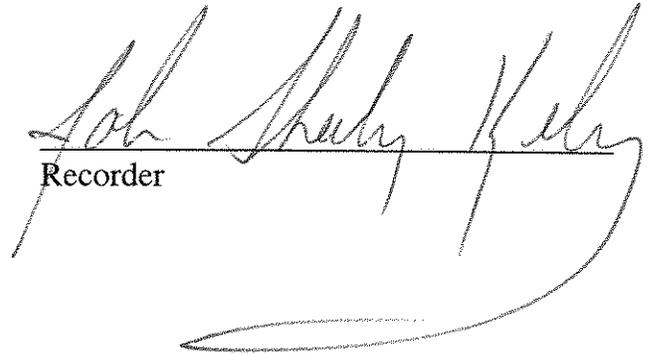

Mayor

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Council of the Town of Bath on the 15th day of October, 2002.

Dated this 9th day of December, 2002.

[SEAL]


Recorder

11/14/02
000802/00301

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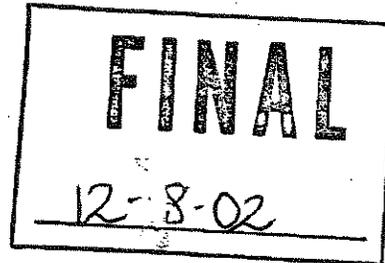
**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

Entered: December 3, 2002

CASE NO. 02-0490-W-CN

**BERKELEY SPRINGS WATER WORKS,
Berkeley Springs, Morgan County.**

Application for a certificate of convenience
and necessity to construct a filtration plant to
serve approximately 1,281 customers in the
Berkeley Springs area of Morgan County.



RECOMMENDED DECISION

PROCEDURE

On April 15, 2002, Berkeley Springs Water Works (Berkeley Springs), a municipal corporation, Berkeley Springs, Morgan County, filed an application with the Public Service Commission, pursuant to *West Virginia Code* §24-2-11, for a certificate of public convenience and necessity to construct a water filtration plant to provide public water service to approximately 1,281 customers in the Berkeley Springs area of Morgan County.

On April 15, 2002, the Commission directed Berkeley Springs to publish a Notice of Filing, once, in a newspaper duly qualified by the Secretary of State, published and generally circulated in Morgan County. The Notice of Filing provided a 30-day protest period and indicated that, if no protests were filed within the 30-day limit, the Commission may waive formal hearing and grant the certificate based upon the evidence submitted with the application. On May 13, 2002, Berkeley Springs submitted a publication affidavit indicating that it had published the Notice of Filing on May 1, 2002, in *The Morgan Messenger*, a newspaper published and generally circulated in Morgan County. No one has filed a protest to the application.

On May 17, 2002, Staff Attorney Cassius H. Toon, Esquire, Legal Division, submitted the Initial Joint Staff Memorandum, attaching the May 13, 2002 Initial Internal Memorandum from

Utilities Analyst Scott McNeely, Water and Wastewater Division, and Technical Analyst II Audra Blackwell, Engineering Division. Although Commission Staff had received all of the required financial information, it had not received all of the engineering information needed to further process and evaluate this case, including a health permit; final plans; preliminary facility plan and final engineering reports; system hydraulic information; detailed operation and maintenance budget, including supporting information and hand calculations from the engineer; description of all maintenance requirements associated with the project; analyses of reasonably available alternatives, including discussion of the benefits and detriments of each alternative and selecting the preferred alternative; contract documents; specifications; and a statement of when bids are anticipated to be let.

On May 29, 2002, the Commission referred this matter to the Division of Administrative Law Judges to render a written recommended decision on or before November 12, 2002.

On June 14, 2002, after submitting what it believed was all of the engineering information that Commission Staff requested, Berkeley Springs submitted a Motion for Expedited Ruling, citing its desire to complete the construction of the proposed project by January 2003.

Responding to all of the above, on June 27, 2002, the Administrative Law Judge (ALJ) issued a Procedural Order establishing a procedural schedule to process and resolve this matter, including a Thursday, August 1, 2002 hearing date.

On July 22, 2002, Staff Attorney Toon submitted the Final Joint Staff Memorandum, attaching the July 10, 2002 Final Internal Memorandum from Utilities Analyst McNeely and Technical Analyst Blackwell. Together, these Memoranda comprised Commission Staff's final recommendation.

Commission Staff reported that Berkeley Springs applied for a certificate of public convenience and necessity to construct a filtration plant to improve existing public water service to its 1,281 customers in the Berkeley Springs area of Morgan County. The West Virginia Department of Health and Human Resources (Health Department), Office of Environmental Health (OEH), has issued Berkeley Springs Permit No. 15,304 for the project. The purpose of this project is not to serve new customers, but to improve the quality of service to existing customers in response to a Health Department order to install the filtration system to eliminate possible contamination of Berkeley Springs' water supply due to surface water. The project conforms with the Commission's rules and regulations and will improve the living conditions of Berkeley Springs' residents.

The project will be fully funded with a \$749,100 West Virginia Health Department Revolving Water Fund (Revolving) loan bearing no interest for a term of 30 years. Annual loan payments will be \$28,913, with a \$2,891 reserve requirement and a \$12,686 depreciation reserve requirement. Also, the project will utilize interim financing obtained from Citizens National Bank, consisting of a \$200,000 credit line at an interest rate not to exceed 6%, which amount will be repaid with the Revolving loan. Berkeley Springs has firm commitments for the financing package.

The project will not create a need to increase rates, since Berkeley Springs increased its rates effective January 1, 2002. The existing rates after the project is operational will generate a \$72,417 surplus and a 170.67% debt service coverage. Since the project will not affect rates, Commission Staff recommended that the Commission grant Berkeley Springs' request for a waiver of Rule 42 filing requirements.

On August 1, 2002, the ALJ convened the hearing as scheduled. Berkeley Springs appeared by counsel, Richard G. Gay, Esquire; Commission Staff appeared by counsel, Staff Attorney Cassius H. Toon, Esquire; and no one appeared to protest the application.

The parties submitted no evidence and Berkeley Springs stipulated that the ALJ should adopt Commission Staff's final recommendation.

Responding to all of the above, on October 2, 2002, the ALJ entered a Recommended Decision containing, among other things, the following ordering paragraphs:

IT IS, THEREFORE, ORDERED that the application filed with the Commission on April 15, 2002, by Berkeley Springs Water Works for a certificate of public convenience and necessity to construct a water filtration plant to improve public water service quality to approximately 1,281 customers in the Berkeley Springs area of Morgan County, be, and hereby is, granted.

IT IS FURTHER ORDERED that the long term financing for the project, consisting of a \$749,100 Revolving loan bearing no interest for a term of 30 years, be, and hereby is, approved.

IT IS FURTHER ORDERED that the interim financing for the project, comprised of a loan from Citizens National Bank in an amount not to exceed \$200,000 and bearing interest at a rate not to exceed 6%, to be paid back by funds from the long term financing, be, and hereby is, approved.

IT IS FURTHER ORDERED that, should the financing or the scope of the project change for any reason, Berkeley Springs first must obtain additional Commission approval prior to construction.

IT IS FURTHER ORDERED that Berkeley Springs' requested waiver regarding Rule 42 filing requirements be, and hereby is, granted.

The Executive Secretary hereby is ordered to serve a copy of this Recommended Decision upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave hereby is granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this Recommended Decision is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this Recommended Decision shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's recommended decision by filing an appropriate petition in writing with the Executive Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's recommended decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.

On October 4, 2002, Berkeley Springs submitted a Motion Requesting the Commission to Withdraw its October 2, 2002 Decision and for Further Consideration of Additional Factual Issues (Motion). As the basis for its Motion, Berkeley Springs indicated that, after receiving actual bids for construction, it now estimates that the total project will cost \$1,150,000, instead of the \$1,000,000 approved by the October 2, 2002 Recommended Decision. Also, Berkeley Springs will need to pass a rate ordinance to increase its rates to cover increased operating expenses.

Responding to all of the above, on October 7, 2002, the ALJ entered an Order Withdrawing Recommended Decision.

On October 24, 2002, Staff Attorney Toon submitted the Further Joint Staff Memorandum, attaching the October 24, 2002 Further Final Internal Memorandum from Technical Analyst Blackwell and Utilities Analyst McNeely. Commission Staff reported that receipt of actual bids had increased the construction costs from a projected \$750,000, to an actual \$860,892, and that the total project cost had increased from \$1,000,000 to \$1,150,000. Since the Revolving loan has been increased to \$1,150,000, Berkeley Springs now would have to increase its rates as a result of the project in order to cover the debt service requirements. Berkeley Springs had begun the process to pass a rate ordinance to support the project as amended.

On November 1, 2002, since Berkeley Springs required additional time to pass the rate ordinance, the Commission entered the Commission Order Extending Administrative Law Judge Decision Due Date, thereby granting the ALJ until December 12, 2002, to render a written recommended decision in this matter.

On December 2, 2002, Staff Attorney Toon submitted the Final Joint Staff Memorandum, attaching the November 25, 2002 Further Final Internal Memorandum from Technical Analyst Blackwell and Utilities Analyst McNeely. Together, these Memoranda comprise Commission Staff's final recommendation. Since the 30-day protest period expired on November 21, 2002, for Berkeley Springs' municipal ordinance, with no one filing a municipal appeal with the Commission, Commission Staff has recommended that the Commission grant the amended application for a certificate of public convenience and necessity, thereby approving financing in an amount not to exceed \$1,150,000, which reflects increased construction costs from \$750,000, to \$860,892. Commission Staff opined that expedited construction of the project, i.e., completing it by January 2003, would serve public convenience and necessity. Commission Staff further recommended that, if there are further changes to the scope or financing of the project, Berkeley Springs be required to petition the Commission for approval of these changes prior to construction.

Also, on December 2, 2002, the ALJ received telephone calls from Staff Attorney Toon and from a representative of Berkeley Springs, requesting expedited treatment of this matter due to funding constrictions and expiration of the bid.

DISCUSSION

The ALJ holds that, since Berkeley Springs submitted a publication affidavit indicating that it had published the Notice of Filing on May 1, 2002, in *The Morgan Messenger*, a newspaper published and generally circulated in Morgan County; since no one has filed a protest to the application either by mail or by attending the hearing; since Commission Staff has recommended granting the application; since Berkeley Springs has applied for a certificate of public convenience and necessity to construct a filtration plant to improve existing public water service to its 1,281 customers in the Berkeley Springs area of Morgan County; since the OEH has issued Berkeley Springs Permit No. 15,304 for the project; since the purpose of this project is not to serve new customers, but to improve the quality of service to existing customers in response to a Health Department order to install the filtration system to eliminate possible contamination of Berkeley Springs' water supply due to surface water; and since the project conforms to the Commission's rules and regulations and will improve the living conditions of Berkeley Springs' residents, the public convenience and necessity require the project and he will grant the application.

Since the project is fully funded with a \$1,150,000 Revolving loan bearing no interest for a term of 30 years; since Berkeley Springs has a firm commitment for the Revolving loan financing package; since the project will not create a further need to increase rates, because Berkeley Springs increased its rates and no municipal appeal was filed prior to the November 21, 2002 expiration of the appeal period, to support the new debt service required by the project; and since the increased rates after the project is operational will generate a \$121,834 surplus and a 197.75% debt service coverage, the ALJ will approve the long term financing for the project. Also, since the project will utilize interim financing obtained from Citizens National Bank, consisting of a \$200,000 credit line at an interest not to exceed 6%, which amount will be repaid with the Revolving loan; and since

Berkeley Springs has a firm commitment for the interim financing package, the ALJ will approve the interim financing for the project.

As with any certificate project, should the financing or the scope of the project change for any reason, the ALJ will require that Berkeley Springs first obtain additional Commission approval prior to construction.

Finally, since Commission Staff has recommended that the Commission grant Berkeley Springs' request for a waiver of the Rule 42 filing requirements, the ALJ will grant the waiver.

FINDINGS OF FACT

1. Berkeley Springs Water Works filed an application with the Commission under *West Virginia Code* §24-2-11 for a certificate of public convenience and necessity to construct a water filtration plant to improve public water service quality to approximately 1,281 customers in the Berkeley Springs area of Morgan County. (See, April 15, 2002 application).
2. Berkeley Springs published the Notice of Filing on May 1, 2002, in *The Morgan Messenger*, a newspaper published and generally circulated in Morgan County. (See, Publication Affidavit, filed May 13, 2002).
3. No one has filed a protest to the application. (See, Commission's file).
4. Commission Staff has recommended granting the application. (See, Final Joint Staff Memorandum, with attachment, filed July 22, 2002).
5. The OEH has issued Berkeley Springs Permit No. 15,304 for the project. (See, Final Joint Staff Memorandum, with attachment, filed July 22, 2002).
6. The purpose of this project is not to serve new customers, but to improve the quality of service to existing customers in response to a Health Department order to install a filtration system to eliminate possible contamination of Berkeley Springs' water supply due to surface water. (See, Final Joint Staff Memorandum, with attachment, filed July 22, 2002).
7. The project conforms to the Commission's rules and regulations and will improve the living conditions of Berkeley Springs' residents. (See, Final Joint Staff Memorandum, with attachment, filed July 22, 2002; Further Joint Staff Memorandum, with attachment, filed October 28, 2002; Final Joint Staff Memorandum, with attachment, filed December 2, 2002).
8. The project is fully funded with a \$1,150,000 Revolving loan bearing no interest for a term of 30 years. (See, Final Joint Staff Memorandum, with attachment, filed July 22, 2002;)

Further Joint Staff Memorandum, with attachment, filed October 28, 2002; Final Joint Staff Memorandum, with attachment, filed December 2, 2002).

9. Berkeley Springs passed a rate ordinance to cover the additional debt service required by the project, and the period to appeal the ordinance to the Commission expired on November 21, 2002, without any municipal appeal. (See, Further Joint Staff Memorandum, with attachment, filed October 28, 2002; Final Joint Staff Memorandum, with attachment, filed December 2, 2002).

10. Berkeley Springs has a firm commitment for the Revolving loan financing package. (See, Final Joint Staff Memorandum, with attachment, filed July 22, 2002; Further Joint Staff Memorandum, with attachment, filed October 28, 2002; Final Joint Staff Memorandum, with attachment, filed December 2, 2002).

11. After the project is operational, the current rates will generate a \$121,834 surplus and a 197.75% debt service coverage. (See, Final Joint Staff Memorandum, with attachment, filed July 22, 2002; Further Joint Staff Memorandum, with attachment, filed October 28, 2002; Final Joint Staff Memorandum, with attachment, filed December 2, 2002).

12. The project will utilize interim financing obtained from Citizens National Bank, consisting of a \$200,000 credit line at an interest not to exceed 6%, which amount will be repaid with the Revolving loan. (See, Final Joint Staff Memorandum, with attachment, filed July 22, 2002).

13. Berkeley Springs has a firm commitment for the interim financing package. (See, Final Joint Staff Memorandum, with attachment, filed July 22, 2002; Further Joint Staff Memorandum, with attachment, filed October 28, 2002; Final Joint Staff Memorandum, with attachment, filed December 2, 2002).

14. Commission Staff has recommended that the Commission grant Berkeley Springs' request for a waiver of the Rule 42 filing requirements. (See, Final Joint Staff Memorandum, with attachment, filed July 22, 2002).

CONCLUSIONS OF LAW

1. For all of the reasons set forth in Finding of Fact Nos. 1 through 7, it is reasonable to hold that public convenience and necessity require the project.

2. Since public convenience and necessity require the project, it is reasonable to grant the application.

3. For all of the reasons set forth in Finding of Fact Nos. 8 through 11, it is reasonable to approve the long term financing for the project.

4. For all of the reasons set forth in Finding of Fact Nos. 12 and 13, it is reasonable to approve the interim financing for the project.

5. It is reasonable to require that, should the financing or the scope of the project change for any reason, Berkeley Springs first would have to obtain additional Commission approval prior to construction.

6. For all of the reasons set forth in Finding of Fact No. 14, it is reasonable to grant Berkeley Springs the requested waiver regarding the Rule 42 filing requirements.

ORDER

IT IS, THEREFORE, ORDERED that the application filed with the Commission on April 15, 2002, by Berkeley Springs Water Works for a certificate of public convenience and necessity to construct a water filtration plant to improve public water service quality to approximately 1,281 customers in the Berkeley Springs area of Morgan County, be, and hereby is, granted.

IT IS FURTHER ORDERED that the long term financing for the project, consisting of a \$1,150,000 Revolving loan bearing no interest for a term of 30 years, be, and hereby is, approved.

IT IS FURTHER ORDERED that the interim financing for the project, comprised of a loan from Citizens National Bank in an amount not to exceed \$200,000 and bearing interest at a rate not to exceed 6%, to be paid back by funds from the long term financing, be, and hereby is, approved.

IT IS FURTHER ORDERED that, should the financing or the scope of the project change for any reason, Berkeley Springs first must obtain additional Commission approval prior to construction.

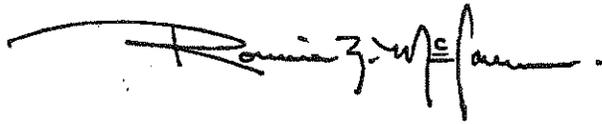
IT IS FURTHER ORDERED that Berkeley Springs' requested waiver regarding Rule 42 filing requirements be, and hereby is, granted.

The Executive Secretary hereby is ordered to serve a copy of this Recommended Decision upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested. Additionally, the Executive Secretary immediately shall send a copy of this Recommended Decision to Richard G. Gay, Esquire, counsel for Berkeley Springs, by facsimile transmission, so that he may ask the Commission to expedite this matter.

Leave hereby is granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this Recommended Decision is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this Recommended Decision shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's recommended decision by filing an appropriate petition in writing with the Executive Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's recommended decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.



Ronnie Z. McCann
Deputy Chief Administrative Law Judge

RZM:s
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PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA, in the City of Charleston on the 3rd day of December, 2002.

CASE NO. 02-0490-W-CN

BERKELEY SPRINGS WATER WORKS,

Berkeley Springs, Morgan County.

Application for a certificate of convenience and necessity to construct a filtration plant to serve approximately 1,281 customers in the Berkeley Springs area of Morgan County.

COMMISSION ORDER WAIVING EXCEPTION PERIOD

On April 15, 2002, Berkeley Springs Water Works, a municipal corporation, Berkeley Springs, Morgan County, filed a application with the Public Service Commission pursuant to West Virginia Code §24-2-11, for a certificate of public convenience and necessity to construct a water filtration plant to provide public water service to approximately 1,281 customers in the Berkeley Springs area of Morgan County.

By Recommended Decision entered December 3, 2002, Administrative Law Judge Ronnie Z. McCann granted the application.

Also on December 3, 2002, Richard G. Gay, Esq., Counsel for Berkeley Springs Water Works, filed a petition to waive the fifteen day exception period on the Recommended Decision. Staff Attorney Cassius Toon stated that Commission Staff agrees to such waiver.

West Virginia Code §24-1-9 provides a time period of at least twenty (20) days from the date of a recommended order until it become effective. According to West Virginia Code §24-1-9(c), at least fifteen (15) days must be afforded the parties within which to file exceptions. In addition, §24-1-9(e) provides that when no exceptions are filed within the specified time period, the Commission shall have an additional five (5) days within which to stay or postpone the order.

The Commission is therefore of the opinion and belief that the said petition for waiver received by the Commission on December 3, 2002, should be granted.

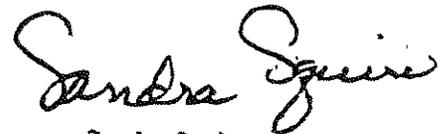
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IT IS, THEREFORE, ORDERED that the requested waiver be, and the same hereby is, granted.

IT IS FURTHER ORDERED that the Administrative Law Judge's Recommended Decision in this matter become final (5) days after the date of this order.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon Commission Staff by hand delivery and upon all parties of record by United States First Class Mail.

A True Copy, Teste:



Sandra Squire
Executive Secretary

SS/ft
020490sb.wpd

West Virginia Infrastructure & Jobs Development Council

Public Members:

James D. Williams, Chairman

St. Albans

William J. Harman, PE, Vice Chairman

Grafton

Dwight Calhoun

Petersburg

William P. Stafford, II, Esquire

Princeton

300 Summers Street, Suite 980

Charleston, West Virginia 25301

Telephone: (304) 558-4607

Facsimile: (304) 558-4609

Katy Mallory, PE

Executive Secretary

KMallory@ezwv.com

May 2, 2001

Thomas G. Hall, Director
Berkeley Springs Water Works
271 Wilkes Street
Berkeley Springs, West Virginia 25411

Re: Berkeley Springs Water Works
Water Filtration Project 2001W-598

Dear Mr. Hall:

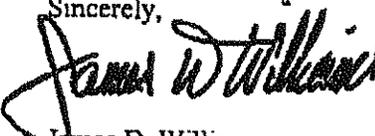
The West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") has reviewed the Berkeley Springs Water Works' (the "BSWW") preliminary application regarding its proposed project to install water filtration equipment at the water treatment plant (the "Project").

Based on the findings of the Water Technical Review Committee, the Infrastructure Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The BSWW should carefully review the enclosed comments of the Water Technical Review Committee as the BSWW may need to address certain issues raised in said comments as it proceeds with the Project. The BSWW will need to address inadequate coverage shown in the cash flow before it proceeds.

Upon consideration of the preliminary application, the Infrastructure Council recommends that the BSWW pursue a Small Cities Block Grant of \$749,100 to finance this project. Please contact the WV Development Office at 558-4010 for specific information on the steps the BSWW needs to follow to apply for these funds. Please note that this letter does not constitute funding approval from this agency.

If you have any questions regarding this matter, please contact Katy Mallory at 558-4607.

Sincerely,



James D. Williams

Enclosure

JDW/km

cc: Walt Ivey, BPH (w/o enclosure)
Debbie Legg, WVDO (w/o enclosure)
Richard Klein, Alpha Associates
Region IX Planning & Development Council

DWTRF
(03/26/02)

LOAN AGREEMENT

THIS DRINKING WATER TREATMENT REVOLVING FUND LOAN AGREEMENT (the "Loan Agreement"), made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), acting under the direction of the WEST VIRGINIA BUREAU FOR PUBLIC HEALTH, a division of the West Virginia Department of Health and Human Resources (the "BPH"), and the local entity designated below (the "Local Entity").

TOWN OF BATH
(Local Entity)

WITNESSETH:

WHEREAS, the United States Congress under Section 1452 of the Safe Drinking Water Act, as amended (the "Safe Drinking Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining drinking water treatment revolving funds for the construction, acquisition and improvement of drinking water systems;

WHEREAS, pursuant to the provisions of Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a drinking water treatment revolving fund program (the "Program") to direct the distribution of loans to eligible Local Entities pursuant to the Safe Drinking Water Act;

WHEREAS, under the Act the BPH is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards (U.S. General Services Administration; Catalog of Federal Domestic Assistance, 32nd Edition §66.458 (1998)) and BPH has been awarded capitalization grants to partially fund the Program;

WHEREAS, the Act establishes a permanent perpetual fund known as the "West Virginia Drinking Water Treatment Revolving Fund" (hereinafter the "Fund"), which fund is to be administered and managed by the Authority under the direction of the BPH;

WHEREAS, pursuant to the Act, the Authority and BPH are empowered to make loans from the Fund to Local Entities for the acquisition or construction of drinking water projects by such Local Entities, all subject to such provisions and limitations as are contained in the Safe Drinking Water Act and the Act;

WHEREAS, the Local Entity constitutes a local entity as defined by the Act;

WHEREAS, the Local Entity is included on the BPH State Project Priority List and the Intended Use Plan and has met BPH's pre-application requirements for the Program;

WHEREAS, the Local Entity is authorized and empowered by the statutes of the State to acquire, construct, improve, operate and maintain a drinking water project and to finance the cost of acquisition and construction of the same by borrowing money to be evidenced by revenue bonds issued by the Local Entity;

WHEREAS, the Local Entity intends to construct, is constructing or has constructed such a drinking water project at the location and as more particularly described and set forth in the Application, as hereinafter defined (the "Project");

WHEREAS, the Local Entity has completed and filed with the Authority and BPH an Application for a Construction Loan with attachments and exhibits and an Amended Application for a Construction Loan also with attachments and exhibits (together, as further revised and supplemented, the "Application"), which Application is incorporated herein by this reference; and

WHEREAS, having reviewed the Application and the Fund having available sufficient funds therefor, the Authority and BPH are willing to lend the Local Entity the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Entity with moneys held in the Fund, subject to the Local Entity's satisfaction of certain legal and other requirements of the Program.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Local Entity, BPH and the Authority hereby agree as follows:

ARTICLE I

Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," "fund," "local entity," and "project" have the definitions and meanings ascribed to them in the Act or in the DWTRF Regulations.

1.2 "Consulting Engineers" means the professional engineer, licensed by the State, designated in the Application and any successor thereto.

1.3 "Loan" means the loan to be made by the Authority and BPH to the Local Entity through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

1.4 "Local Act" means the official action of the Local Entity required by Section 4.1 hereof, authorizing the Local Bonds.

1.5 "Local Bonds" means the revenue bonds to be issued by the Local Entity pursuant to the provisions of the Local Statute, as hereinafter defined, to evidence the Loan and to be purchased by the Authority with money held in the Fund, all in accordance with the provisions of this Loan Agreement.

1.6 "Local Statute" means the specific provisions of the Code of West Virginia, 1931, as amended, pursuant to which the Local Bonds are issued.

1.7 "Operating Expenses" means the reasonable, proper and necessary costs of operation and maintenance of the System, as hereinafter defined, as should normally and regularly be included as such under generally accepted accounting principles.

1.8 "Program" means the drinking water facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Safe Drinking Water Act and administered by BPH.

1.9 "Project" means the drinking water project hereinabove referred to, to be constructed or being constructed by the Local Entity in whole or in part with the net proceeds of the Local Bonds or being or having been constructed by the Local Entity in whole or in part with the proceeds of bond anticipation notes or other interim financing, which is to be paid in whole or in part with the net proceeds of the Local Bonds.

1.10 "DWTRF Regulations" means the regulations set forth in the West Virginia Code of State Regulations.

1.11 "System" means the drinking water system owned by the Local Entity, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

1.12 Additional terms and phrases are defined in this Loan Agreement as they are used.

ARTICLE II

The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Local Entity by the Consulting Engineers, the BPH and Authority having found, to the extent applicable, that the Project is consistent with the applicable provisions of the Program.

2.2 Subject to the terms, conditions and provisions of this Loan Agreement and the Local Act, the Local Entity has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared for the Local Entity by the Consulting Engineers.

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Local Entity, subject to any mortgage lien or other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property is approved by BPH and the Authority.

2.4 The Local Entity agrees that the Authority and BPH and their respective duly authorized agents shall have the right at all reasonable times to enter upon the Project site and Project facilities and to examine and inspect the same. The Local Entity further agrees that the Authority and BPH and their respective duly authorized agents shall, prior to, during and after completion of construction and commencement of operation of the Project, have such rights of access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and BPH with respect to the System pursuant to the pertinent provisions of the Act.

2.5 The Local Entity shall keep complete and accurate records of the cost of acquiring the Project site and the costs of constructing, acquiring and installing the Project. The Local Entity shall permit the Authority and BPH, acting by and through their directors or duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination, and the Local Entity shall submit to the Authority and BPH such documents and information as it may reasonably require in connection with the construction, acquisition and installation of the Project, the operation and maintenance of the System and the administration of the Loan or of any State and federal grants or other sources of financing for the Project.

2.6 The Local Entity agrees that it will permit the Authority and BPH and their respective agents to have access to the records of the Local Entity pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof or if the Project is an improvement to an existing system at any reasonable time following commencement of construction.

2.7 The Local Entity shall require that each construction contractor furnish a performance bond and a payment bond, each in an amount at least equal to one hundred percent (100%) of the contract price of the portion of the Project covered by the particular contract, as security for the faithful performance of such contract and shall verify or have verified such bonds prior to commencement of construction.

2.8 The Local Entity shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and BPH and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Local Entity, the Local Entity or (at the option of the Local Entity) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Entity, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Entity on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Entity must

also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Local Entity shall provide and maintain competent and adequate engineering services satisfactory to the Authority and BPH covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, BPH and the Local Entity at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Entity shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the DWTRF Regulations, to it within 60 days of the completion of the Project. The Local Entity shall notify BPH in writing of such receipt.

2.10 The Local Entity shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the DWTRF Regulations, to BPH when the Project is 90% completed. The Local Entity shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Local Entity shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The Local Entity shall notify BPH in writing of the certified operator employed at the 50% completion stage.

2.11 The Local Entity hereby covenants and agrees to comply with all applicable laws, rules and regulations issued by the Authority, BPH or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

2.12 The Local Entity, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project, shall each month complete a Monthly Financial Report, the form of which is attached hereto as Exhibit A and incorporated herein by reference, and forward a copy by the 10th of each month to BPH and the Authority.

2.13 The Local Entity, during construction of the Project, shall complete Payment Requisition Forms, the form of which is attached hereto as Exhibit B and incorporated herein by reference, and forward such forms to BPH in compliance with the Local Entity's construction schedule.

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

3.1 The agreement of the Authority and BPH to make the Loan is subject to the Local Entity's fulfillment, to the satisfaction of the Authority and BPH, of each and all of those certain conditions precedent on or before the delivery date for the Local Bonds, which shall be the date established pursuant to Section 3.4 hereof. Said conditions precedent are as follows:

(a) The Local Entity shall have delivered to BPH and the Authority a report listing the specific purposes for which the proceeds of the Loan will be expended and the procedures as to the disbursement of loan proceeds, including an estimated monthly draw schedule;

(b) The Local Entity shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Loan Agreement;

(c) The Local Entity shall have authorized the issuance of and delivery to the Authority of the Local Bonds described in this Article III and in Article IV hereof;

(d) The Local Entity shall either have received bids or entered into contracts for the construction of the Project, which are in an amount and otherwise compatible with the plan of financing described in the Application; provided, that, if the Loan will refund an interim construction financing, the Local Entity must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and, in either case, the Authority and BPH shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit C;

(e) The Local Entity shall have obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, and the Authority and BPH shall have received a certificate of the Consulting Engineers to such effect;

(f) The Local Entity shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") and the West Virginia Infrastructure and Jobs Development Council necessary for the construction of the

Project and operation of the System, with all requisite appeal periods having expired without successful appeal, and the Authority and BPH shall have received an opinion of counsel to the Local Entity, which may be local counsel to the Local Entity, bond counsel or special PSC counsel but must be satisfactory to the Authority and BPH, to such effect;

(g) The Local Entity shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, and the Authority and BPH shall have received an opinion of counsel to the Local Entity, which may be local counsel to the Local Entity, bond counsel or special PSC counsel but must be satisfactory to the Authority and BPH, to such effect;

(h) The Local Entity shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project), with all requisite appeal periods having expired without successful appeal, and the Authority and BPH shall have received an opinion of counsel to the Local Entity, which may be local counsel to the Local Entity, bond counsel or special PSC counsel but must be satisfactory to the Authority and BPH, to such effect;

(i) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof, and the Authority and BPH shall have received a certificate of the accountant for the Local Entity, or such other person or firm experienced in the finances of local entities and satisfactory to the Authority and BPH, to such effect; and

(j) The net proceeds of the Local Bonds, together with all moneys on deposit or to be simultaneously deposited (or, with respect to proceeds of grant anticipation notes or other indebtedness for which a binding purchase contract has been entered, to be deposited on a date certain) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and the Authority and BPH shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of drinking water projects and satisfactory to the Authority and BPH, to such effect, such certificate to be in form and substance satisfactory to the Authority and BPH, and evidence satisfactory to the Authority and BPH of such irrevocably committed grants.

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the BPH, including the DWTRF Regulations, or any other appropriate State agency and any applicable rules, regulations and procedures promulgated

from time to time by the federal government, it is hereby agreed that the Authority shall make the Loan to the Local Entity and the Local Entity shall accept the Loan from the Authority, and in furtherance thereof it is agreed that the Local Entity shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

3.3 The Loan shall be secured and shall be repaid in the manner hereinafter provided in this Loan Agreement.

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Local Entity by written notice to the Authority, which written notice shall be given not less than ten (10) business days prior to the date designated; provided, however, that if the Authority is unable to accept delivery on the date designated, the Local Bonds shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority, BPH and the Local Entity. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing shall in no event occur more than ninety (90) days after the date of execution of this Loan Agreement by the Authority.

3.5 The Local Entity understands and acknowledges that it is one of several local entities which have applied to the Authority and BPH for loans from the Fund to finance drinking water projects and that the obligation of the Authority to make any such loan is subject to the Local Entity's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the requirements of the Program. The Local Entity specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Fund to purchase all the Local Bonds and that, prior to execution of this Loan Agreement, the Authority may purchase the bonds of other local entities set out in the State Project Priority List, as defined in the DWTRF Regulations. The Local Entity further specifically recognizes that all loans will be originated in conjunction with the DWTRF Regulations and with the prior approval of BPH or such later date as is agreed to in writing by the BPH.

3.6 The Local Entity shall provide BPH with the appropriate documentation to comply with the special conditions regarding the public release requirements established by federal and State regulations as set forth in Exhibit D attached hereto at such times as are set forth therein.

ARTICLE IV

Local Bonds; Security for Loan; Repayment of Loan; Interest on Loan; Fees and Charges

4.1 The Local Entity shall, as one of the conditions of the Authority and BPH to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Local Entity in accordance with the Local Statute, which shall, as adopted or enacted, contain provisions and covenants in substantially the form as follows:

(a) That the gross revenues of the System shall always be used for purposes of the System. Such gross revenues will be used monthly, in the order of priority listed below:

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule X, to provide debt service on the Local Bonds by depositing in a sinking fund one-third (1/3) of the interest payment next coming due on the Local Bonds and one-third (1/3) of the principal payment next coming due on the Local Bonds and, beginning three (3) months prior to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds (the "Reserve Account") was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

(iii) to create a renewal and replacement, or similar, fund in an amount equal to two and one-half percent (2-1/2%) of the gross revenues from the System, exclusive of any payments into the Reserve Account, for the purpose of improving or making emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account; and

(iv) for other legal purposes of the System, including payment of debt service on other obligations junior, subordinate and inferior to the Local Bonds.

Provided that if the Local Entity has existing outstanding indebtedness which has greater coverage or renewal and replacement fund requirements, then the greater requirements will prevail until said existing indebtedness is paid in full.

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by a pledge of either the gross or net revenues, as applicable, of the System as provided in the Local Act;

(ii) That the schedule of rates or charges for the services of the System shall be sufficient to provide funds which, along with other revenues of the System, will pay all Operating Expenses and leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum amount required in any year for debt service on the Local Bonds and all other obligations secured by a lien on or payable from the revenues of the System prior to or on a parity with the Local Bonds or, if the Reserve Account is funded (whether by Local Bond proceeds, monthly deposits or otherwise) at an amount equal to the Reserve Requirement and any reserve account for any such prior or parity obligations is funded at least at the requirement therefor, equal to at least one hundred ten percent (110%) of the maximum amount required in any year for debt service on the Local Bonds and any such prior or parity obligations;

(iii) That the Local Entity will complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or the DWTRF Regulations, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized from such sale, mortgage, lease or other disposition shall be sufficient to fully pay all of the Local Bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of the System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

(v) That the Local Entity shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues

of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds and with the prior written consent of the Authority and BPH;

(vi) That the Local Entity will carry such insurance as is customarily carried with respect to works and properties similar to the System, including those specified by Section 2.8 hereof;

(vii) That the Local Entity will not render any free services of the System;

(viii) That the Authority may, by proper legal action, compel the performance of the duties of the Local Entity under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal of or interest on the Local Bonds, the right to obtain the appointment of a receiver to administer the System or construction of the Project, or both, as provided by law and all rights as set forth in Section 5 of the Act;

(ix) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, all delinquent rates and charges, if not paid when due, shall become a lien on the premises served by the System;

(x) That, to the extent legally allowable, the Local Entity will not grant any franchise to provide any services which would compete with the System;

(xi) That the Local Entity shall annually, within six months of the end of the fiscal year, cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and BPH. If the Local Entity receives \$300,000 or more (in federal funds) in a fiscal year, the audit shall be obtained in accordance with the Single Audit Act (as amended from time to time) and the applicable OMB Circular (or any successor thereto). Financial statement audits are required once all funds have been received by the Local Entity. The audit shall include a statement that the Local Entity is in compliance with the terms and provisions of the Local Act and this Loan Agreement and that the Local Entity's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

(xii) That the Local Entity shall annually adopt a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance

of the System during the succeeding fiscal year and shall submit a copy of such budget to the Authority and BPH within 30 days of adoption thereof;

(xiii) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, prospective users of the System shall be required to connect thereto;

(xiv) That the proceeds of the Local Bonds, advanced from time to time, except for accrued interest and capitalized interest, if any, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Local Entity and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim funding of such Local Entity, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and BPH, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Local Entity may authorize redemption of the Local Bonds with 30 days written notice to BPH and the Authority;

(xvi) That the West Virginia Municipal Bond Commission (the "Commission") shall serve as paying agent for all Local Bonds;

(xvii) That the Local Entity shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payment. The Local Entity shall complete the Monthly Payment Form, attached hereto as Exhibit E and incorporated herein by reference, and submit a copy of said form along with a copy of the check or electronic transfer to the Authority by the 5th day of such calendar month;

(xviii) That, unless it qualifies for an exception to the provisions of Section 148 of the Internal Revenue Code of 1986, as amended, which exception shall be set forth in an opinion of bond counsel, the Local Entity will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Internal Revenue Code of 1986, as amended, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

(xix) That the Local Entity shall have obtained the certificate of the Consulting Engineers to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority and BPH, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and BPH is sufficient to pay the costs of acquisition and construction of the Project and all permits required by federal and State laws for construction of the Project have been obtained;

(xx) That the Local Entity shall, to the full extent permitted by applicable law and the rules and regulations of the PSC, terminate its services to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore such services until all delinquent charges for the services of the System have been fully paid; and

(xxi) That the Local Entity shall submit all proposed change orders to the BPH for written approval. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule A attached to the certificate of the Consulting Engineer. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds available due to bid/construction/project underruns.

