# TOWN OF BATH

## Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program); and Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA)

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**TOWN OF BATH**

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**(WEST VIRGINIA DWTRF PROGRAM); AND**
**WATER REVENUE BONDS, SERIES 2009 B**
**(WEST VIRGINIA DWTRF PROGRAM)**

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**TOWN OF BATH**

ORDINANCE AUTHORIZING ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE TOWN OF BATH AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE TOWN OF BATH OF NOT MORE THAN $3,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM); AND NOT MORE THAN $3,000,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) 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 ARRA ASSISTANCE 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, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order 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 West Virginia Code of 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

Section 1.02. Findings. It is hereby found, determined and declared that:

A. 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.

B. The Issuer presently owns and operates a public waterworks system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain additions, betterments and improvements for the existing public waterworks system of the Issuer, consisting of removal and replacement of existing galvanized water line in the Town of Bath, together with all necessary appurtenances (collectively, the "Project") (the existing public waterworks system of the Issuer, the Project and any further additions, betterments and improvements thereto are herein called the "System"), in

accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The Issuer intends to permanently finance the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), which administers the West Virginia Drinking Water Treatment Revolving Fund.

D. It is deemed necessary for the Issuer to issue its Water Revenue Bonds, in the total aggregate principal amount of not more than $6,000,000 in two or more series (collectively, the "Series 2009 Bonds") initially planned to be the (i) Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) in the aggregate principal amount of not more than $3,000,000 (the "Series 2009 A Bonds") and (ii) Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) in the aggregate principal amount of not more than $3,000,000, (the "Series 2009 B Bonds") to permanently finance a portion of the costs of acquisition and construction of the Project, and pay the costs of issuance thereof. Such costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, upon the Series 2009 Bonds prior to and during acquisition or construction and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Reserve Accounts (as hereinafter defined); engineering 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 expense, commitment fees, fees and expenses of the Authority including the Administrative Fee (as hereinafter defined) for the Series 2009 Bonds; discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2009 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 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 2009 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 40 years.

F. It is in the best interests of the Issuer that its Series 2009 Bonds be sold to the Authority pursuant to the terms and provisions of an ARRA Assistance Agreement by and between the Issuer and the Authority on behalf of the West Virginia Bureau for Public Health (the "BPH") in the form satisfactory to the respective parties (the "ARRA Assistance Agreement") approved hereby if not previously approved by resolution of the Issuer.

G. There are outstanding obligations of the Issuer which will rank on a parity with the Series 2009 Bonds as to liens, pledge and source of and security for payment, being the Issuer's: (1) Water Refunding Revenue Bonds, Series 2008 A (BB&T), dated November 5, 2008, issued in the original aggregate principal amount of $1,091,000 (the "Series 2008 A Bonds"); (2) Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program), dated August 29, 2006, issued in the original aggregate principal amount of $1,250,000 (the "Series 2006 A Bonds"); (3) Water Revenue Bonds, Series 2006 B (West Virginia Infrastructure Fund), dated August 29, 2006,

issued in the original aggregate principal amount of $1,237,000 (the "Series 2006 B Bonds"); and (4) Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), dated December 9, 2002, issued in the original aggregate principal amount of $1,150,000 (the "Series 2002 A Bonds"), (collectively, the "Prior Bonds"). The Prior Bonds are payable from and secured by a first lien on the Gross Revenues of the System.

The Series 2009 Bonds shall be issued on a parity with the Prior Bonds, with respect to liens, pledge, source of and security for payment and in all other respects. Prior to the issuance of the Series 2009 Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met, and (ii) the written consent of the Holders of the Series 2006 A Bonds, Series 2006 B Bonds and Series 2002 A Bonds to the issuance of the Series 2009 Bonds on a parity with the Prior Bonds. The Series 2008 A Bonds do not require consent. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with covenants of the Prior Bonds and the Prior Ordinance.

H. 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 costs of operation and maintenance of the System, the principal of and interest on the Series 2009 Bonds and the Prior Bonds and to make payments into all funds and accounts and other payments provided for herein.

I. The Issuer has complied with all requirements of West Virginia law and the ARRA Assistance Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2009 Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the approval of the Project and the financing thereof by the West Virginia Infrastructure and Jobs Development Council and the obtaining of a Certificate of Public Convenience and Necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2009 Bonds or such final order will not be subject to appeal.

J. The Project has been reviewed and determined to be technically and financially feasible by the West Virginia Infrastructure and Jobs Development Council as required under Chapter 31, Article 15A of the West Virginia Code of 1931, as amended.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2009 Bonds by 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 Bondholders of any and all of such Series 2009 Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

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

"Administrative Fee" means the Administrative Fee required to be paid pursuant to the ARRA Assistance Agreement.

"ARRA Assistance Agreement" means the ARRA Assistance Agreement heretofore entered, or to be entered into, by and between the Issuer and the Authority, on behalf of the BPH, providing for the purchase of the Series 2009 Bonds from the Issuer by the Authority, the form of which shall be approved and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2009 Bonds, or any other agency, board or department of the State that succeeds to the functions of the Authority, acting in its administrative capacity and upon authorization from the BPH under the Act.

"Authorized Officer" means the Mayor of the Issuer, or any other officer of the Issuer specifically designated by resolution of the Governing Body.

"Bondholder," "Holder of the Bonds," "Holder," "Registered Owner" or any similar term whenever used herein with respect to an outstanding Bond or Bonds, means the person in whose name such Bond is registered.

"Bond Legislation," "Ordinance," "Bond Ordinance" or "Local Act" means this Bond Ordinance and all ordinances, orders and resolutions supplemental hereto or amendatory hereof.

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

"Bonds" means, collectively, the Series 2009 Bonds and the Prior Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

"Bond Year" means 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.

"BPH" means the West Virginia Bureau for Public Health, a division of the West Virginia Department of Health and Human Resources, or any successor thereto.

"Closing Date" means the date upon which there is an exchange of the Series 2009 Bonds for all or a portion of the proceeds of the Series 2009 Bonds from the Authority.

"Code" means the Internal Revenue Code of 1986, as amended, and the Regulations.

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

"Consulting Engineers" means Thrasher Engineering, Inc., Clarksburg, West Virginia, or any qualified engineer or firm of engineers, licensed by the State, that shall at any time hereafter be procured by the Issuer as Consulting Engineers for the System, or portion thereof, in accordance with Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended; provided however, that the Consulting Engineers shall not be a regular, full-time employee of the State or any of its agencies, commissions, or political subdivisions.

"Costs" or "Costs of the Project" means those costs described in Section 1.02D hereof to be a part of the cost of acquisition and construction of the Project.

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

"DWTRF Regulations" means the DWTRF regulations set forth in the West Virginia Code of State Regulations, as amended from time to time.

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

"Fiscal Year" means each 12-month period beginning on July 1 and ending on the succeeding June 30.

"Governing Body" means the Town Council of the Issuer, as it may now or hereafter be constituted.

"Grants" means any grants committed to the Project.

"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, purchased pursuant to Article 8.01 hereof), or any Tap Fees, as hereinafter defined.

"Herein," "hereto" and similar words shall refer to this entire Bond Legislation.

"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.

"Issuer" means the Town of Bath, a municipal corporation and political subdivision of the State of West Virginia, in Morgan County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 2009 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 2009 Bonds Reserve Account.

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

"Operating Expenses" means the reasonable, proper and necessary costs of repair, operation and maintenance 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, fiscal agents, the Depository Bank, the Registrar and Paying Agent (all as herein defined), 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.

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

"Parity Bonds" means Parity 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 with the written consent of the Authority and the BPH.

"Prior Bonds" means the Series 2008 A Bonds, the Series 2006 A Bonds, the Series 2006 B Bonds and the Series 2002 A Bonds.

"Prior Ordinance" means the ordinances of the Issuer, as supplemented by the supplemental resolutions of the Issuer, authorizing the Prior Bonds.

"Project" means the Project as described in Section 1.02B hereof.

"Qualified Investments" means and includes any of the following, unless otherwise set forth in the Supplemental Resolution:

(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; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations 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 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 holder 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 Board of Treasury Investments pursuant to Chapter 12, Article 6C of the West Virginia Code of 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 Investors Service, Inc. or Standard & Poor's Corporation.

"Recorder" means the Recorder of the Issuer.

"Registrar" means the Bond Registrar.

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

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

"Reserve Accounts" means, collectively, the reserve accounts established for the Prior Bonds and the Series 2009 Bonds.

"Reserve Requirement" means, collectively, the respective amounts required to be on deposit in any Reserve Account for the Prior Bonds and the Series 2009 Bonds.

"Revenue Fund" means the Revenue Fund established by the Prior Ordinance.

"Series 2002 A Bonds" means the Issuer's Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), dated December 9, 2002, issued in the original aggregate principal amount of $1,150,000.

"Series 2006 A Bonds" means the Issuer's Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program), dated August 29, 2006, issued in the original aggregate principal amount of $1,250,000.

"Series 2006 B Bonds" means the Issuer's Water Revenue Bonds, Series 2006 B (West Virginia Infrastructure Fund), dated August 29, 2006, issued in the original aggregate principal amount of $1,237,000.

"Series 2008 A Bonds" means the Water Refunding Revenue Bonds, Series 2008 A (Branch Banking & Trust Company), dated November 5, 2008, issued in the original aggregate principal amount of $1,091,000.

"Series 2009 Bonds" means collectively the Series 2009 A Bonds and Series 2009 B Bonds.

"Series 2009 A Bonds" means the Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), of the Issuer, authorized by this Bond Legislation.

"Series 2009 A Bonds Reserve Account" means the Series 2009 A Bonds Reserve Account established in Section 5.02 hereof.

"Series 2009 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2009 A Bonds in the then current or any succeeding year.

"Series 2009 A Bonds Sinking Fund" means the Series 2009 A Bonds Sinking Fund established by Section 5.02 hereof.

"Series 2009 Bonds Construction Trust Fund" means the Series 2009 Bonds Construction Trust Fund established by Section 5.01 hereof.

"Series 2009 B Bonds" means the Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), of the Issuer, authorized by this Bond Legislation.

"Series 2009 B Bonds Reserve Account" means the Series 2009 B Bonds Reserve Account established in Section 5.02 hereof.

"Series 2009 B Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2009 B Bonds in the then current or any succeeding year.

"Series 2009 B Bonds Sinking Fund" means the Series 2009 B Bonds Sinking Fund established by Section 5.02 hereof.

"Sinking Funds" means, collectively, the respective sinking fund accounts established for the Prior Bonds and the Series 2009 Bonds.

"State" means the State of West Virginia.

"Supplemental Resolution" means 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 authorizing the sale of the Series 2009 A Bonds and the Series 2009 B Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2009 A Bonds and Series 2009 B Bonds, and not so included may be included in another Supplemental Resolution.

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

"System" means the existing waterworks system of the Issuer, as expanded and improved by the Project, and includes the complete waterworks system of the Issuer and all waterworks facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the waterworks system; and shall also include any and all additions, extensions, improvements, properties or other facilities at any time acquired or constructed for the waterworks system after the completion of the Project.

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

"West Virginia DWTRF Program" means the West Virginia Drinking Water Treatment Revolving Fund Program established by the State, administered by BPH and funded by capitalized 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 acquisition, construction and improvement of drinking water projects.

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

## 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 not to exceed $6,112,180, and ordered in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2009 A Bonds and the Series 2009 B Bonds, hereby authorized, shall be applied as provided in Article VI hereof.