The Local Entity hereby represents and warrants that the Local Act has been or shall be duly adopted or enacted in compliance with all necessary corporate and other action and in accordance with applicable provisions of law. All legal matters incident to the authorization, issuance, validity, sale and delivery of the Local Bonds shall be approved without qualification by nationally recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit F.

4.2 The Loan shall be secured by the pledge and assignment by the Local Entity, as effected by the Local Act, of the fees, charges and other revenues of the Local Entity from the System.

4.3 At least five percent (5%) of the proceeds of the Local Bonds will be advanced on the Date of Loan Closing. The remaining proceeds of the Local Bonds shall be advanced by the Authority monthly as required by the Local Entity to pay Costs of the Project, provided, however, if the proceeds of the Local Bonds will be used to repay an interim financing, the proceeds will be advanced on a schedule mutually agreeable to the Local Entity, the BPH and the Authority. The Local Bonds shall not bear interest during the construction period but interest shall commence accruing on the completion date as defined

in the DWTRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on the Local Bonds shall be as set forth on Schedule Y hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.4 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Local Entity. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series.

4.5 As provided by the DWTRF Regulations, the Local Entity agrees to pay from time to time, if required by the Authority and BPH, the Local Entity's allocable share of the reasonable administrative expenses of the BPH and the Authority relating to the Program. Such administrative expenses shall be determined by the BPH and the Authority and shall include, without limitation, Program expenses, legal fees paid by the BPH and the Authority and fees paid for any bonds or notes to be issued by the Authority for contribution to the Fund.

4.6 The obligation of the Authority to make any loans shall be conditioned upon the availability of moneys in the Fund in such amount and on such terms and conditions as, in the sole judgment of the Authority, will enable it to make the Loan.

ARTICLE V

Certain Covenants of the Local Entity;
Imposition and Collection of User Charges;
Payments To Be Made by
Local Entity to the Authority

5.1 The Local Entity hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Local Entity hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System and will take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and in compliance with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the required sums set forth in the Local Act and this Loan Agreement, the Local Entity hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges (or where applicable, immediately file with the PSC for a rate increase) and take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and this Loan Agreement.

5.3 In the event the Local Entity defaults in any payment due to the Authority pursuant to this Loan Agreement, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Local Entity hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Local Entity, the Authority may exercise any or all of the rights and powers granted under Section 5 of the Act, including, without limitation, the right to impose, enforce and collect charges of the System.

ARTICLE VI

Other Agreements of the Local Entity

6.1 The Local Entity hereby acknowledges to the Authority and BPH its understanding of the provisions of the Act, vesting in the Authority and BPH certain powers, rights and privileges with respect to drinking water projects in the event of default by local entities in the terms and covenants of this Loan Agreement, and the Local Entity hereby covenants and agrees that, if the Authority should hereafter have recourse to said rights and powers, the Local Entity shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Loan Agreement.

6.2 The Local Entity hereby warrants and represents that all information provided to the Authority and BPH in this Loan Agreement, in the Application or in any other application or documentation with respect to financing the Project was at the time, and now is, true, correct and complete, and such information does not omit any material fact necessary to make the statements therein, in light of the circumstances under which they were

made, not misleading. Prior to the Authority's making the Loan and receiving the Local Bonds, the Authority and BPH shall have the right to cancel all or any of their obligations under this Loan Agreement if (a) any representation made to the Authority and BPH by the Local Entity in connection with the Loan shall be incorrect or incomplete in any material respect or (b) the Local Entity has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of the Act, the DWTRF Regulations or this Loan Agreement.

6.3 The Local Entity hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority or any other lender for the planning or design of the Project, provided that such repayment shall not be made from the proceeds of the Loan.

6.4 The Local Entity hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Local Entity fails to make any such rebates as required, then the Local Entity shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

6.5 Notwithstanding Section 6.4, the Authority and BPH may at any time, in their sole discretion, cause the rebate calculations prepared by or on behalf of the Local Entity to be monitored or cause the rebate calculations for the Local Entity to be prepared, in either case at the expense of the Local Entity.

6.6 The Local Entity hereby agrees to give the Authority and BPH prior written notice of the issuance by it of any other obligations to be used for the System, payable from the revenues of the System or from any grants for the Project or otherwise related to the Project or the System.

6.7 The Local Entity hereby agrees to file with the Authority and BPH upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule B to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

7.1 Schedules X and Y shall be attached to this Loan Agreement by the Authority as soon as practicable after the Date of Loan Closing is established and shall be approved by an official action of the Local Entity supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority.

7.2 If any provision of this Loan Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Loan Agreement, and this Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

7.3 This Loan Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments and take such other actions as may be necessary to give effect to the terms of this Loan Agreement.

7.4 No waiver by any party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

7.5 This Loan Agreement supersedes all prior negotiations, representations and agreements between the parties hereto relating to the Loan and constitutes the entire agreement between the parties hereto in respect thereof.

7.6 By execution and delivery of this Loan Agreement, notwithstanding the date hereof, the Local Entity specifically recognizes that it is hereby agreeing to sell its Local Bonds to the Authority and that such obligation may be specifically enforced or subject to a similar equitable remedy by the Authority.

7.7 This Loan Agreement shall terminate upon the earlier of:

- Authority or BPH;
- (i) written notice of termination to the Local Entity from either the Authority or BPH;
 - (ii) the end of ninety (90) days after the date of execution hereof by the Authority or such later date as is agreed to in writing by the BPH if the Local Entity has failed to deliver the Local Bonds to the Authority;
 - (iii) termination by the Authority and BPH pursuant to Section 6.2 hereof; or
 - (iv) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Local Entity to the Authority or BPH.

In the event funds are not available to make all of the Loan, the responsibility of the Authority and BPH to make all the Loan is terminated; provided further that the obligation of the Local Entity to repay the outstanding amount of the Loan made by the Authority and BPH is not terminated due to such non-funding on any balance of the Loan. The BPH agrees to use its best efforts to have the amount contemplated under this Loan Agreement included in its budget. Non-funding of the Loan shall not be considered an event of default under this Loan Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be executed by their respective duly authorized officers as of the date executed below by the Authority.

TOWN OF BATH

[Name of Local Entity]

(SEAL)

By: *Sharon Webster*
Its: Mayor

Attest:

Date: December 6, 2002

[Signature]
Its: Recorder

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

(SEAL)

By: *Daniel B. Gorbashy*
Its: Director

Attest:

Date: December 6, 2002

Barbara B. Meadows
Its: Secretary-Treasurer

000832/00520
03/26/02

EXHIBIT A

MONTHLY FINANCIAL REPORT

Name of Local Entity _____
 Name of Bond Issue(s) _____
 Type of Project _____ Water _____ Wastewater _____
 Fiscal Year _____ Report Month _____

<u>Item</u>	<u>Current Month</u>	<u>Total Year To Date</u>	<u>Budget Year To Date</u>	<u>Budget Year To Date Minus Total Year To Date</u>
1. Gross Revenues	_____	_____	_____	_____
2. Operating Expenses	_____	_____	_____	_____
3. Bond Payments:				
<u>Type of Issue</u>				
Clean Water SRF	_____	_____	_____	_____
Drinking Water TRF	_____	_____	_____	_____
Infrastructure Fund	_____	_____	_____	_____
Water Development Authority	_____	_____	_____	_____
Rural Utilities Service	_____	_____	_____	_____
Economic Development Administration	_____	_____	_____	_____
Other (Identify)	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
4. Renewal and Replacement Fund Deposits	_____	_____	_____	_____

 Name of Person Completing Form

 Address

 Telephone

INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

- Item 1 You will need a copy of the current fiscal year budget adopted by the Local Entity to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of \$1,200 are anticipated to be received for the year, each month the base would be increased by \$100 ($\$1,200/12$). This is the incremental amount for the Budget Year-to-Date column.
- Item 2 Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of \$900 are anticipated to be incurred for the year, each month the base would be increased by \$75 ($\$900/12$). This is the incremental amount for the Budget Year-to-Date column.
- Item 3 Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Local Entity according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.
- Item 4 Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are \$1,200, then \$30 (2.5% of \$1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Local Entity.

The Local Entity must complete the Monthly Financial Report and forward it to the Water Development Authority by the 10th day of each month, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project.

EXHIBIT B

PAYMENT REQUISITION FORM

EXHIBIT C

FORM OF CERTIFICATE OF CONSULTING ENGINEER

(Issuer)

(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No. _____, of _____ Consulting Engineers, _____, _____, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of _____ to the _____ system (the "Project") of _____ (the "Issuer"), to be constructed primarily in _____ County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words used herein and not defined herein shall have the same meaning set forth in the bond _____ adopted or enacted by the Issuer on _____, and the Loan Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), dated _____.

2. The Bonds are being issued for the purposes of (i) _____, and (ii) paying certain issuance and other costs in connection therewith.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by BPH and any change orders approved by the Issuer, BPH and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least _____ years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in Schedule A attached hereto as Exhibit A, and my firm¹ has ascertained that all successful

¹If another responsible party, such as the Issuer's attorney, reviews the insurance and payment bonds, then insert the following: [and in reliance upon the opinion of _____, Esq.] and delete

bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) as of the effective date thereof², the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by BPH; and (xi) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this _____ day of _____,

[SEAL]

By: _____

West Virginia License No. _____

"my firm has ascertained that".

²If the Rule 42 Exhibit and/or rate structure was prepared by an accountant, then insert the following: "In reliance upon the certificate of _____ of even date herewith," at the beginning of (ix).

EXHIBIT D

SPECIAL CONDITIONS

The Local Entity agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations, groundbreaking or project dedication program documents and other documents describing projects or programs funded in whole or in part with federal money, (1) the percentage of the total costs of the program or project which will be financed with federal money, (2) the dollar amount of federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

EXHIBIT E

MONTHLY PAYMENT FORM

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311-1217

Re: [Name of bond issue]

Ladies and Gentlemen:

The following deposits were made to the West Virginia Municipal Bond Commission

on behalf of _____ on _____
[Local Entity] [Date]

Sinking Fund:

Interest \$ _____

Principal \$ _____

Total: \$ _____

Reserve Account: \$ _____

Witness my signature this ____ day of _____.

[Name of Local Entity]

By: _____
Authorized Officer

Enclosure: wire transfer form

EXHIBIT F

OPINION OF BOND COUNSEL FOR LOCAL ENTITY

[To Be Dated as of Date of Loan Closing]

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311-1217

West Virginia Bureau for Public Health
815 Quarrier Street, Suite 418
Charleston, WV 25301-2616

Ladies and Gentlemen:

We are bond counsel to _____ (the "Local Entity"), a

_____.

We have examined a certified copy of proceedings and other papers relating to the authorization of a (i) loan agreement dated _____, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Local Entity and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and (ii) the issue of a series of revenue bonds of the Local Entity, dated _____ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are issued in the principal amount of \$ _____, in the form of one bond, registered as to principal and interest to the Authority, with principal and interest payable quarterly on March 1, June 1, September 1, and December 1 of each year, beginning _____ 1, _____, and ending _____ 1, _____, all as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purposes of (i) _____, and (ii) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly adopted or enacted by the Local Entity on _____, as supplemented by the supplemental resolution duly adopted by the Local Entity on _____ (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

Based upon the foregoing and upon our examination of such other documents as we have deemed necessary, we are of the opinion as follows:

1. The Loan Agreement has been duly authorized by and executed on behalf of the Local Entity and is a valid and binding special obligation of the Local Entity, enforceable in accordance with the terms thereof.
2. The Loan Agreement inures to the benefit of the Authority and the BPH and cannot be amended so as to affect adversely the rights of the Authority or the BPH or diminish the obligations of the Local Entity without the consent of the Authority and the BPH.
3. The Local Entity is a duly organized and validly existing _____, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt or enact the Local Act and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.
4. The Local Act and all other necessary orders and resolutions have been legally and effectively adopted or enacted by the Local Entity and constitute valid and binding obligations of the Local Entity, enforceable against the Local Entity in accordance with their terms. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.
5. The Local Bonds have been duly authorized, issued, executed and delivered by the Local Entity to the Authority and are valid, legally enforceable and binding special obligations of the Local Entity, payable from the gross or net revenues of the System set forth in the Local Act and secured by a first lien on and pledge of the gross or net revenues of the System, all in accordance with the terms of the Local Bonds and the Local Act.
6. The Local Bonds are, by statute, exempt _____, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is excludable from the gross income of the recipients thereof for federal income tax purposes.

No opinion is given herein as to the effect upon enforceability of the Local Bonds of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

We have examined executed and authenticated Local Bond numbered R-1, and in our opinion the form of said bond and its execution and authentication are regular and proper.

Very truly yours,

DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds \$ 1,150,000
Purchase Price of Local Bonds \$ 1,150,000

The Local Bonds shall bear no interest. Commencing December 1, 2003, principal of the Local Bonds is payable quarterly, with an administrative fee of 1%. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

The Local Entity shall submit its payments monthly to the Commission with instructions that the Commission will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority. If the Reserve Account is not fully funded at closing, the Local Entity shall commence the payment of the 1/120 of the maximum annual debt service on the first day of the month it makes its first monthly payment to the Commission. The Local Entity shall instruct the Commission to notify the Authority of any monthly payments which are not received by the 20th day of the month in which the payment was due.

The Local Bonds are fully registered in the name of the Authority as to principal and interest, if any, and the Local Bonds shall grant the Authority a first lien on the gross or net revenues of the Local Entity's system as provided in the Local Act.

The Local Entity may prepay the Local Bonds in full at any time at the price of par upon 30 days' written notice to the Authority and BPH. The Local Entity shall request approval from the Authority and BPH in writing of any proposed debt which will be issued by the Local Entity on a parity with the Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

As of the date of the Loan Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Entity:

Water Revenue Refunding and Improvement Bonds, Series 1997A, dated July 15, 1997, issued in the original principal amount of \$1,430,000.

Town of Bath
 Loan of \$1,150,000
 0% Interest Rate, 1% Administrative Fee, 30 Years
 Closing Date: December 9, 2002

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
3/01/2003	-	-	-
6/01/2003	-	-	-
9/01/2003	-	-	-
12/01/2003	9,584.00	-	9,584.00
3/01/2004	9,584.00	-	9,584.00
6/01/2004	9,584.00	-	9,584.00
9/01/2004	9,584.00	-	9,584.00
12/01/2004	9,584.00	-	9,584.00
3/01/2005	9,584.00	-	9,584.00
6/01/2005	9,584.00	-	9,584.00
9/01/2005	9,584.00	-	9,584.00
12/01/2005	9,584.00	-	9,584.00
3/01/2006	9,584.00	-	9,584.00
6/01/2006	9,584.00	-	9,584.00
9/01/2006	9,584.00	-	9,584.00
12/01/2006	9,584.00	-	9,584.00
3/01/2007	9,584.00	-	9,584.00
6/01/2007	9,584.00	-	9,584.00
9/01/2007	9,584.00	-	9,584.00
12/01/2007	9,584.00	-	9,584.00
3/01/2008	9,584.00	-	9,584.00
6/01/2008	9,584.00	-	9,584.00
9/01/2008	9,584.00	-	9,584.00
12/01/2008	9,584.00	-	9,584.00
3/01/2009	9,584.00	-	9,584.00
6/01/2009	9,584.00	-	9,584.00
9/01/2009	9,584.00	-	9,584.00
12/01/2009	9,584.00	-	9,584.00
3/01/2010	9,584.00	-	9,584.00
6/01/2010	9,584.00	-	9,584.00
9/01/2010	9,584.00	-	9,584.00
12/01/2010	9,584.00	-	9,584.00
3/01/2011	9,584.00	-	9,584.00
6/01/2011	9,584.00	-	9,584.00
9/01/2011	9,584.00	-	9,584.00
12/01/2011	9,584.00	-	9,584.00
3/01/2012	9,584.00	-	9,584.00
6/01/2012	9,584.00	-	9,584.00
9/01/2012	9,584.00	-	9,584.00
12/01/2012	9,584.00	-	9,584.00
3/01/2013	9,584.00	-	9,584.00
6/01/2013	9,584.00	-	9,584.00
9/01/2013	9,584.00	-	9,584.00
12/01/2013	9,583.00	-	9,583.00
3/01/2014	9,583.00	-	9,583.00
6/01/2014	9,583.00	-	9,583.00
9/01/2014	9,583.00	-	9,583.00

Town of Bath
 Loan of \$1,150,000
 0% Interest Rate, 1% Administrative Fee, 30 Years
 Closing Date: December 9, 2002

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
12/01/2014	9,583.00	-	9,583.00
3/01/2015	9,583.00	-	9,583.00
6/01/2015	9,583.00	-	9,583.00
9/01/2015	9,583.00	-	9,583.00
12/01/2015	9,583.00	-	9,583.00
3/01/2016	9,583.00	-	9,583.00
6/01/2016	9,583.00	-	9,583.00
9/01/2016	9,583.00	-	9,583.00
12/01/2016	9,583.00	-	9,583.00
3/01/2017	9,583.00	-	9,583.00
6/01/2017	9,583.00	-	9,583.00
9/01/2017	9,583.00	-	9,583.00
12/01/2017	9,583.00	-	9,583.00
3/01/2018	9,583.00	-	9,583.00
6/01/2018	9,583.00	-	9,583.00
9/01/2018	9,583.00	-	9,583.00
12/01/2018	9,583.00	-	9,583.00
3/01/2019	9,583.00	-	9,583.00
6/01/2019	9,583.00	-	9,583.00
9/01/2019	9,583.00	-	9,583.00
12/01/2019	9,583.00	-	9,583.00
3/01/2020	9,583.00	-	9,583.00
6/01/2020	9,583.00	-	9,583.00
9/01/2020	9,583.00	-	9,583.00
12/01/2020	9,583.00	-	9,583.00
3/01/2021	9,583.00	-	9,583.00
6/01/2021	9,583.00	-	9,583.00
9/01/2021	9,583.00	-	9,583.00
12/01/2021	9,583.00	-	9,583.00
3/01/2022	9,583.00	-	9,583.00
6/01/2022	9,583.00	-	9,583.00
9/01/2022	9,583.00	-	9,583.00
12/01/2022	9,583.00	-	9,583.00
3/01/2023	9,583.00	-	9,583.00
6/01/2023	9,583.00	-	9,583.00
9/01/2023	9,583.00	-	9,583.00
12/01/2023	9,583.00	-	9,583.00
3/01/2024	9,583.00	-	9,583.00
6/01/2024	9,583.00	-	9,583.00
9/01/2024	9,583.00	-	9,583.00
12/01/2024	9,583.00	-	9,583.00
3/01/2025	9,583.00	-	9,583.00
6/01/2025	9,583.00	-	9,583.00
9/01/2025	9,583.00	-	9,583.00
12/01/2025	9,583.00	-	9,583.00
3/01/2026	9,583.00	-	9,583.00
6/01/2026	9,583.00	-	9,583.00

Town of Bath
 Loan of \$1,150,000
 0% Interest Rate, 1% Administrative Fee, 30 Years
 Closing Date: December 9, 2002

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total Pmt
9/01/2026	9,583.00	-	9,583.00
12/01/2026	9,583.00	-	9,583.00
3/01/2027	9,583.00	-	9,583.00
6/01/2027	9,583.00	-	9,583.00
9/01/2027	9,583.00	-	9,583.00
12/01/2027	9,583.00	-	9,583.00
3/01/2028	9,583.00	-	9,583.00
6/01/2028	9,583.00	-	9,583.00
9/01/2028	9,583.00	-	9,583.00
12/01/2028	9,583.00	-	9,583.00
3/01/2029	9,583.00	-	9,583.00
6/01/2029	9,583.00	-	9,583.00
9/01/2029	9,583.00	-	9,583.00
12/01/2029	9,583.00	-	9,583.00
3/01/2030	9,583.00	-	9,583.00
6/01/2030	9,583.00	-	9,583.00
9/01/2030	9,583.00	-	9,583.00
12/01/2030	9,583.00	-	9,583.00
3/01/2031	9,583.00	-	9,583.00
6/01/2031	9,583.00	-	9,583.00
9/01/2031	9,583.00	-	9,583.00
12/01/2031	9,583.00	-	9,583.00
3/01/2032	9,583.00	-	9,583.00
6/01/2032	9,583.00	-	9,583.00
9/01/2032	9,583.00	-	9,583.00
12/01/2032	9,583.00	-	9,583.00
3/01/2033	9,583.00	-	9,583.00
6/01/2033	9,583.00	-	9,583.00
9/01/2033	9,583.00	-	9,583.00
Total	1,150,000.00	-	1,150,000.00 *

*Plus \$1,449.45 one-percent administrative fee paid quarterly. Total fee paid over life of loan is \$173,934.

YIELD STATISTICS

Bond Year Dollars.....	\$18,249.46
Average Life.....	15.869 Years
Average Coupon.....	-
Net Interest Cost (NIC).....	-
True Interest Cost (TIC).....	7.42E-13
Bond Yield for Arbitrage Purposes.....	7.42E-13
All Inclusive Cost (AIC).....	0.9497096%

IRS FORM 8038

Net Interest Cost.....	-
Weighted Average Maturity.....	15.869 Years

SPECIAL ORDINANCE 2002-10

AMEND SECTION 11 OF THE TOWN CODE OF 1981 / WATER RATE
CHARGES INCREASE

"A Special Ordinance to set Rates, Rules and Regulations for furnishing water at
Town of Bath / Berkeley Springs, and vicinity, Morgan County, West Virginia"

Be it hereby ordered that the Rates, Rules and Regulations for furnishing water
at Town of Bath Berkeley Springs, and vicinity, Morgan County West Virginia be
amended to include a 20% water rate increase. This being introduced at the
October 8, 2002, Special Meeting and being the subject of the October 22, 2002
Public Hearing, both having been conducted at the Municipal Center. This rate
increase is necessary to pay the debt service on the bonds to be issued to
upgrade the Town's water-system. All required publications and requirements of
the State of West Virginia Public Service Commission have been met. The
increased rates are attached. This Ordinance shall take effect as of January 1,
2003 billing cycle.

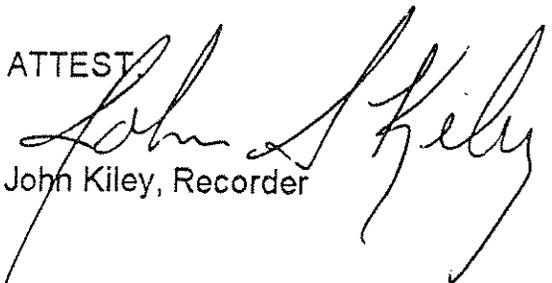
FIRST READING Oct. 8, 2002

SECOND READING Oct. 22, 2002

PASSED ON THIS 22ND DAY OF Oct. 2002



Susan J. Webster, Mayor

ATTEST.

John Kiley, Recorder

PROPOSED 20.0% RATE INCREASE
(MINIMUM QUARTERLY CHARGE-\$ 46.80)

DRAFT

First.....	6,000 gallons @ \$7.80 per 1,000 gallons
Next.....	9,000 gallons @ \$6.30 per 1,000 gallons
Next.....	135,000 gallons @ \$5.65 per 1,000 gallons
Next.....	450,000 gallons @ \$2.96 per 1,000 gallons
All Over.....	600,000 gallons @ \$1.20 per 1,000 gallons

MINIMUM CHARGE - METER SIZE

5/8 OR 5/8X3/4"meter.....	\$ 46.80 per quarter
3/4" meter.....	\$ 70.20 per quarter
1" meter.....	\$ 117.00 per quarter
1 1/2" meter.....	\$ 234.00 per quarter
2" meter.....	\$ 374.40 per quarter
3" meter.....	\$ 702.00 per quarter
4" meter.....	\$1,170.00 per quarter
6" meter.....	\$2,340.00 per quarter

Delayed Payment Penalty-10% will be added to accounts not paid within 20 days of date of bill.

PUBLIC FIRE PROTECTION

Rates for hydrants in service.....\$36.37 per annum per hydrant

PRIVATE FIRE PROTECTION

Rates: Fire hydrants owned by company.....\$279.31 each per annum/\$69.83 per quarter
 Fire hydrants owned by utility.....\$558.62 each per annum/\$139.66 per quarter

AUTOMATIC SPRINKLER SERVICE

Rates: 2 inch service line connection.....\$ 18.33 per quarter
 3 inch service line connection.....\$ 22.26 per quarter
 4 inch service line connection.....\$ 29.54 per quarter
 6 inch service line connection.....\$ 66.78 per quarter
 8 inch service line connection.....\$ 118.57 per quarter

CONNECTION FEE

Rates: 5/8 x 3/4 " connection to the system.....\$ 577.50
 1" or larger connection to the system at cost.

SERVICE CHARGE - There shall be made a service charge of \$25.00 for turning the water off at the customer's and a like charge for turning the water on.

RECONNECTION FEE - There shall be made a reconnection of \$22.00 to restore service after all amounts in arrears have been paid.

TANK WATER - There will be a minimum charge of \$24.00 up to 3,000 gallons per load or \$7.20 per 1,000 gallons, whichever is highest dollar amounts.

PASSED BY TOWN COUNCIL

Susan J. Webster, Mayor

**TOWN OF BATH
BERKELEY SPRINGS WATER WORKS
FILTRATION SYSTEM RATE INCREASE**

DRAFT

Applicable within and outside the corporate limits of the Town of Bath, Berkeley Springs, WV.

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service.

Rate:

Gallons Used Per Quarter		Price Per κ Gallon
First	6,000	\$7.80
Next	9,000	\$6.30
Next	135,000	\$5.65
Next	450,000	\$2.96
All Over	600,000	\$1.20

MINIMUM CHARGE

*No bill will be rendered for less than the following amounts, depending on the size of the meter.

Meter	Price
5/8 x 3/4 Inch	\$46.80
3/4 Inch	\$70.20
1 Inch	\$117.00
1 1/2 Inch	\$234.00
2 Inch	\$374.40
3 Inch	\$702.00
4 Inch	\$1,170.00
6 Inch	\$2,340.00

Town of Bath Special Meeting

Tuesday, October 8, 2002

CALL TO ORDER:

@ 5:00 p.m., by Mayor, Pledge of Allegiance... Invocation by Mayor Webster

ROLL CALL:

Mayor, Susan Webster (P) Recorder, John Kiley (P) John Bohrer (P)
Dave Hall (P) Dale Lutman (P) Janet Culp (A) Dave Duncan (P)

FINANCE:

Dave Hall reviewed the Town Bills

MOTION TO PAY TOWN BILLS AS FUNDS BECOMES AVAILABLE:

Motion to Accept by Dave Hall, Seconded by Dale Lutman. Carried

ORDINANCE:

The Mayor discussed Special Ordinance 2002-10. The Ordinance will set Rates, Rules and Regulations for furnishing water at Town of Bath/ Berkeley Springs, and vicinity, Morgan County, West Virginia.

There were a few citizens in attendance and the Mayor opened the floor for comments and general comments.

Special Ordinance 2002-10 read aloud.

MOTION TO ACCEPT THE FIRST READING OF SPECIAL ORDINANCE 2002-10:

Motion to Accept by Dave Duncan, Seconded by Dave Hall. Carried

MOTION TO ADJOURN:

Motion to Accept by Dave Duncan, Seconded by John Kiley. Carried.
Meeting Adjourned @ 5:30p.m.



Mayor, Susan J. Webster



Recorder, John Kiley

Town of Bath Special Meeting

Tuesday, October 22, 2002

CALL TO ORDER:

@ 5:00 p.m., by Mayor, Pledge of Allegiance... Invocation by Mayor Webster

ROLL CALL:

Mayor, Susan Webster (P) Recorder, John Kiley (P) John Bohrer (P)
Dave Hall (P) Dale Lutman (A) Janet Culp (P) Dave Duncan (P)

ORDINANCE:

The Mayor discussed Special Ordinance 2002-10. The Ordinance will set Rates, Rules and Regulations for furnishing water at Town of Bath/ Berkeley Springs, and vicinity, Morgan County, West Virginia.

Special Ordinance 2002-10 read aloud.

MOTION TO ACCEPT THE SECOND READING OF SPECIAL ORDINANCE 2002-10:

Motion to Accept by Dave Hall, Seconded by John Bohrer. Carried

MOTION TO PASS SPECIAL ORDINANCE 2002-10:

Motion to Accept by Dave Hall, Seconded by John Kiley. Carried

MOTION TO ADJOURN:

Motion to Accept by Dave Duncan, Seconded by John Kiley. Carried.

Meeting Adjourned @ 5:35p.m.



Mayor, Susan J. Webster



Recorder, John Kiley

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY that a legal publication
Notice of Public Hearing

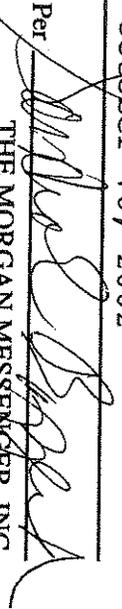
placed by
Berkeley Springs Water Dept.

appeared for 2 consecutive weeks in
THE MORGAN MESSENGER, a newspaper
published in Berkeley Springs, WV, in its issue
beginning

October 9, 2002

and ending

October 16, 2002

Per 
THE MORGAN MESSENGER, INC.
Words 1200

Charge \$ 189.00

NOTICE OF PUBLIC HEARING

SPECIAL ORDINANCE 2002-10

AMEND SECTION 11 OF THE TOWN CODE OF 1981/WATER RATE CHARGES INCREASE

"A Special Ordinance to set Rates, Rules and Regulations for furnishing water at Town of Bath/Berkeley Springs, and vicinity, Morgan County, West Virginia."

Be it hereby ordered that the Rates, Rules and Regulations for furnishing water at Town of Bath/Berkeley Springs, and vicinity, Morgan County, West Virginia be amended to include a 20% water rate increase. This being introduced at the October 8, 2002, Special Meeting and being the subject of the October 22, 2002 Public Hearing, both having been conducted at the Municipal Center. This rate increase is necessary to pay the debt service on the bonds to be issued to upgrade the Town's water system. All required publications and requirements of the State of West Virginia Public Service Commission have been met. The increased rates are below. This Ordinance shall take effect as of January 1, 2003 billing cycle.

BY ORDER OF TOWN COUNCIL
JOHN KILEY, RECORDER
NOTICE

BERKELEY SPRINGS WATER WORKS

Proposed 20.0% Rate Increase

(Minimum Quarterly Charge - \$46.80)

First.....	6,000 gallons @ \$7.80 per 1,000 gallons
Next.....	9,000 gallons @ \$6.30 per 1,000 gallons
Next.....	135,000 gallons @ \$5.65 per 1,000 gallons
Next.....	450,000 gallons @ \$2.96 per 1,000 gallons
All over.....	600,000 gallons @ \$1.20 per 1,000 gallons

Minimum Charge - Meter Size

5/8 or 5/8 x 3/4" meter.....	\$ 46.80 per quarter
3/4" meter.....	\$ 70.20 per quarter
1" meter.....	\$ 117.00 per quarter
1 1/2" meter.....	\$ 234.00 per quarter
2" meter.....	\$ 374.40 per quarter
3" meter.....	\$ 702.00 per quarter
4" meter.....	\$1,170.00 per quarter
6" meter.....	\$2,340.00 per quarter

Delayed Payment Penalty - 10% will be added to accounts not paid within 20 days of date of bill.

PUBLIC FIRE PROTECTION

Rates for Hydrants in service.....\$36.37 per annum per hydrant

PRIVATE FIRE PROTECTION

Rates:

Fire hydrants owned by company.....	\$279.31 each per annum/ \$69.83 per quarter
Fire hydrants owned by utility.....	\$558.62 each per annum/ \$139.66 per quarter

AUTOMATIC SPRINKLER SERVICE

Rates: 2 inch service line connection.....	\$18.33 per quarter.
3 inch service line connection.....	\$22.26 per quarter.
4 inch service line connection.....	\$29.54 per quarter.
6 inch service line connection.....	\$66.78 per quarter.
8 inch service line connection.....	\$118.57 per quarter.

CONNECTION FEE

Rate: 5/8 x 3/4" connection to the system.....\$577.50
1 inch or larger connection to the system at cost.

SERVICE CHARGE - There shall be made a service charge of \$25.00 for turning the water off at the customer's and a like charge for turning the water on.

RECONNECTION FEE - There shall be made a reconnection of \$22.00 to restore service after all amounts in arrears have been paid.

TANK WATER - There will be a minimum charge of \$24.00 up to 3,000 gallons per load or \$7.20 per 1,000 gallons, whichever is highest dollar

TOWN OF BATH BERKELEY SPRINGS WATER WORKS FILTRATION SYSTEM RATE INCREASE

Applicable within and outside the corporate limits of the Town of Bath, Berkeley Springs, WV.

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service.

Rate:

Gallons Used Per Quarter	Price Per Gallon
First 6,000	\$7.80
Next 9,000	\$6.30
Next 135,000	\$5.65
Next 450,000	\$2.96
All Over 600,000	\$1.20

MINIMUM CHARGE

*No bill will be rendered for less than the following amounts, depending on the size of the meter.

Meter	Price
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3 Inch	\$702.00
4 Inch	\$1,170.00
6 Inch	\$2,340.00

10-9-2tm

TOWN OF BATH
WATER REVENUE BONDS, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

BOND ORDINANCE

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TOWN OF BATH

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS SYSTEM OF THE TOWN OF BATH AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$1,150,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA DWTRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE TOWN OF BATH:

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01. Authority of this Bond Legislation. This Ordinance (together with any ordinance or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 8, Article 19 and Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended, and other applicable provisions of law.

Section 1.02. Definitions. The following terms shall have the following meanings in this Bond Legislation unless the context expressly requires otherwise.

"Act" means, collectively, Chapter 8, Article 19 and Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended and in effect on the date of enactment of this Bond Legislation.

"Administrative Fee" means any administrative fee required to be paid pursuant to the Loan Agreement.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2002 A Bonds on behalf of the Program, or any other agency of the State that succeeds to the function of the Authority.

"Bondholder," "Holder," "Owner" or "Registered Owner" or any similar term means any person who shall be the registered owner of any Outstanding Bond as hereinafter defined.

"Bond Legislation," "Ordinance" or "Bond Ordinance" means this Bond Ordinance in its present form and all ordinances, orders and resolutions supplemental hereto or amendatory hereof.

"Bonds" means, collectively, the Series 2002 A Bonds, the Prior Bonds and any Parity Bonds hereafter issued within the terms, restrictions and conditions contained in this Bond Legislation.

"Bond Year" means the twelve-month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year except that the first Bond Year shall begin on the Closing Date.

"BPH" means the West Virginia Bureau for Public Health, a division of the West Virginia Department of Health and Human Resources, or any other agency, board or department of the State that succeeds the function of the BPH.

"Certificate of Authentication and Registration" means the Certificate of Authentication and Registration on the Series 2002 A Bonds in substantially the form set forth in Section 3.08 hereof.

"Closing Date" means the date upon which there is an exchange of the Series 2002 A Bonds for all or a portion of the proceeds of the Series 2002 A Bonds from the Authority and the BPH.

"Code" means the Internal Revenue Code of 1986, as amended, including the Regulations promulgated pursuant thereto or any predecessors or successors thereto.

"Commission" means the West Virginia Municipal Bond Commission or any other agency of the State that succeeds to the functions of the Commission.

"Consulting Engineers" means Thrasher Engineering, Clarksburg, West Virginia, or any engineer or firm of engineers, licensed by the State, which shall at any time hereafter

be procured by the Issuer as Consulting Engineers for the System in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended.

"Cost of Project" or "Costs" means those costs described in Section 1.04 E. hereof to be a part of the cost of the acquisition and construction of the Project.

"Depository Bank" means the bank or banks designated as such in the Supplemental Resolution and any successors and assigns, which shall be a member of FDIC.

"DWTRF Regulations" means the regulations for the Program set forth in Title 64, Part 49 of the West Virginia Code of State Regulations.

"Event of Default" means any event or occurrence specified in Section 9.01 hereof.

"FDIC" means the Federal Deposit Insurance Corporation and any successor to the functions of the FDIC.

"Fiscal Year" means each twelve-month period beginning on July 1 and ending on the succeeding June 30.

"Fund" means the "West Virginia Drinking Water Treatment Revolving Fund" established by the State, administered by the BPH and funded by capitalization grants awarded to the State pursuant to the federal Safe Drinking Water Act, as amended, for the purpose of establishing and maintaining a permanent perpetual fund for the construction, acquisition and improvement of drinking water facilities.

"Governing Body" means the Council of the Issuer or any other governing body of the Issuer that succeeds to the functions of the Council as presently constituted.

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America.

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided that, "Gross Revenues" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined) or any Tap Fees, as hereinafter defined and for the furnishing by the Issuer of miscellaneous service.

"Independent Certified Public Accountants" means any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

"Infrastructure Council" means the West Virginia Infrastructure and Jobs Development Council or any successor thereto.

"Investment Property" means

(A) any security (within the meaning of Section 165(g)(2)(A) or (B) of the Code),

(B) any obligation,

(C) any annuity contract,

(D) any investment-type property, or

(E) in the case of a bond other than a private activity bond, any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan.

Except as provided in the following sentence, the term "Investment Property" does not include any tax-exempt bond. With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C) of the Code), the term "Investment Property" includes a specified private activity bond (as so defined).

"Issuer" means the Town of Bath, a municipal corporation and political subdivision of the State in Morgan County, West Virginia, and, when appropriate, also means the Governing Body thereof and any department, board, organization or institution thereof in control of the management and operation of the System, as hereinafter defined.

"Loan Agreement" means the Drinking Water Treatment Revolving Fund Loan Agreement entered into by and between the Issuer and the Authority, on behalf of the BPH, providing for the purchase of the Series 2002 A Bonds from the Issuer by the Authority.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 2002 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Series 2002 A Bonds Reserve Account. For purposes of the Private Business Use

limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2002 A Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

"Net Revenues" means the balance of the Gross Revenues, remaining after deduction of Operating Expenses, as hereafter defined.

"Nonpurpose Investment" means any Investment Property which is acquired with the gross proceeds of the Series 2002 A Bonds and is not acquired in order to carry out the governmental purpose of the Series 2002 A Bonds.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses (other than those capitalized as part of the Costs); the Administrative Fee; fees and expenses of the Authority, the BPH, fiscal agents, the Depository Bank, the Registrar and the Paying Agent (other than those capitalized as part of the Costs); payments to pension or retirement funds; taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided that, "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds; charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets; and amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Outstanding" when used with reference to Bonds, as of any particular date, describes all such Bonds theretofore and thereupon being authenticated and delivered except (i) any such Bond canceled by the Registrar, at or prior to said date; (ii) any such Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such Bond, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any such Bond deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any such Bond registered to the Issuer.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 7.07 hereof.

"Paying Agent" means the Commission or such other entity or authority as may be designated as a Paying Agent by the Issuer in the Supplemental Resolution.

"Prior Bonds" means the Issuer's Water Revenue Refunding and Improvement Bonds, Series 1997 A, dated July 15, 1997, issued in the original principal amount of \$1,430,000.

"Prior Ordinance" means, collectively, the ordinance of the Issuer enacted July 7, 1997, and the Supplemental Resolution of the Issuer adopted July 17, 1997, authorizing the Prior Bonds.

"Private Business Use" means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit; provided that use as a member of the general public shall not be taken into account.

"Program" means the drinking water facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Safe Drinking Water Act and administered by the BPH.

"Project" means the acquisition and construction of certain additions, betterments and improvements to the System, a description of which is attached hereto as Exhibit A and incorporated herein by reference.

"PSC" means the Public Service Commission of West Virginia or any successor to the functions thereof.

"PSC Order" means, collectively, the final order or orders of the PSC, granting the Issuer a certificate of convenience and necessity to construct the Project and approving the financing for the Project and the rates of the System.

"Qualified Investments" means and includes any of the following:

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; the Tennessee Valley Authority; or the Washington Metropolitan Area Transit Authority;
- (d) Any bond, debenture, note, participation certificate or other similar obligation issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the Federal Deposit Insurance Corporation ("FDIC"), shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e), above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the owner of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia Investment Management Board pursuant to Chapter 12, Article 6 of the Code of West Virginia, 1931, as amended; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and which are rated at least "A" by Moody's Investor Service, Inc., or Standard and Poor's Corporation.

"Recorder" means the Recorder of the Issuer.

"Registrar" or "Bond Registrar" means the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns.

"Regulations" means the temporary and permanent regulations promulgated under the Code or any predecessor to the Code.

"Renewal and Replacement Fund" means the fund created by the Prior Ordinance and continued hereby.

"Reserve Accounts" means, collectively, the respective reserve accounts created for the Series 2002 A Bonds and the Prior Bonds.

"Reserve Requirements" means, collectively, the respective amounts required to be on deposit in the Reserve Accounts.

"Revenue Fund" means the fund created by the Prior Ordinance and continued hereby.

"Series 2002 A Bonds" means the Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), of the Issuer, authorized to be issued by this Bond Legislation.

"Series 2002 A Bonds Construction Trust Fund" means the fund created by Section 5.01 hereof.

"Series 2002 A Bonds Reserve Account" means the account created by Section 5.02 hereof.

"Series 2002 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2002 A Bonds in the then current or any succeeding Fiscal Year.

"Series 2002 A Bonds Sinking Fund" means the fund created by Section 5.02 hereof.

"Sinking Funds" means, collectively, the respective sinking funds created for the Series 2002 A Bonds and the Prior Bonds.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Bond Legislation and when preceded by the article "the," refers specifically to the Supplemental Resolution authorizing the sale of the Series 2002 A Bonds; provided that, any matter intended by this Bond Legislation to be included in the Supplemental Resolution with respect to the Series 2002 A Bonds and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Gross Revenues not required by this Bond Legislation to be set aside and held for the payment of or security for the Series 2002 A Bonds, the Prior Bonds or any other obligations of the Issuer, including, without limitation, the Sinking Funds, the Reserve Accounts and the Renewal and Replacement Fund.

"System" means the complete existing waterworks system of the Issuer, and shall include any extensions, additions, betterments and improvements thereto hereafter acquired or constructed for the System from any sources whatsoever, both within and without the Issuer.

"Tap Fees" means the fees, if any, paid by prospective customers of the System in order to connect thereto.

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations. Words importing the masculine, feminine or neutral gender include any other gender.

Additional terms and phrases are defined in this Bond Legislation as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Bond Legislation; and the term "hereafter" means after the date of the enactment of this Bond Legislation.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Bond Legislation so numbered.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2002 A Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a municipal corporation and political subdivision of the State in Morgan County of said State. The Issuer presently owns and operates a waterworks system. However, the Issuer deems it necessary and desirable for the health, welfare and safety of the inhabitants of the Issuer that there be acquired and constructed the Project in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have been approved by the BPH and are on file with the Issuer.

B. The Issuer intends to permanently finance the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the Authority, which administers the Fund pursuant to the Act.

C. The estimated maximum cost of acquisition and construction of the Project is \$1,150,000, which will be obtained from proceeds of the Series 2002 A Bonds.

D. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all Operating Expenses of the System, the principal of and interest, if any, on the Bonds, and to make payments into all funds and accounts and other payments provided for in this Bond Legislation.

E. It is deemed necessary for the Issuer to issue the Series 2002 A Bonds in the aggregate principal amount of not more than \$1,150,000, to permanently finance the costs of acquisition and construction of the Project. Such costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, on the Series 2002 A Bonds prior to and during acquisition or construction of the Project and for a period not to exceed six months after completion of acquisition or construction of the Project; amounts which may be deposited in the Series 2002 A Bonds Reserve Account; engineering, fiscal and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expenses, any fees or expenses of the Authority and the BPH, including the Administrative Fee, commitment fees, discount, initial fees for the service of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2002 A Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided that, reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2002 A Bonds or the repayment of the indebtedness incurred by the Issuer for such purposes shall be deemed part of the Cost of the Project.

F. The period of usefulness of the System after completion of the Project is not less than 35 years.

G. There are outstanding obligations of the Issuer which will rank on a parity with the Series 2002 A Bonds as to liens, pledge and source of and security for payment, being the Water Revenue Refunding and Improvement Bonds, Series 1997A, dated July 15, 1997, issued in the original aggregate principal amount of \$1,430,000 (the "Prior Bonds").

The Series 2002 A Bonds shall be issued on a parity with the Prior Bonds, with respect to liens, pledge and source of and security for payment and in all other respects. Prior to the issuance of the Series 2002 A Bonds, the Issuer will obtain a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior

Bonds are met. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

H. It is in the best interests of the Issuer that the Series 2002 A Bonds be sold to the Authority pursuant to the terms and provisions of the Loan Agreement.

I. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement, relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2002 A Bonds, or will have so complied prior to the issuance of any thereof, including, among other things, the approval of the Project and the financing thereof by the Infrastructure Council and the obtaining of a certificate of convenience and necessity from the PSC, the time for rehearing and appeal of which will have expired or will have been waived prior to the issuance of the Series 2002 A Bonds.

J. The Infrastructure Council has approved the Project.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project.

There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of not to exceed \$1,150,000, in accordance with the plans and specifications prepared by the Consulting Engineers, approved by the BPH and the Issuer and heretofore filed in the office of the Governing Body. The proceeds of the Series 2002 A Bonds shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, which are in an amount and otherwise compatible with the plan of financing submitted to the BPH.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 2002 A Bonds, funding the Series 2002 A Bonds Reserve Account, paying the costs of the Project not otherwise provided for and paying certain costs of issuance and related costs, or any of such purposes, as shall be specified in the Supplemental Resolution, there shall be and hereby are authorized to be issued negotiable Series 2002 A Bonds of the Issuer. The Series 2002 A Bonds shall be issued as a single bond, designated as "Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program)," in the aggregate principal amount of not more than \$1,150,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2002 A Bonds remaining after funding of the Series 2002 A Bonds Reserve Account (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in the Series 2002 A Bonds Construction Trust Fund established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02. Terms of Bonds. The Series 2002 A Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in the Supplemental Resolution or as specifically provided in the Loan Agreement. The Series 2002 A Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 2002 A Bonds, if any, shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2002 A Bonds shall be issued in the form of one bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 2002 A Bonds. The Series 2002 A Bonds shall be exchangeable at the option and expense of the Holder for another fully registered Bond in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. Such Bonds shall bear interest, if any, and shall be dated as set forth in the Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2002 A Bonds shall be executed in the name of the Issuer by the Mayor and attested by the Recorder, and the seal of the Issuer shall be affixed thereto or imprinted thereon. 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 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. Any Bonds may be signed and sealed on behalf of the Issuer by such person as, at the actual time of the execution of such Bonds, shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2002 A Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof, shall have been manually executed by the Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Registrar if manually signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Series 2002 A Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2002 A Bonds shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Registered Owner, in accepting any of said Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide Holder for value.

So long as any of the Series 2002 A Bonds remain Outstanding, the Registrar shall keep and maintain books for the registration and transfer of such Bonds.

The registered Series 2002 A Bonds shall be transferable only upon the books of the Registrar, by the Registered Owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto, together with a written instrument of transfer satisfactory

to the Registrar, duly executed by the Registered Owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, all Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Registrar. For every such exchange or transfer of Bonds, the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Registrar shall not be obliged to make any such exchange or transfer of Bonds during the 15 days preceding an interest payment date on the Bonds, or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2002 A Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing proof of its 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 and the Registrar may incur. All Bonds so surrendered shall be canceled by the Registrar and held for the account of the Issuer. If any such Bond 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.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2002 A Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Gross Revenues derived from the operation of the System as herein provided. No Owner or Owners of any of the Series 2002 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2002 A Bonds or any interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Gross Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Series 2002 A Bonds shall be secured by a first lien on the Gross Revenues derived from the System on a parity with the lien on the Gross Revenues in favor of the Holders of the Prior Bonds. Such Gross Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2002 A Bonds and the Prior Bonds and to make the payments into all funds and accounts

established by this Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2002 A Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2002 A Bonds to the original purchasers upon receipt of a request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2002 A Bonds to the original purchasers.

Section 3.10. Form of Bonds. The text of the Series 2002 A Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Bond Legislation or any subsequent resolution or ordinance adopted or enacted prior to the issuance thereof:

(FORM OF BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF BATH
WATER REVENUE BOND, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That the TOWN OF BATH, a municipal corporation and political subdivision of the State of West Virginia in Morgan County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns, the sum of _____ DOLLARS (\$ _____), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 200__, as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference. The Administrative Fee (as defined in the hereinafter described Bond Legislation) on this Bond shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 200__, as set forth on Exhibit B attached hereto.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement dated _____, 200__, by and between the Issuer and the Authority, on behalf of the BPH.

This Bond is issued (i) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The existing waterworks system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, _____, effective _____, _____, and a Supplemental Resolution duly adopted by the Issuer on _____, _____ (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S WATER REVENUE REFUNDING AND IMPROVEMENT BONDS, SERIES 1997 A, DATED JULY 15, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,430,000 (THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of the Gross Revenues in favor of the holders of the Prior Bonds, and from moneys in the Series 2002 A Bonds Reserve Account created under the Bond Legislation for this Bond and unexpended proceeds of this Bond. Such Gross Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Gross Revenues, the moneys in the Series 2002 A Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to comply with the rate coverage required by the Prior Ordinance, so long as the Prior Bonds are outstanding, and thereafter, sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount of principal of and interest, if any, on this Bond payable in any year and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Prior Bonds; provided however, that so long as there exists in the Series 2002 A Bonds Reserve Account, an amount at least equal to the maximum

amount of principal and interest, if any, which will become due on this Bond in any year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owners of this Bond, for the terms of which, reference is made to the Bond Legislation. Remedies provided the Registered Owners of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar (as defined in the Bond Legislation) by the Registered Owner or its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to the payment of the costs of acquisition and construction of the Project and the costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the Registered Owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and upon the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Gross Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, the TOWN OF BATH has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated _____, _____.

[SEAL]

Mayor

ATTEST:

Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2002 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: _____, 200__.

as Registrar

By _____
Its Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

<u>Amount</u>	<u>Date</u>	<u>Amount</u>	<u>Date</u>
(1) \$		(19) \$	
(2) \$		(20) \$	
(3) \$		(21) \$	
(4) \$		(22) \$	
(5) \$		(23) \$	
(6) \$		(24) \$	
(7) \$		(25) \$	
(8) \$		(26) \$	
(9) \$		(27) \$	
(10)\$		(28) \$	
(11)\$		(29) \$	
(12)\$		(30) \$	
(13)\$		(31) \$	
(14)\$		(32) \$	
(15)\$		(33) \$	
(16)\$		(34) \$	
(17)\$		(35) \$	
(18)\$		(36) \$	

Total \$ _____

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____
the within Bond and does hereby irrevocably constitute and appoint _____,
Attorney to transfer the said Bond on the books kept for registration thereof with full power
of substitution in the premises.

Dated: _____.

In the presence of:

Section 3.11. Sale of Bonds; Authorization and Execution of Loan Agreement.

The Series 2002 A Bonds shall be sold to the Authority pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The Loan Agreement, including all schedules and exhibits attached thereto, is hereby approved and specifically incorporated into this Bond Legislation.

Section 3.12. Filing of Amended Schedule. Upon completion of acquisition and construction of the Project, the Issuer shall promptly file with the Authority and the BPH a schedule, the form of which shall be provided by the BPH, setting forth the actual costs of the Project and sources of funds used therefor.

ARTICLE IV

[Reserved]

ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with (or continued if previously created by the Prior Ordinance) and shall be held by the Depository Bank:

- (1) Revenue Fund (created by the Prior Ordinance);
- (2) Renewal and Replacement Fund (created by the Prior Ordinance); and
- (3) Series 2002 A Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with (or continued if previously created by the Prior Ordinance) and shall be held by the Commission:

- (1) Series 1997 A Bonds Sinking Fund (created by the Prior Ordinance);
- (2) Series 1997 A Bonds Reserve Account (created by the Prior Ordinance);
- (3) Series 2002 A Bonds Sinking Fund; and
- (4) Series 2002 A Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(1) The Issuer shall first, on the first day of each month, transfer from the Revenue Fund and remit to the Commission for deposit in the Series 1997 A Bonds Sinking Fund, the amount required by the Prior Ordinance for payment of interest on the Prior Bonds.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Series 1997 A Bonds Sinking Fund, the amount required by the Prior Ordinance for payment of principal

of the Prior Bonds; and (ii) commencing 3 months prior to the first date of payment of principal of the Series 2002 A Bonds, for deposit in the Series 2002 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2002 A Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2002 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Series 1997 A Bonds Reserve Account, the amount required by the Prior Ordinance; and (ii) commencing 3 months prior to the first date of payment of principal of the Series 2002 A Bonds, if not fully funded upon issuance of the Series 2002 A Bonds, for deposit in the Series 2002 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2002 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2002 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2002 A Bonds Reserve Requirement.

(4) The Issuer shall next, each month, pay from the Revenue Fund, all current Operating Expenses of the System.

(5) The Issuer shall next, each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, an amount equal to 2 1/2% of the Gross Revenues each month (as required in the Prior Ordinance and not in addition thereto), exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System; provided that, any deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 2002 A Bonds Sinking Fund shall be used only for the purpose of paying principal of and interest, if any, on the Series 2002 A Bonds as the same shall become due. Moneys in the Series 2002 A Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Series 2002 A Bonds as the same shall come due, when moneys in the Series 2002 A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2002 A Bonds Sinking Fund and the Series 2002 A Bonds Reserve Account shall be returned, after fully funded, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2002 A Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due, if any, on the Series 2002 A Bonds and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2002 A Bonds Reserve Account which result in a reduction in the balance of such account to an amount below the Series 2002 A Bonds Reserve Requirement shall be subsequently restored from the first Gross Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Series 2002 A Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay any interest on such additional Parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Series 2002 A Bonds Sinking Fund or the Series 2002 A Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2002 A Bonds then Outstanding and all interest, if any, to accrue until the maturity thereof.

Interest, principal or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds and the Series 2002 A Bonds in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2002 A Bonds Sinking Fund and the Series 2002 A Bonds Reserve Account created hereunder, and all amounts required for such accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority, the Issuer shall make the necessary arrangements whereby required payments into the Series 2002 A Bonds Sinking Fund and the Series 2002 A Bonds Reserve Account shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Moneys in the Series 2002 A Bonds Sinking Fund and Series 2002 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Article VIII hereof.

The Series 2002 A Bonds Sinking Fund and the Series 2002 A Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2002 A Bonds Outstanding under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payments with respect to the Series 2002 A Bonds, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

C. The Issuer shall also on the first day of each month (if the first day is not a business day, then the first business day of each month), commencing with the payment set forth in Section 5.03.A.(2) hereof, remit to the Commission the Administrative Fee set forth in the Schedule Y attached to the Loan Agreement.

D. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the Loan Agreement, and submit a copy of said form along with a copy of its payment check or electronic transfer to the Authority by the 5th day of each calendar month.

E. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinabove provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such longer period as shall be required by the Act, such excess shall be considered as surplus revenues (the "Surplus Revenue"). Surplus Revenues may be used for any lawful purpose of the System.

F. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar or the Depository Bank, on such dates as the respective parties shall require, such additional sums as shall be necessary to pay their respective charges then due. If required by the Authority, the Issuer shall make the necessary arrangements whereby payments to the Commission under this paragraph shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

G. The moneys in excess of the maximum amounts insured by FDIC in all funds and accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

H. If, on any monthly payment date, the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments, in addition to the payments which would

otherwise be required to be made into the funds and accounts on the subsequent payment dates.

I. All remittances made by the Issuer to the Commission and the Depository Bank shall clearly identify the fund or account into which each amount is to be deposited.

J. The Gross Revenues of the System shall only be used for purposes of the System.

ARTICLE VI

APPLICATION OF BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of the Series 2002 A Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2002 A Bonds, there shall be deposited with the Commission in the Series 2002 A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution.

B. The remaining moneys derived from the sale of the Series 2002 A Bonds shall be deposited by the Issuer, as received from time to time, in the Series 2002 A Bonds Construction Trust Fund and shall be used solely to pay costs of the Project and until so expended, are hereby pledged as additional security for the Series 2002 A Bonds.

C. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2002 A Bonds shall be used as directed by the BPH.

Section 6.02. Disbursements from Bond Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority and the BPH a report listing the specific purposes for which the proceeds of the Series 2002 A Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 2002 A Bonds Construction Trust Fund shall be made only after submission to, and approval from, the Authority and the BPH of the following:

(1) A completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement, in compliance with the construction schedule, and

(2) A certificate, signed by the Mayor and the Consulting Engineers, stating that:

(A) None of the items for which the payment is proposed to be made has formed the basis for any disbursements theretofore made;

(B) Each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a cost of the Project;

(C) Each of such costs has been otherwise properly incurred; and

(D) Payment for each of the items proposed is then due and owing.

Pending such application, moneys in the Series 2002 A Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions set forth in this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2002 A Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2002 A Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of Series 2002 A Bonds, or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2002 A Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Series 2002 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2002 A Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Gross Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Series 2002 A Bonds shall be secured by a first lien on the Gross Revenues derived from the operation of the System on a parity with the lien on the Gross Revenues in favor of the Holders of the Prior Bonds. The Gross Revenues in an amount sufficient to pay the principal of and interest, if any, on the Series 2002 A Bonds and the Prior Bonds and to make the payments into all funds and accounts and all other payments provided for in this Bond Legislation, are hereby irrevocably pledged to such payments as they become due and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreement. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the water rate ordinance of the Issuer duly enacted on October 22, 2002.

So long as the Series 2002 A Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all

such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and in compliance with the requirements of the Loan Agreement. In the event the schedule of rates and charges initially established for the System in connection with the Series 2002 A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of the System, except as provided in the Prior Ordinance. Additionally, so long as the Series 2002 A Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the BPH, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds then Outstanding in accordance with Article X hereof. The proceeds from such sale, mortgage, lease or other disposition of the System shall in accordance with Article X hereof immediately be remitted to the Commission for deposit in the appropriate Sinking Funds, and the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and any interest, if any, on the Bonds. Any balance remaining after the redemption or payment of all the Bonds and interest, if any, thereon shall be remitted to the Issuer by the Commission, unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, in writing, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds derived from any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, in writing, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and the Governing Body may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding in

accordance with the laws of the State. The proceeds derived from any such sale shall be remitted by the Issuer to the Commission for deposit in the appropriate Sinking Funds and shall be applied on to the redemption of Bonds of the last maturities then outstanding at prices not greater than the redemption price of such Bonds. Such payments of proceeds into the Renewal and Replacement Fund and the Sinking Funds shall not reduce the amounts required to be paid into said funds by other provisions of this Ordinance.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding, without the prior approval and consent in writing of the Holders of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable out of Revenues and General Covenant Against Encumbrances. Except additional Parity Bonds provided for in Section 7.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2002 A Bonds. All obligations hereafter issued by the Issuer payable from the revenues of the System, except such additional Parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2002 A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or, except with respect to such additional Parity Bonds, being on a parity with the lien of the Series 2002 A Bonds, and the interest, if any, thereon, upon any of the income and revenues of the System pledged for payment of the Series 2002 A Bonds and the interest, if any, thereon in this Bond Legislation or upon the System or any part thereof.

The Issuer shall give the Authority and the BPH prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants for the Project, or any other obligations related to the Project or the System.

Section 7.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinance shall be applicable. In addition, no Parity Bonds payable out of the revenues of the System shall be issued after the issuance of any Bonds pursuant to this Bond Legislation, except under the conditions and in the manner herein provided and with the prior written consent of the BPH and the Authority.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2002 A Bonds.

No Parity Bonds shall be issued, except for the purpose of financing the costs of the design, acquisition or construction of extensions, additions, betterments or improvements to the System or refunding the Bonds or both such purposes.

No Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Recorder a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided, from the System during any twelve (12) consecutive months within the eighteen (18) months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the three (3) succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than one hundred fifteen percent (115%) of the largest aggregate amount that will mature and become due in any succeeding year for principal of and interest on the following:

- (1) The Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Bond Legislation then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the three (3) succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the improvements to be financed by such Parity Bonds and any increase in rates enacted by the Issuer, the time for appeal of which shall have expired prior to the date of issuance of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Recorder prior to the issuance of such additional Parity Bonds.

The Net Revenues actually derived from the System during the twelve (12) consecutive month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which shall have expired prior to issuance of such Parity Bonds.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 2002 A Bonds and the Holders of any Parity Bonds subsequently issued, from time to time, within the limitations of and in compliance with this Section. All the Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their respective liens on the revenues of the System and their respective sources of and security for payment from said revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such additional Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Series 2002 A Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this Section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2002 A Bonds.

No Parity Bonds shall be issued at any time, however, unless all the payments into the respective funds and accounts provided for in this Bond Legislation on account of the Bonds then Outstanding, and any other payments provided for in this Bond Legislation, shall have been made in full as required to the date of delivery of the Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Bond Legislation.

Section 7.08. Books, Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the BPH, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System, at all reasonable times, for the purpose of audit and examination. The Issuer shall submit to the Authority and the BPH such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any

State and federal grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the BPH, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System, at all reasonable times, following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds issued pursuant to the Bond Legislation shall have the right, at all reasonable times, to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles in accordance with the rules and regulations of the PSC and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books, and along with other bookkeeping records as prescribed by the Issuer.

The Issuer shall file with the Authority and the BPH, and shall mail in each year to any Holder or Holders of Bonds requesting the same, an annual report containing the following:

- (A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.
- (B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation and the status of all said funds and accounts.
- (C) The amount of any Bonds, notes or other obligations Outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto, to the extent legally required, and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2002 A Bonds, and shall submit said report to the Authority and the BPH. Such audit report shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan Agreement and this Bond Legislation and that the Gross Revenues are adequate to meet the Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Loan Agreement and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall permit the Authority or the BPH, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Authority and the BPH, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the BPH with respect to the System pursuant to the Act.

The Issuer shall provide the BPH with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in the Loan Agreement or as promulgated from time to time.

Section 7.09. Rates. Prior to issuance of the Series 2002 A Bonds, equitable rates or charges for the use of and service rendered by the System shall be established in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient to comply with the rate coverage required by the Prior Ordinance, so long as the Prior Bonds are outstanding, and thereafter, sufficient (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest, if any, on the Series 2002 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2002 A Bonds; provided that, in the event that amounts equal to or in excess of the Reserve Requirements are on deposit in the Series 2002 A Bonds Reserve Account and any reserve accounts for obligations on a parity with the Series 2002 A Bonds, are funded at least at the requirement therefor, such balance each Fiscal Year need only equal at least 110% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest, if any, on the Series 2002 A Bonds.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall, annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and the BPH within 30 days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made, except upon the further certificate of a professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority, the BPH and any Holder of any Bonds within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority, the BPH and any Holder of any Bonds or anyone acting for and on behalf of such Holder of any Bonds.

The Issuer shall, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project, each month complete a Monthly Financial Report, a form of which is attached to the Loan Agreement, and forward a copy of such report by the 10th of each month to the Authority and the BPH.

Section 7.11. Engineering Services and Operating Personnel. The Issuer shall obtain a certificate of the Consulting Engineers, in the form attached to the Loan Agreement, certifying that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the BPH and the Authority, the Project will be adequate for the purposes for which it was designed, the funding plan as submitted to the BPH and the Authority is sufficient to pay the costs of the acquisition and construction of the Project, and all permits required by federal and State laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Authority and the BPH covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, the BPH and the Issuer, at the completion of construction of the Project, that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the DWTRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the BPH in writing of such receipt.

The Issuer shall require the Consulting Engineers to submit a final Operation and Maintenance Manual, as defined in the DWTRF Regulations, to the BPH when the Project is 90% completed. The Issuer shall, at all times, provide operation and maintenance of the System in compliance with any and all State and federal standards. The Issuer shall employ qualified operating personnel, properly certified by the State, before the Project is 50% complete and shall retain such a certified operator to operate the System during the entire term of the Loan Agreement. The Issuer shall notify the BPH in writing of the certified operator employed at the 50% completion stage.

Section 7.12. No Competing Franchise. To the extent allowable by law, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rates, rentals or other charges for the services and facilities of the System and take all steps, actions and proceedings for the enforcement and collection of such fees, rates, rentals or other charges that shall become delinquent to the full extent permitted or authorized by the laws of the State or the rules and regulations of the PSC.

Whenever any fees, rates, rentals or other charges for the services or facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and any rules and regulations promulgated by the PSC applicable thereto, fees, rates, rentals and other charges, if not paid when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that it will, to the full extent permitted by law and any rules and regulations promulgated by the PSC applicable thereto, discontinue and shut off the services and facilities of the System to all delinquent users of the services and facilities of the System, and will not restore such services of the System until all delinquent charges for the services and facilities of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid, and shall take all further actions to enforce collections to the maximum extent permitted by law.

Section 7.14. 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, in the event the Issuer or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or himself or herself of the

facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds sufficient sums to pay such charges for service. 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.

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2002 A Bonds remain Outstanding, the Issuer shall, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties, or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than \$500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract, if any, and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(4) FLOOD INSURANCE, if the System facilities are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Issuer.

(5) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

(6) FIDELITY BONDS will be provided for every officer, member and employee of the Issuer having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

B. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction.

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project, provided that the amounts and terms of such coverage are satisfactory to the BPH and the Authority. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear. The Issuer shall verify such insurance prior to commencement of construction.

Section 7.16. Connections. To the extent permitted by the laws of the State and rules and regulations of the PSC, the Issuer shall require every owner, tenant or occupant of any house, dwelling or building intended to be served by the System to connect thereto.

Section 7.17. Completion and Operation of Project; Permits and Orders. The Issuer hereby covenants and agrees to complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and State requirements and standards.

The Issuer has obtained all permits required by State and federal laws necessary for the acquisition and construction of the Project, all requisite orders and approvals from the PSC and the Infrastructure Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for the issuance of the Series 2002 A Bonds required by State law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. Compliance With Loan Agreement and Law. The Issuer hereby covenants and agrees to comply with, perform and satisfy all terms and conditions of the Loan Agreement, this Bond Legislation and the Act and to comply with all applicable laws, rules and regulations issued by the Authority, the BPH or other State, federal or local bodies in regard to the acquisition and construction of the Project and operation, maintenance and use of the System. Notwithstanding anything herein to the contrary, the Issuer will provide the BPH with copies of all documents submitted to the Authority.

Section 7.19. Statutory Mortgage Lien. For the further protection of the Bondholders, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon delivery of the Series 2002 A Bonds and shall be on a parity with the statutory mortgage lien in favor of the Holders of the Prior Bonds.

Section 7.20. Securities Laws Compliance. The Issuer shall provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.21. Contracts; Public Releases. The Issuer shall, simultaneously with the delivery of the Series 2002 A Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

The Issuer shall submit all proposed change orders to the BPH for written approval. The Issuer shall obtain the written approval of the BPH before expending any proceeds of the Series 2002 A Bonds held in "contingency" as set forth in the schedule attached to the Certificate of Consulting Engineer. The Issuer shall also obtain the written approval of the BPH before expending any proceeds of the Series 2002 A Bonds made available due to bid or construction or project underruns.

The Issuer shall list the funding provided by the BPH and the Authority in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any ground breaking or dedication of the Project.

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Bond Legislation, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such moneys for the purposes set forth herein and the specified restrictions and provisions set forth in this Section 8.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund". The Commission shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss of such liquidation. The Depository Bank may make any and all investments permitted by this section through its own trust department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments and shall distribute to the Issuer, at least once each year (or more often if requested by the Issuer), a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2002 A Bonds are outstanding and as long as necessary to comply with the Code and to assure the exclusion of interest, if any, on the Series 2002 A Bonds from gross income for federal income tax purposes.

Section 8.02. Certificate as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2002 A Bonds as a condition to issuance of the Series 2002 A Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2002 A Bonds as may be necessary in order to maintain the status of the Series 2002 A Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2002 A Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority, the Council or the BPH, as the case may be, from which the proceeds of the Series 2002 A Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be

deemed necessary by the Issuer, or requested by the Authority, the Council or the BPH, to ensure compliance with the covenants and agreements set forth in this Section 8.02, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

The Issuer shall annually furnish to the Authority information with respect to the Issuer's use of the proceeds of the Series 2002 A Bonds and any additional information requested by the Authority.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2002 A Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 2002 A Bonds; or

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2002 A Bonds set forth in this Bond Legislation, any supplemental resolution, or in the Series 2002 A Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission or any bank or banking association holding any fund or account hereunder or a Holder of the Series 2002 A Bonds; or

(C) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or

(D) If default occurs with respect to the Prior Bonds or the Prior Ordinance.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding, enforce all rights of such Registered Owners, including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds, (iv) by action at law or bill in equity, require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity, enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holders of the Series 2002 A Bonds shall be on a parity with the Holders of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Bondholder may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including the completion of the Project, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default, any Bondholder shall, in addition to all

other remedies or rights, have the right, by appropriate legal proceedings, to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the Bonds and any interest thereon, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of the Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of the System and shall hold, operate, maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might do.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of the Bond Legislation for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby and a successor receiver appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System, for the sole purpose of the protection of both the Issuer and Bondholders, and the curing and making good of any default under the provisions of the Bond Legislation, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Registered Owners of the Series 2002 A Bonds, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in the Bond Legislation, then the pledge of Gross Revenues and any other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Modification or Amendment. Prior to the issuance of the Series 2002 A Bonds, this Bond Legislation may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2002 A Bonds, no material modification or amendment of this Bond Legislation or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Registered Owners of the Series 2002 A Bonds shall be made without the consent in writing of the Registered Owners of the Series 2002 A Bonds then Outstanding; provided that, no change shall be made in the maturity of the Series 2002 A Bonds or the rate of interest, if any, thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the revenues of the System without the consent of the Registered Owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of the Series 2002 A Bonds required for consent to the above permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest, if any, on the Series 2002 A Bonds from gross income of the holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of this Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2002 A Bonds and no change, variation or alteration of any kind of the provisions of this Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Bond Legislation should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Bond Legislation, the Supplemental Resolution and the Series 2002 A Bonds.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Conflicting Provisions Repealed. Except for the Prior Ordinance, all ordinances, resolutions and orders, or parts thereof, in conflict with this Bond Legislation are, to the extent of such conflict, repealed; provided that, in the event of any conflict between this Bond Legislation and the Prior Ordinance, the Prior Ordinance shall

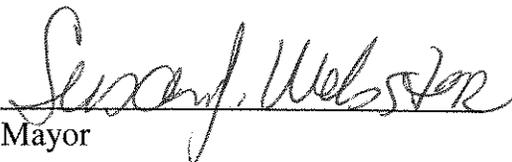
control (unless less restrictive), so long as the Prior Bonds are Outstanding.

Section 11.06. Covenant of Due Procedure. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Bond Legislation do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the Recorder and members of the Governing Body were at all times when any actions in connection with this Bond Legislation occurred, and are, duly in office and duly qualified for such office.

Section 11.07. Statutory Notice of Public Hearing. Upon adoption hereof, the abstract of this Bond Legislation in the form set forth in Exhibit B attached hereto and incorporated herein by reference, shall be published once a week for 2 successive weeks, with at least 6 full days intervening between each publication, in the Morgan Messenger, a newspaper published and of general circulation in the Issuer, together with a notice stating that this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Series 2002 A Bonds, and that any person interested may appear before the Issuer upon a certain date, not less than 10 days subsequent to the date of the first publication of such abstract of this Bond Legislation and notice, and present protests, and that a certified copy of this Bond Legislation is on file with the Issuer for review by interested persons during office hours of the Issuer. The Governing Body hereby determines that the Abstract contains sufficient information as to give notice of the contents hereof. At such hearing, all objections and suggestions shall be heard and the Issuer shall take such action as it shall deem proper in the premises.

Section 11.08. Effective Date. This Bond Legislation shall take effect immediately following the public hearing and final reading hereof.

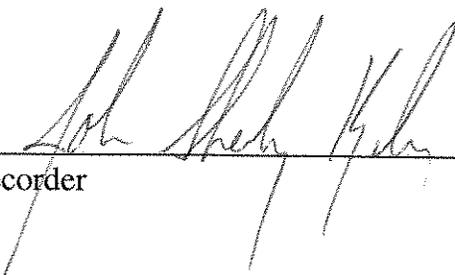
First Reading:	October 15, 2002
Second Reading:	November 5, 2002
Public Hearing and Third Reading:	November 19, 2002


Mayor

CERTIFICATION

Certified a true copy of a Bond Ordinance duly enacted by the Council of the Town of Bath on November 19, 2002.

Dated this 9th day of December, 2002.


Recorder

[SEAL]

11/14/02
000802/00301

EXHIBIT A

PROJECT DESCRIPTION

The Project consists of construction of a water filtration plant to provide public water service to approximately 1,281 customers in the Berkeley Springs area of Morgan County, together with all related appurtenances.

EXHIBIT B

TOWN OF BATH

NOTICE OF PUBLIC HEARING and ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on November 5, 2002, the Council of the Town of Bath (the "Issuer") adopted an ordinance which, among other things:

1. Authorized the acquisition and construction of certain additions, betterments and improvements (the "Project") to the Issuer's existing waterworks system (the "System") and the financing of the cost thereof, not otherwise provided, through the issuance of not more than \$1,150,000 in aggregate principal amount of Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program) (the "Bonds").

2. Directed that the Bonds be issued in such principal amounts, bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable quarterly on such dates, mature on such dates and in such amounts and redeemable, in whole or in part, as prescribed in a supplemental resolution or in the Loan Agreement by and between the Issuer and the West Virginia Water Development Authority, on behalf of the West Virginia Bureau for Public Health (the "Loan Agreement").

3. Authorized the execution and delivery of the Loan Agreement.

4. Directed the continuation of a Revenue Fund and the disposition of the revenues of the System; provided for the payment of operating expenses; provided for the monthly payment of principal of and interest, if any, on the Bonds when due; provided for the creation of a Sinking Fund, a Reserve Account and a Renewal and Replacement Fund for the Bonds; and provided for the use of excess funds of the System.

5. Directed the creation of a Bond Construction Trust Fund and the disbursement of Bond proceeds.

6. Provided that the Bonds shall not be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Gross Revenues of the System; pledged the Gross Revenues of the System to payment of the Bonds and established the rights of the holders of the Bonds to the Gross Revenues of the System.

7. Provided certain conditions for the issuance of additional bonds.

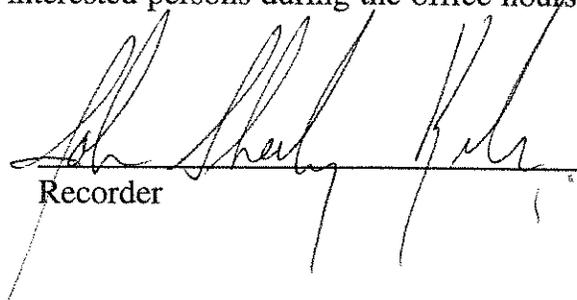
8. Provided for insurance coverage on the Project, enforcement of collection of rates and other charges for the System, and other covenants of the Issuer in favor of the Bondholders.

9. Established the events of default and the remedies of the Bondholders.

10. Provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The Issuer contemplates the issuance of the Bonds described in and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of the Town of Bath at a regular meeting on November 19, 2002, at 5:00 p.m., in the Council Chambers, Town Hall, 103 Wilkes Street, Berkeley Springs, West Virginia, and present protests and be heard as to whether the above described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council is on file with the Recorder for review by interested persons during the office hours of the Town Hall.