The cost of the Project is estimated not to exceed $6,112,180 of which not more than $3,000,000 will be obtained from proceeds of the Series 2009 A Bonds and not more than $3,000,000 will be obtained from the proceeds of the Series 2009 B Bonds and approximately $112,180 will be obtained as a grant from the West Virginia Infrastructure and Jobs Development Council.

## ARTICLE III

## AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF ARRA ASSISTANCE AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2009 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 2009 Bonds of the Issuer. The Series 2009 Bonds shall be issued in two series, each as a single bond, designated respectively as "Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program)", in the principal amount of not more than $3,000,000, and "Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA)", in the principal amount of not more than $3,000,000 and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2009 Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Series 2009 Bonds Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Series 2009 Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum, 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 a Supplemental Resolution or as specifically provided in the ARRA Assistance Agreement. The Series 2009 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 2009 Bonds, if any, shall be paid by check or draft of the Paying Agent or its 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 2009 Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 2009 Bonds. The Series 2009 Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series 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 be dated and shall bear interest, if any, as specified in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2009 Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Recorder. In case any one or more of the officers who shall have

signed or sealed the Series 2009 Bonds shall cease to be such officer of the Issuer before the Series 2009 Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any such 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 2009 Bonds 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 Bond 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 Series 2009 Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond 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 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2009 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 Holder, in accepting the Series 2009 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 Holder 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 the Series 2009 Bonds remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of such Bonds.

The registered Series 2009 Bonds shall be transferable only upon the books of the Bond 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 Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Series 2009 Bonds or transferring the registered Bonds are exercised, 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 cancelled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond 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 Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month next 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, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2009 Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond 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 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 Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond 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 2009 Bonds shall not, in any event, be or constitute a corporate 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 holder or holders of the Series 2009 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2009 Bonds or the 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 on the Series 2009 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. The Gross Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2009 Bonds and the Prior Bonds and to make all other payments hereinafter set forth, 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 2009 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2009 Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than the Authority, a list of the names in which the Series 2009 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2009 Bonds to the original purchasers;

C. An executed and certified copy of the Bond Legislation;

D. Executed copies of the ARRA Assistance Agreement; and

E. The unqualified approving opinion of bond counsel on the Series 2009 Bonds.

Section 3.10. Form of Bonds. The text of the Series 2009 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 2009 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF BATH
WATER REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-1 $_____

KNOW ALL MEN BY THESE PRESENTS: That on this the ____ day of _____, 2009, 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 shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, the principal of, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 200__, to and including _____ 1, 20____ as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference with interest payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____1, 20__ , to and including _____1, 20__, at the rate per annum as set forth on said EXHIBIT B.

Principal and interest installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, 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"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

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 ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated _____, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, the Project, and any further 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 West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 2009, and a Supplemental Resolution duly adopted by the Issuer on _____, 2009 (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 (1) WATER REFUNDING REVENUE BONDS, SERIES 2008 A (BB&T), DATED NOVEMBER 5, 2008, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1.091,000 (THE "SERIES 2008 A BONDS"); (2) WATER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA DWTRF PROGRAM), DATED AUGUST 29, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,250,000 (THE "SERIES 2006 A BONDS"); (3) WATER REVENUE BONDS, SERIES 2006 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED AUGUST 29, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,237,000 (THE "SERIES 2006 B BONDS"); AND (4) WATER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA DWTRF PROGRAM), DATED DECEMBER 9, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,150,000 (THE "SERIES 2002 A BONDS") (COLLECTIVELY REFERRED TO AS THE "PRIOR BONDS") AND (5) THE WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) DATED _____, 2009 ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $_____ (THE "SERIES 2009 B BONDS") ISSUED SIMULTANEOUSLY HEREWITH.

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 Gross Revenue in favor of the Holders of the Prior Bonds and the Series 2009 B Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2009 A Bonds Reserve Account"), and 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 which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, 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 monies in the Series 2009 A Bonds Reserve Account and unexpended proceeds of the Bonds. 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 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 payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds and the Series 2009 B Bonds; provided however, that so long as there exists in the Series 2009 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds and the Series 2009 B 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 the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds 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 by 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 payment of the costs of the Project and costs of issuance described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, 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 in 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 and interest on 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.

[Remainder of page intentionally blank]

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 as of the day and year first written above.

[SEAL]

_____
Mayor

ATTEST:

_____
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 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: _____, 2009.

THE HUNTINGTON NATIONAL BANK,
as Registrar

_____
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

| AMOUNT | DATE | AMOUNT | DATE |
|---|---|---|---|
| (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 of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, 20____.

_____

In the presence of:

_____

(FORM OF SERIES 2009 B BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF BATH
WATER REVENUE BONDS, SERIES 2009 B
(WEST VIRGINIA DWTRF PROGRAM/ARRA)

No. BR-1 $_____

KNOW ALL MEN BY THESE PRESENTS: That on this the ____ day of _____, 2009, 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 shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 20___ to and including _____ 1, 20___, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. This Bond shall not be subject to the SRF Administrative fee (as defined in the hereinafter describe Bond Legislation).

This Bond shall bear no interest. Principal installments of this Bond are forgivable quarterly as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

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 ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated _____, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, the Project, and any further 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 West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 2009, and a Supplemental Resolution duly adopted by the Issuer on _____, 2009 (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 (1) WATER REFUNDING REVENUE BONDS, SERIES 2008 A (BB&T), DATED NOVEMBER 5, 2008, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1.091,000 (THE "SERIES 2008 A BONDS"); (2) WATER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA DWTRF PROGRAM), DATED AUGUST 29, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,250,000 (THE "SERIES 2006 A BONDS"); (3) WATER REVENUE BONDS, SERIES 2006 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED AUGUST 29, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,237,000 (THE "SERIES 2006 B BONDS"); AND (4) WATER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA DWTRF PROGRAM), DATED DECEMBER 9, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,150,000 (THE "SERIES 2002 A BONDS") (COLLECTIVELY, THE "PRIOR BONDS") AND (5) THE WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM) DATED _____, 2009 ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $_____ (THE "SERIES 2009 A BONDS") ISSUED SIMULTANEOUSLY HEREWITH.

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 Gross Revenue in favor of the Holders of the Prior Bonds and the Series 2009 A Bonds, and 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 which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, 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 monies in the Series 2009 B Bonds Reserve Account and unexpended proceeds of the Bonds. 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 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 payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds and the Series 2009 A Bonds; provided however, that so long as there exists in the Series 2009 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds and the Series 2009 A 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 the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds 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 by 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 payment of the costs of the Project and costs of issuance described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, 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 in 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 and interest on 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.

[Remainder of page intentionally blank]

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 as of the day and year first written above.

[SEAL]

_____
Mayor

ATTEST:

_____
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 B 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: _____, 2009.

THE HUNTINGTON NATIONAL BANK,
as Registrar

_____
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

| AMOUNT | DATE | AMOUNT | DATE |
|---|---|---|---|
| (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 of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, 20___.

_____

In the presence of:

_____

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of ARRA Assistance Agreement. The Series 2009 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the ARRA Assistance Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the ARRA Assistance Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the ARRA Assistance Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The ARRA Assistance Agreement, including all schedules and exhibits attached thereto, is hereby approved and incorporated in this Bond Legislation.

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

## ARTICLE IV

**[RESERVED]**

## ARTICLE V

## FUNDS AND ACCOUNTS; 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 established by the Prior Ordinance) and shall be held by the Depository Bank, separate and apart from all other funds or accounts of the Depository Bank or the Issuer and from each other:

(1) Revenue Fund (established by the Prior Ordinance);

(2) Renewal and Replacement Fund (established by the Prior Ordinance); and

(3) Series 2009 Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created (or continued if previously established by Prior Ordinance) with and shall be held by the Commission, separate and apart from all other funds or accounts of the Commission or the Issuer and from each other:

(1) Series 2002 A Bonds Sinking Fund (established by Prior Ordinance and continued hereby);

(2) Series 2002 A Bonds Reserve Account (established by Prior Ordinance and continued hereby);

(3) Series 2006 A Bonds Sinking Fund (established by Prior Ordinance and continued hereby);

(4) Series 2006 A Bonds Reserve Account (established by Prior Ordinance and continued hereby);

(5) Series 2006 B Bonds Sinking Fund (established by Prior Ordinance and continued hereby);

(6) Series 2006 B Bonds Reserve Account (established by Prior Ordinance and continued hereby);

(7) Series 2008 A Bonds Sinking Fund (established by Prior Ordinance and continued hereby);

(8) Series 2008 A Bonds Reserve Account (established by Prior Ordinance and continued hereby);

(9) Series 2009 A Bonds Sinking Fund;

(10) Series 2009 A Bonds Reserve Account;

(11) Series 2009 B Bonds Reserve Account; and

(12) Series 2009 B Bonds Sinking Fund.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited upon receipt by the Issuer 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 provided in this Bond Legislation. All monies in the Revenue Fund shall be disposed of only in the following manner and order of priority:

(1) The Issuer shall first, on the first of each month, transfer from the Revenue Account and remit to the Commission the amounts required to pay the interest, on the Series 2008 A Bonds.

(2) The Issuer shall next, on the first of each month, transfer from the Revenue Account and remit to the Commission (i) the amounts required to pay the principal, on the Prior Bonds as required by Prior Ordinance; and (ii) remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2009 A Bonds, for deposit in the Series 2009 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2009 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 2009 A Bonds Sinking Fund and the next quarterly principal payment date is less than 4 months, then such monthly payments 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; and (iii) remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2009 B Bonds, for deposit in the Series 2009 B Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2009 B 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 2009 B Bonds Sinking Fund and the next quarterly principal payment date is less than 4 months, then such monthly payments 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, each month, pay from the monies in the Revenue Fund all current Operating Expenses.

(4) The Issuer shall next, on the first of each month, transfer from the Revenue Account and remit to the Commission, (i) the amounts required for deposit into the respective Reserve Fund for the Prior Bonds; (ii) commencing 4 months prior to the first date of payment of principal of the Series 2009 A Bonds, if not fully funded upon issuance of the Series 2009 A Bonds, for deposit in the Series

2009 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 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 2009 A Bonds Reserve Requirement; and (iii) commencing 4 months prior to the first date of payment of principal of the Series 2009 B Bonds, if not fully funded upon issuance of the Series 2009 B Bonds, for deposit in the Series 2009 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 B Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 B 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 2009 B Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, from the monies remaining in the Revenue Fund, transfer to the Renewal and Replacement Fund, a sum equal to 2 ½% of the Gross Revenues each month (as previously set forth in the Prior Ordinances 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 monies from the Renewal and Replacement Fund.

(6) After all the foregoing provisions for use of monies in the Revenue Fund have been fully complied with, any monies remaining therein and not permitted to be retained therein may be used to prepay installments of the Prior Bonds and the Series 2009 Bonds, pro rata, or for any lawful purpose.

Monies in the Series 2009 A Bonds Sinking Fund and the Series 2009 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2009 Bonds as the same shall become due. Monies in the Series 2009 A Bonds Reserve Account and the Series 2009 B Bonds Reserve Account shall be used only for the purposes of paying principal of and interest, if any, on the Series 2009 Bonds as the same shall come due, when other monies in the Series 2009 A Bonds Sinking Fund and the Series 2009 B Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2009 A Bonds Sinking Fund, the Series 2009 B Sinking Fund, the Series 2009 A Bonds Reserve Account and the Series 2009 B Bonds Reserve Account shall be returned, 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 2009 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, if any,

due on the Series 2009 Bonds and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Series 2009 A Bonds Reserve Account or the Series 2009 B Bonds Reserve Account which result in a reduction in the balance of such accounts to below the respective Reserve Requirements, shall be subsequently restored from the first Gross Revenues available after all required payments have been made in full in the priority as set forth above, all on a prorata basis.

As and when additional Bonds ranking on a parity with the Series 2009 Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve account in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Series 2009 A Bonds Sinking Fund, the Series 2009 B Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account or the Series 2009 B Bonds Reserve Account, when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2009 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Principal, interest 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, the Series 2009 A Bonds and the Series 2009 B Bonds, in accordance with the principal amounts then outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2009 A Bonds Sinking Fund, the Series 2009 B Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account and the Series 2009 B Bonds Reserve Account, created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. The Issuer shall make the necessary arrangements whereby required payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the Series 2009 A Bonds Sinking Fund, the Series 2009 B Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account and the Series 2009 B Bonds Reserve Account, shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2009 A Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Sinking Fund and the Series 2009 B Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2009 Bonds 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 principal, interest, if any, and reserve payments with respect to the Series 2009 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. 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) deposit with the Commission the Administrative Fee as set forth in the Schedule Y attached to the ARRA Assistance Agreement for the Series 2009 Bonds.

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as herein above 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 other period as required by law, such excess shall be considered as surplus revenues (the "Surplus Revenues"). Surplus Revenues may be used for any lawful purpose of the System.

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

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay their respective charges and fees then due. In the case of payments to the Commission under this Section, the Issuer shall, if required by the Authority at anytime, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

F. The monies in excess of the sum insured by 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.

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as herein above 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; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03, and the Gross Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

## ARTICLE VI

## BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the monies received from the sale of the Series 2009 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2009 Bonds, there shall be deposited with the Commission in the respective Bonds Reserve Accounts, the amount, if any, set forth in the Supplemental Resolution for funding of the respective Bonds Reserve Account.

B. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2009 A Bonds, such monies shall be deposited with the Depository Bank in the Series 2009 Bonds Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and, until so expended, are hereby pledged as additional security for the Series 2009 A Bonds.

C. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2009 B Bonds, such monies shall be deposited with the Depository Bank in the Series 2009 Bonds Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and, until so expended, are hereby pledged as additional security for the Series 2009 B Bonds.

D. 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 2009 Bonds shall be expended as approved by the BPH.

Section 6.02. Disbursement from the 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 net proceeds of the Series 2009 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for the costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 2009 Bonds Construction Trust Fund shall be made only after submission to the approval from the BPH, of the a certificate, signed by an Authorized Officer stating that:

(A) None of the items for which the payment is proposed to be made has formed the basis for any disbursement 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, monies in the Series 2009 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 of 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 2009 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 2009 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 the Series 2009 Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2009 Bonds shall not be nor constitute a corporate 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 the Series 2009 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2009 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 on the Series 2009 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. The Gross Revenues in an amount sufficient to pay the principal of and interest, if any, on the Series 2009 Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, 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 and the Issuer shall provide an opinion of counsel to such effect. Such rates and charges shall be sufficient to comply with the requirements of the ARRA Assistance Agreement and the Issuer shall provide a certificate of certified public accountant to such effect. The initial schedule of rates and charges for the services of the facilities of the System shall be as set forth in the water rate ordinance of the Issuer enacted April 7, 2009, which rates are incorporated herein by reference as a part hereof.

So long as the Series 2009 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 the Bond Legislation and in compliance with the ARRA Assistance Agreement. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2009 Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the ARRA Assistance 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, fees 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 ARRA Assistance Agreement.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, lease, mortgage or in any manner dispose of or encumber the System, or any part thereof, except as provided in the Prior Ordinance and as provided herein and with the written consent of the Authority and the BPH. So long as the Series 2009 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 Outstanding, in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2009 Bonds, immediately be remitted to the Commission for deposit in the Series 2009 A Bonds Sinking Fund, and the Series 2009 B Bonds Sinking Fund respectively and pro rata with respect to the principal amount of each of the Bonds then outstanding and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 2009 A Bonds and the Series 2009 B Bonds in accordance with Article X hereof. Any balance remaining after the payment of 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 is not in excess of $10,000, the Issuer shall, by resolution duly adopted, 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 of 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 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 may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property in accordance with the laws of the State. 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 deposited in the Renewal and Replacement Fund. The payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Bond Legislation.

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 $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 as 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 2009 Bonds. All obligations issued by the Issuer after the issuance of the Series 2009 Bonds and 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 Series 2009 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 being on a parity with the lien of the Series 2009 Bonds, and the interest, if any, thereon, upon any of the income and revenues of the System pledged for payment of the Series 2009 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 additional Parity Bonds payable out of the revenues of the System, shall be issued after the issuance of the Series 2009 Bonds pursuant to this Ordinance, without the prior written consent of the Authority and the BPH and without complying with the conditions and requirements herein provided (unless less restrictive than the provisions of the Prior Ordinance).

All Parity Bonds issued hereafter shall be on a parity in all respects with the Series 2009 Bonds.

No Parity Bonds shall be issued except for the purposes of financing the costs of design, acquisition and construction of additions, betterments or improvements to the System or refunding the Bonds issued pursuant hereto, or both such purposes.

No such 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 Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of such additional Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall be not less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal 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 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 (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) 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 of the Issuer prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period herein above 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, as stated in a certificate filed with the Recorder, 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 (without successful appeal) prior to issuance of such Parity Bonds.

All the 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 2009 Bonds and the Holders of any Parity Bonds theretofore or 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 lien on the revenues of the System, and their source 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 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 on the revenues of the System of which is subject to the prior and superior lien of the Series 2009 Bonds on such revenues. Any such subordinate bonds, notes, certificates or other obligations shall be payable from the revenues remaining after all payments required to be made in accordance with this Bond Legislation have first been paid. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or equally, as to lien and source of and security for payment from such revenues, with the Series 2009 Bonds except in the manner and under the conditions provided in this section.

No Parity Bonds shall be issued at any time, however, unless all of 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 issuance of the Parity Bonds and the Issuer is then in full compliance with all the covenants, agreements and terms of this Bond Legislation and every

ordinance supplemental thereto, or shall have fully corrected any delinquency or deficiency in such payments.

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 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 this 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 and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and 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 Issuer shall direct.

The Issuer shall file with the Authority and the BPH, or any other original purchaser of the Series 2009 Bonds, and shall mail in each year to any Holder or Holders of the Series 2009 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 audited by Independent Certified Public Accountants (and to the extent legally required in compliance with the applicable OMB Circular, or any successor thereof, and the Single Audit Act, or any successor thereof), and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2009 Bonds and shall submit the report to the Authority and the BPH, or any other original purchaser of the Series 2009 Bonds. Such audit report submitted to the Authority and the BPH shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the ARRA Assistance Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the ARRA Assistance 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 and 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.

Section 7.09. Rates. Prior to the issuance of the Series 2009 Bonds, rates or charges for the use of the services and facilities of the System will be fixed and established, all in the manner and form required by law, and a copy of such rates and charges so fixed and established shall at all times be kept on file in the office of the Recorder of the Issuer, which copy will be open to inspection by all interested parties. The schedule or schedules 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 and accounts created hereunder. Such schedule or schedules of rates and charges shall be revised from time to time, 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 or schedules of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System, (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 year for payment of principal of and interest, if any, on the Series 2009 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2009 Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirement are on deposit respectively in the Series 2009 A Bonds Reserve Account and Series 2009 B Bonds Reserve Account and reserve accounts for obligations on a parity with the Series 2009 Bonds, including the Prior Bonds, are funded at least at the

requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2009 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2009 Bonds, including the Prior Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance currently in effect.

The Issuer hereby covenants to commence enactment of such ordinance or ordinances as shall be required to increase the rates and charges for the services and facilities of the System within 30 days following a determination of the Issuer that less than the above-required coverage exists or in the event that the annual audit report shows less than the above-required coverage, such increase to provide rates and charges sufficient to produce such required coverage.

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 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 registered 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 registered 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 to any Holder of any Bonds who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her 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 in behalf of such Holder of any Bonds.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for two years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the ARRA Assistance Agreement, and forward a copy of such report to the Authority and the BPH by the 10th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers in the form attached to the ARRA Assistance Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Authority and the BPH, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the 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.

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 that construction of the Project 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 As-Built Plans, as defined in the DWTRF Regulations, to the Issuer 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 the final Operation and Maintenance Manual, as defined in the DWTRF Regulations, to the Issuer when the Project is 90% completed. The Issuer shall at all times provide operation and maintenance of the System in compliance with 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 ARRA Assistance 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 legally allowable, 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, 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, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and 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 the rules and regulations of the Public Service Commission of West Virginia, 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 the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services until all delinquent charges for the services 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 the 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 either shall avail itself or themselves 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. 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 2009 Bonds remain Outstanding, the Issuer will, 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 greater of the fair appraised value or 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. In the event of any damage to or destruction of any portion of the System, the proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repair or reconstruction of such damages or destroyed portion 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 ARRA Assistance 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 prime contractor 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 not less than 100% of the amount of any construction contract and to be required of each contractor dealing 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 any additions, extensions or

improvements for the System in compliance with West Virginia Code, Section 38-2-39.

(4) FIDELITY BONDS will be provided as to every officer and employee of the Board or 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.

(5) 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.

(6) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

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 Authority and the BPH, and the Issuer shall verify such insurance prior to commencement of construction. In the event the ARRA Assistance 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.

Section 7.16. Connections. To the extent permitted by the laws of the State and rules and regulations of the Public Service Commission of West Virginia, 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 of Project; Permits and Orders. The Issuer will 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 will obtain all permits required by state and federal laws for the acquisition and construction of the Project, all orders and approvals from the Public Service Commission of West Virginia, the West Virginia Infrastructure and Jobs Development Council and the BPH necessary for the acquisition and construction of the Project and the operation of the System and all approvals for the issuance of the Series 2009 Bonds required by State law, with all appeal periods having expired without successful appeal.

Section 7.18. Compliance with ARRA Assistance Agreement and Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the ARRA Assistance Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer will provide the BPH with copies of all documents submitted to the Authority. The Issuer also agrees 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 the operation, maintenance and use of the System.

Section 7.19. [RESERVED]

Section 7.20. Securities Law Compliance. The Issuer will 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; Change Orders; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2009 Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. 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 2009 Bonds held in "contingency" as set forth in the schedule attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the BPH before expending any proceeds of the Series 2009 Bonds made available due to bid or construction or project underruns.

C. The Issuer shall list the funding as being 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.

Section 7.22. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2009 Bonds, 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, shall take effect immediately upon delivery of the Series 2009 Bonds and shall be on a parity with the statutory mortgage lien in favor of the Holders of the Prior Bonds.

## ARTICLE VIII

## INVESTMENT OF FUNDS

Section 8.01. Investments. Any monies 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 monies for the purposes set forth herein and the specific 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 monies 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, 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 on such liquidation. The Depository Bank or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own investment or 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 as reasonably 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 2009 Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest, if any, on the Series 2009 Bonds from gross income for federal income tax purposes.

Section 8.02. Certificate as to Use Proceeds; Covenants 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 2009 Bonds as a condition to issuance of the Series 2009 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 2009 Bonds as may be necessary in order to maintain the status of the Series 2009 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 2009 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, or the BPH, as the case may be, from which the proceeds of the Series 2009 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, or the BPH, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Ordinance.

The Issuer shall annually furnish to the Authority, information with respect to the Issuer's use of the proceeds of the Series 2009 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 2009 Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on any Series 2009 Bonds;

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2009 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2009 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, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond;

(3) 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

(4) 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 of a Bond 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 Registered Owners of the Series 2009 Bonds shall be on a parity with those of the Registered Owners of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond 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 and after commencement of operation of the System, 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 with respect to such Bonds, any Registered Owner of a Bond 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 Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply

such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and 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 this 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 herein above conferred upon him or her or it, 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 may be 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 Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this 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, assign, 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 there shall otherwise be paid, to the Holders of the Series 2009 Bonds, the principal of and interest, if any, due or to become due thereon, if any, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Gross Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2009 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2009 Bonds from gross income for federal income tax purposes.