Recorder

TOWN OF BATH
WATER REVENUE BONDS, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE TOWN OF BATH WATER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA DWTRF PROGRAM); AUTHORIZING AND APPROVING THE LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Council (the "Governing Body") of the Town of Bath (the "Issuer") has duly and officially passed a Bond Ordinance on November 5, 2002, effective November 19, 2002 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS SYSTEM OF THE TOWN OF BATH AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$1,150,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA DWTRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Ordinance when used herein;

WHEREAS, the Bond Ordinance provides for the issuance of the Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), of the Issuer, in an aggregate principal amount not to exceed \$1,150,000 (the "Bonds"), and has authorized the execution and delivery of a loan agreement relating to the Bonds, including all schedules and exhibits attached thereto (collectively, the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), all in accordance with Chapter 8, Article 19 and Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds should be established by a supplemental resolution, and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Loan Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Bonds are proposed to be purchased by the Authority pursuant to the Loan Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Loan Agreement be approved and ratified by the Issuer, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE TOWN OF BATH, WEST VIRGINIA, AS FOLLOWS:

Section 1. It is hereby found and determined that:

(A) The Notice of Public Hearing and Abstract of Bond Ordinance (the "Notice") was duly published in the Morgan Messenger, a qualified newspaper published and of general circulation in the Issuer with the first publication thereof being not less than ten (10) days before the day set by the Bond Ordinance and the Notice for the public hearing at which interested persons may appear before the Council and present protests and suggestions and with the last publication thereof being prior to said date set by the Bond Ordinance and the Notice for the public hearing, and a copy of the Affidavit of Publication reflecting such publications is incorporated herein by reference;

(B) In accordance with the Bond Ordinance and the Notice, the Recorder has maintained in his or her office a certified copy of the Bond Ordinance for review by interested persons during the regular office hours of such office;

(C) In Council chambers, Town Hall, Berkeley Springs, West Virginia, on November 19, 2002, at 5:00 p.m., prevailing time, in accordance with the Bond Ordinance and the Notice, the Council met for the purpose of hearing protests and suggestions regarding whether the Bond Ordinance should be put into effect and heard all protests and suggestions with regard thereto;

(D) At the public hearing, no significant reasons were presented that would require modification or amendment of the Bond Ordinance and no written protest with regard thereto was filed by 30 percent or more of the freeholders of the Issuer; and

(E) The Bond Ordinance shall be put into effect as of the date hereof and the Bonds contemplated thereby shall be issued, all as provided in the Bond Ordinance and this Supplemental Resolution.

Section 2. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), of the Issuer, originally represented by a single Bond, numbered AR-1, in the original principal amount of \$1,150,000. The Bonds shall be dated the date of delivery, shall finally mature September 1, 2033, and shall bear no interest. The principal of the Bonds is payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2003, in the amounts set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Issuer hereby approves and shall pay the Administrative Fee equal to 1% of the principal amount of the Bonds set forth in the Schedule Y attached to the Loan Agreement. The Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of a redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the Registered Owner of the Bonds.

Section 3. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Ordinance.

Section 4. The Issuer hereby ratifies, approves and accepts the Loan Agreement, including all schedules and exhibits attached thereto, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and

representations made in the Loan Agreement and in the application to the BPH and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 5. The Issuer hereby appoints and designates Citizens National Bank of Berkeley Springs, Berkeley Springs, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Bond Ordinance and approves and accepts the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 6. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Commission"), to serve as Paying Agent for the Bonds under the Bond Ordinance.

Section 7. The Issuer hereby appoints and designates Citizens National Bank of Berkeley Springs, Berkeley Springs, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 8. Series 2002 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2002 A Bonds Sinking Fund as capitalized interest.

Section 9. Series 2002 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2002 A Bonds Reserve Account.

Section 10. The remaining proceeds of the Bonds, as advanced from time to time, shall be deposited in or credited to the Series 2002 A Bonds Construction Trust Fund, as received by the Issuer for payment of costs of the Project, including costs of issuance of the Bonds.

Section 11. The Mayor and Recorder are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered to the Authority pursuant to the Loan Agreement on or about December 9, 2002.

Section 12. The acquisition and construction of the Project and the financing thereof with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

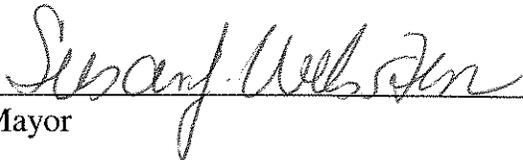
Section 13. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the Series 2002 A Bonds Sinking Fund and the Series 2002 A Bonds Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 14. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

Section 15. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 16. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 19th day of November, 2002.



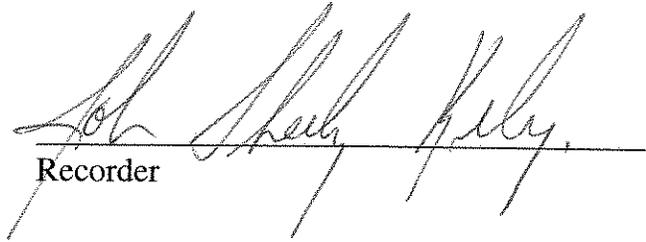
Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the Town of Bath on the 19th day of November, 2002.

Dated this 9th day of December, 2002.

[SEAL]


Recorder

10/22/02
000802/00301



Town of Bath Council Meeting

Tuesday, October 15, 2002

CALL TO ORDER:

@ 5:03 p.m., by Mayor, Pledge of Allegiance... Invocation by Janet Culp

ROLL CALL:

Mayor, Susan Webster (P) Recorder, John Kiley (P) John Bohrer (A)
Dave Hall (P) Dale Lutman (P) Janet Culp (P) Dave Duncan (P)

MOTION TO APPROVE MINUTES:

- ❖ October 1, 2002... Motion to Accept by Dale Lutman, Seconded by Dave Duncan. Carried

COMMUNICATIONS FROM THE MAYOR:

The Mayor requested that the 10/22/2002 be changed to add a reading and posting of the Town bills during the later date.

The Mayor stated that there was a pending visit from the American Water Company to discuss the Town's water works. American Water may be interested in purchasing or leasing the system.

CEMETERY:

- ❖ Dave Hall stated that John Anderson may be interested in purchasing the cemetery from the Town. Mayor Webster encouraged Hall to get several bids.

ORDINANCE:

- ❖ There was a second reading of the Amendment to the Jake Brake Ordinance, Chapter 106-E, Section 7-109.

MOTION TO ACCEPT THE AMENDED ORDINANCE:

- ❖ Motion to Accept by Dale Lutman, Seconded by Dave Duncan. Carried

WATER WORKS:

- ❖ Rules of Procedure: There was a reading of the Rules of Procedure that the Town of Bath needs to accept in order to issue bonds.

MOTION TO ACCEPT THE RULES OF PROCEDURE TO ISSUE BONDS:

- ❖ Motion to Accept by Janet Culp, Seconded by Dale Lutman. Carried

✓ Mayor Webster stated that the Council consider and adopt upon first reading a proposed Bond Ordinance authorizing the Town of Bath Water Revenue Bonds, Series 2002 A (West

Virginia DWTRF Program), in the aggregate principal amount not to exceed \$1,150,000.00, to pay the costs of acquisition and construction of certain additions, betterment's and improvements to the existing Waterworks system of the Town Waterworks system of the Town and related costs.

MOTION TO CONSIDER BOND ISSUANCE :

Motion to Accept by Janet Culp, Seconded by Dale Lutman. Carried

MOTION TO PAY TOWN OF BATH WATER BILLS:

Motion to Accept by Dave Hall, Seconded by Dave Duncan. Carried

FINANCE:

Dave Hall discussed the Hospital bills. The Hospital currently pays four water bills. One for the fire hydrants, one for the sprinkler system and 2 separate water bills.

Mayor Webster asked Dave Hall about the hospitals pump for the sprinkler system. Dave Hall explained that the current system while adequate may need 200 feet of additional piping.

PUBLIC WORKS:

1st READINGS:

Connie Perry: 270 South Washington Street

MOTION TO POST:

Motion to Post by Dave Duncan, Seconded by Dave Hall. Carried

2nd READINGS:

Alice Moss: 241 Fairfax Street

MOTION TO ACCEPT:

Motion to Accept by Dave Duncan, Seconded by Janet Culp. Carried

Dave Duncan discussed the problem with State Street and all the potholes.

Garbage truck for the Town needs new rating for truck tonnage

PUBLIC SAFETY:

Chief Lynch read the Police report.

Mayor Webster swore in two new part time Police Officers.

MOTION TO PURCHASE A NEW POLICE DOCKET BOOK:

Motion to Accept by Dave Hall seconded by Janet Culp. Carried

MOTION TO GO TO EXECUTIVE SESSION:

Motion to Accept by Dale Lutman. Seconded by Dave Hall. Carried

MOTION TO COME OUT OF EXECUTIVE SESSION:

Motion to Accept by Dave Hall. Seconded by Dale Lutman. Carried

There were no decisions made in Executive Session.

MOTION TO ADJOURN:

Motion to Accept by Dave Duncan, Seconded by Janet Culp. Carried.

Meeting Adjourned @ 6:20.m.



Mayor, Susan J. Webster



Recorder, John Kiley

Town of Bath Council Meeting

Tuesday, November 5, 2002

CALL TO ORDER:

@ 5:00 p.m., by Mayor, Pledge of Allegiance... Invocation by Mayor Webster

ROLL CALL:

Mayor, Susan Webster (P) Recorder, John Kiley (P) John Bohrer (P)
Dave Hall (P) Dale Lutman (P) Janet Culp (A) Dave Duncan (P)

- ❖ Minutes from 10/15 meeting and special meetings could not be read and or approved as John Kiley had a computer problem.

MOTION TO MOVE TO WATER WORKS:

Motion to Accept by Dave Hall, Seconded by Dale Lutman. Carried

The Mayor greeted all the citizens from The Town of Bath and Morgan County who were in attendance at the meeting.

✓ Mayor Webster then allowed Mary Claire Eoss from the Law firm of Jackson and Kelly. She was in attendance to hear the second reading of the Bond Issuance for the filtration plant. The Bond is 0% interest for 30 years. The Bond Ordinance must be read out loud.

Dave Duncan read the Second Reading of the Bond Ordinance.

MOTION TO ACCEPT THE SECOND READING OF THE BOND ORDINANCE:

Motion to Accept by Dave Duncan, Seconded by Dave Hall. Carried

Mayor Webster stated that a resolution needed to be passed to pay the invoices from Jackson Kelly. There needs to be a new resolution for each set of invoices that come before the Council.

Resolution to pay Jackson Kelly invoices was read and adopted.

The Mayor stated that there were two visitors from the American Water Company to discuss the Town's water works. John Hamilton from American Water works gave a 15 minute presentation on the history of the company and the potential alliances between the Town and the Company that could be feasible.

The meeting was opened by the Mayor for a question and answer period for 45 minutes. Many citizens participated.

COMMUNICATIONS FROM THE MAYOR:

- ❖ Mayor Webster read aloud a letter from Governor Wise dated 10/30/02 that assured the Mayor and the Town of Bath citizens that a vigorous investigation of the events surrounding the October water shortage would be conducted.

- ❖ *The Mayor discussed the problem with putting a cap on the ladies spring when the new filtration plant comes on-line. The best water comes from the ladies spring, not from the channel further down.*

The Town needs to continue looking for alternative water sources.

CEMETARY:

- ❖ *No new business*

ORDINANCE:

- ❖ *No new business*

PUBLIC WORKS:

- ❖ *Dave Hall addressed the issue of refunds to contractors who overpaid there licensing fees to The Town of Bath. Mr. Hall had prepared a list of contractors that were due a refund.*

MOTION TO PAY REFUND TO CONTRACTORS:

Motion to Accept by Dave Hall, Seconded by John Kiley. Carried

1st READINGS:

Collette Davis:

MOTION TO POST:

Motion to Post by Dave Duncan, Seconded by Dave Hall. Carried

2nd READINGS:

Connie Perry: 71 North Washington Street

MOTION TO ACCEPT:

Motion to Accept by Dave Duncan, Seconded by Dave Hall. Carried

A local contractor from B&M contracting came before the Council and spoke about the problem with unlicensed contractors performing services in the County. The Mayor asked the gentlemen to please inform Chief Lynch when he found this to be happening.

Leaf pick-up dates were determined to be November 12,26 and December 10, 2002.

Mary Parill came before the Council to inquire about complaints that were being issued at her property. Chief Lynch will look into new complaints and the Mayor would drive to her house to inspect the potential street wash-out problem.

FINANCE:

The Mayor addressed the Hotel/Motel Fund disbursements and directed John Bohrer to write a new ordinance that will address exactly who falls under the Hotel/Motel guidelines.

Dale Iutman left for another meeting.

PUBLIC SAFETY:

- ❖ Chief Lynch addressed the issue of a new car for the department. A used vehicle may run \$5,000.00. There was a discussion about whether leasing a new car or buying a used car was best for the department. Chief Lynch will look into the matter.
- ❖ Chief Lynch addressed the recent collections, fines and citations issued.

MOTION TO ADJOURN:

Motion to Accept by Dave Duncan, Seconded by John Kiley. Carried.
Meeting Adjourned @ 7:20p.m.



Mayor, Susan J. Webster



Recorder, John Kiley

TOWN OF BATH
WATER REVENUE BONDS, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

MINUTES ON ADOPTION OF BOND ORDINANCE
(THIRD READING FOLLOWING PUBLIC HEARING)
AND SUPPLEMENTAL RESOLUTION

The undersigned Recorder of the Town of Bath (the "Issuer"), hereby certifies that the following is a true and correct excerpt of the minutes of a regular meeting of the Council of the Issuer:

* * * * * * * * * * * * * * *

The Council of the Issuer met in regular session, pursuant to notice duly given, on the 19th day of November, 2002, in Berkeley Springs, West Virginia, at the hour of 5:00 p.m.

- PRESENT: Susan Webster - Mayor
- John Kiley - Recorder
- John Bohrer - Councilmember
- David Hall - Councilmember
- Dale Lutman - Councilmember
- Janet Culp - Councilmember
- David Duncan - Councilmember

ABSENT: None

The Mayor announced that a quorum of members was present and that the meeting was open for any business properly before it. She stated that the proposed Bond Ordinance heretofore passed on first and second readings would be subject to protests and suggestions from any interested person at this time in accordance with the publication of an abstract of said Bond Ordinance and a Notice of Hearing, which publication has been duly made, and the Mayor called for protests and suggestions as to said Bond Ordinance and all persons desiring to protest the said Bond Ordinance or to make any suggestions with reference thereto were heard.

There being no protests or suggestions made as to said Bond Ordinance, the Mayor thereupon stated that it would be in order to consider the said Bond Ordinance for final enactment and the Mayor caused the said Bond Ordinance to be read as follows:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS SYSTEM OF THE TOWN OF BATH AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$1,150,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA DWTRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

and caused the same to be read and there was discussion. Thereupon, on motion duly made and seconded, it was unanimously ordered that said Bond Ordinance be finally enacted and put in full force and effect on and from the date hereof.

Next, the Mayor presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE TOWN OF BATH WATER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA DWTRF PROGRAM); AUTHORIZING AND APPROVING THE LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

and caused the same to be read and there was discussion. Thereupon, on motion duly made and seconded, it was unanimously ordered that said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

* * *

* * *

* * *

There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.



Mayor

* * *

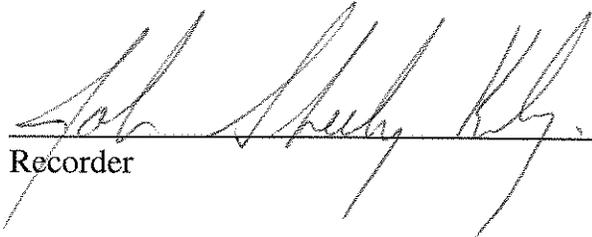
* * *

* * *

CERTIFICATION

I hereby certify that the foregoing action of the Council remains in full force and effect and has not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 9th day of December, 2002.


Recorder

11/14/02
000802/00301

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY that a legal publication
Notice of Public Hearing and
Abstract of Bond

placed by
Jackson Kelly

Town of Bath

appeared for 2 consecutive weeks in
THE MORGAN MESSENGER, a newspaper
published in Berkeley Springs, WV, in its issue
beginning

November 6, 2002

and ending
November 13, 2002

Per 
THE MORGAN MESSENGER, INC.

Words 540

Charge \$85.05

TOWN OF BATH

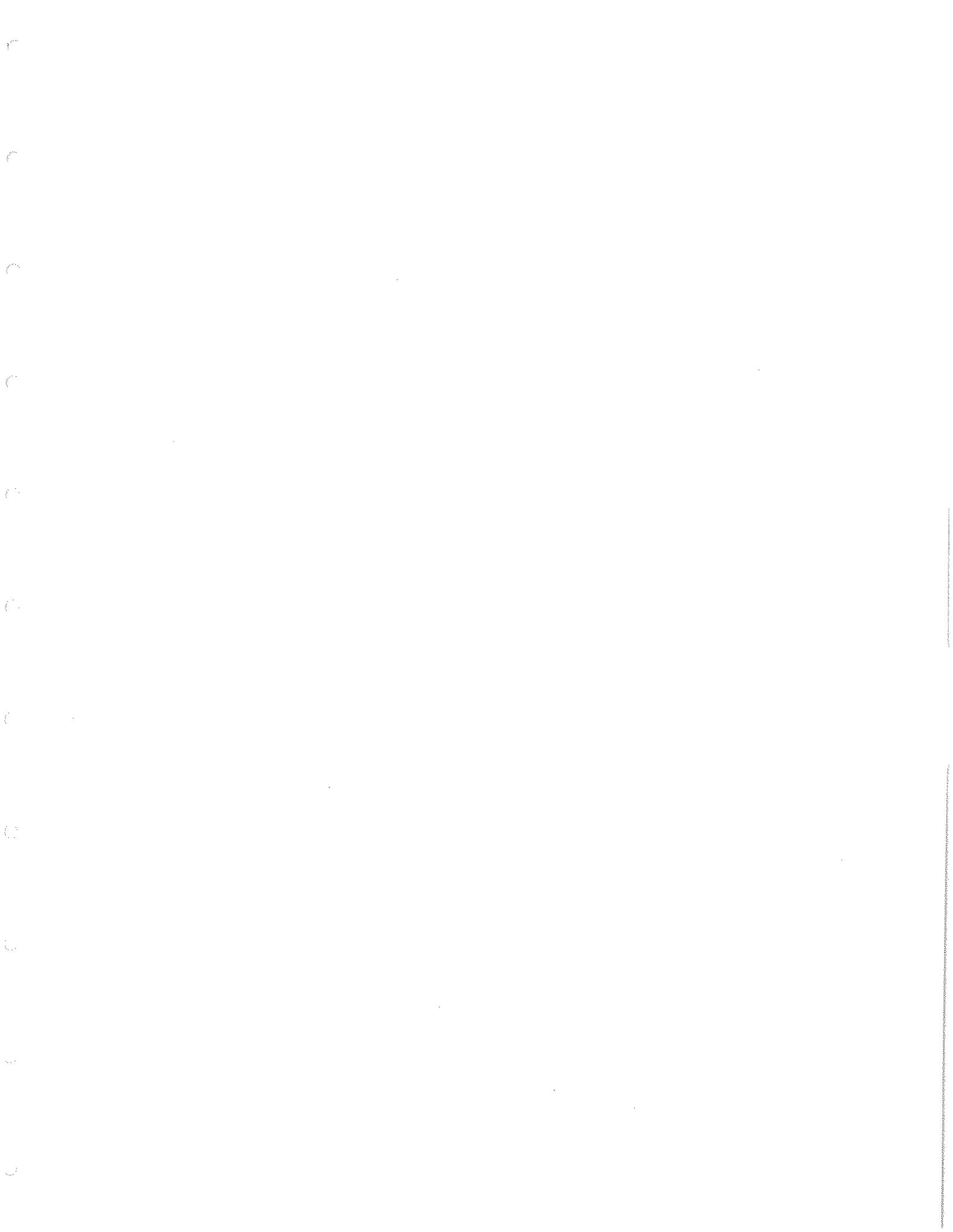
NOTICE OF PUBLIC HEARING and ABSTRACT OF BOND ORDINANCE
Notice is hereby given to any person interested that on November 5, 2002 the Council of the Town of Bath (the "Issuer") adopted an Ordinance which, among other things:

1. Authorized the acquisition and construction of certain additons, betterments and improvements (the "Project") to the Issuer's existing waterworks system (the "System") and the financing of the cost thereof not otherwise provided through the issuance of not more than \$1,150,000 in aggregate principal amount of Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program) (the "Bonds");
2. Directed that the Bonds be issued in such principal amounts, bear interest, vary at such rate or rates, not exceeding the then legal maximum rate, payable quarterly on such dates, mature on such dates and in such amounts and redeemable, in whole or in part, as prescribed in a supplemental resolution of the Loan Agreement by and between the Issuer and the West Virginia Water Development Authority on behalf of the West Virginia Bureau for Public Health (the "Loan Agreement");
3. Authorized the execution and delivery of the Loan Agreement;
4. Directed the contribution of a Revenue Fund and the disposition of the revenues of the System, provided for the payment of operating expenses, provided for the monthly payment of principal of and interest, (any) on the Bonds when due, provided for the creation of a Sinking Fund, a Reserve Account and a Renewal and Replacement Fund for the Bonds; and provided for the use of excess funds of the System;
5. Directed the creation of a Bond Construction Trust Fund and the disbursement of Bond proceeds;
6. Provided that the Bonds shall not be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Gross Revenues of the System, pledged the Gross Revenues of the System, to payment of the Bonds and established the rights of the holders of the Bonds to the Gross Revenues of the System;
7. Provided certain conditions for the issuance of additional bonds;
8. Provided for insurance coverage on the Project, enforcement of collection of rates and other charges for the System, and other covenants of the Issuer in favor of the Bondholders;
9. Established the events of default and the remedies of the Bondholders;
10. Provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance;

The Issuer contemplates the issuance of the Bonds described in and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of the Town of Bath at a regular meeting on November 19, 2002 at 5:00 p.m. in the Council Chambers, Town Hall, 103 Wilkes Street, Berkeley Springs, West Virginia, and present protests and be heard as to whether the above recited Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council is on file with the Recorder for review by interested persons during the office hours of the Town Hall.

John Kiley, Recorder
11-6-2002



AR-1



UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF BATH
WATER REVENUE BOND, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

SPECIMEN
\$1,150,000

No. AR-1

KNOW ALL MEN BY THESE PRESENTS: That the TOWN OF BATH, a municipal corporation and political subdivision of the State of West Virginia in Morgan County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns, the sum of ONE MILLION ONE HUNDRED FIFTY THOUSAND DOLLARS (\$1,150,000), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2003, as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference. The Administrative Fee (as defined in the hereinafter described Bond Legislation) on this Bond shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2003, as set forth on Exhibit B attached hereto.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement dated December 6, 2002, by and between the Issuer and the Authority, on behalf of the BPH.

This Bond is issued (i) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The existing waterworks system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on November 5, 2002, effective November 19, 2002, and a Supplemental Resolution duly adopted by the Issuer on November 19, 2002 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S WATER REVENUE REFUNDING AND IMPROVEMENT BONDS, SERIES 1997 A, DATED JULY 15, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,430,000 (THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of the Gross Revenues in favor of the holders of the Prior Bonds, and from moneys in the Series 2002 A Bonds Reserve Account created under the Bond Legislation for this Bond and unexpended proceeds of this Bond. Such Gross Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Gross Revenues, the moneys in the Series 2002 A Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to comply with the rate coverage required by the Prior Ordinance, so long as the Prior Bonds are outstanding, and thereafter, sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount of principal of and interest, if any, on this Bond payable in any year and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Prior Bonds; provided however, that so long as there exists in the Series 2002 A Bonds Reserve Account, an amount at least equal to the maximum

amount of principal and interest, if any, which will become due on this Bond in any year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owners of this Bond, for the terms of which, reference is made to the Bond Legislation. Remedies provided the Registered Owners of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar (as defined in the Bond Legislation) by the Registered Owner or its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to the payment of the costs of acquisition and construction of the Project and the costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the Registered Owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and upon the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Gross Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

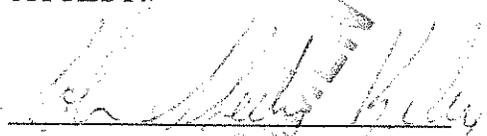
IN WITNESS WHEREOF, the TOWN OF BATH has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated December 9, 2002.

[SEAL]



Mayor

ATTEST:



Recorder

AR-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2002 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: December 9, 2002.

CITIZENS NATIONAL BANK OF BERKELEY SPRINGS,
as Registrar

By *Arnold J. [Signature]* Vice President
Its Authorized Officer *12/9/02*

SPEC

EXHIBIT A

RECORD OF ADVANCES

<u>Amount</u>	<u>Date</u>	<u>Amount</u>	<u>Date</u>
(1) \$101,240	12/9/02	(19) \$	
(2) \$		(20) \$	
(3) \$		(21) \$	
(4) \$		(22) \$	
(5) \$		(23) \$	
(6) \$		(24) \$	
(7) \$		(25) \$	
(8) \$		(26) \$	
(9) \$		(27) \$	
(10) \$		(28) \$	
(11) \$		(29) \$	
(12) \$		(30) \$	
(13) \$		(31) \$	
(14) \$		(32) \$	
(15) \$		(33) \$	
(16) \$		(34) \$	
(17) \$		(35) \$	
(18) \$		(36) \$	

Total \$ _____

EXHIBIT B

Town of Bath
 Loan of \$1,150,000
 0% Interest Rate, 1% Administrative Fee, 30 Years
 Closing Date: December 9, 2002

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
3/01/2003	-	-	-
6/01/2003	-	-	-
9/01/2003	-	-	-
12/01/2003	9,584.00	-	9,584.00
3/01/2004	9,584.00	-	9,584.00
6/01/2004	9,584.00	-	9,584.00
9/01/2004	9,584.00	-	9,584.00
12/01/2004	9,584.00	-	9,584.00
3/01/2005	9,584.00	-	9,584.00
6/01/2005	9,584.00	-	9,584.00
9/01/2005	9,584.00	-	9,584.00
12/01/2005	9,584.00	-	9,584.00
3/01/2006	9,584.00	-	9,584.00
6/01/2006	9,584.00	-	9,584.00
9/01/2006	9,584.00	-	9,584.00
12/01/2006	9,584.00	-	9,584.00
3/01/2007	9,584.00	-	9,584.00
6/01/2007	9,584.00	-	9,584.00
9/01/2007	9,584.00	-	9,584.00
12/01/2007	9,584.00	-	9,584.00
3/01/2008	9,584.00	-	9,584.00
6/01/2008	9,584.00	-	9,584.00
9/01/2008	9,584.00	-	9,584.00
12/01/2008	9,584.00	-	9,584.00
3/01/2009	9,584.00	-	9,584.00
6/01/2009	9,584.00	-	9,584.00
9/01/2009	9,584.00	-	9,584.00
12/01/2009	9,584.00	-	9,584.00
3/01/2010	9,584.00	-	9,584.00
6/01/2010	9,584.00	-	9,584.00
9/01/2010	9,584.00	-	9,584.00
12/01/2010	9,584.00	-	9,584.00
3/01/2011	9,584.00	-	9,584.00
6/01/2011	9,584.00	-	9,584.00
9/01/2011	9,584.00	-	9,584.00
12/01/2011	9,584.00	-	9,584.00
3/01/2012	9,584.00	-	9,584.00
6/01/2012	9,584.00	-	9,584.00
9/01/2012	9,584.00	-	9,584.00
12/01/2012	9,584.00	-	9,584.00
3/01/2013	9,584.00	-	9,584.00
6/01/2013	9,584.00	-	9,584.00
9/01/2013	9,584.00	-	9,584.00
12/01/2013	9,583.00	-	9,583.00
3/01/2014	9,583.00	-	9,583.00
6/01/2014	9,583.00	-	9,583.00
9/01/2014	9,583.00	-	9,583.00

Town of Bath
 Loan of \$1,150,000
 0% Interest Rate, 1% Administrative Fee, 30 Years
 Closing Date: December 9, 2002

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
12/01/2014	9,583.00	-	9,583.00
3/01/2015	9,583.00	-	9,583.00
6/01/2015	9,583.00	-	9,583.00
9/01/2015	9,583.00	-	9,583.00
12/01/2015	9,583.00	-	9,583.00
3/01/2016	9,583.00	-	9,583.00
6/01/2016	9,583.00	-	9,583.00
9/01/2016	9,583.00	-	9,583.00
12/01/2016	9,583.00	-	9,583.00
3/01/2017	9,583.00	-	9,583.00
6/01/2017	9,583.00	-	9,583.00
9/01/2017	9,583.00	-	9,583.00
12/01/2017	9,583.00	-	9,583.00
3/01/2018	9,583.00	-	9,583.00
6/01/2018	9,583.00	-	9,583.00
9/01/2018	9,583.00	-	9,583.00
12/01/2018	9,583.00	-	9,583.00
3/01/2019	9,583.00	-	9,583.00
6/01/2019	9,583.00	-	9,583.00
9/01/2019	9,583.00	-	9,583.00
12/01/2019	9,583.00	-	9,583.00
3/01/2020	9,583.00	-	9,583.00
6/01/2020	9,583.00	-	9,583.00
9/01/2020	9,583.00	-	9,583.00
12/01/2020	9,583.00	-	9,583.00
3/01/2021	9,583.00	-	9,583.00
6/01/2021	9,583.00	-	9,583.00
9/01/2021	9,583.00	-	9,583.00
12/01/2021	9,583.00	-	9,583.00
3/01/2022	9,583.00	-	9,583.00
6/01/2022	9,583.00	-	9,583.00
9/01/2022	9,583.00	-	9,583.00
12/01/2022	9,583.00	-	9,583.00
3/01/2023	9,583.00	-	9,583.00
6/01/2023	9,583.00	-	9,583.00
9/01/2023	9,583.00	-	9,583.00
12/01/2023	9,583.00	-	9,583.00
3/01/2024	9,583.00	-	9,583.00
6/01/2024	9,583.00	-	9,583.00
9/01/2024	9,583.00	-	9,583.00
12/01/2024	9,583.00	-	9,583.00
3/01/2025	9,583.00	-	9,583.00
6/01/2025	9,583.00	-	9,583.00
9/01/2025	9,583.00	-	9,583.00
12/01/2025	9,583.00	-	9,583.00
3/01/2026	9,583.00	-	9,583.00
6/01/2026	9,583.00	-	9,583.00

Town of Bath
 Loan of \$1,150,000
 0% Interest Rate, 1% Administrative Fee, 30 Years
 Closing Date: December 9, 2002

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
9/01/2026	9,583.00	-	9,583.00
12/01/2026	9,583.00	-	9,583.00
3/01/2027	9,583.00	-	9,583.00
6/01/2027	9,583.00	-	9,583.00
9/01/2027	9,583.00	-	9,583.00
12/01/2027	9,583.00	-	9,583.00
3/01/2028	9,583.00	-	9,583.00
6/01/2028	9,583.00	-	9,583.00
9/01/2028	9,583.00	-	9,583.00
12/01/2028	9,583.00	-	9,583.00
3/01/2029	9,583.00	-	9,583.00
6/01/2029	9,583.00	-	9,583.00
9/01/2029	9,583.00	-	9,583.00
12/01/2029	9,583.00	-	9,583.00
3/01/2030	9,583.00	-	9,583.00
6/01/2030	9,583.00	-	9,583.00
9/01/2030	9,583.00	-	9,583.00
12/01/2030	9,583.00	-	9,583.00
3/01/2031	9,583.00	-	9,583.00
6/01/2031	9,583.00	-	9,583.00
9/01/2031	9,583.00	-	9,583.00
12/01/2031	9,583.00	-	9,583.00
3/01/2032	9,583.00	-	9,583.00
6/01/2032	9,583.00	-	9,583.00
9/01/2032	9,583.00	-	9,583.00
12/01/2032	9,583.00	-	9,583.00
3/01/2033	9,583.00	-	9,583.00
6/01/2033	9,583.00	-	9,583.00
9/01/2033	9,583.00	-	9,583.00
Total	1,150,000.00	-	1,150,000.00 *

*Plus \$1,449.45 one-percent administrative fee paid quarterly. Total fee paid over life of loan is \$173,934.

YIELD STATISTICS

Bond Year Dollars.....	\$18,249.46
Average Life.....	15.869 Years
Average Coupon.....	-
Net Interest Cost (NIC).....	-
True Interest Cost (TIC).....	7.42E-13
Bond Yield for Arbitrage Purposes.....	7.42E-13
All Inclusive Cost (AIC).....	0.9497096%

IRS FORM 8038

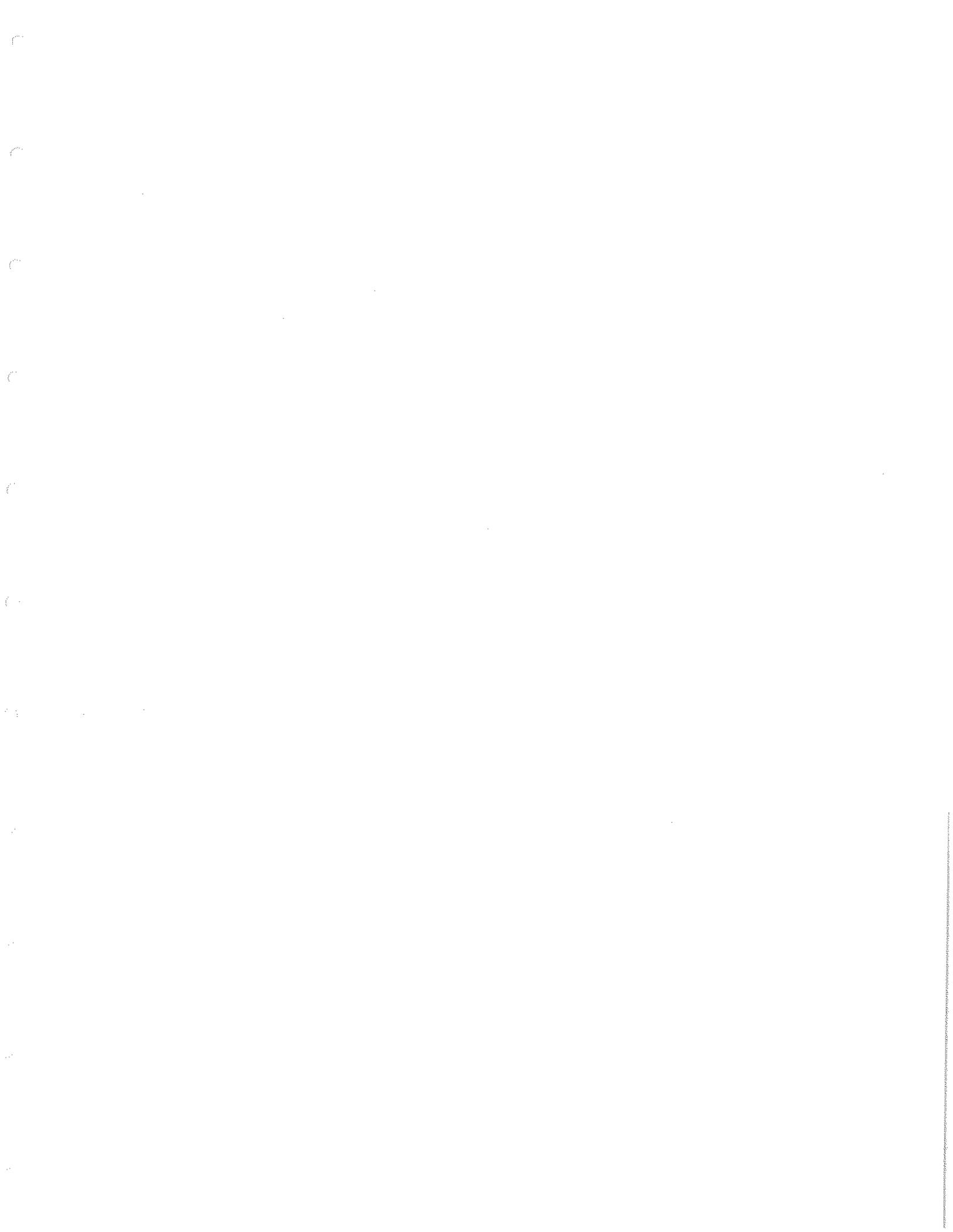
Net Interest Cost.....	-
Weighted Average Maturity.....	15.869 Years

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

In the presence of:



BOND REGISTER

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF BATH
WATER REVENUE BONDS, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

<u>Bond Number</u>	<u>Principal Amount</u>	<u>Date of Bond</u>
No. AR-1	\$1,150,000	December 9, 2002

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311

Signature of Registrar:

Citizens National Bank of
Berkeley Springs

Arnold K. Stot Vice Pres. - 1st Mortgage
Lurins
Authorized Representative

11/14/02
000802/301

M0375959.1

TOWN OF BATH
BOND ORDINANCE

WATER REVENUE REFUNDING AND IMPROVEMENT BONDS, SERIES 1997 A

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EXHIBIT B - Commitment Letter
EXHIBIT C - Notice of Public Hearing and Abstract of Ordinance

BOND ORDINANCE

Introduced in Council

Introduced by

Passed by Council

An Ordinance authorizing the issuance of not more than \$1,600,000 in aggregate principal amount of Water Revenue Refunding and Improvement Bonds, Series 1997 A, of the Town of Bath, West Virginia, to be used along with other funds and moneys of, or available to, the Town of Bath which may be lawfully expended for such purposes to refund the Town of Bath Waterworks Refunding and Improvement Revenue Bonds, Series 1978, to finance the cost of such acquisition and construction of certain extensions, additions, betterments and improvements to the water system of the Town of Bath and to pay other costs in connection therewith; providing for the rights and remedies of and security for the owners of such bonds; authorizing execution and delivery of all documents relating to the issuance of such bonds; authorizing the execution and delivery of an Escrow Agreement; authorizing the sale and providing for the terms and provisions of such bonds and adopting other provisions related thereto.

Be It Ordained by the Council of the Town of Bath, West Virginia:

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01. Authority of this Ordinance. This Ordinance is enacted pursuant to the provisions of Chapter 8, Article 19 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

Section 1.02. Definitions. The following terms shall have the following meanings in this Ordinance unless the context expressly requires otherwise.

"Act" shall mean Chapter 18, Article 19 of the Code of West Virginia, 1931, as amended and in effect on the date of enactment of this Ordinance.

"Authorized Newspaper" means a financial journal or newspaper of general circulation in the City of New York, New York, printed in the English language and customarily published on each business day of the Registrar, whether or not published on Saturdays, Sundays or legal holidays, and so long as published, shall include The Bond Buyer and Redemption Digest.

"Authorized Officer" shall mean the Mayor of the Town or any other officer of the Town specifically designated by resolution of the Town Council.

"Bond Construction Trust Fund" shall mean the fund created by Section 6.01 hereof.

"Bond Counsel" shall mean any law firm having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds, appointed by the Issuer, and shall initially mean Jackson & Kelly, Charleston, West Virginia.