## ARTICLE XI

## MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2009 Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2009 Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2009 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2009 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 2009 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 funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2009 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 excludability of interest on the Series 2009 Bonds from gross income of the holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Bonds, and no change, variation or alteration of any kind of the provisions of the 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 Ordinance 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 Ordinance, the Supplemental Resolution or the Series 2009 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. Notices. All notices to be sent to the Issuer, the Authority or the BPH shall be in writing and shall be deemed to have been given when delivered in person or mailed by first class mail, postage prepaid, addressed as follows:

ISSUER:

Town of Bath
271 Wilkes Street, Suite A
Berkeley Springs, West Virginia 25411
Attention: Mayor

AUTHORITY:

Water Development Authority
180 Association Drive
Charleston, West Virginia 25311-1571
Attention: Director

BPH:

West Virginia Bureau for Public Health
One Davis Square, Suite 200
Charleston, West Virginia 25301
Attention: Environmental Engineering

All notices to be sent to the BPH hereunder, shall also be sent to the Authority.

Section 11.06. Conflicting Provisions Repealed. All ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed; provided that, this Section shall not be applicable to the Prior Ordinance. In the event of any conflict between this Ordinance and the Prior Ordinance, the Prior Ordinance shall control (unless less restrictive) so long as the Prior Bonds are outstanding.

Section 11.07. Covenant of Due Procedure, Etc. 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 adoption 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 the Governing Body 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 11.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in *The Morgan Messenger,* a newspaper of general circulation in the Town of Bath, there being no newspaper published therein, 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 Governing Body upon a date certain, 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 Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Section 11.09 Effective Date. This Ordinance shall take effect immediately following the public hearing hereon.

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| Passed on First Reading: | August 21, 2009 |
| Passed on Second Reading: | September 1, 2009 |
| Passed on Final Reading Following Public Hearing: | October 6, 2009 |

Susan Webster
Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the TOWN OF BATH on the 6th day of October, 2009.

Dated: October 29, 2009.

[SEAL]

Recorder

EXHIBIT A

ARRA Assistance Agreement included in bond transcript as Document 3

TOWN OF BATH

Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE WATER REVENUE BONDS SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM), AND WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) OF THE TOWN OF BATH; APPROVING AND RATIFYING THE ARRA ASSISTANCE AGREEMENTS 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 adopted and enacted a bond ordinance, effective October 6, 2009 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE TOWN OF BATH AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE TOWN OF BATH OF NOT MORE THAN $3,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM); AND NOT MORE THAN $3,000,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR



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THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING ARRA ASSISTANCE 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, 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 Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) in an aggregate principal amount not to exceed $3,000,000 (the "Series 2009 A Bonds") and Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) in an aggregate principal amount not to exceed $3,000,000 (the "Series 2009 B Bonds" and together with the Series 2009 A Bonds, the "Series 2009 Bonds"), and has authorized the execution and delivery of the ARRA Assistance Agreement relating to the Series 2009 A Bonds and Series 2009 B Bonds, including all schedules and exhibits attached thereto, by and between the Issuer and the West Virginia Water Development Authority (the "Authority"),on behalf of the West Virginia Bureau for Public Health for the Series 2009 A Bonds and Series 2009 B Bonds (the "ARRA Assistance Agreement"), all in accordance with Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), and in the Bond Ordinance it is provided that the form of the ARRA Assistance Agreement and the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of the Series 2009 Bonds should be established by a supplemental resolution pertaining to the Series 2009 Bonds; and that other matters relating to the Bonds be herein provided for;

WHEREAS, the ARRA Assistance Agreement has been presented to the Issuer;

WHEREAS, the Bonds are proposed to be purchased by the Authority pursuant to the ARRA Assistance Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the ARRA Assistance Agreements be approved and ratified by the Issuer, that the exact principal amounts, the dates, the maturity dates, the redemption provisions, the interest rates, the interest and principal payment dates and the sale price 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 TOWN OF BATH:

Section 1. Section 2.01 of the Ordinance is hereby revised in its entirety 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 $4,500,000, and ordered in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2009 A Bonds and the Series 2009 B Bonds, hereby authorized, shall be applied as provided in Article VI hereof.

The cost of the Project is estimated not to exceed $4,500,000 of which $2,193,910 will be obtained from proceeds of the Series 2009 A Bonds, $2,193,910 will be obtained from the proceeds of the Series 2009 B Bonds and $112,180 will be obtained from a grant from the West Virginia Infrastructure Fund.

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 2009 A (West Virginia DWTRF Program), of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of $2,193,910. The Series 2009 A Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2041, and shall bear no interest. The principal of the Series 2009 A Bonds shall be payable quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011 to and including March 1, 2041, and in the amounts as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Series 2009 A Bonds. The Series 2009 A Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2009 A Bonds. The Series 2009 A Bonds are not subject to the Administrative Fee as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement.

Section 3. 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 2009 B (West Virginia DWTRF Program/ARRA), of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of $2,193,910. The Series 2009 B Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2021, and shall bear no interest. The principal of the Series 2009 B Bonds shall be forgivable quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011 to and including March 1, 2021, and in the amounts as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Series 2009 B Bonds. The Series 2009 B Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2009 B Bonds. The Series 2009 B Bonds are not subject to the Administrative Fee as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement.

Section 4. All other provisions relating to the Series 2009 Bonds and the text of each series of the Series 2009 Bonds shall be in substantially the form provided in the Bond Ordinance.

Section 5. The Issuer does hereby authorize, approve, ratify and accept the ARRA Assistance Agreement, copy of which is incorporated herein by reference, and the execution and delivery of the ARRA Assistance 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 accepts and agrees to all covenants and representations made in the ARRA Assistance Agreement and in the applications to the Authority and the BPH. The price of the Series 2009 Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Series 2009 Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 6. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Bond Ordinance and does approve and accept 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, approved and directed.

Section 7. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Bond Ordinance.

Section 8. The Issuer does hereby appoint and designate CNB Bank, Inc., Berkeley Springs, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 9. Series 2009 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 2009 A Bonds Sinking Fund, as capitalized interest.

Section 10. Series 2009 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 2009 A Bonds Reserve Account.

Section 11. The balance of the proceeds of the Series 2009 A Bonds shall be deposited in or credited to the Series 2009 Bonds Construction Trust Fund as received from the BPH from time to time for payment of the costs of the Project, including, without limitation, costs of issuance of the Series 2009 A Bonds and related costs.

Section 12. Series 2009 B Bonds proceeds in the amount of $-0- shall be deposited in the Series 2009 B Bonds Sinking Fund, as capitalized interest.

Section 13. Series 2009 B Bonds proceeds in the amount of $-0- shall be deposited in the Series 2009 B Bonds Reserve Account.

Section 14. The balance of the proceeds of the Series 2009 B Bonds shall be deposited in or credited to the Series 2009 Bonds Construction Trust Fund as received from the

BPH from time to time for payment of the costs of the Project, including, without limitation, costs of issuance of the Series 2009 B Bonds and related costs.

Section 15. The Mayor and the 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 on or about, October 29, 2009, to the Authority pursuant to the ARRA Assistance Agreement.

Section 16. The Special Conditions of the ARRA Assistance Agreement are attached as Exhibit A and hereby accepted and incorporated herein.

Section 17. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Series 2009 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 18. The Issuer does hereby approve and authorize all contracts relating to the financing, acquisition and construction of the Project.

Section 19. The Issuer hereby determines to invest all monies in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Monies in the Series 2009 A Sinking Fund and the Series 2009 B Sinking Fund shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 20. The Issuer shall serve the additional customers at the locations(s) as set forth in Certificate of Engineer. The Issuer shall not reduce the amount of additional customers served by the project without the prior written approval of the Board of the Water Development Authority (the "Authority"). Following completion of the Project the Issuer shall certify to the Authority the number of customers added to the System.

Section 21. The Issuer shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia.

Section 22. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 20th day of October, 2009.

By: _____
Its: Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the Town of Bath on the 20th of October, 2009.

Dated: October 29, 2009.

[SEAL]

Recorder

10.05.09
055550.00002



CH5258429.2

## EXHIBIT A

## SPECIAL CONDITIONS – ARRA FUNDED PROJECTS

A. PUBLIC RELEASE REQUIREMENT – 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 o 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.

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi) – Effective October 1, 2003, the Local Entity that receives $500,000 or more (in federal funds) in a fiscal year must obtain audits in accordance with the Single Audit Act and the applicable OMB Circular or any successor thereto. Financial statement audits are required once all fund have been received by the Local Entity.

C. BUY AMERICAN CERTIFICATION – The Local Entity shall cause the contractor(s) to comply with, and provide certification of, the Buy American provisions of the ARRA in accordance with final guidance from the EPA.

D. ASSET MANAGEMENT – The Local Entity shall develop and implement an asset management plan in accordance with guidelines issued by BPH and as approved by BPH.

E. CONTRACTS – The Local Entity shall enter into contracts or commence construction by February 17, 2010.

F. LOGO – The Local Entity must display the ARRA logo in a manner that informs the public that the project is an ARRA investment.

G. LOBBYING – The Local Entity shall comply with Title 40 CFR Part 34, New Restrictions on Lobbying and shall submit certification and disclosure forms as required by BPH.

H. PURCHASING REQUIREMENTS – The Local Entity shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C.6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds $10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was $10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

I. SUSPENSION AND DEBARMENT – The Local Entity shall comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants

Regarding Transactions (Doing Business with Other Persons). To the extent required by BPH, the Local Entity shall provide certifications as to compliance.

J. REPORTING – The Local Entity shall comply with all requests for data related to the use of the funds provided under this agreement, including the information required in section 1512 of ARRA when requested by BPH.

K. INSPECTOR GENERAL REVIEWS – The Local Entity shall allow any appropriate representative of the Office of US Inspector General to (1) examine its records relating to the Project and this ARRA Assistance Agreement and (2) interview any officer or employee of the Local Entity.

L. FALSE CLAIMS – The Local Entity must promptly refer to EPA's Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this ARRA Assistance Agreement.

M. LIMIT ON FUNDS – The Local Entity shall not use funds for particular activities for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

N. WAGE RATES – The Local Entity shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 32 of title 40, United States Code. The Local Entity must require that contractors and subcontractors obtain wage determinations form DOL and comply with DOL guidance and regulations implementing wage rate requirements applicable to ARRA funds.

O. OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE – The Local Entity acknowledges and agrees that this ARRA Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on www.recovery.gov, and any subsequent guidance documents issued by OMB.

P. DISADVANTAGED BUSINESS ENTERPRISE – Pursuant to 40 CFR, Section 33.301, the Local Entity agrees to make good faith efforts whenever procuring construction, equipment, services and supplies, and to require that prime contractors also comply. The Local Entity shall provide BPH with MBE/WBE participation reports semi-annually.

Q. CIVIL RIGHTS – The Local Entity shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific

statutes with nondiscrimination requirements. The Local Entity shall also comply with Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and Local Entities, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

R. BOND DESIGNATION – Each Local Bond shall be designated "Series [2009]B" and shall contain "(WVCWSRF Program/ARRA)" in the bond name.

S. USER RATES – The Local Entity shall covenant that it will not reduce its approved customer rates fro at least eighteen months after completion of the Project or (a) until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses or (b) new rates have been established by order of the Public Service Commission. The Local Entity shall notify the Authority and the BPH of any action to reduce rates during the eighteen months following completion of construction of the Project.

DWTRF – ARRA
(08/09)

# ARRA ASSISTANCE AGREEMENT

THIS DRINKING WATER TREATMENT REVOLVING FUND ARRA ASSISTANCE AGREEMENT (the "ARRA Assistance 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
(2008W-1052)

W I T N E S S E T H:

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, the United States Congress has provided additional capitalization grant funding under the Clean Water Act through the American Recovery and Reinvestment Act of 2009 (the "ARRA");

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 and funding assistance to eligible Local Entities pursuant to the Safe Drinking Water Act and the ARRA;

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 ARRA provides that at least fifty percent (50%) of the funds provided through the capitalization grant be provided as negative interest loans or principal forgiveness (the "ARRA Assistance");

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, the ARRA 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, the ARRA, 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 ARRA Assistance 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 ARRA Assistance 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 ARRA Assistance 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 ARRA Assistance 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.

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 ARRA Assistance 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.

2.14 The Local Entity shall serve the additional customers, if any, at the location(s) as set forth in Schedule X. The Local Entity shall not reduce the number of additional customers served by the project without the prior written approval of the Authority Board. Following completion of the Project the Local Entity shall certify to the Authority the number of customers added to the System.

2.15 The Local Entity shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia (the "PSC").

## 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 ARRA Assistance 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 PSC and the West Virginia Infrastructure and Jobs Development Council (the "IJDC") 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 ARRA Assistance 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 ARRA Assistance 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 ARRA Assistance 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 ARRA Assistance 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 ARRA Assistance 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 $500,000 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 notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether 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. When required by the Authority, the Local Entity shall make monthly payments to the Commission by electronic transfer;

(xviii) That, if required by the Authority and BPH and, 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 two and one half percent (2.5%) 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 ARRA Assistance 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 ARRA Assistance 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 ARRA Assistance Agreement.

5.3 In the event the Local Entity defaults in any payment due to the Authority pursuant to this ARRA Assistance 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 ARRA Assistance 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 ARRA Assistance Agreement.

6.2 The Local Entity hereby warrants and represents that all information provided to the Authority and BPH in this ARRA Assistance 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 ARRA Assistance 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 ARRA Assistance 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, if required by the Authority and BPH, 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 therefore.

## ARTICLE VII

## Miscellaneous

7.1 Schedules X and Y shall be attached to this ARRA Assistance 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 ARRA Assistance 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 ARRA Assistance Agreement, and this ARRA Assistance Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

7.3 This ARRA Assistance 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 ARRA Assistance Agreement.

7.4 No waiver by any party of any term or condition of this ARRA Assistance 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 ARRA Assistance Agreement.

7.5 This ARRA Assistance 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 ARRA Assistance 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 ARRA Assistance Agreement shall terminate upon the earlier of:

(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 ARRA Assistance Agreement included in its budget. Non-funding of the Loan shall not be considered an event of default under this ARRA Assistance Agreement.

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

TOWN OF BATH

(SEAL)

By: _____
Its: Mayor
Date: October 29, 2009

Attest:

_____
Its: Recorder

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

(SEAL)

By: _____
Its: Executive Director
Date: October 29, 2009

Attest:

_____
Its: Secretary-Treasurer

{C1615811.1}

EXHIBIT A

MONTHLY FINANCIAL REPORT

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

| Item | Current Month | Total Year To Date | Budget Year To Date | Budget Year To Date Minus Total Year To Date |
|---|---|---|---|---|
| 1. Gross Revenues | | | | |
| 2. Operating Expenses | | | | |
| 3. Bond Payments: | | | | |
| Type of Issue | | | | |
| 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

**- WATER TREATMENT UPGRADE PROJECT**

**DWTRF FUNDING**

| | CLASSIFICATION | APPROVED BUDGET | ADJUSTMENTS | REVISED BUDGET | PAID PRIOR TO THIS DRAW | REQUESTED THIS REQUEST | PAID TO DATE | BALANCE REMAINING |
|---|---|---|---|---|---|---|---|---|
| 1 | Construction & Cons. Cont. | | | | | | | |
| | a. Contract 1 - Contractor Name | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | b. Contract 2 - Contractor Name | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | c. Contract 3 - Contractor Name | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | g. Construction contingency | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2 | Technical Services | | | | | | | |
| | a. Basic Engineering Design | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | b. Inspection | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | c. Special Services | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 3 | Legal/Fiscal | | | | | | | |
| | a. Legal | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | b. Accounting | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4 | Administrative | | | | | | | |
| | a. Administrative Expenses | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | b. Tap Fees | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | c. Accounting | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | d. Registrar Fee | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 5 | Sites & Other Lands | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 6 | WV DOH Fees | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 7 | Interest | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 8 | Contingency | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 9 | Miscellaneous (Equipment) | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 10 | TOTAL of Lines 1 through 9 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

**OTHER FUNDING**

| | CLASSIFICATION | APPROVED BUDGET | ADJUSTMENTS | REVISED BUDGET | PAID PRIOR TO THIS DRAW | REQUESTED THIS REQUEST | PAID TO DATE | BALANCE REMAINING |
|---|---|---|---|---|---|---|---|---|
| 1 | Construction & Cons. Cont. | | | | | | | |
| | a. Contract 1 - Contractor Name | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | b. Contract 2 - Contractor Name | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | c. Contract 3 - Contractor Name | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | g. Construction contingency | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2 | Technical Services | | | | | | | |
| | a. Basic Engineering Design | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | b. Inspection | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | c. Special Services | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 3 | Legal/Fiscal | | | | | | | |
| | a. Legal | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | b. Accounting | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4 | Administrative | | | | | | | |
| | a. Administrative Expenses | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | b. Tap Fees | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | c. Accounting | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | d. Registrar Fee | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 5 | Sites & Other Lands | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 6 | WV DOH Fees | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 7 | Interest | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 8 | Contingency | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 9 | Miscellaneous (Equipment) | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 10 | TOTAL of Lines 1 through 9 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

## TOTAL FUNDING

| | CLASSIFICATION | APPROVED BUDGET | ADJUSTMENTS | REVISED BUDGET | PAID PRIOR TO THIS DRAW | REQUESTED THIS REQUEST | PAID TO DATE | BALANCE REMAINING |
|---|---|---|---|---|---|---|---|---|
| 1 | Construction & Cons. Cont. | | | | | | | |
| | a. Contract 1 - Contractor Name | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | b. Contract 2 - Contractor Name | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | c. Contract 3 - Contractor Name | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | g. Construction contingency | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2 | Technical Services | | | | | | | |
| | a. Basic Engineering Design | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | b. Inspection | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | c. Special Services | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 3 | Legal/Fiscal | | | | | | | |
| | a. Legal | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | b. Accounting | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4 | Administrative | | | | | | | |
| | a. Administrative Expenses | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | b. Tap Fees | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | c. Accounting | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | d. Registrar Fee | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 5 | Sites & Other Lands | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 6 | WV DOH Fees | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 7 | Interest | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 8 | Contingency | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 9 | Miscellaneous (Equipment) | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 10 | TOTAL of Lines 1 through 9 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

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 ARRA Assistance 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 B attached hereto as Exhibit A, and my firm[1] has ascertained that all successful bidders have made required provisions

[1]If another responsible party, such as the Issuer's attorney, reviews the insurance and payment bonds, then

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 thereof[2], the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the ARRA Assistance 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 B - 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. _____

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insert the following: [and in reliance upon the opinion of _____, Esq.] and delete "my firm has ascertained that".

[2]If 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 – BASE PROGRAM

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.

The Local Entity shall complete the form attached as Exhibit D-1 and submit to the BPH prior to the Closing.

SPECIAL CONDITIONS – ARRA FUNDED PROJECTS

The Local Entity shall include the following covenants in its bond authorizing documents:

A. PUBLIC RELEASE REQUIREMENT – 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.

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi)) – Effective October 1, 2003, the Local Entity that receives $500,000 or more (in federal funds) in a fiscal year must obtain audits in accordance with the Single Audit Act and the applicable OMB Circular or any successor thereto. Financial statement audits are required once all funds have been received by the Local Entity.

C. BUY AMERICAN CERTIFICATION – The Local Entity shall cause the contractor(s) to comply with, and provide certification of, the Buy American provisions of the ARRA in accordance with final guidance from the EPA.

D. ASSET MANAGEMENT – The Local Entity shall develop and implement an asset management plan in accordance with guidelines issued by BPH and as approved by BPH.

E. CONTRACTS – The Local Entity shall enter into contracts or commence construction by February 17, 2010.

F. LOGO – The Local Entity must display the ARRA logo in a manner that informs the public that the project is an ARRA investment.

G. LOBBYING - The Local Entity shall comply with Title 40 CFR Part 34, New Restrictions on Lobbying and shall submit certification and disclosure forms as required by BPH.

H. PURCHASING REQUIREMENTS – The Local Entity shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds $10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was $10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

I. SUSPENSION AND DEBARMENT – The Local Entity shall comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons). To the extent required by BPH, the Local Entity shall provide certifications as to compliance.

J. REPORTING – The Local Entity shall comply with all requests for data related to the use of the funds provided under this agreement, including the information required in section 1512 of ARRA when requested by BPH.

K. INSPECTOR GENERAL REVIEWS – The Local Entity shall allow any appropriate representative of the Office of US Inspector General to (1) examine its records relating to the Project and this ARRA Assistance Agreement and (2) interview any officer or employee of the Local Entity.

L. FALSE CLAIMS – The Local Entity must promptly refer to EPA's Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws

pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this ARRA Assistance Agreement.

M. LIMIT ON FUNDS – The Local Entity shall not use funds for particular activities for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

N. WAGE RATES – The Local Entity shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 32 of title 40, United States Code. The Local Entity must require that contractors and subcontractors obtain wage determinations from DOL and comply with DOL guidance and regulations implementing wage rate requirements applicable to ARRA funds.

O. OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE – The Local Entity acknowledges and agrees that this ARRA Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on www.recovery.gov, and any subsequent guidance documents issued by OMB.

P. DISADVANTAGED BUSINESS ENTERPRISE – Pursuant to 40 CFR, Section 33.301, the Local Entity agrees to make good faith efforts whenever procuring construction, equipment, services and supplies, and to require that prime contractors also comply. The Local Entity shall provide BPH with MBE/WBE participation reports semi-annually.

Q. CIVIL RIGHTS – The Local Entity shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with nondiscrimination requirements. The Local Entity shall also comply with Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and Local Entities, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

R. BOND DESIGNATION – Each Local Bond shall be designated "Series [2009] B" and shall contain "(WVCWSRF Program/ARRA)" in the bond name.

S. USER RATES – The Local Entity shall covenant that it will not reduce its approved customer rates for at least eighteen months after completion of the Project or (a) until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses or (b) new rates have been established by order of the Public Service Commission. The Local Entity shall notify the Authority and the BPH of any action to reduce rates during the eighteen months following completion of construction of the Project.