"Bondholder" or "Owner of the Bonds" or "Registered Owners" or any similar term shall mean any person who shall be the registered owner of any Outstanding Bonds as hereinafter defined.

"Bond Insurer" means any entity which shall insure all or any portion of the payment of principal of and interest on any of the Series 1997 A Bonds, and in the event the Series 1997 A Bonds are insured, shall initially mean the Bond Insurer set forth in the Supplemental Resolution.

"Bond Registrar" means the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns.

"Bond Year" shall mean the 12 month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year except that the first Bond Year shall begin on the Closing Date.

"Bonds" shall mean, the Town of Bath Water Revenue Refunding and Improvement Bonds, Series 1997 A originally authorized hereby, and any pari passu additional bonds hereafter issued within the terms, restrictions and conditions contained in this Ordinance.

"Business Day" means any day other than a Saturday, Sunday or a day on which national banking associations or West Virginia banking corporations are authorized by law to remain closed.

"Certificate of Authentication and Registration" means, collectively, the Certificate of Authentication and Registration on the Series 1997 A Bonds.

"Closing Date" shall mean the date upon which there is an exchange of the Bonds for the proceeds representing the original purchase price thereof.

"Code" shall mean the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated pursuant thereto or any predecessors or successors thereto.

"Commission" shall mean the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia which succeeds to the functions of the Commission.

"Consulting Engineers" shall mean Alpha Associates, Inc., Consulting Engineers, Martinsburg, West Virginia, or any engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

"Cost of Project" or "Costs" or "Costs of Issuance" shall mean all those costs now or hereafter permitted by the Act to be financed with bonds issued pursuant hereto, including, without limitation, the costs of refunding the Prior Bonds (which amount shall reflect the determination of the Redemption Price of the Prior Bonds), interest accruing or to accrue thereon, redemption premiums, premiums for municipal bond insurance and reserve account insurance, letter of credit fees and those costs described in Section 1.04(F) hereof and the cost of the acquisition and construction of the Project, as the case may be, as hereinafter defined, including expenses for fiscal or other agents, legal expenses and any other costs or expenses necessary, incidental, desirable or appurtenant to the issuance of the Series 1997 A Bonds and the refunding of the Prior Bonds.

"Costs of Issuance Account" means the Costs of Issuance Account created by Section 6.01.

"Council" shall mean the Council of the Issuer.

"Debt Service" shall mean the scheduled amount of interest and amortization of principal payable on the Series 1997 A Bonds, as hereinafter defined, during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

"Depository Bank" shall mean the bank or banks designated as such and its successors and assigns, and any other bank or national banking association located in the State of West Virginia, eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC that may hereafter be appointed by the Issuer as Depository Bank in the Supplemental Resolution.

"DTC" shall mean The Depository Trust Company, New York, New York.

"DTC Eligible" shall mean bonds meeting the qualifications prescribed by The Depository Trust Company, New York, New York.

"Escrow Agreement" means an escrow agreement entered into between the Town and the Commission, the form of which shall be approved by a resolution supplemental hereto.

"Escrow Agent" means the Commission.

"Event of Default" shall mean any occurrence or event specified in Section 10.01.

"FDIC" shall mean the Federal Deposit Insurance Corporation and any successor to the functions of the FDIC.

"Fiscal Year" shall mean each twelve month period beginning on July 1 and ending on the succeeding June 30.

"Government Obligations" shall mean direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations; (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

"Gross Revenues" shall mean the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined) or any Tap Fees, as hereinafter defined, and for the furnishing by the Issuer of miscellaneous service.

"Independent Accountants" shall mean any firm of certified public accountants which shall be retained by the Issuer as independent accountants for the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

"Investment Property" shall mean any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract or investment-type property or residential rental property for family units which is not located within the jurisdiction of the Town and which is not acquired to implement a court ordered or approved

housing desegregation plan, excluding, however, obligations the interest on which is excluded from gross income under Section 103 of the Code for federal income tax purposes other than specified private activity bonds as defined in Section 57(a)(5)(C) of the Code.

"Issuer" shall mean the Town of Bath, a municipal corporation of the State of West Virginia, and, when appropriate, also means the Council thereof and any department, board, organizing or instituting thereof in control of the management and operation of the System, as hereinafter defined.

"Mayor" shall mean the Mayor of the Issuer.

"Municipal Bond Insurance Policy" means any municipal bond insurance policy issued by a Bond Insurer simultaneously with the delivery of the Series 1997 A Bonds, insuring the payment of the principal of and interest on all or any of the Series 1997 A Bonds in accordance with the terms thereof or any other bond insurance policy which may be issued on behalf of the Issuer to insure payment of the principal of and interest on all or any subsequent series of bonds.

"Net Proceeds" means the face amount of the Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Reserve Accounts. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

"Net Revenues" shall mean the balance of the Gross Revenues remaining after deduction of Operating Expenses, as hereafter defined.

"Nonpurpose Investment" shall mean any Investment Property which is acquired with the Gross Proceeds of the Bonds and is not acquired in order to carry out the governmental purpose of the Bonds.

"Operating Expenses" shall mean the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the fiscal agents, the Registrar, Paying Agent and Escrow Agent (as herein defined), other than those capitalized as part of the Costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Ordinance" or "this Ordinance" shall mean this ordinance as hereafter amended or supplemented.

"Original Purchaser" means Ferris, Baker Watts, Incorporated, Charleston, West Virginia, as the purchasers of the Series 1997 A Bonds directly from the Issuer, or, if the Issuer and such Original Purchaser do not agree to the purchase of the Series 1997 A Bonds with interest rates and other terms allowable under the Act, such other person or persons, firm or firms, bank or banks, corporation or corporations or such other entity or entities as shall purchase the Series 1997 A Bonds directly from the Issuer, as determined by a resolution supplemental hereto; provided, that the Original Purchaser and the Issuer shall agree to the purchase of the Series 1997 A Bonds, as hereinafter defined, including the exact principal amount thereof and interest rate or rates thereon as fixed by said supplemental resolution to be adopted by the Issuer at the time of approval of such sale of said Series 1997 A Bonds.

"Outstanding" when used with reference to Bonds, as of any particular date, describes all such Bonds theretofore and thereupon being authenticated and delivered except (i) any such Bond canceled by the Registrar, at or prior to said date; (ii) any such Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such Bond, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any such Bond deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any such Bond registered to the Issuer.

"Parity Bonds" shall mean additional Bonds issued under the provisions and within the limitations prescribed by Section 8.09 hereof, payable from Net Revenues on a parity with the Series 1997 A Bonds.

"Paying Agent" shall mean the West Virginia Municipal Bond Commission or such other entity or authority as may be designated as a paying agent or co-paying agent by the Issuer.

"Prior Bonds" shall mean the Town's Waterworks Refunding and Improvement Revenue Bonds, Series 1978, dated January 5, 1979, issued in the original principal amount of \$945,000 and currently outstanding in the amount of \$805,000.

"Prior Ordinance" shall mean, collectively, the Ordinance passed May 24, 1977, and the Amendatory Bond Ordinance passed October 17, 1978, with respect to the Prior Bonds.

"Private Business Use" shall mean use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit

and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use", if any, of the proceeds of the issue and/or proceeds used for "qualified improvements", if any.

"Project" shall mean the acquisition and construction of certain extensions, additions, betterments and improvements to the System substantially as described in Exhibit A attached hereto and incorporated herein.

"PSC" means the Public Service Commission of West Virginia and any successors to the functions thereof.

"PSC Order" means the recommended decision of the PSC regarding the acquisition and construction of the Project which grants the Issuer a certificate of convenience and necessity and approval of financing.

"Qualified Investments" shall mean and include any of the following:

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; the Tennessee Valley Authority; or the Washington Metropolitan Area Transit Authority;
- (d) Any bond, debenture, note, participation certificate or other similar obligation issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;
- (e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the Federal Deposit Insurance Corporation ("FDIC"), shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e), above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the owner of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The "consolidated fund" (or any distinct portion thereof) managed by the West Virginia State Board of Investments pursuant to Article 6, Chapter 12 of the Code of West Virginia, 1931, as amended; and

(i) Obligations of States or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and which are rated at least "A" by Moody's Investor Services, Inc. or Standard and Poor's Corporation.

"Recorder" shall mean the Recorder of the Issuer.

"Redemption Date" means the date fixed for redemption of the Prior Bonds, the Series 1997 A Bonds, or any other Bonds of the Issuer called for redemption.

"Redemption Price" means the price at which the Series 1997 A Bonds, the Prior Bonds or any other Bonds of the Issuer may be called for redemption and includes the principal of and interest on such Bonds to be redeemed, plus the premium, if any, required to be paid to effect such redemption.

"Registrar" shall mean the entity or entities named as such in the Supplemental Resolution.

"Regulations" shall mean the regulations promulgated under the Code.

"Renewal and Replacement Fund" shall mean the fund created by Section 6.01(2) hereof.

"Reserve Account" shall mean the account in the Sinking Funds, as hereinafter defined, created by Sections 6.02(1) hereof.

"Reserve Requirement" shall mean as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 1997 A Bonds in the then current or any succeeding Fiscal Year.

"Revenue Fund" shall mean the fund created in Section 6.01(1) hereof.

"Series 1997 A Bonds" shall mean the not more than \$1,600,000 in aggregate principal amount of Water Revenue Refunding and Improvement Bonds, Series 1997 A of the Issuer.

"Series 1997 A Bonds Reserve Account" shall mean the Series 1997 A Bonds Reserve Account established in the Series 1996 A Bonds Sinking Fund pursuant to Section 6.02(1) hereof.

"Series 1997 A Bonds Reserve Requirement" shall mean, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1997 A Bonds in the then current or any succeeding year.

"Sinking Funds" shall mean, collectively, the funds created by Sections 6.02(1) and 6.02(2) hereof.

"State" shall mean the State of West Virginia.

"Supplemental Resolution" shall mean any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the", refers specifically to the supplemental resolution or resolutions authorizing the sale of the Series 1997 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 1997 A Bonds and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" shall mean the net revenues not required by this Ordinance to be set aside and held for the payment of or security for the Bonds, including the Reserve Accounts and the Renewal and Replacement Fund.

"System" shall mean the complete existing System now owned by the Issuer, consisting of a waterworks system in its entirety or any integral part thereof, and shall include any extensions, additions, betterments and improvements thereto, hereafter acquired or constructed for said system from any sources whatsoever, both within and without said Issuer.

"Tap Fees" shall mean the fees, if any, paid by prospective customers of the System in order to connect thereto.

"Term Bonds" shall mean Bonds subject to mandatory sinking fund redemption, as described in Section 4.06.

"Yield" means that yield which, when used in computing the present worth of all payments of principal and interest (or other payments in the case of Nonpurpose Investments which require payments in a form not characterized as principal and interest) on a Nonpurpose Investment or on the Bonds, produces an amount equal to the Purchase Price of such Nonpurpose Investment or the Bonds, all computed as prescribed in applicable Regulations.

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations. Words importing the masculine gender include all other genders.

Additional terms and phrases are defined in this Ordinance as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with general accepted accounting principles.

The terms "herein", "hereunder", "hereby", "hereto", "hereof" and any similar terms refer to this Ordinance; and the term "hereafter" means after the date of the enactment of this Ordinance.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Ordinance so numbered.

Section 1.03. Ordinance Constitutes Contract. In consideration of the acceptance of the Series 1997 A Bonds and any other bonds authorized to be issued hereunder by those who shall own the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by said Issuer shall be for the equal benefit, protection and security of the legal owners of any and all of such Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Findings. It is hereby found, determined and declared as follows:

A. The Town of Bath, West Virginia, a municipal corporation and political subdivision of the State in Morgan County of said State, now owns a water system consisting of a waterworks system in its entirety or any integral part thereof, including some or all of mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, pumping stations, intakes, wells, impounding reservoirs, pumps, machinery, purification plants, softening apparatus and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or to a water supply system (herein referred to as the "System"), which System was financed or refinanced in part with the proceeds of the Prior Bonds.

B. It is deemed necessary and desirable for the health, welfare and safety of the inhabitants of the Issuer that there be acquired and constructed the Project, consisting of (a) an extension to the Morgan County Middle School, which extension is being jointly funded by the Morgan County Board of Education at an estimated cost of \$550,000 of which the Issuer will contribute approximately half and (b) water plant upgrade at a cost of approximately \$250,000, all of which will constitute extensions, additions, betterments and improvements to the System at an estimated cost not to exceed \$550,000, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have been approved and will be on file with the Issuer, and which Project is generally described in Exhibit A attached hereto and by this reference made a part hereof.

C. The estimated revenues to be derived in each year after the enactment of this Ordinance from the operation of said System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Bonds and all sinking fund, reserve, renewal and replacement and other payments provided for in this Ordinance.

D. Pursuant to the Act, the Issuer is authorized and empowered to issue revenue refunding bonds to refund, pay or discharge all or any part of its outstanding revenue bonds. The Issuer is advised that present value debt service savings will be realized as a result of the refunding of the Prior Bonds. Pursuant to the Prior Ordinance, a notice of the intended redemption of the Prior Bonds must be published at least once, not less than thirty days nor more than sixty days prior to the date of redemption in a financial paper published in the City of New York, New York. The Issuer hereby determines that it will be to the benefit of the Issuer and its residents to refund the Prior Bonds by paying in full the entire outstanding principal of, the redemption premium, if any, and the interest on, the Prior Bonds, on the next available redemption date, in the manner set forth herein with a portion of the proceeds of the Series 1997 A Bonds and other moneys of the Issuer.

E. It is in the best interests of the Issuer that its Prior Bonds be refunded and redeemed on the Redemption Date to take advantage of the favorable terms available to the Issuer.

F. It is deemed necessary for the Issuer to issue its Series 1997 A Bonds to finance the costs of acquisition and construction of the Project herein described. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; engineering, fiscal and legal expenses; expenses for estimates of cost and revenue; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, any fees or expenses, any defaulted interest thereon, commitment fees, discount, initial fees for the service of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 1997 A Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of the same in operation, and

the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 1997 A Bonds or the repayment of the indebtedness incurred by the Issuer for such purposes shall be deemed part of the Cost of the Project.

G. The Issuer has (or will have prior to closing) complied with all requirements of West Virginia law relating to the refunding of the Prior Bonds, authorization of the acquisition and construction of the Project and the issuance of the Bonds for the refunding and the acquisition and construction of the Project.

H. The Code provides exceptions from the rebate provisions for issues of small governmental units meeting certain requirements. It is in the best interest of the Issuer and its inhabitants to qualify for the small governmental unit exception from the rebate provisions for the Series 1997 A Bonds. Accordingly, it is hereby found and determined:

(1) The Issuer is a governmental unit with general taxing powers.

(2) The Series 1997 A Bonds are not private activity bonds as defined by the Code.

(3) Ninety-five percent (95%) or more of the net proceeds (as defined with respect to the Code) of the Series 1997 A Bonds will be used for local governmental activities of the Issuer.

(4) The Issuer reasonably expects that the aggregate face amount of all tax-exempt bonds (other than private activity bonds) issued by the Issuer and all subordinate entities thereof during the calendar year in which the Bonds will be issued will not aggregately exceed \$5,000,000. The Issuer reasonably expects to issue the Bonds in calendar year 1997.

I. The Issuer will not permit, at any time, any of the proceeds of the Series 1997 A Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code.

J. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 1997 A Bonds.

K. The Series 1997 A Bonds will not be federally guaranteed within the meaning of the Code.

L. It is reasonably anticipated that all proceeds of the Series 1997 A Bonds will be spent within three years from the date of issuance.

M. The Issuer hereby finds and determines that the amount of tax-exempt obligations (other than private activity bonds) which it anticipates issuing during calendar year 1997 shall not exceed \$10,000,000 and therefore the Issuer hereby designates the Series 1997 A Bonds as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code.

ARTICLE II

AUTHORIZATION OF REFUNDING

Section 2.01 Authorization of Refunding. The Prior Bonds Outstanding as of the date of issuance of the Series 1997 A Bonds are hereby ordered to be refunded pursuant to the Escrow Agreement, and the pledge of Revenues in favor of the Holders of such refunded Prior Bonds imposed by the Prior Ordinance, the moneys in the funds and account created by such Prior Ordinance and any other funds pledged by such ordinance thereto are hereby ordered terminated, discharged and released upon full payment to the Escrow Agent of the amount required under the Escrow Agreement (such amount will be simultaneously invested in Government Obligations bearing interest and having maturities sufficient, together with any cash which may also be deposited, to provide for the payment of the principal of, redemption premium, and interest on, the Prior Bonds as the same become due, to the next Redemption Date, following the required notices.) The form of the Escrow Agreement shall be approved by the Supplemental Resolution. It is anticipated that the Prior Bonds will be paid on September 1, 1997, or such other date as is set forth in a Supplemental Resolution, and to that effect the Mayor and Recorder are hereby authorized to take any and all action necessary to instruct the Registrar to send the appropriate notices and take appropriate actions to pay said Prior Bonds on said date. Upon the deposit of funds sufficient to fund the Escrow Agreement for the payment of the Prior Bonds and the release of the lien thereof, the amounts, if any, on deposit in the accounts created and maintained for the Prior Bonds shall be transferred as is provided in the Supplemental Resolution. Prior to the closing of the Series 1997 A Bonds the Issuer shall receive the certificate of debt service savings and all other documents necessary to facilitate the refunding.

ARTICLE III

AUTHORIZATION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO SYSTEM

Section 3.01. Authorization of Project. There is hereby authorized the acquisition and construction of the Project in accordance with plans and specifications therefor prepared by the Consulting Engineers, to be approved by the Issuer and to be filed in the office of the Issuer.

Prior to issuing the Bonds for the acquisition and construction of the Project, the Issuer must receive acceptable bids or enter into contracts for the acquisition and construction of the Project consistent with the financing plan.

ARTICLE IV

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

Section 4.01. Authorization and Terms of Series 1997 A Bonds. For the purposes of funding the reserve account, paying costs of issuance, refunding the Prior Bonds and financing a portion of the costs of the acquisition and construction of the Project not otherwise provided for, there shall be issued the Series 1997 A Bonds of the Issuer.

The Series 1997 A Bonds shall be issued in the aggregate principal amount not to exceed \$1,600,000. Said Series 1997 A Bonds shall be designated "Water Revenue Refunding and Improvement Bonds, Series 1997 A" and shall be issued in fully registered form, and in the denomination of \$5,000 or any integral multiple thereof. The Series 1997 A Bonds shall be lettered AR and shall be numbered from 1 consecutively upward. The Series 1997 A Bonds shall be dated; shall be in such aggregate principal amount; shall bear interest at such rate or rates not exceeding 12% shall mature on such date, not to exceed 40 years from the date thereof, and in such amount; shall be subject to redemption, and shall have other terms, all as the Town shall prescribe in the Supplemental Resolution.

The Bonds shall be payable as to principal and premium, if any, at the principal office of the Paying Agent in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds shall be paid by check or draft mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar at the close of business on the Record Date, or, if requested, in the case of a Registered Owner of \$500,000 or more of the Bonds, by wire transfer to a domestic bank account specified in writing at least 5 days prior to such interest payment date by such Registered Owner.

Section 4.02. Execution of Bonds. Said Bonds shall be executed in the name of the Issuer by the Mayor and attested by the Recorder, and the seal of the Issuer shall be affixed thereto or imprinted thereon. 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 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. Any Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 4.03. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 4.11, shall have been duly manually executed by the Registrar.

Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Ordinance. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Registrar if manually signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 4.04. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bonds shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner, in accepting any of said Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value in the manner provided hereinafter in the form of said Bonds.

So long as any of the Bonds remain Outstanding, the Issuer, through the Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

Bonds shall be transferable only upon the books of the Registrar, by the registered Owner thereof in person or by the Owner's attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered Owner or the Owner's duly authorized attorney. Upon transfer of a Bond, there shall be issued at the option of the Holder or the transferee another Bond or Bonds of the aggregate principal amount equal to the unpaid amount of the transferred Bond and of the same series, interest rate and maturity of said transferred Bond.

Upon surrender thereof at the office of the Registrar with a written instrument of transfer satisfactory to the Registrar and duly executed by the registered owner or his attorney or legal representative duly authorized in writing, Bonds may at the option of the Registered Owner thereof be exchanged for an equal aggregate principal amount of Bonds of the same series, maturity and interest rate, in any authorized denominations.

In all cases in which the privilege of transferring or exchanging a Bond is exercised, Bonds shall be delivered in accordance with the provisions of this Ordinance. All Bonds surrendered in any such transfer or exchange shall forthwith be canceled by the Registrar. Transfers of Bonds, the initial exchange of Bonds and exchanges of Bonds in the event of partial redemption of fully registered Bonds shall be made by the Registrar without charge to the Holder or the transferee thereof, except as provided below. For other exchanges of Bonds, the Registrar may impose a service charge. For every such transfer or exchange of Bonds, the Registrar may make a charge sufficient to reimburse its office for any tax or other governmental charge required to be paid with respect to such transfer or exchange, and such tax or governmental charge, and such service charge for exchange other than the initial exchange or in the event of partial redemption. Shall be paid by the person

requesting such transfer or exchange as a condition precedent to the exercise of the privilege of making such transfer or exchange. The Registrar shall not be obligated to make any such transfer or exchange of Bonds that have been called for redemption.

Section 4.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Owner's furnishing the Issuer proof of 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 and the Registrar shall authenticate the new Bond. All Bonds so surrendered shall be canceled by the Registrar and held for the account of the Issuer. If such Bond 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 therefor.

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 and source of security for payment from the revenues pledged herein with all other Bonds issued hereunder.

Section 4.06. Term Bonds. In the event Term Bonds are issued pursuant to this Resolution, the following provisions shall apply:

A. The amounts to be deposited, apportioned and set apart by the Issuer from the Revenue Fund and into the Sinking Fund in accordance with 6.03(A)(2) shall include (after credit as provided below) on the first of each month, beginning on the first day of that month which is twelve months prior to the first mandatory redemption date of said Term Bonds, a sum equal to 1/12 of the amount required to redeem the principal amount of such Term Bonds which are to be redeemed as of the next ensuing mandatory redemption date, which amounts and dates, if any, with respect to the Series 1997 A Bonds shall be set forth in the Supplemental Resolution.

B. At its option, to be exercised on or before the 60th day next preceding any such mandatory redemption date, the Town may (a) deliver to the Registrar for cancellation such Term Bonds in any aggregate principal amount desired or (b) receive a credit in respect of its mandatory redemption obligation for any such Term Bonds which prior to said date have been redeemed (otherwise than pursuant to this section) and canceled by the Registrar and not theretofore applied as a credit against any such mandatory redemption obligation. Each Term Bond so delivered or previously redeemed shall be credited by the Registrar at 100% of the principal amount thereof against the obligation of the Issuer on such mandatory Redemption Date, and Term Bonds delivered in excess of such mandatory redemption obligation shall be credited against future mandatory redemption

obligations in the order directed by the Issuer, and the principal amount of such Term Bonds to be redeemed pursuant to mandatory sinking fund redemption shall be accordingly reduced.

C. The Issuer shall on or before the 60th day next preceding each mandatory Redemption Date furnish the Registrar and the Bond Commission with its certificate indicating whether and to what extent the provisions of (a) and (b) of the preceding paragraph are to be utilized with respect to such mandatory redemption payment and stating, in the case of the credit provided for in (b) of the preceding paragraph, that such credit has not theretofore been applied against any mandatory redemption obligation.

D. After said 60th day but prior to the date on which the Registrar selects the Term Bonds to be redeemed, the Bond Commission may use the moneys in the Series 1997 Sinking Fund to purchase Term Bonds at a price less than the par value thereof and accrued interest thereon. The Bond Commission shall advise the Issuer and the Registrar of any Term Bonds so purchased, and they shall be credited by the Registrar at 100% of the principal amount thereof against the obligation of the Issuer on such mandatory Redemption Date, and any excess shall be credited against future mandatory redemption obligations in the order directed by the Issuer, and the principal amount of such Term Bonds to be redeemed pursuant to mandatory sinking fund redemption shall be accordingly reduced.

E. The Registrar shall call for redemption, in the manner provided herein, an aggregate principal amount of such Term Bonds, at the principal amount thereof plus interest accrued to the Redemption Date (interest to be paid from the Series 1997 A Bonds Sinking Fund), as will exhaust as nearly as practicable such Sinking Fund payment designated to be made in accordance with paragraph (A) of this section. Such redemption shall be by random selection made on the 45th day preceding the mandatory Redemption Date, in such manner as may be determined by the Registrar. For purposes of this section, "Term Bonds" shall include any portion of a fully registered Term Bond, in integrals of \$5,000.

Section 4.07. Notice of Redemption. Official notice of any redemption shall be given by the Registrar on behalf of the Issuer by mailing a copy of an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the applicable Bond Insurer, the Original Purchaser and the registered owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such registered owner to the Bond Registrar.

So long as DTC (as Cede & Co.) is the registered Owner of the Bonds, the Registrar shall send all notices of redemption to DTC and shall verify that DTC has received notice. Copies of all redemption notices relating to optional redemption of the Series 1997 A Bonds shall also be sent to registered securities depositories and to Standard & Poor's Called Bond Record.

All official notices of redemption shall be dated and shall state:

- (1) The Redemption Date;
- (2) The Redemption Price;
- (3) If less than all outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed.
- (4) That on the Redemption Date the Redemption Price and interest accrued will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date;
- (5) The place where such Bonds are to be surrendered for payment of the Redemption Price, which place of payment shall be the principal office of the Registrar; and
- (6) Such other information, if any, as shall be required for DTC Bonds.

If funds sufficient to redeem all Bonds called for optional redemption have not been deposited with the Paying Agent at the time of mailing any notice of optional redemption, such notice shall also state that such optional redemption is subject to deposit of such moneys with the Paying Agent on or before the Redemption Date. If such moneys are not so deposited, the Registrar shall notify all holders of Bonds called for redemption of such fact.

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Issuer shall defaulting the payment of the Redemption Price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the registered owner a new Bond or Bonds of the same maturity in the amount of the unredeemed principal of such Bond. All Bonds which have been redeemed shall be canceled and destroyed by the Bond Registrar and shall not be reissued.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of Bonds, and failure to mail or otherwise send such notice shall not affect the validity of proceedings for the redemption of any portion of Bonds for which there was no such failure.

Section 4.08. Persons Treated as Owners. The Issuer, the Registrar and any agent of the Issuer or the Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of the principal of, and interest on, such Bond and for all other purposes, whether or not such Bond is overdue.

Section 4.09. Book Entry System for Bonds. The Series 1997 A Bonds will be issued by means of a book-entry system with no physical distribution of Series 1997 A Bonds made to the public. One Series 1997 Bond for each maturity will be issued to DTC and immobilized in its custody. A book-entry system will be employed, evidencing ownership of the Series 1997 A Bonds in principal amounts of \$5,000 or any integral multiple thereof, with transfers of beneficial ownership effected on the records of DTC and DTC Participants pursuant to rules and procedures established by DTC.

Section 4.10. Delivery of Bonds. The Issuer shall execute and deliver the Series 1997 A Bonds to the Registrar, and the Registrar shall authenticate, register and deliver the Series 1997 A Bonds to the Original Purchaser upon receipt of the documents set forth below:

(A) A list of the names in which the Series 1997 A Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Registrar may reasonably require;

(B) A request and authorization to the Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 1997 A Bonds to be the Original Purchaser;

(C) Copies of this Ordinance, the Supplemental Resolution and the Escrow Agreement certified by the Recorder;

(D) The unqualified approving opinion upon the Series 1997 A Bonds by Bond Counsel; and

(E) Such other documents, certifications and verifications as the Original Purchaser may reasonably require.

Section 4.11. Form of Bonds. The definitive Series 1997 A Bonds shall be in substantially the form set forth in Exhibit B - Bond Form attached hereto and incorporated herein by reference, with such necessary and appropriate omissions, insertions and variations as are approved by those officers executing such Series 1997 A Bonds on behalf of the Issuer and execution thereof by such officers shall constitute conclusive evidence of such approval, and the definitive Series 1997 A Bonds shall have the form of the opinion of bond counsel attached thereto or printed on the reverse thereof.

Section 4.12. Designation of Bonds as "Qualified Tax-Exempt Obligations." The Issuer hereby designates the Series 1997 A Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3)(B) of the Code and covenants that the Series 1997 A Bonds do not constitute private activity bonds as defined in Section 141 of the Code, and that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income tax purposes (excluding, however, obligations issued to currently refund any obligation of the

Issuer to the extent the amount of the refunding obligation do not exceed the amount of the refunded obligation and private activity bonds, as defined in Section 141 of the Code, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code), including the Series 1997 A Bonds, have been or shall be issued by the Issuer, including all subordinate entities of the Issuer, during the calendar year 1997.

ARTICLE V
[RESERVED]

ARTICLE VI

SYSTEM REVENUES AND APPLICATION THEREOF

Section 6.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created or continued with and shall be held by the Depository Bank:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Bond Construction Trust Fund; and
- (4) Cost of Issuance Account.

Section 6.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established with the Commission for the Series 1997 A Bonds:

- (1) Series 1997 A Bonds Sinking Fund;
 - (a) Within the Series 1997 A Bonds Sinking Fund, the Series 1997 A Bonds Reserve Account.

Section 6.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Ordinance and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner therein and herein provided.

(1) The Issuer shall next, on the first day of each month (i) commencing 6 months prior to the first date of payment of interest on the Series 1997 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on the Series 1997 A Bonds on the next ensuing semiannual interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Sinking Fund and the next semiannual interest payment date is less than 6 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date, and (ii) on the first day of each month, commencing 12 months prior to the first date of payment of principal on the Series 1997 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Sinking Fund, a sum equal to 1/12th of

the amount of principal which will mature and become due on said Series 1997 A Bonds on the next ensuing annual principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Sinking Fund and the next annual principal payment date is less than 12 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date. When additional series of Series 1997 A Bonds are issued, the payment of interest and principal on said bonds shall be made simultaneously with the payments described in this Section 6.03(2) and to the extent that Gross Revenues are insufficient to make all of the payments such payments shall be made pro rata among each series of Bonds.

(2) The Issuer shall next transfer from the Revenue Fund and pay to the Commission on the first day of each month, commencing 12 months prior to the first date of payment of principal of the Series 1997 A Bonds, if not fully funded upon issuance of the Bonds, for deposit in the Series 1997 A Bonds Reserve Accounts, an amount equal to 1/120 of the respective Reserve Requirement; provided, that no further payments shall be made into the Series 1997 A Bonds Reserve Accounts when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Reserve Requirement.

(3) The Issuer shall, each month, transfer from the Revenue Fund an amount sufficient to pay current Operating Expenses of the System.

(4) The Issuer shall next, from the moneys remaining in the Revenue Fund, on the first day of each month, transfer to the Renewal and Replacement Fund a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Accounts. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Reserve Accounts [except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Sinking Funds shall be used only for the purposes of paying principal of and interest on the Bonds as the same shall become due. Moneys in the Reserve Accounts in the Sinking Funds shall be used only for the purpose of paying principal of or interest on the Bonds, as the same shall come due, when other moneys in the Sinking Funds are insufficient therefor, and for no other purpose. Except for the funds required to be deposited in the Rebate Fund, if any, all investment earnings on moneys in the Series 1997 A Bonds Reserve Account shall be transferred, not less than once each year, to the Series 1997 A Bonds Sinking Fund.

Any withdrawals from the Reserve Accounts which result in a reduction in the balance of the Reserve Accounts to an amount below the Reserve Requirements shall be subsequently restored from the first Revenues available after all required payments to the Sinking Funds for payment of debt service on the Bonds have been made in full.

B. As and when additional Bonds ranking on a parity with the Series 1997 A Bonds are issued, provision shall be made for additional payments into the Sinking Funds sufficient to pay any interest on such additional Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the Reserve Accounts in an amount equal to the Reserve Requirements.

The Commission is hereby designated as the fiscal agent for the administration of the Sinking Funds created hereunder, and all amounts required for said Sinking Funds shall be remitted to the Commission from the Revenue Funds by the Issuer at the times provided herein.

The payments into the Sinking Funds shall be made on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Ordinance.

Moneys in the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Article VIII hereof.

The Sinking Funds, including the Reserve Accounts therein, shall be used solely and only for, and is hereby pledged for, the purpose of servicing the Bonds and any additional Bonds ranking on a parity with them that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinabove provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Funds, including the Reserve Accounts therein, and the Renewal and Replacement Fund during the following month or such longer period as shall be required by the Act, such excess shall be considered as surplus revenues (the "Surplus Revenue"). Surplus Revenues may be used for any lawful purpose of the System.

D. The Issuer shall remit from the Revenue Fund to the Commission or the Depository Bank, on such dates as the Commission or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay any Depository Bank's charges then due.

E. The moneys in excess of the maximum amounts insured by FDIC in the Revenue Fund and the Renewal and Replacement Fund shall at all times be secured, to the

full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

F. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates.

G. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

H. The Gross Revenues of the System shall only be used for purposes of the System.

ARTICLE VII

APPLICATION OF ORIGINAL BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 7.01. Application of Series 1997 A Bond Proceeds. The amount of the Series 1997 A Bond proceeds, together with money in the Sinking Fund held at the Commission, necessary to pay the principal, premium and accrued interest on the Prior Bonds, shall be deposited pursuant to the Escrow Agreement and applied to the payment of the principal, premium and accrued interest on the Prior Bonds on September 1, 1997, or such other date as is set forth in the Supplemental Resolution.

The remaining proceeds of the Series 1997 A Bonds shall be deposited in the Costs of Issuance Account, the Series 1997 A Bonds Reserve Account, and the Bond Construction Trust Fund as set forth in the Supplemental Resolution.

Section 7.02. Bond Construction Trust Fund. There is hereby created and established with the Depository Bank a special fund, designated the "Bond Construction Trust Fund". The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in this Ordinance. Except with respect to any transfers to the Rebate Fund, moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Bonds.

Section 7.03. Disbursements From the Bond Construction Trust Fund and Cost of Issuance Account. The Depository Bank is hereby authorized to disburse monies from the Bond Construction Trust Fund and Cost of Issuance Account upon receipt of a requisition signed by an Issuer Representative and with respect to the Series 1997 A Bonds, signed by an Issuer Representative and Consulting Engineer. Each such requisition shall state with respect to each payment to be made:

- (a) the requisition number, if any;
- (b) the name and address of the Person to whom payment is due;
- (c) the amount to be paid; and
- (d) that each obligation mentioned therein has been properly incurred, is currently due and payable, is a proper charge for a portion of the Costs, is unpaid or unreimbursed and has not been the basis of any previous requisition.

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Bond Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Bond Construction Trust Fund and Costs of Issuance Account shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Bond Construction Trust Fund or the Costs of Issuance Account. The Consulting Engineers shall from time to time file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

Any amounts remaining in the Costs of Issuance Account on September 1, 1997, shall be transferred to the Bond Construction Trust Fund.

Pending such application, moneys in the Bond Construction Trust Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VIII

ADDITIONAL COVENANTS OF THE ISSUER

Section 8.01. General Covenants of the Issuer. All the covenants, agreements and provisions set forth in this Ordinance shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any owner or owners of the Bonds. In addition to the other covenants, agreements and provisions of this Ordinance, the Issuer hereby covenants and agrees with the owners of the Bonds as hereinafter provided in this Article VIII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Bonds, or the interest thereon, is Outstanding and unpaid.

Section 8.02. Bonds not to be Indebtedness of the Issuer. The Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Ordinance. No Holder or Holders of any Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay said Bonds or the interest thereon.

Section 8.03. Bonds Secured by Pledge of Gross Revenues. The payment of the debt service of the Series 1997 A Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Gross Revenues derived from the operation of the System. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds herein authorized and to make the payments into the Sinking Fund, including the Reserve Account therein, and all other payments provided for in this Ordinance are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds and for the other purposes provided in the Ordinance.

Section 8.04 Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the rate ordinance of the Issuer enacted September 16, 1996, effective January 1, 1997.

Section 8.05. Rates. Prior to issuance of the Series 1997 A Bonds, equitable rates or charges for the use of and service rendered by the System will be established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to make the prescribed payments into the funds created hereunder and to pay Operating Expenses. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. The Issuer shall take the necessary actions with respect to the imposition of rates at such times and with such provisions with respect

to interest rate and maturity of the Bonds to finance the issuance of the Bonds as the purchaser thereof shall require. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient (i) to provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each Fiscal Year equal to at least 120% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Bonds; provided that, in the event that an amount at least equal to or in excess of the Reserve Requirements is on deposit in the Reserve Accounts and the reserve accounts for the Bonds is funded at least at the requirement provided for in the Ordinance such balance each Fiscal Year need only equal at least 110% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Series 1997 A Bonds.

Section 8.06. Completion, Operation and Maintenance; Schedule of Cost. The Issuer will expeditiously complete the Project and will maintain the System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof from the revenues of said System in the manner provided in the Ordinance.

Section 8.07. Sale of the System. The System may be sold, mortgaged, leased, or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient fully to pay or redeem at or prior to maturity all the Bonds Outstanding. The proceeds from such sale, mortgage, lease or other disposition of the System shall immediately be remitted to the Commission for deposit in the appropriate Sinking Funds, and the Issuer shall direct the Commission to apply such proceeds to the payment of principal and any interest at maturity of Bonds about to mature and to the redemption prior to maturity, at the earliest date permitted hereby and at the redemption price, of all other Outstanding Bonds. Any balance remaining after the redemption or payment of all the Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. The Council may then, if it be so advised, as evidenced by certificates of the Consulting Engineers, by resolution duly adopted, approve and concur in such finding and provide for the sale of such property if the amount to be received therefor is not in excess of ten thousand dollars (\$10,000), or authorize such sale, lease or other disposition of such property upon public bidding if the amount to be received therefor is in excess of ten thousand dollars (\$10,000) but not in excess of fifty thousand dollars (\$50,000). The proceeds of any such sale, lease or other disposition of such property, not in excess of \$10,000, shall be deposited in the Renewal and

Replacement Fund. The proceeds derived from any such sale, lease or other disposition of such property, in excess of \$10,000 and not in excess of \$50,000, shall be remitted by the Issuer to the Commission for deposit in the appropriate Sinking Funds and shall be applied only to the redemption of Bonds of the last maturities then Outstanding or to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the redemption price of such Bonds. Such payments of such proceeds into the Sinking Funds or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Ordinance.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom shall be in excess of fifty thousand dollars (\$50,000) and insufficient to pay or redeem prior to maturity all the Bonds then Outstanding without the prior approval and consent in writing of the owners, or their duly authorized representatives, of sixty-six and two-thirds percent (66-2/3%) in amount of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then owners of the Bonds, for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 8.08. Issuance of Other Obligations Payable out of Revenues and General Covenant Against Encumbrances. The Issuer shall not issue any other obligations whatsoever, except pari passu additional Bonds provided for in Section 8.09 hereof, payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that additional Parity Bonds may be issued as provided in Section 8.09 hereafter. All obligations hereafter issued by the Issuer payable from the revenues of the System, except such additional Parity Bonds, shall contain an express statement that such obligations are junior and subordinate as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds to the extent such are Outstanding; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the respective Reserve Accounts and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current.

Except as provided above, the Issuer shall not create, or cause or permit to be created any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or, except with respect to said pari passu additional Bonds, being on a parity with the lien of the Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Ordinance or upon the System or any part thereof.

Section 8.09. Parity Bonds. A. No Parity Bonds payable out of the revenues of the System shall be issued after the issuance of any Bonds pursuant to this Ordinance, except under the conditions, in the manner herein provided.

No Parity Bonds shall be issued except for the purpose of financing the costs of the acquisition or construction of extensions, additions, betterments or improvements to

the System or refunding the entirety of one or more issues or series of bonds or both such purposes.

No Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Recorder a written statement by Independent Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the net revenues actually derived, subject to the adjustments hereinafter provided, from the System during any twelve (12) consecutive months within the eighteen (18) months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual net revenues to be received in each of the three (3) succeeding years after the completion of the improvements to be financed by such additional Parity Bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on the following:

- (1) Each series of Series 1997 A Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Ordinance then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual net revenues to be received in each of the three (3) succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased net revenues estimated to be derived from any increase in rates enacted by the Issuer, the time for appeal of which shall have expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Recorder prior to the issuance of such additional Parity Bonds.

The Net Revenues actually derived from the System during the twelve (12) consecutive month period hereinabove referred to may be adjusted by adding to such net revenues such additional net revenues which would have been received, in the opinion of the Consulting Engineers and the Independent Accountants as stated in a certificate jointly made and signed by the Consulting Engineers and the Independent Accountants, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which shall have expired prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate acquisition or construction of such extensions, additions, betterments or improvements to the System which are to be financed by such Parity Bonds.

All the covenants and other provisions of this Ordinance (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and

security of the owners of the Series 1997 A Bonds and the owners of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this Section. All the Bonds, regardless of the time or times of their issuance shall rank equally with respect to their respective liens on the revenues of the System, and their respective sources of and security for payment from said revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds created in this Ordinance required for and on account of such additional Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Ordinance.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Outstanding Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Bonds.

No Parity Bonds shall be issued at any time, however, unless all the payments into the respective funds and accounts provided for in this Ordinance on account of the Bonds then Outstanding, and any other payments provided for in this Ordinance, shall have been made in full as required to the date of delivery of the Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Ordinance.

Section 8.10. Insurance and Construction Bonds. The Issuer will carry such insurance and in such amounts as is customarily carried with respect to works and properties similar to the System, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Issuer will require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Issuer. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, to protect the interests of the Issuer, the prime contractor and all subcontractors as their interests may appear, in accordance with the Loan Agreement, during construction of the Project in the full insurable value thereof. In time of war, the Issuer shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as provided in the Ordinance and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System. The Issuer shall carry such other insurance, including but not limited to flood

insurance and business interruption insurance, to the extent available at reasonable cost to the Issuer.

The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract.

Section 8.11. Consulting Engineers. The Issuer shall provide and maintain competent and adequate resident engineering services covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers. Such resident engineer shall certify to the Issuer at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

Section 8.12. Compliance With Regulations. The Issuer hereby covenants and agrees to comply with all applicable laws, rules and regulations issued by any state, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

Section 8.13. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by its System; and, in the event the Issuer or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or himself or herself of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. 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.

Section 8.14. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rates, rentals or other charges for the services and facilities of the System and take all steps, actions and proceedings for the enforcement and collection of such fees, rates, rentals or other charges that shall become delinquent to the full extent permitted or authorized by the laws of the State of West Virginia. All such rates and charges, if not paid when due, shall become a lien on the premises served by the System.

To the extent allowed under Section 12a of the Act, whenever any rates, rentals or charges for the services or facilities of the System shall remain unpaid for a period of thirty (30) days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. The Issuer further covenants and agrees that it

will, to the full extent permitted by law, and any rules and regulations promulgated by the Public Service Commission of West Virginia applicable thereto, discontinue and shut off the services and facilities of the System to all delinquent users of the services and facilities of the System and will not restore services of the System until all delinquent charges for the service and facilities of the System, plus reasonable interest penalty charges for the restoration of service, have been fully paid.

Section 8.15. No Competing Franchise. To the extent allowable by law, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 8.16. Books, Records and Facilities. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any owner of a Bond or Bonds issued pursuant to the Ordinance shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow currently accepted accounting practices in accordance with the rules and regulations of the West Virginia Public Service Commission and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books, and along with other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as the Council shall direct.

The Issuer shall file with the Original Purchaser and any Bond Insurer, and shall mail in each year to any owner or owners of Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

(B) A statement of account balances in all funds and accounts provided for herein and status of said funds.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Accountants, shall mail upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any owner or owners of Bonds issued pursuant to this Ordinance and shall file said report with the Original Purchaser.

Section 8.17. Operating Budget. The Board shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Board shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Original Purchaser and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Original Purchaser, the Bond Insurer and to any Holder of any Bonds or anyone acting for and on behalf of such Holder of any Bonds who requests the same.

Section 8.18. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. **PUBLIC PURPOSE BONDS**. The Issuer shall use the Series 1997 A Bond proceeds solely for the refunding and as otherwise set forth herein. The Issuer shall use the Series 1997 B Bond proceeds solely for the Project and as otherwise set forth herein, and the Project will be solely operated as a public purpose and as local governmental activity of the Issuer.

B. **PRIVATE ACTIVITY BOND COVENANT**. The Issuer shall not permit at any time or times any of the proceeds of the Series 1997 A Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Series 1997 A Bonds from the treatment afforded by Section 103(a) of the Code by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code in order to assure the tax-exempt status of the Series 1997 A Bonds.

C. **PRIVATE LOAN LIMITATION**. The Issuer shall assure that not in excess of 5% of the Net Proceeds of the Series 1997 A Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

D. **FEDERAL GUARANTEE PROHIBITION**. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to

cause the Series 1997 A Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

E. **INFORMATION RETURN.** The Issuer will file all statements, instruments and returns necessary to assure the tax exempt status of the Series 1997 A Bonds, including without limitation the information return required under Section 149(e) of the Code.

F. **FURTHER ACTIONS.** The Issuer will take any and all actions that may be required of it (including those deemed necessary by the Authority) so that the interest on the Series 1997 A Bonds will be and remain excludible from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those determined by the Authority) which would adversely affect such exclusion.

Section 8.19. Statutory Mortgage Lien. For the further protection of the Bondholders, a statutory mortgage lien upon the System is granted and created by Section 8 of the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon delivery of the Series 1997 A Bonds and shall be for the benefit of all Owners of the Series 1997 A Bonds.

Section 8.20. Rebate Covenant. The Issuer is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the Project and the System. As covenanted above, the Series 1997 A Bonds are not private activity bonds within the meaning of the Code, and ninety-five percent (95%) or more of the net proceeds (as defined with respect to the Code) of the Series 1997 A Bonds will be used for local governmental activities of the Issuer. The Issuer reasonably expects it and all its subordinate entities to issue less than \$5,000,000 in aggregate face amount of tax-exempt bonds (other than private activity bonds) during the calendar year, being 1997, in which the first series of Series 1997 A Bonds are to be issued. Therefore, the Issuer believes that it is excepted from the rebate requirements of Section 148(f) of the Code. Notwithstanding the foregoing, if the Issuer is in fact subject to such rebate requirements, the Issuer hereby covenants to rebate to the United States the amounts required by the Code and to take all steps necessary to make such rebates as further described in Section 8.03. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the tax-exempt status of interest on the Series 1997 A Bonds.

Section 8.21. Municipal Bond Insurance Policy. The Issuer may apply for a Municipal Bond Insurance Policy for the Series 1997 A Bonds and subsequent series of Bonds. In the event a Municipal Bond Insurance Policy is obtained for any series of Bonds, additional covenants and provisions relating to such series of Bonds as may be required by the applicable Bond Insurer as a condition of insuring such Bonds shall be set forth in a Supplemental Resolution and shall be controlling in the event any other provisions of this Ordinance may be in conflict therewith.

Section 8.22. Continuing Disclosure Agreement. The Issuer shall deliver a continuing disclosure agreement or certificate in form acceptable to the Original Purchaser sufficient to ensure compliance with SEC Rule 15c2-12, as it may be amended from time to time.

ARTICLE IX

INVESTMENT OF FUNDS; NON-ARBITRAGE

Section 9.01. Investments. Any moneys held as a part of the funds and accounts created by this Ordinance, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Ordinance, the need for such moneys for the purposes set forth herein and the specified restrictions and provisions set forth in this Section 9.01 and in Sections 9.02 and 9.03.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount. The Commission, the Depository Bank, or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss of such liquidation. The Depository Bank or such other bank or national banking association may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

Section 9.02. Arbitrage. The Issuer covenants that (i) it will restrict the use of the proceeds of the Series 1997 A Bonds in such manner and to such extent as may be necessary, in view of the Issuer's reasonable expectations at the time of issuance of the Series 1997 A Bonds, so that the Series 1997 A Bonds will not constitute "arbitrage bonds" under Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Series 1997 A Bonds so that the interest on the Series 1997 A Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 9.03. Tax Certificate and Rebate. The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the Series 1997 A Bonds. In addition, the Issuer covenants to comply with all regulations from time to time in effect and applicable to the Series 1997 A Bonds as may be necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on the bonds and fully comply with

Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such regulations, regardless of whether such actions may be contrary to any of the provisions of the Ordinance.

If it is determined that the Issuer does not qualify for an exception to Section 148 of the Code or the Issuer is otherwise subject to rebate in connection with the Series 1997 A Bonds, the Issuer shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Authority, the Issuer shall deposit, or cause to be deposited, with the Depository Bank in a separate fund designated the Rebate Fund, such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder, if any, and used only for payment of rebatable arbitrage to the United States. The Issuer shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States in the time and at the address prescribed by the regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor. In addition, the Issuer shall prepare rebate calculations in connection with rebates and hereby consents to the performance of all matters in connection with such rebates at the expense of the Issuer. The Issuer and the Depository Bank (at the expense of the Issuer) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer or the Depository Bank may deem appropriate in order to assure compliance with this Section 9.03. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 9.03 in accordance with the requirements of Section 148(f) of the Code. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, in order to maintain the exclusion of interest on the Series 1997 A Bonds from gross income for federal income tax purposes.

Section 9.04. Restriction of Yield and Bond Proceeds. The Issuer shall comply with the yield restriction on Bond proceeds as set forth in Section 148 of the Code.

ARTICLE X

DEFAULT AND REMEDIES

Section 10.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest on any series of Series 1997 A Bonds; or

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to such Bonds set forth in this Ordinance, any supplemental resolution, or in such Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by any bank or banking association holding any fund or account hereunder or an owner of such Bonds; or

(C) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

Section 10.02. Remedies. Upon the happening and continuance of any Event of Default with respect to any Bonds, any Registered Owner of such Bonds may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such registered Owners including the right to require the Issuer to perform its duties under the Act and the Ordinance relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon such Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the registered Owners of such Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Ordinance with respect to such Bonds, or the rights of such registered Owners.

Section 10.03. Appointment of Receiver. Any Bondholder may, by proper legal action, compel the performance of the duties of the Issuer under the Ordinance and the Act, including the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any default in the payment of interest on any Bonds when the same shall become due, or in the payment of the principal of any Bond or Bonds, either at the specified date of maturity thereof or at a date set for redemption thereof, or otherwise in the performance of any covenant contained in the Ordinance other than as to such payment and such default shall continue for a period of thirty (30) days after written notice to the Issuer of such default, any Bondholder shall, in addition to all other remedies or rights, have the right by appropriate

legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the Bonds and any interest thereon, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of the Ordinance and the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate, maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might do.

Whenever all that is due upon the Bonds issued pursuant to the Ordinance and interest thereon and under any covenants of the Ordinance for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Ordinance shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any owner of Bonds issued pursuant to this Ordinance shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby and a successor receiver appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Owners of Bonds issued pursuant to the Ordinance. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System, for the sole purpose of the protection of both the Issuer and Bondholders, and the curing and making good of any default under the provisions of the Ordinance, and the title to and ownership of said System shall remain in the Issuer.

ARTICLE XI

DEFEASANCE

Section 11.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all Bonds the principal thereof, and redemption premium, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in the Ordinance, then the pledge of Net Revenues and any other moneys and securities pledged under this Ordinance and all covenants, agreements and other obligations of the Issuer to the Bondholders shall thereupon cease, terminate and become void and be discharged and satisfied.

Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient to pay, as and when due, the principal of and interest on the Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section. All Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agents, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments and interest due and to become due on said Bonds on and prior to the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this Section nor principal or interest payments on any such securities shall be withdrawn or used for any purposes other than, and shall be held in trust for, the payment of the principal of and redemption premium, if applicable, on and interest on said Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and redemption premium, if applicable, on and interest to become due on said Bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the Issuer, as received by the Commission, free and clear of any trust, lien or pledge. For the purpose of this Section, securities shall mean and include only Government Obligations.

ARTICLE XII

REGISTRAR AND PAYING AGENT

Section 12.01. Appointment of Registrar. The Registrar for the Series 1997 A Bonds shall be appointed pursuant to the Supplemental Resolution. The Issuer is hereby authorized and directed to enter into an agreement with the Registrar, the substantial form of which agreement is to be approved by Supplemental Resolution.

Section 12.02. Responsibilities of Registrar. The recitals of fact in the Bonds shall be taken as statements of the Issuer, and the Registrar shall not be responsible for their accuracy. The Registrar shall not be deemed to make any representation as to, and shall not incur any liability on account of, the validity of the execution of any Bonds by the Issuer. Notwithstanding the foregoing, the Registrar shall be responsible for any representation in its Certificate of Authentication on the Bonds. The Registrar and any successor thereto shall agree to perform all the duties and responsibilities spelled out in this Resolution and any other duties and responsibilities incident thereto, all as provided by said agreement described in Section 12.01.

Section 12.03. Evidence on Which Registrar May Act. The Registrar shall be protected in acting upon any notice, resolution, request, consent, order, certificate, opinion or other document believed by it to be genuine and to have been signed or presented by the proper party or parties. Whenever the Registrar shall deem it necessary or desirable that a fact or matter be proved or established prior to taking or suffering any action, such fact or matter, unless other evidence is specifically prescribed, may be deemed to be conclusively proved and established by a certificate of an Authorized Officer of the Issuer, but in its discretion the Registrar may instead accept other evidence of such fact or matter.

Section 12.04. Compensation and Expenses. The Issuer shall pay to the Registrar from time to time reasonable compensation for all services, including the transfer of registration of Bonds, the first exchange of Bonds and the exchange of Bonds in the event of partial redemption, incurred in the performance of its duties hereunder.

Section 12.05. Certain Permitted Acts. The Registrar may become the owner of or may deal in Bonds as fully and with the same rights it would have if it were not Registrar. To the extent permitted by law, the Registrar may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or effect or aid in any reorganization growing out of the enforcement of the Bonds or this Resolution, whether or not any such committee shall represent the Holders of a majority in principal amount of the Bonds Outstanding.

Section 12.06. Resignation of Registrar. The Registrar may at any time resign and be discharged of its duties and obligations under this Resolution by giving not less than

60 days' written notice to the Issuer and publishing in an Authorized Newspaper notice (or mailing such notice to each Bondholder in the event all Bonds are fully registered), specifying the date when such resignation shall take effect, within 20 days after the giving of such written notice. A copy of such notice shall also be mailed to each owner of a fully registered Bond or a coupon Bond registered as to principal (other than to bearer). Such resignation shall take effect upon the day specified in such notice unless a successor shall have been previously appointed by the Issuer or bondholders, in which event such resignation shall take effect immediately.

Section 12.07. Removal. The Registrar may be removed at any time by the Issuer or by the Holders of a majority in principal amount of the Bonds then Outstanding by an instrument or concurrent instruments in writing signed and duly acknowledged by the Issuer or by such Bondholders or their attorneys duly authorized in writing and delivered to the Issuer, as the case may be. Copies of each instrument shall be delivered by the Issuer to the Registrar.

Section 12.08. Appointment of Successor. In case at any time the Registrar shall resign or shall be removed or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or if a receiver, liquidator or conservator of the Registrar or of its property shall be appointed, or if any public officer or court shall take charge or control of the Registrar or of its property or affairs, a successor may be appointed by the Holders of a majority in principal amount of the Bonds then Outstanding by an instrument or concurrent instruments in writing signed by such Bondholders or their attorneys duly authorized in writing and delivered to the Issuer and such successor Registrar, notification thereof being given to the predecessor Registrar. Pending such appointment, the Issuer shall forthwith appoint a Registrar to fill such vacancy until a successor Registrar shall be appointed by such Bondholders. The Issuer shall publish in an Authorized Newspaper (or mail to each Bondholder in the event all Bonds are fully registered) notice of any such appointment within 20 days after the effective date of such appointment. A copy of such notice shall also be mailed to each owner of a fully registered Bond or a coupon Bond registered as to principal (other than to bearer). Any successor Registrar appointment by the Issuer shall, immediately and without further act, be superseded by a Registrar appointed by such Bondholders. If in a proper case no appointment of a successor Registrar shall be made within 45 days after the Registrar shall have given to the Issuer written notice of resignation or after the occurrence of any other event requiring such appointment, the Registrar or any Bondholder may apply to any court of competent jurisdiction to appoint a successor. Any Registrar appointed under the provisions of this section shall be a bank, trust company or national banking association authorized to perform the duties imposed upon it by this Resolution.

Section 12.09. Transfer of Rights and Property to Successor. Any predecessor Registrar or Paying Agent shall pay over, assign and deliver any moneys, books and records held by it to its successor.

Section 12.10. Merger or Consolidation. Any company into which the Registrar may be merged or converted or with which it may be consolidated or any company

resulting from any merger, conversion or consolidation to which it shall be a party, or any company to which the Registrar or any public officer or court may sell or transfer all or substantially all of its corporate trust business, shall be the successor to such Registrar without the execution or filing of any paper or the performance of any further act; provided, however, that such company shall be a bank, trust company or national banking association meeting the requirements set forth in Section 12.08.

Section 12.11. Adoption of Authentication. In case any of the Bonds shall have been authenticated but not delivered, any successor Registrar may adopt a Certificate of Authentication and Registration executed by any predecessor Registrar and deliver such Bonds so authenticated, and, in case any Bonds shall have been prepared but not authenticated, any successor Registrar may authenticate such Bonds in the name of the predecessor Registrar or in its own name.

Section 12.12. Paying Agent. The Paying Agent (and any co-Paying Agent) shall be appointed pursuant to the Supplemental Resolution. Any alternate Paying Agent must be a bank, trust company or national banking association authorized to perform the duties imposed upon it by this Resolution. Such alternate Paying Agent shall signify its acceptance of the duties and obligations imposed upon it pursuant hereto by executing and delivering to the Issuer a written acceptance thereof. Any successor Paying Agent shall take such actions as may be necessary to ensure that the Bonds shall be and remain DTC eligible.

Each Paying Agent shall be entitled to payment and reimbursement for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by such Paying Agent in connection with such services solely from moneys available therefor.

Any bank, trust company or national banking association with or into which any Paying Agent may be merged or consolidated, or to which the assets and business of such Paying Agent may be sold, shall be deemed the successor of such Paying Agent for the purposes of this Resolution. If the position of Paying Agent shall become vacant for any reason, the Issuer shall, within 30 days thereafter, appoint a bank, trust company or national banking association located in the same city as such Paying Agent to fill such vacancy; provided, however, that, if the Issuer shall fail to appoint such Paying Agent within said period, the Bond Commission, a court of competent jurisdiction or a majority of the Bondholders may make such appointment.

The Paying Agent shall enjoy the same protective provisions in the performance of its duties hereunder as are specified in this Article XII with respect to the Registrar, insofar as such provisions may be applicable.

Notice of the appointment of successor or additional Paying Agents or fiscal agents shall be given in the same manner as provided by Section 12.08 hereof with respect to the appointment of a successor Registrar.

All moneys received by the Paying Agent shall, until used or applied as provided in this Resolution, be held in trust for the purposes for which they were received.

ARTICLE XIII

MISCELLANEOUS

Section 13.01. Modification or Amendment. No material modification or amendment of this Ordinance or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Bondholders shall be made without the consent in writing of the owners of two-thirds (2/3) or more in principal amount of the Bonds then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the revenues of the System without the consent of the owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds required for consent to the above permitted amendments or modifications.

Section 13.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 13.03. Repeal of Conflicting Ordinances. All ordinances, resolutions and orders, or parts thereof, in conflict with this Ordinance are to the extent of such conflict repealed.

Section 13.04. Covenant of Due Procedure. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the Recorder and members of Council were at all times when any actions in connection with this Ordinance occurred, and are, duly in office and duly qualified for such office.

Section 13.05. Effective Date. This Ordinance shall take effect after passage, public hearing and otherwise in the manner prescribed by law.

Section 13.06. Statutory Notice and Public Hearing. Upon adoption hereof, the abstract of this Ordinance in the form set forth in Exhibit C attached hereto and incorporated herein by reference, shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in the Morgan Messenger, newspaper of general circulation in the Town of Bath, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Bonds, and that any person interested may appear before the Issuer upon a certain date, not less than ten days subsequent to the date of the first

publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Issuer for review by interested persons during office hours of the Issuer. The Council hereby determines that the Abstract contains sufficient information as to give notice of the contents hereof. At such hearing, all objections and suggestions shall be heard and the Issuer shall take such action as it shall deem proper in the premises.

First Reading: June 2, 1997

Second Reading
and Passage: June 16, 1997

Public Hearing: July 7, 1997

(SEAL)

THE TOWN OF BATH

By: *Josann J. Webster*
Mayor

ATTEST:

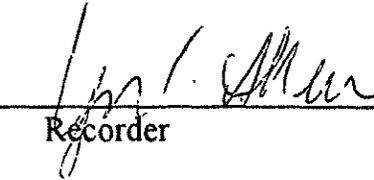
Lynne C. Allen
Recorder

This Ordinance was placed into effect following the public hearing held on July 7, 1997.

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as Recorder of the Issuer, do hereby certify that the foregoing document is a true and accurate copy of the official record of the Town of Bath, such records being in the custody of the undersigned and maintained at the Town of Bath, Municipal Building, Berkeley Springs, Morgan County, West Virginia, and that the action taken by the Council in the foregoing document remains in full force and effect and has not been amended.

Dated this 7 day of July, 1997.


Recorder

[SEAL]

CHASFS3:97746

EXHIBIT A

Description of Project

The Project consists of the acquisition, construction and upgrading of an existing 2" water line to a 6" water line, upgrading the existing booster station, and building a 200,000 gallon storage tank to furnish water and fire protection to the new Morgan Middle School, provide for upgrading current and future customers along Fairview Drive and providing for additional upgrades to the System.

EXHIBIT B

FORM OF BOND

No. AR-

\$ _____

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF BATH
(WEST VIRGINIA)
WATER REVENUE REFUNDING AND IMPROVEMENT BOND,
SERIES 1997 A

INTEREST RATE

MATURITY DATE

BOND DATE

CUSIP NO.

REGISTERED OWNER:

PRINCIPAL AMOUNT:

KNOW ALL MEN BY THESE PRESENTS: That the TOWN OF BATH, West Virginia, a municipal corporation organized and existing under the laws of the State of West Virginia (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the Issuer shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on _____ 1 and _____ 1, in each year, beginning _____ 1, 199_ (each an "Interest Payment Date"), until maturity or until the

date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the same meanings set forth in the hereinafter described Ordinance.

Interest accruing on this Bond on and prior to the Maturity Date hereof shall be payable by check or draft mailed by _____, West Virginia, as paying agent (in such capacity, the "Paying Agent"), to the Registered Owner hereof as of the applicable Record Date (each _____ 15 and _____ 15) or, in the event of a default in the payment of Bonds, that special record date to be fixed by the hereinafter named Registrar by notice given to the Registered Owners not less than 10 days prior to said special record date at the address of such Registered Owner as it appears on the registration books of the Issuer maintained by _____, West Virginia, as registrar (in such capacity, the "Registrar"), or, at the option of any Registered Owner of at least \$500,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to a domestic bank account specified in writing by the Registered Owner to the Paying Agent at least 5 days prior to such Record Date. Principal and premium, if any, shall be paid when due upon presentation and surrender of this Bond for payment at the principal corporate trust office of the Paying Agent, in _____, West Virginia.

This Bond is one of an issue of a series of bonds, in the aggregate principal amount of \$ _____ designated "Town of Bath (West Virginia) Water Revenue Refunding and Improvement Bonds, Series 1997 A" (the "Bonds"), of like tenor and effect, except as to number, denomination, date of maturity and interest rate, dated _____ 199__, the proceeds of which are to be used, together with other funds of the Issuer, to refund in full the Waterworks Refunding and Improvement Revenue Bonds, Series 1978, of the Issuer, outstanding in the total aggregate principal amount of \$ _____ (the "Prior Bonds"), which Prior Bonds were issued to finance and refinance the cost of acquisition and construction of certain additions, betterments and improvements to the waterworks system of the Issuer and to fund the acquisition and construction of certain extensions, improvements and betterments to the System (the "Project"). The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 13, Article 2E and Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and an ordinance duly enacted by the council of the Issuer on _____, 199__, as supplemented by a supplemental resolution duly adopted by the council on _____, 199__ (collectively, the "Ordinance"), and is subject to all the terms and conditions of the Ordinance. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance. Reference is hereby made to the Ordinance, as the same may be amended and supplemented from time to time, for a description of the rights, limitations of rights, obligations, duties and immunities of the Issuer, the Registrar, the Paying Agent, the Registered Owners of the Bonds and the Registered Owners of any subsequently issued additional bonds. Executed counterparts or certified copies of the Ordinance are on file at the office of the Recorder in the Town of Bath, West Virginia.

The Bonds of this issue are subject to redemption prior to their stated maturity dates, as provided in the Ordinance and as set forth in the following lettered paragraphs:

(A) Optional Redemption. The Bonds maturing on or after _____, are subject to redemption prior to maturity at the option of the Issuer on and after _____, in whole at any time and in part on any Interest Payment Date, as directed by the Issuer, at the following redemption prices (expressed as percentages of the principal amount of Bonds to be redeemed), plus interest accrued thereon to the date fixed for redemption:

<u>Period During Which Redeemed</u> <u>(Dates Inclusive)</u>	<u>Redemption</u> <u>Price</u>
---	-----------------------------------

(B) Mandatory Sinking Fund Redemption. The Bonds maturing _____, are subject to annual mandatory redemption prior to maturity by random selection on _____ of the years and in the principal amounts set forth below, at the redemption price of 100% of the principal amount of each Bond so called for redemption plus interest accrued to the date fixed for redemption:

Bonds Maturing

<u>Year ()</u>	<u>Principal Amount</u>
-----------------	-------------------------

* Final Maturity

In the event of any redemption of less than all outstanding Bonds, Bonds shall be selected for redemption by lot or in such other manner deemed appropriate by the Paying Agent. If less than all the Bonds are to be redeemed, the Bonds to be redeemed shall be identified by reference to the Series designation, date of issue, CUSIP numbers and Maturity Dates.

Notice of any redemption of this Bond, unless waived, shall be given by the Registrar on behalf of the Issuer by mailing an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the Registered Owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such Registered Owner to the Registrar. Notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the redemption price therein specified, and from and after such date (unless the Issuer shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of this Bond.

The Bonds and the interest thereon are payable only from and are secured by the Gross Revenues (as defined in the Ordinance) to be derived from the operation of the System, all moneys in the Series 1997 A Bonds Sinking Fund and the Series 1997 A Bonds Reserve Account established under the Ordinance, and the unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose and to make the other payments required by the Ordinance.

This Bond does not constitute an indebtedness of the Issuer within any constitutional or statutory provision or limitation, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Gross Revenues, the moneys in the Series 1997 A Bonds Sinking Fund and the Series 1997 A Bonds Reserve Account and unexpended proceeds of the Bonds. Under the Ordinance, the Issuer has covenanted and agreed to fix, establish and collect just and equitable rates or charges for the use of the services and facilities of the System and to revise the same from time to time as will always be sufficient to pay all operating expenses of the System and to leave a balance each year equal to at least 120% of the maximum amount payable in any year for principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds. The Issuer has entered into certain further covenants with the Registered Owners of the Bonds, for the terms of which reference is made to the Ordinance. Remedies provided the Registered Owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

All moneys received from the sale of the Bonds except for accrued interest thereon shall be applied solely to refund the Prior Bonds, acquire and construct the Project and pay all costs in connection therewith and costs of issuance of the Bonds, and there shall

be, and hereby is, created and granted a lien upon such moneys, until so applied, in favor of the Registered Owners of the Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of said Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia, and that a sufficient amount of the Gross Revenues of the System has been pledged to and will be set aside into said special fund by said Issuer for the prompt payment of the principal of and interest on the Bonds of which this Bond is one.

This Bond, under the provisions of the Act is and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may be transferred only upon the surrender hereof at the office of the Registrar and otherwise as provided by the Ordinance.

This Bond is, under the Act, exempt from all taxation by the State of West Virginia or any county, municipality or county commission, political subdivision or agency thereof.

This Bond shall not be entitled to any benefit under the Ordinance, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon shall have been signed by the Registrar.

All provisions of the Ordinance, and the statutes under which this Bond is issued, shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, TOWN OF BATH (WEST VIRGINIA) has caused this Bond to be signed by its Mayor, and its corporate seal to be imprinted hereon and attested by its Recorder, and has caused this Bond to be dated as of the Bond Date specified above.

[SEAL]

(Manual or Facsimile Signature)
Mayor

ATTEST:

(Manual or Facsimile Signature)
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the fully registered Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the Registered Owner on the date set forth below. Attached hereto is the complete text of the opinion of Jackson & Kelly, bond counsel, signed originals of which are on file with the Registrar, delivered and dated on the date of the original delivery of and payment for the Bonds.

Dated: _____

as Registrar

By _____
Its Authorized Officer

ASSIGNMENT

Social Security or Other Identifying Number of Assignee _____

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

_____ the within Bond and does hereby irrevocably constitute and appoint _____

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

Dated: _____

SIGNATURE GUARANTEED:

(Bank, Trust Company or Firm)

(Authorized Officer)

NOTICE: The Assignor's signature to this Assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

EXHIBIT C

TOWN OF BATH, WEST VIRGINIA

NOTICE OF PUBLIC HEARING and ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on June 16, 1997, the Council of the Town of Bath, West Virginia (the "Town") adopted an ordinance which:

1. Authorized the refunding of the Town's Waterworks Refunding and Improvement Revenue Bonds, Series 1978 (the "Prior Bonds") and the issuance of not more than \$1,600,000 in aggregate principal amount of Water Revenue Refunding and Improvement Bonds, Series 1997 A (the "Bonds") to effectuate such refunding and for the purpose of acquisition and construction of certain additions, betterments, improvements and extensions to the existing System.
2. Authorized the water line extension to the new school and other System upgrades and improvements.
3. Directed that the interest on the Bonds shall be no more than 12% per annum and the term shall be no more than 40 years and that said Bonds be sold for the par value thereof.
4. Continued the Revenue Fund and the disposition of the System revenues; provided for the monthly payments of principal and interest when due; provided for the payment of operating expenses; provided for the reserve account and the renewal and replacement fund; and provided for the use of excess funds of the System.
5. Provided that rates and charges for the System be sufficient to pay for the operating expenses, principal and interest on the Bonds, the reserve account requirement and renewal and replacement fund requirement and covenanted that the rates will produce net revenues at least equal to 120% of the average annual debt service of obligations of the System and when the reserve account is fully funded, the coverage may be reduced to 110%.
6. Pledged to payment of the Bond the revenues of the System.
7. Provided for the issuance of additional bonds.

8. Provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The Town contemplates the issuance of the Bonds described in, and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of the Town of Bath at a regular meeting thereof at 7:30 p.m. on Monday, July 7, 1997, at the Town Hall, 103 Wilkes Street, Berkeley Springs, and present protest and be heard as to whether the above described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of Town on June 16, 1997, is on file in the Office of the Town Recorder for review by interested persons during the regular office of such office, to-wit: 9:00 a.m. to 5:00 p.m. Mondays through Fridays.

Recorder - Town of Bath, West Virginia

CHASFS3:97746

TOWN OF BATH

WATER REVENUE REFUNDING AND
IMPROVEMENT BONDS, SERIES 1997 A

SUPPLEMENTAL RESOLUTION

WHEREAS, the Town of Bath (the "Town") is a municipal corporation and political subdivision of the State of West Virginia in the County of Morgan, the governing body of which is the Town Council (the "Council");

WHEREAS, the Council duly adopted on July 7, 1997, an ordinance (the "Ordinance") entitled:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$1,600,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE REFUNDING AND IMPROVEMENT BONDS, SERIES 1997 A, OF THE TOWN OF BATH, WEST VIRGINIA, TO BE USED ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE TOWN OF BATH WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES TO REFUND THE TOWN OF BATH WATERWORKS REFUNDING AND IMPROVEMENT REVENUE BONDS, SERIES 1978, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE WATER SYSTEM OF THE TOWN OF BATH AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATED THERETO.

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Ordinance when used herein;

WHEREAS, the Ordinance directed the Recorder of the Town to publish an abstract of the Ordinance (the "Abstract"), together with a notice that the Ordinance had been adopted, that the Town contemplated the issuance of the Bonds, all as described in the Ordinance that any person interested may appear before the Council of the Town upon a certain date and present protest (the "Notice");

WHEREAS, the Ordinance required that the Abstract and Notice be published as a Class II legal advertisement and the first publication of such Abstract and Notice which should be not less than 10 days before the date set by the Ordinance and the Notice at which interested persons might appear before the Council of the Town and present protest and the last publication of such Abstract and Notice was to be prior to said date set by the Ordinance and the Notice;

WHEREAS, the Ordinance and Notice provided for a public hearing to be held at the Town Hall at 7:30 p.m. on July 7, 1997;

WHEREAS, the public hearing was held on such date;

WHEREAS, there has been presented to the Council the proposed form of the Preliminary Official Statement;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF BATH, WEST VIRGINIA AS FOLLOWS:

Section 1. It is hereby found and determined:

(A) That the Abstract and Notice was duly published in the Morgan Messenger, a newspaper of general circulation in the Town with the first publication thereof being on June 25, 1997, which first publication was not less than ten (10) days before the day set by the Ordinance and Notice for the public hearing at which interested persons might appear before the Council of the Town and present protests and suggestions and with the last publication thereof being on July 2, 1997, which last publication date was prior to said date set by the Ordinance and Notice for the public hearing, and a copy of the Affidavit of Publication reflecting such publication is attached hereto and incorporated herein as Exhibit A;

(B) That in accordance with the Ordinance and the Notice, the Recorder of the Town has maintained in her office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office;

(C) That, in Council chambers, Town Hall, 103 Wilkes Street, Berkeley Springs, West Virginia on Monday, July 7, 1997 at 7:30 p.m. prevailing time, in accordance with the Ordinance and Notice, the Council met for the purpose of hearing protests and suggestions regarding whether the Ordinance should be put into effect and heard all protests and suggestions with regard thereto;

(D) That, at the public hearing, no significant reasons were presented that could require modification or amendment of the Ordinance and no written protest with regard thereto was filed by 30 percent or more of the freeholders of the Town; and

(E) The Ordinance shall be put into effect as of the date hereof and the Series 1997 A Bonds contemplated thereby shall be issued, all as provided in the Ordinance and this Supplemental Resolution.

Section 2. The form of the Preliminary Official Statement attached hereto as Exhibit B (with such changes, insertions and omissions as may be necessary or advisable in the opinion of the Mayor), and the distribution of counterparts or copies thereof by the Original Purchaser are hereby approved. The distribution by the Original Purchaser of the Preliminary Official Statement dated the date of delivery (which is a "deemed final" official statement in accordance with SEC Rule 15c2-12), substantially in the form submitted to this meeting is hereby ratified and approved.

Section 3. The Mayor and Recorder are hereby authorized to execute and deliver any certificate relating to compliance with SEC Rule 15c2-12.

Section 4. This Resolution shall be effective immediately.

TOWN OF BATH

[SEAL]

By: *Sean J. Webster*
Mayor

ATTEST:

Jan C. Allen
Recorder

100271

CERTIFICATION

Certified as a true copy of a Supplemental Resolution duly adopted by the Council of the Town of Bath on the 7th day of July, 1997.

Dated: 7/7, 1997.

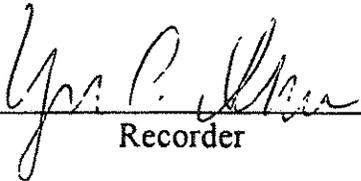

Recorder

EXHIBIT A

AFFIDAVIT OF PUBLICATION

(See Tab No. 9)

EXHIBIT B

PRELIMINARY OFFICIAL STATEMENT

(See Tab No. 18)

TOWN OF BATH
(WEST VIRGINIA)
WATER REVENUE REFUNDING AND
IMPROVEMENT BONDS, SERIES 1997 A

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION SETTING AMOUNTS, MATURITIES, INTEREST RATES, PRICES AND OTHER DETAILS AS TO THE WATER REVENUE REFUNDING AND IMPROVEMENT BONDS, SERIES 1997 A, OF THE TOWN OF BATH; AUTHORIZING AND APPROVING A CONTRACT OF PURCHASE, A CONTINUING DISCLOSURE AGREEMENT, AN ESCROW AGREEMENT, AN OFFICIAL STATEMENT AND OTHER INSTRUMENTS RELATING TO THE BONDS; APPOINTING AN ESCROW AGENT, REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS AND THE REFUNDING.