# EXHIBIT D-1

For OHHR Use Only:
Grant Number _____

**West Virginia Department of Health and Human Resources**
**Subrecipient (Grantee) Information Form**
Please see the Instructions for Completion of the Subrecipient (Grantee) Information Form

**1. Subrecipient (Grantee) Name**

**2. Subrecipient (Grantee) Location (Street Address, City State and Zip Code)**

**3. Subrecipient (Grantee) 9-Digit DUNS Number**

**4. Subrecipient (Grantee) Type (Please check one box only)**

- ☐ State Government
- ☐ County Government
- ☐ City or Township Government
- ☐ Special District Government
- ☐ Regional Organization
- ☐ U.S. Territory or Possession
- ☐ Independent School District
- ☐ Public/State Controlled Institution of Higher Learning
- ☐ Indian/Native American Tribal Government (Federally Recognized)
- ☐ Indian/Native American Tribal Government (Other than Federally Recognized)
- ☐ Indian/Native American Tribally Designated Organization
- ☐ Public/Indian Housing Authority
- ☐ Nonprofit with 501C3 IRS Status (Other than Institution of Higher Education)
- ☐ Nonprofit without 501C3 IRS Status (Other than Institution of Higher Education)
- ☐ Private Institution of Higher Education
- ☐ Individual
- ☐ For-Profit Business (Other than Small Business)
- ☐ Small Business
- ☐ Hispanic-serving Institution
- ☐ Historically Black Colleges and Universities (HBCUs)
- ☐ Tribally Controlled Colleges and Universities (TCCUs)
- ☐ Alaska Native and Native Hawaiian Serving Institutions
- ☐ Non-domestic (non-US) entity
- ☐ Other (Please explain) _____

**5. Primary Performance Location (Street Address, City State and Zip Code)**

**6. Names, Titles and Total Compensation for the 5 Most Highly Compensated Officers**

| Officer Name | Title | Total Compensation |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |

**NOTE: This form must be signed by an individual no lower than the Executive Director or Chief Financial Officer.**

Printed Name _____ Title _____

Signature _____ Date _____ Phone # _____

OHHR Finance A-1000

# EXHIBIT D-2

**ADDENDUM**
**FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT**
**AMERICAN RECOVERY AND REINVESTMENT ACT**

A. Purpose and Summary

The purpose of this Addendum is to ensure that recipients of grant awards from the West Virginia Department of Health and Human Resources understand their responsibilities under the Federal Funding Accountability and Transparency Act of 2006 and the American Recovery and Reinvestment Act of 2009, as may be applicable.

As part of these responsibilities, and as condition for execution of this Grant Agreement, Grantees must remain current in the Central Contractor Registration (CCR) database (http://www.ccr.gov) at all times during which they have active DHHR grant awards. The CCR database is the repository for standard information about Federal financial assistance applicants, recipients and subrecipients. Grantees must update or renew their CCR registration at least once per year to maintain an active status.

In order to register in the Central Contractor Registration database, Grantees must first obtain a valid Data Universal Numbering System (DUNS) Number from Dun and Bradstreet at http://www.dnb.com. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and for validating the address and point of contact information for Federal assistance applicants, recipients and subrecipients.

Additional information about obtaining a DUNS number and maintaining registration with the CCR are included on the websites referenced above and on the attached Instructions for Completion of the Subrecipient (Grantee) Information Form. As further explained within this Addendum, the attached Subrecipient (Grantee) Information Form must be completed by the Grantee and submitted to the DHHR during the negotiation (pre-award) stage of the grant cycle.

B. Federal Funding Accountability and Transparency Act of 2006

The Federal Funding Accountability and Transparency Act of 2006, Public Law 109-282, hereinafter referred to as the Transparency Act, is an Act of Congress that requires full disclosure to the public of all entities or organizations receiving Federal funds. The Transparency Act directed the Office of Management and Budget (OMB), by January 1, 2008, to ensure the existence and operation of a single searchable website, accessible to the public at no cost, which includes for each Federal award:

1. The amount of the award;
2. Information including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source, and an award title descriptive of the purpose of each funding action;
3. The name and location of the recipient and the primary location of performance;
4. A unique identifier of the recipient and any parent agency (DUNS Number); and
5. Any other relevant information specified by the OMB

The Transparency Act also required the OMB, by July 1, 2007, to commence a pilot program to test the collection of and access to data about subgrants and to determine how to implement a subaward-reporting program across the Federal Government. Thereafter, the Transparency Act required the OMB to terminate the pilot program by January 1, 2009 and, subject to extensions, replace it with a permanent system of ensuring that data regarding subawards is disclosed in the same manner as data regarding other Federal awards.

C. American Recovery and Reinvestment Act of 2009

The American Recovery and Reinvestment Act of 2009, Public Law 111-5, hereinafter referred to as the ARRA, is an economic stimulus package enacted by the 111th United States Congress and signed into law by President Barack Obama on February 17, 2009. The ARRA is intended to provide a stimulus to the U.S. economy in the wake of the economic downturn and includes Federal tax relief; expansion of unemployment benefits and other social welfare provisions; and domestic spending on education, health care, and infrastructure, including the energy sector. The ARRA provides for unprecedented levels of transparency and accountability so that the public will be able to know how, when and where their tax dollars are being spent. Specific information and requirements under the ARRA are as follows:

1. Funding provided from the Federal Government through the ARRA is "one-time only" funding and, to maximize the transparency and accountability of ARRA funds, organizations receiving funding under the ARRA must maintain records that identify adequately the source and application of those funds.

2. Section 1512(c) of the ARRA requires quarterly reporting on the use of funds. The data elements proposed for reporting the information described in Section 1512(c) were published in the Federal Register on April 1, 2009 (74 FR 14824). The reporting requirements under Section 1512(c) of the ARRA currently apply only to entities receiving ARRA funds directly from the Federal Government, sometimes referred to as primary recipients.

3. Section 1512(h) of the ARRA requires recipients of ARRA funds, and their first-tier recipients (subrecipients) to register in the Central Contractor Registration (CCR) database at http://www.ccr.gov. In order to register in the CCR, a valid Data Universal Numbering System (DUNS) Number is required, as further described within this Addendum and within the Instructions for Completion of the Subrecipient (Grantee) Information Form.

4. Section 1605 of the ARRA requires that projects funded by the ARRA for the construction, alteration, maintenance, or repair of a public building or public work use American iron, steel, and manufactured goods in the project unless one of the specified exemptions applies. The ARRA provides that this requirement be applied in a manner consistent with U.S. obligations under international agreements. Definitions of "manufactured good," "public building and public work," and other terms as they pertain to the Buy American guidance in 2 CFR part 176 are found in § 176.140 and § 176.160.

5. Section 1606 of the ARRA requires the payment of Davis-Bacon Act (40 U.S.C. 31) wage rates to "laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government" pursuant to the ARRA.

6. Grantees bound by the Single Audit Act Amendments of 1996 and OMB Circular A-133, *Audits of States, Local Governments and Nonprofit Organizations*, must separately identify the expenditures for Federal awards under the ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This requirement shall be accomplished by identifying expenditures for Federal awards made under the ARRA separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC. Additional information regarding the Federal audit requirements of OMB Circular A-133 is located within Exhibit F of the DHHR Grant Agreement and the Source of Funds Schedule, attached to this Grant Agreement as Exhibit B, identifies whether the funds awarded under this grant are being made available through appropriations under the ARRA.

D. DHHR Reporting to the Federal Government

At present time, direct reporting to the Federal Government lies solely at the primary recipient level. Therefore, while subrecipients of grant awards from the DHHR do not have to report data directly to the Federal Government, the DHHR, as a primary recipient and pass-through entity of Federal awards, does have a responsibility to report on certain data elements regarding its subgrant activities. As such, the DHHR is required to report the following information to the Federal Government with respect to its subawards:

1. Subrecipient DUNS number
2. Award number or other identifying number
3. Subrecipient name
4. Subrecipient location
5. Subrecipient type
6. Amount of subaward disbursed
7. Total amount of subaward
8. Subaward date
9. Subaward project/grant period
10. Primary performance location
11. Names and total compensation of the five most highly compensated officers of the entity

E. Subrecipient (Grantee) Information Form

Both the Transparency Act and the ARRA address the primary recipient's requirements to report information on the subawards it makes to subrecipient (Grantee) organizations. To ensure completeness and consistency in accounting for the funds received and subawarded by the West Virginia Department of Health and Human Resources (DHHR) to DHHR Grantees, the DHHR has developed a standardized form in which Grantees shall be required to complete and submit to the DHHR during the negotiation (pre-award) stage of the grant cycle. The DHHR will not process the Grant Agreement or commit any of the funds related thereto until the Grantee submits a signed copy of the Subrecipient (Grantee) Information Form.

F. Future Informational Updates and Regulatory Requirements

Currently, the rules, regulations and guidance issued by the Federal Government with respect to the oversight, accountability and reporting requirements associated with the Transparency Act and the ARRA are a work-in-progress. As referenced in the aforementioned sections of this Addendum, there are a number of reporting requirements (data elements) for which the DHHR, as a primary recipient of Federal funds, must report directly to the Federal Government. While the Federal Government has not currently placed specific reporting obligations on all subrecipients (Grantees), by all indications, these requirements are forthcoming from the Executive Office of the President or through the release of individual Federal agency regulations. Therefore, as additional information becomes available and the Federal Government provides more details on managing Federal funds, the DHHR will transmit the information or requirements to its grant community through an update to this memorandum or by other determinable means to ensure overall compliance with the Transparency Act and the ARRA.

G. Sources of Information / Websites

Federal Funding Accountability and Transparency Act of 2006
http://www.usaspending.gov/

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:h1enr.txt.pdf

American Recovery and Reinvestment Act of 2009
http://www.recovery.gov/
http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.pdf
http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-10.pdf
http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-15.pdf
http://www.recovery.wv.gov/

Interim Final Guidance from the OMB – Requirements for Implementing Sections 1512, 1605, and 1606 of the American Recovery and Reinvestment Act of 2009 for Financial Assistance Awards – published in the Federal Register, Volume 74, Number 77, April 23, 2009, pages 18449-63
http://www.gpoaccess.gov/fr

EXHIBIT E

MONTHLY PAYMENT FORM

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

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



{C1615811.1}

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

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) ARRA Assistance Agreement dated _____, including all schedules and exhibits attached thereto (the "ARRA Assistance 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 ARRA Assistance 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 ARRA Assistance 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 ARRA

Assistance 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 ARRA Assistance 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 ARRA Assistance 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 ARRA Assistance 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 ARRA Assistance 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,

SCHEDULE X

DESCRIPTION OF LOCAL BONDS

A. Series A Bonds (Base Program)

| | |
|---|---|
| Principal Amount of Local Bonds | $2,193,910 |
| Purchase Price of Local Bonds | $2,193,910 |

The Local Bonds shall bear no interest. Commencing June 1, 2011, principal of the Local Bonds is payable quarterly, with an administrative fee of 0%. 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 ARRA Assistance 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:

(i) Town of Bath Water Refunding Revenue Bonds, Series 2008 A (BB&T), dated November 5, 2008, issued in the original aggregate principal amount of $1,091,000;

(ii) Town of Bath Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program), dated August 29, 2006, issued in the original aggregate principal amount of $1,250,000

(iii) Town of Bath Water Revenue Bonds, Series 2006 B (West Virginia Infrastructure Fund), dated August 29, 2006, issued in the original aggregate principal amount of $1,237,000; and

(iv) Town of Bath Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), dated December 9, 2002, issued in the original aggregate principal amount of $1,150,000.

Number of New Customers To Be Served: 0
Location: N/A

B. Series B Bonds (ARRA)

Principal Amount of Local Bonds $2,193,910
Purchase Price of Local Bonds $2,193,910

The Local Bonds shall bear no interest. The Authority at the direction of the BPH shall forgive the principal amount of the Local Bonds. Principal forgiveness shall begin on June 1, 2011, and shall be made quarterly thereafter (March 1, June 1, September 1 and December 1 of each year) as set forth on Schedule Y attached hereto and incorporated herein by reference.