WHEREAS, the Town of Bath (the "Town") is a municipal corporation and political subdivision of the State of West Virginia in the County of Morgan, the governing body of which is the Town Council (the "Council");

WHEREAS, the Council duly enacted on July 7, 1997, an ordinance (the "Ordinance") entitled:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$1,600,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE REFUNDING AND IMPROVEMENT BONDS, SERIES 1997 A, OF THE TOWN OF BATH, WEST VIRGINIA, TO BE USED ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE TOWN OF BATH WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES TO REFUND THE TOWN OF BATH WATERWORKS REFUNDING AND IMPROVEMENT REVENUE BONDS, SERIES 1978, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE WATER SYSTEM OF THE TOWN OF BATH AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE OWNERS OF SUCH BONDS;

AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATED THERETO.

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Ordinance when used herein;

WHEREAS, the Ordinance provided for the refunding of the Town's Waterworks Refunding and Improvement Revenue Bonds, Series 1978, dated January 5, 1979 (the "Prior Bonds") and the acquisition and construction of extensions, additions, betterments and improvements to the System (the "Project") and which Project is generally described in Exhibit A attached hereto and by this reference made a part hereof, and issuance of its Water Revenue Refunding and Improvement Bonds, Series 1997 A (the "Series 1997 A Bonds"), in an aggregate principal amount not to exceed \$1,600,000, for the purposes of paying a portion of the costs of such refunding and the costs of the Project, funding a reserve account for the Series 1997 A Bonds, and paying costs of issuance thereof, all in accordance with Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (the "Act");

WHEREAS, the Ordinance further provided that the exact principal amount of the Series 1997 A Bonds to be sold and the dates, maturities, interest rates, redemption provisions, price and other terms of the Series 1997 A Bonds should be established, that an Escrow Agent, Registrar, Paying Agent and Depository Bank be designated, that an Escrow Agreement and Registrar and Paying Agent Agreement be approved, that additional covenants and provisions relating to the Series 1997 A Bonds be provided herein and that other matters pertaining to the Series 1997 A Bonds be provided for by a supplemental resolution of the Council upon receipt of a Bond Purchase Agreement acceptable to the Council;

WHEREAS, the Series 1997 A Bonds are proposed to be purchased by Ferris, Baker Watts, Incorporated (the "Original Purchaser"), pursuant to a Bond Purchase Agreement between the Original Purchaser and the Town (the "Bond Purchase Agreement");

WHEREAS, the Council must approve the final terms of the Series 1997 A Bonds, including the exact principal amount, interest rates, redemption provisions, maturities, purchase price and other terms of the Series 1997 A Bonds and the final terms and provisions of all Bond Documents; and

WHEREAS, the Council of the Town deems it essential and desirable that this Supplemental Resolution be adopted and that the Bond Purchase Agreement, the Continuing Disclosure Agreement, and the Escrow Agreement hereinafter provided for be entered into by the Town, that the Official Statement relating to the Series 1997 A Bonds, hereinafter

described, be approved, that the aggregate principal amount, the prices, the maturity dates and amounts, and the interest rates of the Series 1997 A Bonds, be fixed hereby in the manner stated herein and that other matters relating to the Series 1997 A Bonds be herein provided for, all in accordance with the Ordinance;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF BATH, WEST VIRGINIA AS FOLLOWS:

Section 1. Pursuant to the Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Series 1997 A Bonds. The Series 1997 A Bonds shall be dated July 15, 1997, shall be issued in the aggregate principal amount of \$1,430,000, with interest payable semiannually on March 1 and September 1, commencing March 1, 1998, with final maturity to be on September 1, 2024, and shall bear interest and prices and shall have such redemption provisions and other terms as are set forth in Exhibit B - SERIES 1997 A BOND TERMS, attached hereto and incorporated by reference herein. All other provisions relating to the Series 1997 A Bonds shall be as provided in the Ordinance, and the Series 1997 A Bonds shall be in substantially the form provided in the Ordinance.

Section 2. The Bond Purchase Agreement by and between the Original Purchaser and the Town, substantially in the form set forth in Exhibit C, and the execution and delivery (in multiple counterparts) by the Mayor shall be and the same are hereby authorized, approved and directed. Execution of the Bond Purchase Agreement by the Mayor and Recorder shall be conclusive evidence of any approval required by this Section, and authorization of any action required by the Bond Purchase Agreement relating to the issuance and sale of the Series 1997 A Bonds, including the payment of all necessary fees and expenses in connection therewith. The price of the Series 1997 A Bonds shall be as set forth in the Bond Purchase Agreement, plus interest accrued from the date of the Series 1997 A Bonds to the date of delivery of the Series 1997 A Bonds, expected to be on or about July 29, 1997.

Section 3. The Continuing Disclosure Agreement by and between the Town and the Original Purchaser, to be dated as of the date of delivery of the Series 1997 A Bonds, substantially in the form submitted to this meeting as Exhibit D, and the execution and delivery (in multiple counterparts) by the Mayor and Recorder shall be and the same are hereby authorized, approved and directed. The Mayor and Recorder shall execute and deliver the Continuing Disclosure Agreement with such changes, insertions and omissions as may be approved by the Mayor. Execution of the Continuing Disclosure Agreement by the Mayor and Recorder shall be conclusive evidence of any approval required by this Section.

Section 4. The Escrow Agreement by and between the Town and the West Virginia Municipal Bond Commission as Escrow Agent, to be dated as of the date of delivery of the Series 1997 A Bonds, substantially in the form submitted to this meeting as Exhibit E, and the execution and delivery (in multiple counterparts) by the Mayor and

Recorder shall be and the same are hereby authorized, approved and directed. The Mayor and Recorder shall execute and deliver the Escrow Agreement with such changes, insertions and omissions as may be approved by the Mayor. Execution of the Escrow Agreement by the Mayor and Recorder shall be conclusive evidence of any approval required by this Section.

Section 5. The Official Statement dated the date of adoption of this Supplemental Resolution, to be substantially in the form of the Preliminary Official Statement described below (with such changes, insertions and omissions as may be necessary or advisable in the opinion of the Mayor), and the distribution of counterparts or copies thereof by the Original Purchaser are hereby approved. The Mayor and Recorder shall execute and deliver the Official Statement with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Official Statement by the Mayor and Recorder shall be conclusive evidence of any approval required by this Section. The distribution by the Original Purchaser of the Preliminary Official Statement dated July 14, 1997 (which is a "deemed final" official statement in accordance with SEC Rule 15c2-12), substantially in the form submitted to this meeting is hereby ratified and approved. The certificate of the Town relating to compliance with SEC Rule 15c2-12 and the execution and delivery thereof by the Mayor and Recorder is hereby ratified and approved.

Section 6. The Town does hereby appoint and designate the West Virginia Municipal Bond Commission for the purpose of serving in the capacity of Escrow Agent.

Section 7. The Town does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia for the purpose of serving in the capacity of Registrar.

Section 8. The Town does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, for the purpose of serving in the capacity of Paying Agent.

Section 9. The Town does hereby appoint and designate Citizens National Bank of Berkeley Springs, Berkeley Springs, West Virginia, for the purpose of serving in the capacity of Depository Bank.

Section 10. The firm of Smith, Cochran & Hicks, CPAs, Charleston, West Virginia, is hereby engaged for the purpose of verifying yield and sufficiency of the Escrow Fund.

Section 11. The Mayor and Recorder are hereby authorized and directed to execute and delivery such other documents and certificates, including a tax and arbitrage certificate, required or desirable in connection with the Series 1997 A Bonds issue to the end that the Series 1997 A Bonds may be delivered on a timely basis to the Original Purchaser pursuant to the Bond Purchase Agreement including the Letter of Representation for DTC attached hereto.

Section 12. Under the provisions of the Act, and as provided in the Ordinance and the Series 1997 A Bonds and the interest thereon do not constitute indebtedness of the Town within the meaning of any constitutional or statutory provisions or limitations, but shall be payable solely from the Gross Revenues derived from the operation of the System of the Town and the Series 1997 A Bonds Reserve Account established by the Ordinance, and neither the credit nor the taxing power of the Town is pledged for, and no tax shall ever be levied for, payment of the Series 1997 A Bonds and the interest thereon.

Section 13. This Resolution shall be effective immediately.

TOWN OF BATH

[SEAL]

By: Susan J. Webb
Mayor

ATTEST:

Lynn P. Allen
Recorder

100030

CERTIFICATION

Certified as a true copy of a Supplemental Resolution duly enacted by the Council of the Town of Bath on the 17th day of July, 1997.

Dated: July 29, 1997.

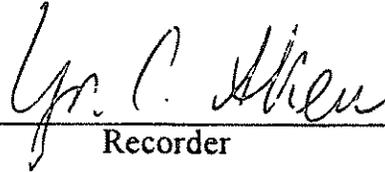

Recorder

EXHIBIT A

Description of Project

The Project consists of the acquisition, construction and upgrading of an existing 2" water line to a 6" water line, upgrading the existing booster station, and building a 200,000 gallon storage tank to furnish water and fire protection to the new Morgan Middle School, provide for upgrading current and future customers along Fairview Drive and providing for additional upgrades to the System.

EXHIBIT B

SERIES 1997 A BOND

TERM BONDS

<u>Bond No.</u>	<u>CUSIP</u>	<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Price or Yield</u>
AR-1	071190BR2	September 1, 2005	\$235,000	4.875%	4.874%
AR-2	071190BS0	September 1, 2011	\$250,000	5.350	5.349
AR-3	071190BT8	September 1, 2019	\$495,000	5.800	5.800
AR-4	071190BU5	September 1, 2024	\$450,000	5.800	5.900

Bonds - Optional Redemption

The Bonds are not subject to optional redemption prior to September 1, 2007. At the option of the Town, the Bonds will be subject to redemption prior to maturity on or after September 1, 2008, as a whole at any time and in part on any interest payment date, shall be selected by lot or in such other manner deemed appropriate by the Paying Agent if less than all of any maturity, at a redemption price (expressed as a percentage of the principal amount) set forth below, plus interest accrued to the date fixed for redemption:

<u>Period During Which Redeemed</u>	<u>Redemption Price</u>
September 1, 2007 to August 31, 2008	102 %
September 1, 2008 to August 31, 2009	101 %
September 1, 2009 and thereafter	100 %

Mandatory Sinking Fund Redemption

The Bonds maturing September 1, 2005, 2011, 2019 and 2024, are subject to annual mandatory sinking fund redemption prior to their respective stated maturity dates, as set forth in the Ordinance, by random selection on September 1 of the years and in the principal amounts set forth below, at the Redemption Price of 100% of the principal amount of each Bond so called for redemption plus interest accrued to the date fixed for redemption:

\$235,000 Water Revenue Refunding and Improvement Bonds, Series 1997 A
Due September 1, 2005

<u>Year</u>	<u>Amount</u>
1998	\$25,000
1999	25,000
2000	25,000
2001	30,000
2002	30,000
2003	30,000
2004	35,000
2005*	35,000

\$250,000 Water Revenue Refunding and Improvement Bonds, Series 1997 A
Due September 1, 2011

<u>Year</u>	<u>Amount</u>
2006	\$35,000
2007	40,000
2008	40,000
2009	45,000
2010	45,000
2011*	45,000

\$495,000 Water Revenue Refunding and Improvement Bonds, Series 1997 A
Due September 1, 2019

<u>Year</u>	<u>Amount</u>
2012	\$50,000
2013	55,000
2014	55,000
2015	60,000
2016	60,000
2017	70,000
2018	70,000
2019*	75,000

\$450,000 Water Revenue Refunding and Improvement Bonds, Series 1997 A
Due September 1, 2024

<u>Year</u>	<u>Amount</u>
2020	\$ 80,000
2021	85,000
2022	90,000
2023	95,000
2024*	100,000

*Final maturity

100030

EXHIBIT C

BOND PURCHASE AGREEMENT

(See Tab No. 17)

EXHIBIT D

CONTINUING DISCLOSURE AGREEMENT

(See Tab No. 21)

EXHIBIT E

ESCROW AGREEMENT

(See Tab No. 42)

TOWN OF BATH
WATER REVENUE BONDS, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

GENERAL CERTIFICATE ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES AND DELIVERY
6. RATES
7. INCUMBENCY AND OFFICIAL NAME
8. MEETINGS
9. INSURANCE
10. LOAN AGREEMENT
11. SPECIMEN BOND
12. BOND PROCEEDS
13. PUBLICATION AND PUBLIC HEARING ON BOND
ORDINANCE
14. LAND AND RIGHTS-OF-WAY
15. PUBLIC SERVICE COMMISSION ORDER
16. CONFLICTS OF INTEREST
17. VERIFICATION OF SCHEDULE
18. PROCUREMENT OF ENGINEERING SERVICES
19. SAFE DRINKING WATER ACT
20. COUNTERPARTS

We, the undersigned MAYOR and the undersigned RECORDER of the Town of Bath in Morgan County, West Virginia (the "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the Town of Bath Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), dated the date hereof, in the principal amount of \$1,150,000 (the "Bonds" or the "Series 2002 A Bonds"), as follows:

1. **TERMS:** All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning set forth in the Bond Ordinance duly passed by the Issuer on November 5, 2002, effective November 19, 2002, the Supplemental Resolution duly adopted by the Issuer on November 19, 2002 (collectively, the "Ordinance"), and the Loan Agreement by and between the Issuer and the West Virginia Water

Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health ("BPH"), dated December 6, 2002 (the "Loan Agreement").

2. **NO LITIGATION:** No controversy or litigation of any nature is now pending or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale and delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use of the Gross Revenues, or the pledge and security of the Gross Revenues for the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the title of the members or officers of the Issuer or the Council thereof to their respective offices; nor questioning any proceedings of the Issuer taken with respect to the authorization, issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use of the Gross Revenues, or the pledge and security of the Gross Revenues for the Bonds.

3. **GOVERNMENTAL APPROVALS AND BIDDING:** All applicable and necessary approvals, permits, exemptions, consents, authorizations, registrations, licenses, orders and certificates required by law for the acquisition and construction of the Project, the operation of the System, the imposition of rates and charges and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the Code of West Virginia, 1931, as amended, which bids remain in full force and effect.

4. **NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS:** There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery by the Issuer of the Loan Agreement. The Issuer has met all conditions set forth in the Loan Agreement and will provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Project.

There are outstanding obligations of the Issuer which will rank on a parity with the Series 2002 A Bonds as to liens, pledge and source of and security for payment, being the Water Revenue Refunding and Improvement Bonds, Series 1997A, dated July 15, 1997, issued in the original aggregate principal amount of \$1,430,000 (the "Prior Bonds").

The Series 2002 A Bonds shall be issued on a parity with the Prior Bonds, with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has obtained a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

5. **SIGNATURES AND DELIVERY:** The undersigned Mayor and Recorder

are the duly elected or appointed, qualified and acting officers of the Issuer as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the Issuer. On the date hereof, the undersigned Mayor did officially sign all of the Bonds, consisting upon original issuance of a single Bond, dated the date hereof, by his or her manual signature; the undersigned Recorder did officially cause the seal of the Issuer to be affixed upon the Bonds and to be attested by his or her manual signature; and the Registrar did officially authenticate and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the Loan Agreement.

6. RATES: The Issuer has duly enacted a water rate ordinance on October 22, 2002, setting forth the rates and charges for the services of the System. The Issuer has complied with all requirements of the Public Service Commission of West Virginia (the "PSC") to make the rates valid and effective. The time for appeal of such rate ordinance has expired and there has been no appeal thereof and such rates are in full force and effect.

7. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is the "Town of Bath." The Issuer is a municipal corporation and political subdivision of the State of West Virginia in Morgan County of said State. The governing body of the Issuer is its Council, consisting of five Council members, the Mayor and the Recorder, all duly elected or appointed, qualified and acting, whose names and dates of commencement and termination of their current terms of office are listed below:

<u>Office</u>	<u>Name</u>	<u>Date Of Commencement Of Office</u>	<u>Date Of Termination Of Office</u>
Mayor	Susan Webster	July 1, 2001	June 30, 2003
Recorder	John Kiley	September 3, 2002	June 30, 2003
Council Member	John Bohrer	July 1, 2001	June 30, 2003
Council Member	David Hall	July 1, 2001	June 30, 2003
Council Member	Dale Lutman	July 1, 2001	June 30, 2003
Council Member	Janet Culp	July 1, 2001	June 30, 2003
Council Member	David Duncan	July 1, 2001	June 30, 2003

The duly appointed and acting Attorney for the Issuer is Richard G. Gay, Esquire, Berkeley Springs, West Virginia.

8. MEETINGS: All actions, ordinances, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the acquisition, construction, operation and financing of the Project or the System were authorized or adopted at meetings of the Council duly and regularly or

specifically called and held pursuant to all applicable statutes including Chapter 6, Article 9A of the Code of West Virginia, 1931, as amended, and a quorum of duly elected or appointed, qualified and acting members of the Council was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

9. **INSURANCE:** The Issuer will maintain or, as appropriate, will require all contractors to maintain Worker's Compensation, public liability and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Ordinance and the Loan Agreement. All insurance for the System required by the Ordinance and the Loan Agreement is in full force and effect.

10. **LOAN AGREEMENT:** As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not contain any untrue statements of material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreement, which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading; and (iv) the Issuer is in compliance with the Loan Agreement.

11. **SPECIMEN BOND:** Attached hereto as Exhibit A is a specimen of the Bond which, except as to execution and authentication, is identical in all respects with the Bond this day delivered to the Authority and being substantially in the form prescribed in the Ordinance.

12. **BOND PROCEEDS:** On the date hereof, the Issuer received the sum of \$101,240 from the Authority and the BPH, being a portion of the principal amount of the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer from time to time as acquisition and construction of the Project progresses.

13. **PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE:** Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Council to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in the Morgan Messenger, a qualified newspaper published and of general circulation in the Issuer, together with a notice to all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in the Bond Ordinance, stating that any person interested may appear before the

Council at the public hearing held at a regular meeting of Council on November 19, 2002, at 5:00 p.m., prevailing time, in the Council chambers of the Town Hall in Berkeley Springs, West Virginia, and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the Recorder of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the Council and the Bond Ordinance became finally adopted, enacted and effective as of the date of such public hearing and remains in full force and effect.

14. **LAND AND RIGHTS-OF-WAY:** All land in fee simple and all rights-of-way and easements necessary for the acquisition and construction of the Project and the operation and maintenance of the System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

15. **PUBLIC SERVICE COMMISSION ORDER:** The Issuer has received the PSC orders entered on December 3, 2002, (Final Order December 9, 2002) in Case No. 02-0490-W-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the PSC orders has not expired prior to the date hereof. However, the Issuer hereby states that it will not appeal such orders and the other parties thereto have stated that they do not intend to appeal such orders. Such orders are not subject to any appeal, further hearing, reopening or rehearing by any customer, protestant, intervenor or other person not a party to the original application. Such orders remain in full force and effect.

16. **CONFLICTS OF INTEREST:** No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, the Ordinance, and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

17. **VERIFICATION OF SCHEDULE:** The final amended Schedule B attached to the Certificate of Consulting Engineer, with the signature of the Mayor and the Consulting Engineer, accurately represents the estimated costs of the Project, the sources of funds available to pay the costs of the Project and the costs of financing of the Bonds.

18. **PROCUREMENT OF ENGINEERING SERVICES:** The Issuer has complied with all the requirements of Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended, in the procurement of the engineering services of the Consulting Engineer.

19. **SAFE DRINKING WATER ACT:** The Project as described in the Ordinance complies with the Safe Drinking Water Act.

20. **COUNTERPARTS:** This Certificate may be executed in counterparts and all counterparts shall be deemed to be the Certificate.

WITNESS our signatures and the official corporate seal of the Town of Bath,
West Virginia, on this 9th day of December, 2002.

[SEAL]

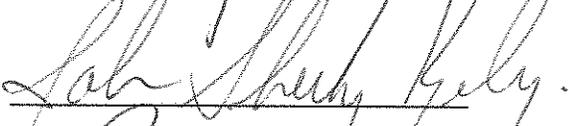
<u>Signature</u>	<u>Official Title</u>
	Mayor
	Recorder
	Attorney

EXHIBIT A

See Specimen Bond (Tab No. 15)

12/06/02
000802/00301

TOWN OF BATH
WATER REVENUE BONDS, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

CERTIFICATE AS TO USE OF PROCEEDS

The undersigned Mayor of the Town of Bath in Morgan County, West Virginia (the "Issuer"), being the official of the Issuer duly charged with the responsibility for the issuance of \$1,150,000 Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), of the Issuer, dated December 9, 2002 (the "Bonds" or the "Series 2002 A Bonds"), hereby certify as follows:

1. I am the officer of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Ordinance duly passed by the Issuer on November 5, 2002, effective November 19, 2002 (the "Bond Ordinance"), authorizing the Bonds.

2. This certificate may be relied upon as the certificate of the Issuer.

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on December 9, 2002, the date on which the Bonds are being physically delivered in exchange for an initial advance of \$101,240, being a portion of the principal amount of the Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. In the Bond Ordinance pursuant to which the Bonds are issued, the Issuer has covenanted that it shall not take, or permit or suffer to be taken, any action with respect to Issuer's use of the proceeds of the Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (collectively, the "Code"), issued by the West Virginia Water Development Authority (the "Authority") or the West Virginia Bureau for Public Health (the "BPH") or the West Virginia Infrastructure and Jobs Development Council, as the case may be, from which the proceeds of the Bonds are derived, to lose their status as tax-exempt bonds. The Issuer hereby covenants to take all actions necessary to comply with such covenant.

5. The Bonds were sold on December 9, 2002, to the Authority, pursuant

to a loan agreement dated December 6, 2002, by and between the Issuer and the Authority, on behalf of the BPH, for an aggregate purchase price of \$1,150,000 (100% of par), at which time, the Issuer received the sum of \$101,240 from the Authority and the BPH, being the first advance of the principal amount of the Bonds. No accrued interest has been or will be paid on the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project"); and (ii) paying certain costs of issuance of the Bonds and related costs.

7. The Issuer shall, on the date hereof or immediately hereafter, enter into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bonds for the acquisition and construction of the Project, constituting a substantial binding commitment. The acquisition and construction of the Project and the allocation of the net sale proceeds of the Bonds to expenditures for the Project shall commence immediately and shall proceed with due diligence to completion, and with the exception of proceeds deposited in the Reserve Account for the Bonds, if any, all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before September, 2003. The acquisition and construction of the Project is expected to be completed by June, 2003.

8. The total cost of the Project is estimated at \$1,150,000. Sources and uses of funds for the Project are as follows:

SOURCES

Proceeds of the Bonds	<u>\$1,150,000</u>
Total Sources	<u>\$1,150,000</u>

USES

Costs of the Project	\$1,135,000
Fund Reserve Account	0
Costs of Issuance	<u>15,000</u>
Total Uses	<u>\$1,150,000</u>

9. Pursuant to Article V of the Bond Ordinance, the following special funds or accounts have been created:

- (1) Revenue Fund;

- (2) Renewal and Replacement Fund;
- (3) Series 2002 A Bonds Construction Trust Fund;
- (4) Series 2002 A Bonds Sinking Fund; and
- (5) Series 2002 A Bonds Reserve Account.

10. Pursuant to Article VI of the Bond Ordinance, the proceeds of the Bonds will be deposited as follows:

(1) Bond proceeds in the amount of \$-0- will be deposited in the Series 2002 A Bonds Reserve Account.

(2) The balance of the proceeds of the Bonds will be deposited in the Series 2002 A Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of the Project, including costs of issuance of the Bonds and related costs.

11. Moneys held in the Series 2002 A Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 2002 A Bonds Sinking Fund and Series 2002 A Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Series 2002 A Bonds Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

12. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. The acquisition and construction of the Project is expected to be completed within 6 months of the date hereof.

13. The Issuer will take such steps as requested by the Authority to ensure that the Authority's bonds meet the requirements of the Code.

14. With the exception of the amount deposited in the Series 2002 A Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within 9 months from the date of issuance thereof.

15. The Issuer does not expect to sell or otherwise dispose of the Project in whole or in part prior to the last maturity date of the Bonds.

16. The amount designated as costs of issuance of the Bonds consists only of costs which are directly related to and necessary for the issuance of the Bonds.

17. All property financed with the proceeds of the Bonds will be owned and held by (or on behalf of) a qualified governmental unit.

18. No proceeds of the Bonds will be used, directly or indirectly, in any trade or business carried on by any person who is not a governmental unit.

19. The original proceeds of the Bonds will not exceed the amount necessary for the purposes of the issue.

20. The Issuer shall use the Bond proceeds solely for the costs of the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

21. The Bonds are not federally guaranteed.

22. The Issuer has retained the right to amend the Bond Ordinance authorizing the issuance of the Bonds if such amendment is necessary to assure that the Bonds remain public purpose bonds.

23. The Issuer has either (a) funded the Series 2002 A Bonds Reserve Account at the maximum amount of principal and interest, if any, which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Series 2002 A Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2002 A Bonds Reserve Account hold an amount equal to the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year. Moneys in the Series 2002 A Bonds Reserve Account and the Series 2002 A Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Bonds and will not be available to pay costs of the Project.

24. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bonds, (b) are to be sold pursuant to a common plan of financing together with the Bonds and (c) will be paid out of substantially the same sources of funds or will have substantially the same claim to be paid out of substantially the same sources of funds as the Bonds.

25. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances which would materially change the expectations herein expressed.

26. The Issuer will comply with instructions as may be provided by the Authority, at any time, regarding use and investment of proceeds of the Bonds, rebates and rebate calculations.

27. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

WITNESS my signature on this 9th day of December, 2002.

TOWN OF BATH



Mayor

11/19/02
000802/00301

TOWN OF BATH
WATER REVENUE BONDS, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

CERTIFICATE OF RECORDER AS TO TRUTH
AND ACCURACY OF DOCUMENTS DELIVERED

The undersigned duly elected Recorder of the Town of Bath (the "Issuer") hereby certifies that the copies of the following documents being delivered in connection with the closing of the sale of the Town of Bath Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program) are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the Issuer and delivered in the transcript of proceedings, that said documents have been duly adopted, enacted or entered by the Council of the Issuer, and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. Charter.
2. Oaths of Office of Mayor, Recorder and Council Members.
3. Rules of Procedure.
4. Public Service Commission Order.
5. Infrastructure Council Approval Letter.
6. Loan Agreement.
7. Rate Ordinance.
8. Minutes of Council Meetings regarding All Readings and Public Hearing of the Rate Ordinance.
9. Affidavit of Publication of the Rate Ordinance and Notice of Public Hearing.

10. Bond Ordinance.
11. Supplemental Resolution.
12. Minutes of Council Meetings regarding All Readings and Public Hearing of the Bond Ordinance and Adoption of the Supplemental Resolution.
13. Affidavit of Publication of the Notice of Public Hearing and Abstract of Bond Ordinance.
14. 1997 Bond Ordinance and Supplemental Resolution.
15. Environmental Health Services Permit.
16. Evidence of Insurance.

[The rest of this page is intentionally left blank.]

WITNESS my signature and the official seal of the Issuer on this 9th day of
December, 2002.


Recorder

[SEAL]

11/14/02
00802/00301

TOWN OF BATH
WATER REVENUE BONDS, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

CERTIFICATE OF CONSULTING ENGINEER

I, H. Wood Thrasher, Registered Professional Engineer, West Virginia License No.9478 of Thrasher Engineering, Inc., Clarksburg, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain, additions, betterments and improvements (the "Project") to the existing waterworks system (the "System") of the Town of Bath (the "Issuer"), to be constructed primarily in Morgan County, West Virginia, which acquisition and construction are being permanently financed by the above-captioned bonds (the "Bonds") of the Issuer. All capitalized words used herein and not defined herein shall have the same meaning set forth in the Bond Ordinance passed by the Issuer on November 5, 2002, effective November 19, 2002, and the Loan Agreement dated December 6, 2002 (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH").

2. The Bonds are being issued for the purposes of (i) paying the costs of acquisition and construction of the Project and (ii) paying certain issuance and other costs in connection therewith.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the BPH, and any change orders approved by the Issuer, the BPH and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 35 years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the Schedule B attached hereto as Exhibit A, and in reliance upon the opinion of Richard Gay, Esquire, of even date herewith, all successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as

approved by the BPH and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) in reliance upon the certificate of Thomas Close, CPA, of even date herewith, as of the effective date thereof, the rates and charges for the System as enacted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project as set forth in the Schedule B attached hereto; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this 9th day of December, 2002.

[SEAL]

THRASHER ENGINEERING, INC.



H. Wood Thrasher, P.E.
West Virginia License No. 9478

12/04/02
000802/00301

M0368630.1

WEST VIRGINIA DRINKING WATER TREATMENT REVOLVING FUND
SCHEDULE B

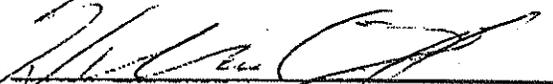
TOWN OF BATH (BERKELEY SPRINGS WATER WORKS)

Water Filtration Project

Final Total Cost of Project, Sources of Funds and Cost of Financing

	Total	DWTRF
A. Cost of Project		
1. Construction	\$860,892	\$860,892
2. Engineering Fee		
a. Design	\$87,240	\$87,240
b. Construction	\$75,000	\$75,000
3. Legal Fees	\$15,000	\$15,000
4. Administration	\$5,010	\$5,010
5. Sites and Other Lands		
6. Contingency	\$88,108	\$88,108
7. Total of Lines 1 through 6	\$1,131,250	\$1,131,250
B. Sources of Funds		
8. WV DWTRF Loan	\$1,150,000	\$1,150,000
9. Net Proceeds Required from Bond Issue (Line		
C. Cost of Financing		
10. Other Costs		
a. Bond Counsel	\$15,000	\$15,000
b. Accountant	\$3,500	\$3,500
c. Registrar	\$250	\$250
d. Reserve Account		
11. Total Cost of Financing	\$18,750	\$18,750
12. Size of Bond Issue	\$1,150,000	\$1,150,000


 GOVERNMENTAL AGENCY


 CONSULTING ENGINEER

DATE: 11-27-02

DATE: 11-19-02

THOMAS A. CLOSE
CERTIFIED PUBLIC ACCOUNTANT

2488 Valley Road
P.O. Box 636
Berkeley Springs WV 25411-0636
(304)258-4742
Fax: (304)258-1814
www.cpatom@stargate.net

December 9, 2002

TOWN OF BATH
WATER REVENUE BONDS, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

Town of Bath
103 Wilkes Street
Berkeley Springs, WV 25411

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311

West Virginia Bureau of Public Health
815 Quarrier Street, Suite 418
Charleston, WV 25301

Ladies and Gentlemen:

I have reviewed the water rates of the Town of Bath, West Virginia (the "Issuer"), enacted by the Issuer on October 22, 2002, and the projected operating expenses and anticipated customer usage provided by the Issuer and Thrasher Engineering, Inc. It is my opinion that such rates are sufficient (i) to provide for all operating expenses of the waterworks system of the Issuer (the "System"), and (ii) to leave a balance each fiscal year equal to at least 115% of the maximum amount required in any succeeding fiscal year for payment of principal of and interest, if any, on the Issuer's Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program the "Series 2002A Bonds), and Water Revenue Refunding and Improvement Bonds, Series 1997A (the "Prior Bonds").

It is further my opinion that the Net Revenues actually derived from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of the Series 2002 A Bonds, plus the estimated average increased annual Net Revenues

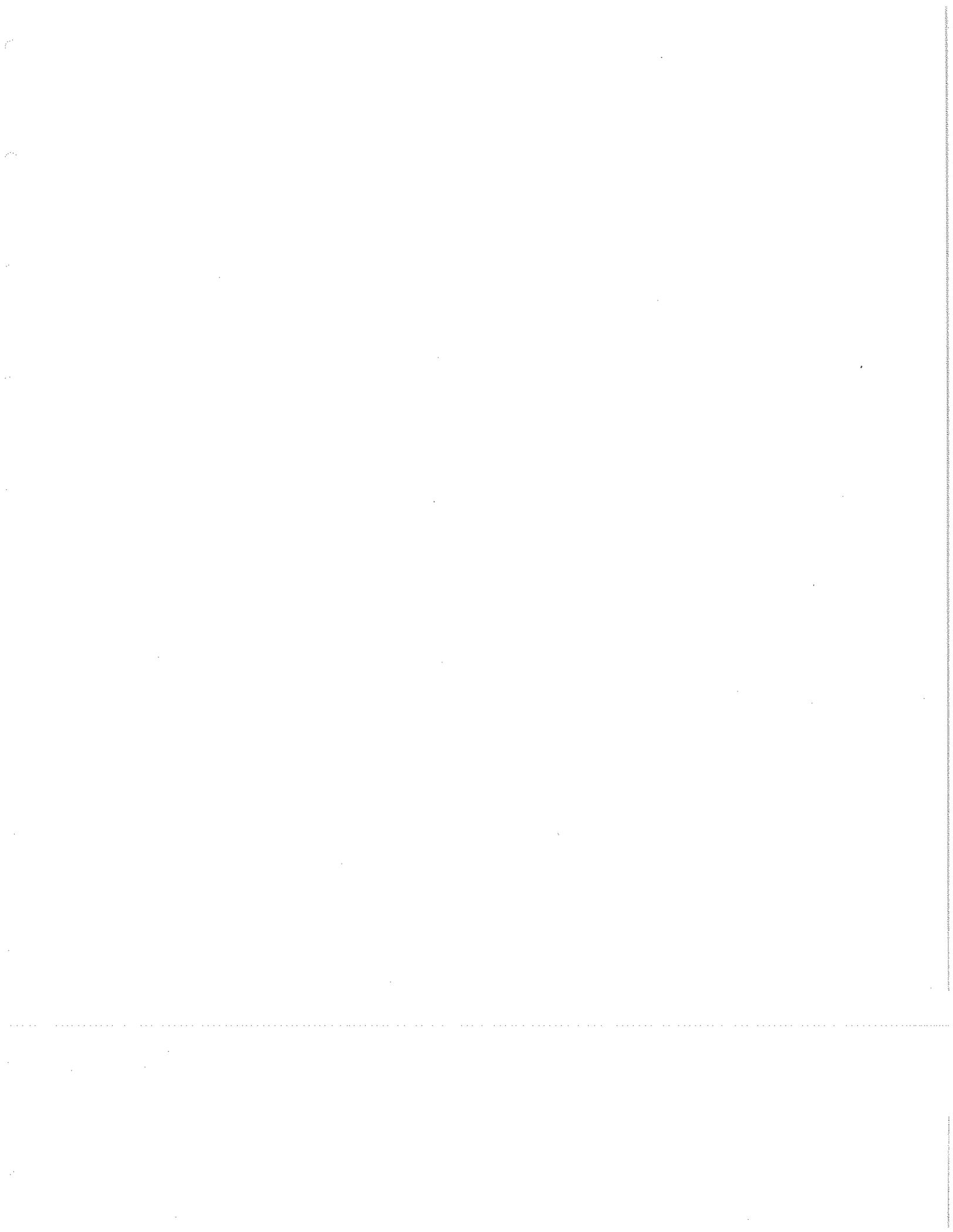
Town of Bath
West Virginia Water Development Authority
West Virginia Bureau for Public Health
December 6, 2002
Page 2

to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the Series 2002 A Bonds, will not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding year for principal of and interest on the Prior Bonds and the Series 2002 A Bonds.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Tom A. Close', written in a cursive style.

Thomas A. Close, CPA



TOWN OF BATH
WATER REVENUE BONDS, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

RECEIPT FOR BONDS

The undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, hereby certifies as follows:

1. On the 9th day of December, 2002, in Charleston, West Virginia, the Authority received the entire original issue of \$1,150,000 in aggregate principal amount of the Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), of the Town of Bath (the "Issuer"), dated December 9, 2002, issued in the form of one bond, fully registered to the Authority, and numbered AR-1 (the "Bonds").

2. At the time of such receipt of the Bonds, they had been executed by the Mayor of the Issuer and attested by the Recorder of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been impressed upon the Bonds.

WITNESS my signature on this 9th day of December, 2002.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Barbara B Meadows
Authorized Representative

TOWN OF BATH
WATER REVENUE BONDS, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

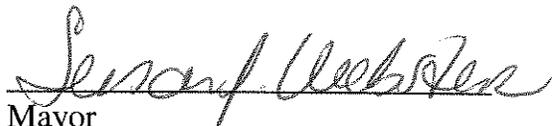
RECEIPT FOR BOND PROCEEDS

The undersigned Mayor of the Town of Bath (the "Issuer"), for and on behalf of the Issuer, hereby certifies as follows:

On the 9th day of December, 2002, the Issuer received and hereby acknowledges receipt from the West Virginia Water Development Authority (the "Authority"), as the original purchaser of the \$1,150,000 Town of Bath Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), dated December 9, 2002 (the "Bonds"), of the sum of \$101,240, being a portion of the principal amount of the Bonds. The Issuer understands that the remaining proceeds of the Bonds will be advanced to the Issuer from time to time as construction proceeds to completion.

WITNESS my signature on this 9th day of December, 2002.

TOWN OF BATH


Mayor

11/14/02
000802/00301

M0368635.1

TOWN OF BATH
WATER REVENUE BONDS, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

REQUEST AND AUTHORIZATION TO
AUTHENTICATE AND DELIVER THE BONDS

December 9, 2002

Citizens National Bank of Berkeley Springs
Berkeley Springs, West Virginia

Ladies and Gentlemen:

We herewith hand to you, duly executed, the \$1,150,000 Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), in the form of one bond, numbered AR-1, dated December 9, 2002 (the "Bonds"), of the Town of Bath (the "Issuer"), authorized to be issued under and pursuant to a Bond Ordinance duly passed by the Issuer on November 5, 2002, effective November 19, 2002, and a Supplemental Resolution duly adopted by the Issuer on November 19, 2002.

You are hereby requested and authorized to register, authenticate and deliver the Bonds on behalf of the Issuer to the West Virginia Water Development Authority.

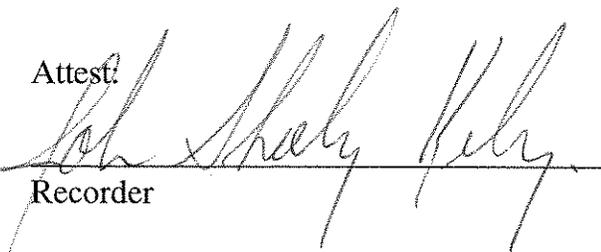
TOWN OF BATH



Mayor

(SEAL)

Attest:



Recorder

11/14/02
000802/00301

M0368640.1

TOWN OF BATH
WATER REVENUE BONDS, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 9th day of December, 2002, by and between the TOWN OF BATH, a municipal corporation (the "Issuer"), and CITIZENS NATIONAL BANK OF BERKELEY SPRINGS, Berkeley Springs, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$1,150,000 Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program) (the "Bonds"), dated December 9, 2002, in the form of one bond, numbered AR-1, in fully registered form, pursuant to a Bond Ordinance duly passed by the Issuer on November 5, 2002, effective November 19, 2002, and a Supplemental Resolution duly adopted November 19, 2002 (collectively, the "Ordinance");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Ordinance, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Ordinance provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Ordinance and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Ordinance and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Ordinance, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest, if any, on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by

the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation for services rendered as provided in the annexed schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Ordinance with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Ordinance, the terms of the Ordinance shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Ordinance will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective address:

ISSUER:

Town of Bath
103 Wilkes Street
Berkeley Springs, WV 25411
Attention: Mayor

REGISTRAR:

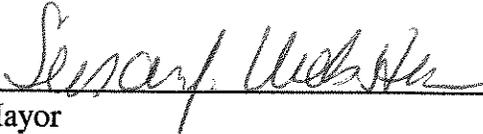
Citizens National Bank of Berkeley Springs
P.O. Box 130
Berkeley Springs, WV 25411
Attention: Corporate Trust Department

The Issuer and the Registrar shall notify the other in writing of any change of address.

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Ordinance.

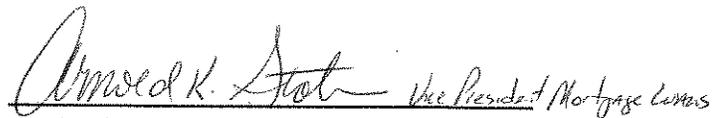
IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the date first above-written.

TOWN OF BATH



Mayor

CITIZENS NATIONAL BANK OF
BERKELEY SPRINGS



Authorized Officer

11/14/02
000802/00301

EXHIBIT A

See Bond Ordinance (Tab No. 11)
See Supplemental Resolution (Tab No. 12)

TOWN OF BATH
WATER REVENUE BONDS, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

CERTIFICATE OF REGISTRATION OF BONDS

CITIZENS NATIONAL BANK OF BERKELEY SPRINGS, Berkeley Springs, West Virginia, as Registrar (the "Registrar"), hereby certifies that on the date hereof, the single, fully registered Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), of the Town of Bath (the "Issuer"), dated December 9, 2002, in the principal amount of \$1,150,000, numbered AR-1, was registered as to principal only in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of the Registrar.

WITNESS my signature on this 9th day of December, 2002.

CITIZENS NATIONAL BANK OF BERKELEY SPRINGS,
as Registrar

 *Arnold K. Stot* Vice President Mortgage Loans

Authorized Officer

11/14/02
000802/00301

M0368645.1

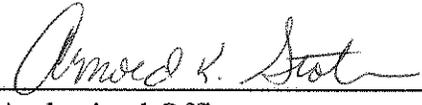
TOWN OF BATH
WATER REVENUE BONDS, SERIES 2002 A
(WEST VIRGINIA DWTRF PROGRAM)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

CITIZENS NATIONAL BANK OF BERKELEY SPRINGS, Berkeley Springs, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of the Town of Bath (the "Issuer"), passed by the Issuer on November 5, 2002, effective November 19, 2002, and a Supplemental Resolution adopted by the Issuer on November 19, 2002 (collectively, the "Ordinance"), authorizing the issuance of the Issuer's Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), in the aggregate principal amount of \$1,150,000, dated December 9, 2002, and agrees to serve as Depository Bank, all as set forth in the Ordinance.

Witness my signature on this 9th day of December, 2002.

CITIZENS NATIONAL BANK OF BERKELEY SPRINGS


Ahmed K. Stot Vice President ^{Montage} Loan
Authorized Officer

11/14/02
00802/00301

M0368649.1

WV MUNICIPAL BOND COMMISSION

3.12

Suite 500

NEW ISSUE REPORT FORM

8 Capitol Street, Charleston, WV 25301

Date of Report: December 9, 2002

(304) 558-3971

ISSUE: Town of Bath Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program)

ADDRESS: 103 Wilkes Street, Berkeley Springs, WV 25411 COUNTY: Morgan

PURPOSE OF ISSUE: New Money

Refunding Refunds issue(s) dated: _____

ISSUE DATE: December 9, 2002

CLOSING DATE: December 9, 2002

ISSUE AMOUNT: \$1,150,000

RATE: 0%; Administrative Fee: 1%

1st DEBT SERVICE DUE: 12/1/2003

1st PRINCIPAL DUE: 12/1/2003

1st DEBT SERVICE AMOUNT: \$9,584

PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Jackson Kelly PLLC

UNDERWRITERS COUNSEL: _____

Contact Person: Samme L. Gee, Esquire

Contact Person: _____

Phone: (304) 340-1318

Phone: _____

CLOSING BANK: Citizens Nat'l Bank of Berkeley Spr. ESCROW TRUSTEE: _____

Contact Person: Arnold Stotler

Contact Person: _____

Phone: (304) 258-1520

Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:

OTHER: West Virginia Bureau for Public Health

Contact Person: Susan Webster

Contact Person: Walt Ivey, P.E.

Position: Mayor

Function: Manager

Phone: (304) 258-1102

Phone: (304) 558-2981

DEPOSITS TO MBC AT CLOSE: _____

Accrued Interest: \$ _____

By _____ Wire _____

Capitalized Interest: \$ _____

_____ Check _____

Reserve Account: \$ _____

Other: _____ \$ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE:

By _____ Wire _____

To Escrow Trustee: \$ _____

_____ Check _____

To Issuer: \$ _____

_____ IGT _____

To Cons. Invest. Fund \$ _____

To Other: _____ \$ _____

NOTES: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:

Documents Required: _____

Transfers Required: _____

12/06/02

000802/00301

10-10
State of West Virginia
OFFICE OF ENVIRONMENTAL HEALTH SERVICES

815 QUARRIER STREET, SUITE 418

CHARLESTON, WEST VIRGINIA 25301-2616
TELEPHONE 304-558-2981

PERMIT

 **FILE**

PROJECT: (Water)
Water Treatment Plant Improvements
Addition of Gravity Filters

PERMIT NO.: 15,304

LOCATION: Town of Bath

COUNTY: Morgan

DATE: 6-28-2002

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

Town of Bath
Berkeley Springs Water Works
271 Wilkes Street, Suite A
Bath, West Virginia 25411

is hereby granted approval to: modify the existing Berkeley Springs Water Works water treatment plant. Major modifications will be the replacement of the raw water pumps with two (2) 700 G.P.M. pumps; addition of one (1) in-line static mixer; addition of two (2) 100 SF dual media gravity filters; addition of filter air scour blower system; addition of two (2) 350 G.P.M. filter effluent pumps; addition of two (2) 1,800 G.P.M. filter backwash pumps; addition of one (1) filter backwash decant/retention tank; addition of chemical feed equipment for Delpac and sodium bisulfite; standby generator; and all necessary piping, valves, controls and appurtenances. The existing chlorination and fluoridation equipment will continued to be used. De-chlorinated decant water from the filter backwash retention tank will be discharged to Warm Springs Run and sludge from the tank will be discharged to the Warm Springs Public Service District sewage system.

These facilities are being installed due to the Berkeley Springs Water Works raw water source, Ladies Spring #1, being determined to be under the direct influence of surface water.

The Environmental Engineering Division of the OEHS-Kearneysville District Office, telephone (304) 725-9453, is to be notified when construction begins.

Validity of this permit is contingent upon conformity with plans, specifications, application forms, and other information submitted to the West Virginia Bureau for Public Health.

FOR THE DIRECTOR


William S. Herold, Jr., P.E., Assistant Manager
Infrastructure and Capacity Development
Environmental Engineering Division

WSH:sec

pc: Thrasher Engineering, Inc.
Warm Springs PSD
Pravin Sangani, P.E., DEP
James W. Ellars, P.E., PSC-Engineering Division
Amy Swann, Public Service Commission
Morgan County Health Department
OEHS-EED Kearneysville District Office
William Toomey, PG, SWAP
Charles Robinette, P.E., RDC

30A



Division of Water Resources
1201 Greenbrier Street
Charleston, West Virginia 25311
Phone (304) 558-4086
Fax (304) 558-5903

File

West Virginia Department of Environmental Protection

Bob Wise
Governor

Michael O. Callaghan
Cabinet Secretary

September 26, 2002

HONORABLE SUSAN WEBSTER
TOWN OF BATH
217 WILKES ST STE A
BERKELEY SPRINGS, WV 25411

CERTIFIED RETURN RECEIPT REQUESTED

Re: WV/NPDES Permit No. WV0115754
General Permit Registration No. WVG640088
Town of Bath, Morgan County

Dear Permittee:

The Office of Water Resources has reviewed your Permit Application / General Permit Site Registration Application Form for your water treatment plant. Based upon the information you submitted on this application form, you are now authorized to operate under WV/NPDES General Water Pollution Control Permit No. WV 0115754, issued on August 28, 2000. Copies of the General WV/NPDES Water Pollution Control Permit No. WV0115754 and Fact Sheet were sent with your registration package, or are enclosed. You should carefully read the contents of the permit and become familiar with all requirements needed to remain in compliance with the permit.

Although you should be aware of all the terms and conditions of this permit, we wish to advise you of the following important requirements:

1. You are subject to the requirements of Limitation Category 1 of the General Permit.
2. In accordance with Section B.6. of the General Permit, you are required to have a groundwater protection plan (GPP) approved by this Agency.
3. Facilities permitted to discharge pollutants to the waters of the State under Chapter 22, Article 11 of the West Virginia Code are required to test their effluent in order to verify permit compliance. This testing is the responsibility of the permittee and these test results are to be submitted to this office on the Discharge Monitoring Report (DMR) form which is enclosed.

Failure to submit the required DMRs is a violation of the permit and can lead to enforcement actions being taken by this agency for noncompliance. It is suggested that several copies of the enclosed DMR be made for your future use, as this office does not supply permittees with DMR forms. Your first DMR is due on or before January 20, 2003.

4. This General Permit will expire on August 27, 2005. If you wish to continue a regulated activity after the expiration date of this permit, provisions for coverage will be made during the public notice process for any new General Permit to be issued at that time.

30B

HONORABLE SUSAN WEBSTER

Page 2

September 26, 2002

Special Condition. During the review of your site registration application form it was discovered that the pollutant analysis for the eight parameters required of all sites was not submitted for Outlet 001. Within sixty (60) days of your initial plant start-up, or as soon thereafter as conditions allow, you must submit this analysis. Please be advised that your monitoring requirements may be subject to change based upon this analysis.

Finally, note that copies of all future correspondence regarding the permit including copies of DMRs must be sent to the following addresses:

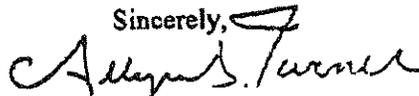
Department of Environmental Protection
Division of Water Resources
Permitting Section
1201 Greenbrier Street
Charleston, WV 25311

Department of Environmental Protection
Environmental Enforcement
1 Depot Street
Romney, WV 26757

The validity of this General Permit Registration is contingent upon payment of the applicable annual permit fee, as required by Chapter 22, Article 11, Section 10 of the Code of West Virginia.

If you have any questions, please contact David Phillips of this Division at (304) 558-8855 or our TDD number (304) 558-2751.

Sincerely,



Allyn G. Turner
Director

AGT:DP

Enclosures

WRD 2A-82

STATE OF WEST VIRGINIA

Final Limitations
Year Round

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE MONITORING REPORT

LIMITATION CATEGORY: 1
GEN. PMT. REGISTRATION NO. WVG640088

FACILITY NAME: (Town of Bath) TOWN OF BATH

CERTIFIED LABORATORY NAME:

LOCATION OF FACILITY: BERKELEY SPRINGS, Morgan County

CERTIFIED LABORATORY ADDRESS:

PERMIT NO.: WVD115754 OUTLET NO.: 001

WASTELOAD FOR THE MONTH OF:

INDIVIDUAL PERFORMING ANALYSIS:

Parameter	Quantity	Other Units		Measurement Frequency	Sample Type
		Units	CEL*		
50050 (ML-1) RF-B Flow in Conduit or thru plant Year Round	Reported	N/A	N/A		
	Permit Limits	N/A	N/A	1/quarter	Grab
60530 (ML-1) RF-B Total Suspended Solids Year Round	Reported	N/A	N/A		
	Permit Limits	N/A	N/A	1/quarter	Grab
00400 (ML-1) RF-B pH Year Round	Reported	N/A	N/A		
	Permit Limits	N/A	N/A	1/quarter	Grab
50060 (ML-1) RF-B Chlorine, Total Residual Year Round	Reported	N/A	N/A		
	Permit Limits	N/A	N/A	1/quarter	Grab
00953 (ML-1) RF-B Fluoride, Total Year Round	Reported	N/A	N/A		
	Permit Limits	N/A	N/A	1/quarter	Grab
01104 (ML-1) RF-B Aluminum, Total Recoverable Year Round	Reported	N/A	N/A		
	Permit Limits	N/A	N/A	1/quarter	Grab
00980 (ML-1) RF-B Iron Total Recoverable Year Round	Reported	N/A	N/A		
	Permit Limits	N/A	N/A	1/quarter	Grab
11123 (ML-1) RF-B Total Recov. Manganese Year Round	Reported	N/A	N/A		
	Permit Limits	N/A	N/A	1/quarter	Grab

* CEL = Compliance Evaluation Level

<p>Name of Principal Executive Officer</p>	<p>Date Completed</p>
<p>I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and imprisonment for knowing violations.</p>	
<p>Title of Officer</p>	<p>Signature of Principal Executive Officer or Authorized Agent</p>

Appendix A

I. MANAGEMENT CONDITIONS:

1. Duty to Comply

- a) The permittee must comply with all conditions of this permit. Permit noncompliance constitutes a violation of the CWA and State Act and is grounds for enforcement action; for permit modification, revocation and reissuance, suspension or revocation; or for denial of a permit renewal application.
- b) The permittee shall comply with all effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

2. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit at least 180 days prior to expiration of the permit.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment.

4. Permit Actions

This permit may be modified, revoked and reissued, suspended, or revoked for cause. The filing of a request by the permittee for permit modification, revocation and reissuance, or revocation, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. Property Rights

This permit does not convey any property rights of any sort or any exclusive privilege.

6. Signatory Requirements

All applications, reports, or information submitted to the Director shall be signed and certified as required in Title 47, Series 10, Section 4.6 of the West Virginia Legislative Rules.

7. Transfers

This permit is not transferrable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

8. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable specified time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, suspending or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

9. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

10. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- a) Enter upon the permittee's premises in which an effluent source or activity is located, or where records must be kept under the conditions of this permit;
- b) Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;
- c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the State Act, any substances or parameters at any location.

11. Permit Modification

This permit may be modified, suspended, or revoked in whole or in part during its term in accordance with the provisions of Chapter 22-11-12 of the Code of West Virginia.

12. Water Quality

Subject to 47 WV CSR 10.3.4.a, the effluent or effluents covered by this permit are to be of such quality so as not to cause violation of applicable water quality standards adopted by the Environmental Quality Board.

13. Outlet Markers

A permanent marker at the establishment shall be posted in accordance with Title 47, Series 11, Section 9 of the West Virginia Legislative Rules.

14. Liabilities

- a) Any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$25,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, 308 or 405 of the Clean Water Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.
- b) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 2 years, or by both.
- c) Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 2 years, or by both.
- d) Nothing in 1.14 a), b), and c) shall be construed to limit or prohibit any other authority the Director may have under the State Water Pollution Control Act, Chapter 22, Article 11.

II. OPERATION AND MAINTENANCE:

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. Unless otherwise required by Federal or State law, this provision requires the operation of back-up auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit. For domestic waste treatment facilities, waste treatment operators as classified by the WV Bureau of Public Health Laws, W. Va. Code Chapter 16-1, will be required except that in circumstances where the domestic waste treatment facility is receiving any type of industrial waste, the Director may require a more highly skilled operator.

2. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

3. Bypass

- a) **Definitions**
- (1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility; and
 - (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- b) **Bypass not exceeding limitations.** The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of II.3.c) and II.3.d) of this permit.
- c)
- (1) If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass;
 - (2) If the permittee does not know in advance of the need for bypass, notice shall be submitted as required in IV.2.b) of this permit.
- d) **Prohibition of bypass:**
- (1) Bypass is permitted only under the following conditions, and the Director may take enforcement action against a permittee for a bypass, unless:
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - (C) The permittee submitted notices as required under II.3.c) of this permit.
 - (2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in II.3.d.(1) of this permit.

4. Upset

- a) **Definition.** "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- b) **Effect of an upset.** An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitation if the requirements of II.4.c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- c) **Conditions necessary for a demonstration of upset.** A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
- (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (2) The permitted facility was at the time being properly operated;
 - (3) The permittee submitted notice of the upset as required in IV.2.b) of this permit.
 - (4) The permittee complied with any remedial measures required under I.3. of this permit.
- d) **Burden of proof.** In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Removed Substances

Where removed substances are not otherwise covered by the terms and conditions of this permit or other existing permit by the Director, any solids, sludges, filter backwash or other pollutants (removed in the course of treatment or control of wastewaters) and which are intended for disposal within the State, shall be disposed of only in a manner and at a site subject to the approval by the Director. If such substances are intended for disposal outside the State or for reuse, i.e., as a material used for making another product, which in turn has another use, the permittee shall notify the Director in writing of the proposed disposal or use of such substances, the identity of the prospective disposer or users, and the intended place of disposal or use, as appropriate.

III. MONITORING AND REPORTING

1. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. Reporting

- a) Permittee shall submit, according to the enclosed format, a Discharge Monitoring Report (DMR) indicating in terms of concentration, and/or quantities, the values of the constituents listed in Part A analytically determined to be in the plant effluent(s). DMR submissions shall be made in accordance with the terms contained in Section C of this permit.
- b) Enter reported average and maximum values under "Quantity" and "Concentration" in the units specified for each parameter, as appropriate.
- c) Specify the number of analyzed samples that exceed the allowable permit conditions in the columns labeled "N.E." (i.e., number exceeding).
- d) Specify frequency of analysis for each parameter as number of analyses/specified period (e.g., 3/month is equivalent to 3 analyses performed every calendar month). If continuous, enter "Cont.". The frequency listed on format is the minimum required.

3. Test Procedures

Samples shall be taken, preserved and analyzed in accordance with the latest edition of 40 CFR Part 136, unless other test procedures have been specified elsewhere in this permit.

4. Recording of Results

For each measurement or sample taken pursuant to the permit, the permittee shall record the following information.

- a) The date, exact place, and time of sampling or measurement;
- b) The date(s) analyses were performed;
- c) The individual(s) who performed the sampling or measurement;
- d) The individual(s) who performed the analyses; if a commercial laboratory is used, the name and address of the laboratory;
- e) The analytical techniques or methods used, and
- f) The results of such analyses. Information not required by the DMR form is not to be submitted to this agency, but is to be retained as required in III.6.

5. Additional Monitoring by Permittee

If the permittee monitors any pollutant at any monitoring point specified in this permit more frequently than required by this permit, using approved test procedures or others as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.

6. Records Retention

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for the permit for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

7. Definitions

- a) "Daily discharge" means the discharge of a pollutant measured during a calendar day or within any specified period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.
- b) "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
- c) "Maximum daily discharge limitation" means the highest allowable daily discharge.
- d) "Composite Sample" is a combination of individual samples obtained at regular intervals over a time period. Either the volume of each individual sample is proportional to discharge flow rates or the sampling interval (for constant volume samples) is proportional to the flow rates over the time period used to produce the composite. The maximum time period between individual samples shall be two hours.
- e) "Grab Sample" is an individual sample collected in less than 15 minutes.
- f) "is" = immersion stabilization - a calibrated device is immersed in the effluent stream until the reading is stabilized.
- g) The "daily average temperature" means the arithmetic average of temperature measurements made on an hourly basis, or the mean value plot of the record of a continuous automated temperature recording instrument, either during a calendar month, or during the operating month if flows are of shorter duration.
- h) The "daily maximum temperature" means the highest arithmetic average of the temperatures observed for any two (2) consecutive hours during a 24 hour day, or during the operating day if flows are of shorter duration.
- i) The "monthly average fecal coliform" bacteria is the geometric average of all samples collected during the month.
- j) "Measured Flow" means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or which a relationship to absolute volume has been obtained.
- k) "Estimate" means to be based on a technical evaluation of the sources contributing to the discharge including, but not limited to pump capabilities, water meters and batch discharge volumes.
- l) "Non-contact cooling water" means the water that is contained in a leak-free system, i.e., no contact with any gas, liquid, or solid other than the container for transport; the water shall have no net poundage addition of any pollutant over intake water levels, exclusive of approved anti-fouling agents.

IV. OTHER REPORTING

1. Reporting Spills and Accidental Discharges

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties established pursuant to Title 47, Series 11, Section 2 of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11. Attached is a copy of the West Virginia Spill Alert System for use in complying with Title 47, Series 11, Section 2 of the Legislative rules as they pertain to the reporting of spills and accidental discharges.

2. Immediate Reporting

- a) The permittee shall report any noncompliance which may endanger health or the environment immediately after becoming aware of the circumstances by using the Agency's designated spill alert telephone number. A written submission shall be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- b) The following shall also be reported immediately:
 - (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
 - (2) Any upset which exceeds any effluent limitation in the permit; and
 - (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported immediately. This list shall include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.
- c) The Director may waive the written report on a case-by-case basis if the oral report has been received in accordance with the above.
- d) Compliance with the requirements of IV.2 of this section, shall not relieve a person of compliance with Title 47, Series 11, Section 2.

3. Reporting Requirements

- a) Planned changes. The permittee shall give notice to the Director of any planned physical alterations or additions to the permitted facility which may affect the nature or quantity of the discharge. Notice is required when:
 - (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in Section 13.7.b of Series 10, Title 47; or
 - (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under IV.2 of this section.
- b) Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- c) In addition to the above reporting requirements, all existing manufacturing, commercial, and silvicultural discharges must notify the Director in writing as soon as they know or have reason to believe:
 - (1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - (A) One hundred micrograms per liter (100 ug/l);
 - (B) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitro phenol; and for 2-methyl 4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - (C) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.9 of Series 10, Title 47.
 - (D) The level established by the Director in accordance with Section 6.3.g of Series 10, Title 47;
 - (2) That any activity has occurred or will occur which would result in any discharge (on a non-routine or infrequent basis) of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - (A) Five hundred micrograms per liter (500 ug/l);
 - (B) One milligram per liter (1 mg/l) for antimony;
 - (C) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.7 of Series 10, Title 47;
 - (D) The level established by the Director in accordance with Section 6.3.g of Series 10, Title 47.
 - (3) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Series 10, Title 47 and which will result in the discharge on a routine or frequent basis of that toxic pollutant at levels which exceed five times the detection limit for that pollutant under approved analytical procedure.
 - (4) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Series 10, Title 47 and which will result in the discharge on a non-routine or infrequent basis of that toxic pollutant at levels which exceed ten times the detection limit for that pollutant under approved analytical procedure.

4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under the above paragraphs at the time monitoring reports are submitted. The reports shall contain the information listed in IV.2.a). Should other applicable noncompliance reporting be required, these terms and conditions will be found in Section C of this permit.



Division of Water Resources
1201 Greenbrier Street
Charleston, West Virginia 25311
Phone (304) 558-4086
Fax (304) 558-5903

West Virginia Department of Environmental Protection

Bob Wise
Governor

Michael O. Callaghan
Cabinet Secretary

General Permit Registration No.: WVG640088

NOTICE TO PERMITTEES

The 1999 regular session of the West Virginia legislature revised the Water Pollution Control Act, Chapter 22, Article 11, Section 10 of the Code of West Virginia relating to fees associated with permits. This section of the Code requires all holders of a State water pollution control permit or a national pollutant discharge elimination system permit to be assessed an annual permit fee, based upon rules promulgated by the Secretary of the Department of Environmental Protection. The Secretary has promulgated a final rule in accordance with the code revision to this effect and these rules were effective May 4, 2000. The rules establish an annual permit fee based upon the relative potential to degrade the waters of the State which, in most instances, relate to volume of discharge. However, for sewage facilities, the annual permit fee is based upon the number of customers served by the facility. You may contact the Secretary of State's Office, State Capitol Building, Charleston, WV 25305, to obtain a copy of the rules. The reference is Title 47, Legislative Rules, Department of Environmental Protection, Division of Water Resources, Series 26 Water Pollution Control Permit Fee Schedules.

Based upon the volume of discharge for which your facility is currently permitted, the number of customers served by your facility or for the category you fall within, pursuant to Section 7 of Title 47, Series 26, your annual permit fee is \$1000.00. This fee is due no later than the anniversary date of permit issuance in each year of the term of the permit or in the case of coverage under a general permit, the fee is due no later than the anniversary date of your coverage under the general permit. **You will be invoiced by this agency at the appropriate time for the fee.** Failure to submit the annual fee within ninety(90) days of the due date will render your permit void upon the date you are mailed a certified written notice to that effect.



West Virginia Department
of Environmental Protection

"Promoting a healthy environment."

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)
11/21/02

PRODUCER
Smith-Nadenbousch Ins./BS
28 N Washington Street, Ste A
P O Box 538
Berkeley Springs, WV 25411

INSURED
Berkeley Springs Water Works
271 Wilkes Street Suite A
Berkeley Springs, WV 25411

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURER A: Westfield Group
INSURER B:
INSURER C:
INSURER D:
INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CLASS	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE / POLICY EXPIRATION		LIMITS	
			DATE (MM/DD/YY)	DATE (MM/DD/YY)		
A	GENERAL LIABILITY	CWP3112725	11/22/02	11/22/03	EACH OCCURRENCE	\$1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire)	\$150,000
	CLAIMS MADE <input checked="" type="checkbox"/> OCCUR			MBD EXP (Any one person)	\$10,000	
	GEN'L AGGREGATE LIMIT APPLIES PER:			PERSONAL & ADV INJURY	\$1,000,000	
	POLICY			GENERAL AGGREGATE	\$2,000,000	
	RET			PRODUCTS-COMP/OP AGG	\$1,000,000	
	LOG					
A	AUTOMOBILE LIABILITY	CWP3112725	11/22/02	11/22/03	COMBINED SINGLE LIMIT (Per accident)	\$1,000,000
	ANY AUTO					
	ALL OWNED AUTOS					
	<input checked="" type="checkbox"/> SCHEDULED AUTOS					
<input checked="" type="checkbox"/> HIRED AUTOS				BODILY INJURY (Per person)	\$	
<input checked="" type="checkbox"/> NON-OWNED AUTOS				BODILY INJURY (Per accident)	\$	
	PROPERTY DAMAGE (Per accident)					
	GARAGE LIABILITY			AUTO ONLY - BA ACCIDENT	\$	
	ANY AUTO			OTHER THAN BA ACC	\$	
				AUTO ONLY AGG	\$	
	EXCESS LIABILITY					
	OCCUR <input type="checkbox"/> CLAIMS MADE			EACH OCCURRENCE	\$	
	DEDUCTIBLE			AGGREGATE	\$	
	RETENTION \$				\$	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WC STATUTE - POLICY LIMIT	\$	
				E.L. EACH ACCIDENT	\$	
				E.L. DISEASE - BA EMPLOYEE	\$	
				E.L. DISEASE - POLICY LIMIT	\$	
A	OTHER Commercial Property	CWP3112725	11/22/02	11/22/03	\$1,000 Deductible Special Form **	

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

*Per Statement Of Values

**All coverages apply to expiring term of 11/22/01-11/22/02 also.

CERTIFICATE HOLDER

ADDITIONAL INSURED, INSURER LETTER

CANCELLATION

Susan Webster
271 Wilkes Street
Berkeley Springs WV 25411

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
AUTHORIZED REPRESENTATIVE

CLOSING MEMORANDUM

To: Mayor Susan Webster
Walter Ivey, P.E.
Barbara Meadows
Witter Hallan
Samme Gee

From: Francesca Tan

Date: December 9, 2002

Re: Town of Bath Water Revenue Bonds,
Series 2002 A (West Virginia DWTRF Program)

1. DISBURSEMENTS TO DISTRICT

Payor: West Virginia Bureau for Public Health
Source: Series 2002 A Bonds Proceeds
Amount: \$101,240
Date: December 9, 2002
Form: Wire Transfer
Payee: Town of Bath
Bank: Citizens National Bank of Berkeley Springs
Account: Series 2002 A Bonds Construction Trust Fund
Routing No.: 052204359
Account No.: 2238491

12/06/02
000802/301

December 9, 2002

Town of Bath
103 Wilkes Street
Berkeley Springs, WV 25411

West Virginia Bureau for Public Health
815 Quarrier Street, Suite 418
Charleston, WV 25301

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311

Re: Town of Bath Water Revenue Bonds, Series 2002 A
(West Virginia DWTRF Program)

Ladies and Gentlemen:

We have served as bond counsel to the Town of Bath (“the Issuer”), a municipal corporation, in connection with the issuance of its Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), dated the date hereof (the “Bonds”).

We have examined certified copies of proceedings and other papers relating to the authorization of (i) a loan agreement for the Bonds dated December 6, 2002, including all schedules and exhibits attached thereto (the “Loan Agreement”), by and between the Issuer and the West Virginia Water Development Authority (the “Authority”), on behalf of the West Virginia Bureau for Public Health (the “BPH”), and (ii) the Bonds to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are issued in the principal amount of \$1,150,000, in the form of one bond, registered to the Authority, bearing no interest, with principal installments payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing December 1, 2003, and maturing September 1, 2033, all as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds are subject to the Administrative Fee

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Town of Bath
West Virginia Bureau for Public Health
West Virginia Water Development Authority
December 9, 2002
Page 2

equal to 1% of the principal amount of the Bonds as set forth in the Schedule Y attached to the Loan Agreement.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 19 and Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended (collectively, the "Act"), for the purposes of (i) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing waterworks system of the Issuer (the "Project") and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and a Bond Ordinance duly passed by the Issuer on November 5, 2002, effective November 19, 2002, as supplemented by a Supplemental Resolution duly adopted by the Issuer on November 19, 2002 (collectively, the "Ordinance"), pursuant to and under which Act and Ordinance the Bonds are authorized and issued, and the Loan Agreement is entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Ordinance and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Ordinance and in the Loan Agreement when used herein.

Based upon the foregoing and upon our examination of such other documents as we have deemed necessary, we are of the opinion, under existing law, as follows:

1. The Issuer is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to enact the Ordinance and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The Loan Agreement has been duly authorized by and executed on behalf of the Issuer and is a valid and binding special obligation of the Issuer, enforceable in accordance with the terms thereof.

3. The Loan Agreement inures to the benefit of the Authority and the BPH and cannot be amended so as to affect adversely the rights of the Authority or the BPH or diminish the obligations of the Issuer without the written consent of the Authority and the BPH.

4. The Issuer has legally and effectively enacted the Ordinance and adopted all other necessary resolutions in connection with the issuance and sale of the Bonds. The Ordinance constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with their terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Gross Revenues of the System and secured by a first lien on and pledge of the Gross Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Prior Bonds, all in accordance with the terms of the Bonds and the Ordinance.

6. Under the Act, the Bonds and any interest thereon are exempt from all taxation by the State of West Virginia, or any county, municipality or county commission, political subdivision or agency thereof.

7. The Bonds have not been issued on the basis that the interest, if any, thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

No opinion is given herein as to the effect upon enforceability of the Bonds under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or in the exercise of judicial discretion or principles of equity in appropriate cases.

We have examined the executed and authenticated Bond numbered AR-1 and in our opinion, the form of said Bond and its execution and authentication are regular and proper.

Very truly yours,

Jack Kelly PLLC



LAW OFFICE
Of
RICHARD G. GAY, L.C.

31 CONGRESS STREET
BERKELEY SPRINGS
WEST VIRGINIA 25411
Phone: 304.258.1966 • Fax: 304.258.1967

RICHARD G. GAY
ADMITTED IN WEST VIRGINIA, PENNSYLVANIA, OHIO,
AND THE DISTRICT OF COLUMBIA

NATHAN P. COCHRAN
ADMITTED IN PENNSYLVANIA AND WEST VIRGINIA

December 9, 2002

Town of Bath
103 Wilkes Street
Berkeley Springs, WV 25411

West Virginia Bureau for Public Health
815 Quarrier Street, Suite 418
Charleston, WV 25301

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311

Jackson Kelly PLLC
P. O. Box 553
Charleston, WV 25322

RE: Town of Bath Water Revenue Bonds, Series 2002 A
(West Virginia DWTRF Program)

Ladies and Gentlemen:

I am counsel to the Town of Bath in Morgan County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Jackson Kelly PLLC, as bond counsel, relating to the above-captioned bonds of the Issuer (the "Bonds"), a loan agreement for the Bonds, dated December 9, 2002, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), a Bond Ordinance duly passed by the Issuer on November 5, 2002, effective November 19, 2002, as supplemented by a Supplemental Resolution duly adopted by the Issuer on November 19, 2002 (collectively, the "Ordinance"), and other documents relating to the Bonds and the Issuer. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Loan Agreement and the Ordinance when used herein.

I am of the opinion that:

1. The Issuer is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System and to enact the Ordinance, all under the Act and other applicable provisions of law.

2. The Loan Agreement has been duly authorized, executed, and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding agreement of the Issuer, enforceable in accordance with its terms.

3. The members and officers of the Council of the Issuer have been duly, lawfully and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the Issuer.

4. The Ordinance has been duly adopted and enacted by the Issuer and is in full force and effect.

5. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Bonds, the Loan Agreement and the Ordinance, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach or default under any ordinance, order, resolution, agreement or other document to which the Issuer is a party or by which the Issuer or its properties are bound or any existing law, regulation, rule order or decree to which the Issuer is subject.

6. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges, including, without limitation, all requisite permits, approvals, orders and certificates from the BPH, the West Virginia Infrastructure and Jobs Development Council and the Public Service Commission of West Virginia (the "PSC"), and the Issuer has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges. The Issuer has received the PSC orders entered on December 3, 2002, in Case No. 02-0490-W-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of such orders has not expired prior to the date hereof. However, the parties thereto have stated that they do not intend to appeal such order. Such orders are not subject to any appeal, further hearing, reopening or rehearing by any customer, protestant, intervenor or other person not a party to such orders. Such orders remain in full force and effect.

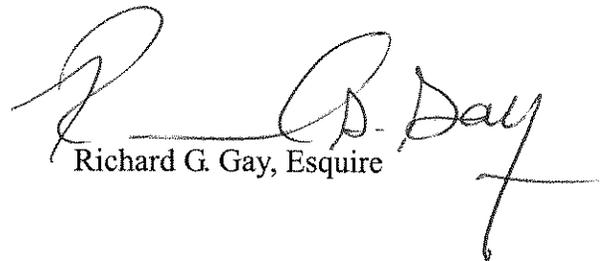
7. To the best of my knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an

unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Loan Agreement, the Bonds and the Ordinance, the acquisition and construction of the Project, the operation of the System, the validity of the Bonds or the collection or pledge of the Gross Revenues for the payment of the Bonds.

8. All successful bidders have made the required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy. Based upon my review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, I am of the opinion that such surety bonds and policies (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interest of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Ordinance and the Loan Agreement; and (5) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,


Richard G. Gay, Esquire

RGG/tls



LAW OFFICE
Of
RICHARD G. GAY, L.C.

31 CONGRESS STREET
BERKELEY SPRINGS
WEST VIRGINIA 25411
Phone: 304.258.1966 • Fax: 304.258.1967

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NATHAN P. COCHRAN
ADMITTED IN PENNSYLVANIA AND WEST VIRGINIA

December 9, 2002

Town of Bath
103 Wilkes Street
Berkeley Springs, WV 25411

West Virginia Bureau for Public Health
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Charleston, WV 25301

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311

Jackson Kelly PLLC
P. O. Box 553
Charleston, WV 25322

RE: Final Title Opinion for Town of Bath

Ladies and Gentlemen:

I am counsel to the Town of Bath (the "Issuer") in connection with a proposed project to construct certain additions, betterments and improvements to the waterworks system of the Issuer (the "Project"). I provide this final title opinion on behalf of the Issuer to satisfy the requirements of the West Virginia Bureau for Public Health (the "BPH") for the Project. Please be advised of the following:

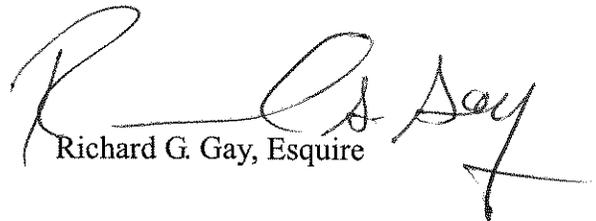
1. I am of the opinion that the Issuer is a duly created and validly existing municipality possessed with all the powers and authority granted to municipalities under the laws of the State of West Virginia to construct, operate and maintain the Project as approved by the BPH.
2. The Issuer has obtained all necessary permits and approvals for the construction of the Project.

3. I have investigated and ascertained the location of, and am familiar with the legal description of, the necessary sites, including easements and/or rights of way, required for the Project as set forth in the plans for the Project prepared by Thrasher Engineering, Inc., the consulting engineers for the Project.

4. I have examined the records on file in the Office of the Clerk of the County Commission of Morgan County, West Virginia, the county in which the Project is to be located, and, in my opinion, the Issuer has acquired legal title or such other estate or interest in all of the necessary site components for the Project, including all easements and/or rights of way, sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the Project.

5. All deeds, easements and rights of way which have been acquired to date by the Issuer have been duly recorded in the Office of the Clerk of the County Commission of Morgan County to protect the legal title to and interest of the Issuer.

Very truly yours,


Richard G. Gay, Esquire

RGG/tls