The Local Bonds are fully registered in the name of the Authority.

The Local Entity shall make monthly payments into the Renewal and Replacement Fund as required by Section 4.1 of this Agreement for at least the term of the Local Bonds.

The Local Entity shall notify the Authority and the BPH of any proposed bond indebtedness secured by the revenues of the System.

# SCHEDULE Y
## DEBT SERVICE SCHEDULES

| | | | | |
|---|---|---|---|---|
| | 30 Years | | | |
| | 0% Interest Rate | | | |
| | | Dated Date | 10/29/09 | |
| | | Delivery Date | 10/29/09 | |
| | | | | |
| | | | | |
| | **Period Ending** | **Principal** | **Interest** | **Debt Service** |
| | 10/29/09 | | | |
| | 6/1/11 | 18,283 | | 18,283 |
| | 9/1/11 | 18,283 | | 18,283 |
| | 12/1/11 | 18,283 | | 18,283 |
| | 3/1/12 | 18,283 | | 18,283 |
| | 6/1/12 | 18,283 | | 18,283 |
| | 9/1/12 | 18,283 | | 18,283 |
| | 12/1/12 | 18,283 | | 18,283 |
| | 3/1/13 | 18,283 | | 18,283 |
| | 6/1/13 | 18,283 | | 18,283 |
| | 9/1/13 | 18,283 | | 18,283 |
| | 12/1/13 | 18,283 | | 18,283 |
| | 3/1/14 | 18,283 | | 18,283 |
| | 6/1/14 | 18,283 | | 18,283 |
| | 9/1/14 | 18,283 | | 18,283 |
| | 12/1/14 | 18,283 | | 18,283 |
| | 3/1/15 | 18,283 | | 18,283 |
| | 6/1/15 | 18,283 | | 18,283 |
| | 9/1/15 | 18,283 | | 18,283 |
| | 12/1/15 | 18,283 | | 18,283 |
| | 3/1/16 | 18,283 | | 18,283 |
| | 6/1/16 | 18,283 | | 18,283 |
| | 9/1/16 | 18,283 | | 18,283 |
| | 12/1/16 | 18,283 | | 18,283 |
| | 3/1/17 | 18,283 | | 18,283 |
| | 6/1/17 | 18,283 | | 18,283 |
| | 9/1/17 | 18,283 | | 18,283 |
| | 12/1/17 | 18,283 | | 18,283 |
| | 3/1/18 | 18,283 | | 18,283 |
| | 6/1/18 | 18,283 | | 18,283 |
| | 9/1/18 | 18,283 | | 18,283 |
| | 12/1/18 | 18,283 | | 18,283 |
| | 3/1/19 | 18,283 | | 18,283 |
| | 6/1/19 | 18,283 | | 18,283 |
| | 9/1/19 | 18,283 | | 18,283 |
| | 12/1/19 | 18,283 | | 18,283 |
| | 3/1/20 | 18,283 | | 18,283 |
| | 6/1/20 | 18,283 | | 18,283 |
| | 9/1/20 | 18,283 | | 18,283 |
| | 12/1/20 | 18,283 | | 18,283 |
| | 3/1/21 | 18,283 | | 18,283 |
| | 6/1/21 | 18,283 | | 18,283 |
| | 9/1/21 | 18,283 | | 18,283 |
| | 12/1/21 | 18,283 | | 18,283 |
| | 3/1/22 | 18,283 | | 18,283 |

| | | | | |
|---|---|---|---|---|
| | 30 Years | | | |
| | 0% Interest Rate | | | |
| | | | | |
| | Period Ending | Principal | Interest | Debt Service |
| | 6/1/22 | 18,283 | | 18,283 |
| | 9/1/22 | 18,283 | | 18,283 |
| | 12/1/22 | 18,283 | | 18,283 |
| | 3/1/23 | 18,283 | | 18,283 |
| | 6/1/23 | 18,283 | | 18,283 |
| | 9/1/23 | 18,283 | | 18,283 |
| | 12/1/23 | 18,283 | | 18,283 |
| | 3/1/24 | 18,283 | | 18,283 |
| | 6/1/24 | 18,283 | | 18,283 |
| | 9/1/24 | 18,283 | | 18,283 |
| | 12/1/24 | 18,283 | | 18,283 |
| | 3/1/25 | 18,283 | | 18,283 |
| | 6/1/25 | 18,283 | | 18,283 |
| | 9/1/25 | 18,283 | | 18,283 |
| | 12/1/25 | 18,283 | | 18,283 |
| | 3/1/26 | 18,283 | | 18,283 |
| | 6/1/26 | 18,283 | | 18,283 |
| | 9/1/26 | 18,283 | | 18,283 |
| | 12/1/26 | 18,283 | | 18,283 |
| | 3/1/27 | 18,283 | | 18,283 |
| | 6/1/27 | 18,283 | | 18,283 |
| | 9/1/27 | 18,283 | | 18,283 |
| | 12/1/27 | 18,283 | | 18,283 |
| | 3/1/28 | 18,283 | | 18,283 |
| | 6/1/28 | 18,283 | | 18,283 |
| | 9/1/28 | 18,282 | | 18,282 |
| | 12/1/28 | 18,282 | | 18,282 |
| | 3/1/29 | 18,282 | | 18,282 |
| | 6/1/29 | 18,282 | | 18,282 |
| | 9/1/29 | 18,282 | | 18,282 |
| | 12/1/29 | 18,282 | | 18,282 |
| | 3/1/30 | 18,282 | | 18,282 |
| | 6/1/30 | 18,282 | | 18,282 |
| | 9/1/30 | 18,282 | | 18,282 |
| | 12/1/30 | 18,282 | | 18,282 |
| | 3/1/31 | 18,282 | | 18,282 |
| | 6/1/31 | 18,282 | | 18,282 |
| | 9/1/31 | 18,282 | | 18,282 |
| | 12/1/31 | 18,282 | | 18,282 |
| | 3/1/32 | 18,282 | | 18,282 |
| | 6/1/32 | 18,282 | | 18,282 |
| | 9/1/32 | 18,282 | | 18,282 |
| | 12/1/32 | 18,282 | | 18,282 |
| | 3/1/33 | 18,282 | | 18,282 |
| | 6/1/33 | 18,282 | | 18,282 |
| | 9/1/33 | 18,282 | | 18,282 |
| | 12/1/33 | 18,282 | | 18,282 |
| | 3/1/34 | 18,282 | | 18,282 |
| | 6/1/34 | 18,282 | | 18,282 |

30 Years

0% Interest Rate

| Period Ending | Principal | Interest | Debt Service |
|---|---|---|---|
| 9/1/34 | 18,282 | | 18,282 |
| 12/1/34 | 18,282 | | 18,282 |
| 3/1/35 | 18,282 | | 18,282 |
| 6/1/35 | 18,282 | | 18,282 |
| 9/1/35 | 18,282 | | 18,282 |
| 12/1/35 | 18,282 | | 18,282 |
| 3/1/36 | 18,282 | | 18,282 |
| 6/1/36 | 18,282 | | 18,282 |
| 9/1/36 | 18,282 | | 18,282 |
| 12/1/36 | 18,282 | | 18,282 |
| 3/1/37 | 18,282 | | 18,282 |
| 6/1/37 | 18,282 | | 18,282 |
| 9/1/37 | 18,282 | | 18,282 |
| 12/1/37 | 18,282 | | 18,282 |
| 3/1/38 | 18,282 | | 18,282 |
| 6/1/38 | 18,282 | | 18,282 |
| 9/1/38 | 18,282 | | 18,282 |
| 12/1/38 | 18,282 | | 18,282 |
| 3/1/39 | 18,282 | | 18,282 |
| 6/1/39 | 18,282 | | 18,282 |
| 9/1/39 | 18,282 | | 18,282 |
| 12/1/39 | 18,282 | | 18,282 |
| 3/1/40 | 18,282 | | 18,282 |
| 6/1/40 | 18,282 | | 18,282 |
| 9/1/40 | 18,282 | | 18,282 |
| 12/1/40 | 18,282 | | 18,282 |
| 3/1/41 | 18,283 | | 18,283 |
| | **2,193,910** | | **2,193,910** |

| | 10 Years | | | |
|---|---|---|---|---|
| | | Dated Date | 10/29/09 | |
| | | Delivery Date | 10/29/09 | |
| | | | | |
| | | | | |
| | **Period Ending** | **Debt Service** | | **Principal Forgiveness** |
| | 10/29/09 | | | |
| | 6/1/11 | 54,848 | | 54,848 |
| | 9/1/11 | 54,848 | | 54,848 |
| | 12/1/11 | 54,848 | | 54,848 |
| | 3/1/12 | 54,848 | | 54,848 |
| | 6/1/12 | 54,848 | | 54,848 |
| | 9/1/12 | 54,848 | | 54,848 |
| | 12/1/12 | 54,848 | | 54,848 |
| | 3/1/13 | 54,848 | | 54,848 |
| | 6/1/13 | 54,848 | | 54,848 |
| | 9/1/13 | 54,848 | | 54,848 |
| | 12/1/13 | 54,848 | | 54,848 |
| | 3/1/14 | 54,848 | | 54,848 |
| | 6/1/14 | 54,848 | | 54,848 |
| | 9/1/14 | 54,848 | | 54,848 |
| | 12/1/14 | 54,848 | | 54,848 |
| | 3/1/15 | 54,848 | | 54,848 |
| | 6/1/15 | 54,848 | | 54,848 |
| | 9/1/15 | 54,848 | | 54,848 |
| | 12/1/15 | 54,848 | | 54,848 |
| | 3/1/16 | 54,848 | | 54,848 |
| | 6/1/16 | 54,848 | | 54,848 |
| | 9/1/16 | 54,848 | | 54,848 |
| | 12/1/16 | 54,848 | | 54,848 |
| | 3/1/17 | 54,848 | | 54,848 |
| | 6/1/17 | 54,848 | | 54,848 |
| | 9/1/17 | 54,848 | | 54,848 |
| | 12/1/17 | 54,848 | | 54,848 |
| | 3/1/18 | 54,848 | | 54,848 |
| | 6/1/18 | 54,848 | | 54,848 |
| | 9/1/18 | 54,847 | | 54,847 |
| | 12/1/18 | 54,847 | | 54,847 |
| | 3/1/19 | 54,847 | | 54,847 |
| | 6/1/19 | 54,847 | | 54,847 |
| | 9/1/19 | 54,847 | | 54,847 |
| | 12/1/19 | 54,847 | | 54,847 |
| | 3/1/20 | 54,847 | | 54,847 |
| | 6/1/20 | 54,847 | | 54,847 |
| | 9/1/20 | 54,847 | | 54,847 |
| | 12/1/20 | 54,847 | | 54,847 |
| | 3/1/21 | 54,848 | | 54,848 |
| | | **2,193,910** | | **2,193,910** |

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PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: August 3, 2009

FINAL

8/23/2009

CASE NO. 09-0389-W-CN

TOWN OF BATH, dba BERKELEY SPRINGS WATER WORKS, a municipal utility, Berkeley Springs, Morgan County.
Application for a certificate of convenience and necessity to construct certain additions and improvements to the water system in Morgan County.

RECOMMENDED DECISION

On March 20, 2009, the Town of Bath, dba Berkeley Springs Water Works (Town), filed an application, duly verified, for a certificate of convenience and necessity for the replacement of existing water mains in its water distribution system. Specifically, the proposed project will include the removal and replacement of 1300 linear feet of 8-inch water line; 22,000 linear feet of 6-inch water line; 2300 linear feet of 4-inch water line; and 11,000 linear feet of 2-inch water line. The proposed project was estimated to cost $4,500,000 and will be financed by a $3,000,000 loan from the West Virginia Department of Health Drinking Water Treatment Revolving Fund (WVDWTR) and a $1,200,000 loan from the West Virginia Infrastructure and Jobs Development Council (WVIJDC). The Town stated that, in order to cover the debt service and additional operating expenses associated with the project, a rate increase of 20% would be implemented, to take effect upon substantial completion of the project. Extensive supporting documentation was filed with the certificate application, including a Rule 42 Exhibit and funding commitment letters from the WVDWTR and WVIJDC.

By Order dated March 20, 2009, the Town was directed to provide notice of the filing of the application by publishing a notice in a qualified newspaper as provide in West Virginia Code §59-3-1 et seq., published and of general circulation in Morgan County, West Virginia, making due return to the Commission of proper certification of publication immediately after publication. The Notice directed that anyone desiring to make an objection to the certificate application must do so, in writing, within thirty (30) days after publication of said Notice. It was further provided that failure to timely protest or intervene could affect one's right to protest, including any associated rate increase, or to participate in future proceedings. The Notice further provided that, if no protests were received within the thirty-day period, the Commission could waive formal hearing and grant the certificate application based upon the evidence submitted with the application and the Commission's review thereof.

By Commission Order dated April 2, 2009, the Commission referred this matter to the Division of Administrative Law Judges for further disposition, with a decision due date of on or before August 3, 2009, if no protests to the certificate application were filed within the thirty-day protest period, and on or before October 16, 2009, if protests to the certificate application were filed.

On April 6, 2009, Mr. Jim Slough filed a letter of protest to the certificate application and associated proposed rate increase as well as a separate letter requesting intervenor status in this proceeding.

On April 9, 16, 20, 27 and 29, 2009, the Commission received letters of protest to the certificate application.

On April 13, 2009, the Town filed a copy of an ordinance passed by it on April 7, 2009, adopting a 20% increase to its water rates and charges, to cover the debt service and additional operating expenses associated with its proposed project, to take effect upon substantial completion of said project.

Also on April 13, 2009, the Town filed an affidavit of publication reflecting that, in compliance with the Commission's March 20, 2009 Order, the Notice of Filing had been published on April 1, 2009, in The Morgan Messenger, a qualified newspaper as provided in West Virginia Code §59-3-1 et seq., published and of general circulation in Morgan County, West Virginia.

On April 17, 2009, Staff Attorney Cassius H. Toon filed an Initial Joint Staff Memorandum to which was attached an Initial Staff Internal Memorandum dated April 16, 2009, prepared by Billy J. Belcher, Utility Analyst II, and Karen L. Buckley, Utility Analyst II, Water and Wastewater Division, and John Mottesheard, Engineering Technician, Engineering Division. Commission Staff reported that additional specified information was needed from the Town for it to complete its investigation and review of the certificate application filed herein and file a final substantive recommendation.

Also on April 17, 2009, Commission Staff filed its First Set of Interrogatories, Data Request or Requests for Information directed to the Town.

On April 29, 2009, the Town filed a response to Commission Staff's request for additional information.

On May 1, 2009, Mr. J. Philip Kesecker filed a letter directed to Commission Staff regarding a previous request for information about the Town's water system and the current moratorium in Morgan County.

On May 6, 2009, the Town filed a letter expressing its opposition to the scheduling of any hearing in this matter and to the granting of intervenor status to any party requesting such relief.

On May 6, 2009, the Morgan County Economic Development Authority filed a letter expressing its support for the Town's proposed water distribution system improvement project.

On May 7, 2009, Mr. Slough filed a letter in response to the Town's letter previously filed herein on May 6, 2009.

On May 7, 2009, Ms. Jeanne Mozier filed a letter of support for the Town's proposed water distribution system improvement project.

On May 14, 2009, the Town filed its Responses to Commission Staff's First Set of Interrogatories, Data Request or Requests for Information.

On June 16, 2009, Mr. Slough filed a letter stating that he wished to withdraw his motion to intervene and letter of protest and request for hearing previously filed herein on April 6, 2009.

On June 18, 2009, Mr. Toon filed a Final Joint Staff Memorandum to which was attached a Final Staff Internal Memorandum dated June 16, 2009, prepared by Ms. Buckley, Mr. Belcher and Mr. Mottesheard. Commission Engineering Staff reported that the Town currently provides water service to 1600 customers in Morgan County, West Virginia, and that the Town's water distribution system has been plagued by leaks, resulting in an inordinately high unaccounted-for-water rate as well as a moratorium on new water utility customers. In what was designated as Phase I of the Town's water system improvement project, 11% of the Town's water mains were replaced. In this project, Phase II, additional water mains will be replaced involving the installation of approximately 1300 linear feet of 8-inch water line; 22,000 linear feet of 6-inch water line; and 11,000 linear feet of 2-inch water line, together with all necessary appurtenances. The project is estimated to cost $4,500,000. The $4,500,000 total cost of the project is broken down as follows, to-wit:

| | |
|---|---|
| Construction | $3,408,836 |
| Construction Contingencies | 340,884 |
| Engineering | 627,500 |
| Legal | 20,000 |
| Administrative | 10,000 |
| Bond Counsel | 27,500 |
| Right-of-way costs | 5,000 |
| WVDOH Inspection Fees | 15,000 |
| Project Contingency | 45,000 |
| Estimated total project cost | $4,500,000 |

Commission Engineering Staff went on to note that the construction and project costs are based on estimates, since the project has not yet been bid, and the actual construction costs will likely change. The Town was made aware that, in the event the project costs increase, then additional funding must be secured or the scope of the proposed project would need to be revised to accommodate a new project budget.

Commission Engineering Staff went on to report that the combined total cost of planning, engineering design, engineering consultants, i.e. surveys, geotechnical engineering, etc., and project inspection service for the proposed project is approximately 16.7% of the total construction cost, which Commission Engineering Staff deemed reasonable. It was also noted by Commission Engineering Staff that the Town's operation and maintenance costs (O&M) would increase by $24,680 due solely to salary adjustments. With regard to pumping, treatment, transmission and distribution expenses, Commission Engineering Staff elected not to

forecast a reduction or savings of those expenses as a result of the Town's proposed project. Commission Engineering Staff noted that, generally, a rehabilitation project, such as is at issue in this proceeding, can be expected to result in savings as a result of the large capital investment. However, the Town, even with the completion of the project at issue in this proceeding, will have ongoing challenges in the reduction of its unaccounted-for-water as well as dealing with the continuation of the moratorium on its system. Moreover, the proposed project does not finish or completely replace the Town's distribution system and the replacement of small diameter mains using in-house personnel must continue. Commission Engineering Staff concluded by noting that it appeared that all necessary permits had been obtained by the Town and that, based upon its review of the plans, specifications and other technical documents provided by the Town, there was no conflict with the applicable provisions of the Commission's Rules and Regulations for the Government of Water Utilities (Water Rules).

Commission Financial Staff reported that the Town aims to finance its proposed project through a $3,300,000 loan from the WVDWTR and a $1,200,000 loan from the WVIJDC. The WVDWTR loan will be for a term of 30 years at an interest rate of 0%, with a 1% administrative fee, while the WVIJDC loan will bear an interest rate of 0% for 38 years. The WVDWTR loan will require an annual principal payment in the amount of $110,000 with an administrative fee of $17,875. The WVIJDC loan will require an annual payment in the amount of $31,579. The loans will require 10% debt reserves of $11,000 and $3,158 respectively, and a depreciation/renewal and replacement reserve equal to 2.5% of operating revenues, which will be $3,338. The total amount of annual expense attributable to the Town's proposed project is approximately $184,694.

Commission Financial Staff went on to note that on April 7, 2009, the Town had adopted an ordinance which increased its water rates by 20% to cover the debt service and additional project-related operating expenses. The rate ordinance adopted by the Town, to become effective upon substantial completion of the Town's project, has been review by Commission Staff and found to be in compliance with applicable statutory requirements. Additionally, according to Commission Staff's cash flow analysis, Attachment 2, the Town's increased rates will result in a $77,108 cash surplus with a debt service coverage factor of 168.06%. Therefore, based upon its review, Commission Financial Staff was of the opinion that the Town's proposed project is financially feasible and should be approved.

On June 24, 2009, the Town filed a Motion to Dismiss Water Rate Increase Protests. As grounds for said motion, the Town asserted that the protests were intended to challenge the increase in the Town's April 7, 2009 rate ordinance and not the proposed project, which is the subject of this certificate proceeding. According to the Town, the protests were to a properly adopted municipal ordinance which could not and should not be considered in a certificate of convenience and necessity proceeding, but, rather, should be addressed by the Commission in a municipal appeal proceeding pursuant to West Virginia Code §24-2-4b.

On June 25, 2009, Ms. June Redick filed a letter stating that she wished to withdraw her letter of protest.

On June 29, 2009, Ms. Julia Linaweaver filed a letter stating that she was withdrawing her letter of protest.

On June 30, 2009, the Town filed an Amended Motion to Dismiss Water Rate Increase Protests. In addition to the arguments set forth in its June 24, 2009 Motion to Dismiss Water Rate Increase Protests, the Town noted the withdrawal of three (3) of the six (6) letters of protest and also asserted that the remaining protests erroneously related to the Town's rate increase of October 18, 2008, not the rate increase encompassed in the Town's April 7, 2009 Ordinance.

On July 20, 2009, the Town filed a letter regarding the WVIJDC's determination that the Town's proposed project should be deemed an emergency project as defined in West Virginia Code §31-15A-2.

Also on July 20, 2009, Ms. Molly Colyer filed a letter of protest to the Town's increase water rates.

## DISCUSSION

It is clear that the Town's water system suffers from an extremely high level of water loss and that these losses present a very real threat to the safe and continuous operation of this system. This is especially true in light of the fact that the Town has a finite and fixed source of raw water and the fact that there are no supplemental sources of water nearby. The Town has in place a moratorium on new customers due to the fact that the water system is operating at nearly 100% capacity 24 hours per day, which is due in large part to the extremely high level of water loss. Phase I of the Town's efforts to upgrade its water system, which entailed the replacement of approximately 23,000 feet of water mains, led to only a very short-lived drop in the level of water loss. The proposed project at issue herein, i.e. Phase II, is an integral part of any systemwide renovation and will result in the much-needed replacement of a significant portion of the Town's larger water mains and system appurtenances. This project, coupled with the Town's in-house replacement of smaller-sized mains and service lines and enhanced leak and loss control efforts, should allow the Town to bring its extremely high water losses under control. Once the water losses and plant operating time are reduced, the Town may well be in a position to request that the current moratorium be lifted and begin to add new customers. Accordingly, the undersigned is of the opinion that it has been more than amply demonstrated that the public convenience and necessity require the approval of the Town's certificate application.

The letters of protest filed in this proceeding all relate to an ordinance which was properly passed by the Town on April 7, 2009. Challenges to the water rate increase imposed by that ordinance may only be addressed by the Commission in a municipal appeal case brought before it pursuant to West Virginia Code §24-2-4b. The Commission is simply without jurisdiction in this proceeding to address the increase in the Town's water rates. None of the protests address the need or scope of the project for which the Town seeks a certificate of convenience and necessity and consequently the undersigned will treat the Town's certificate application as if it were unprotested.

At this time, the Town has not filed in this case a letter from the Bureau for Public Health regarding the Town's eligibility for economic stimulus funding under The American Reinvestment and Recovery Act of 2009 (ARRA). However, this project is on the BPH's list of projects in line for ARRA funding. Accordingly, a discussion of that possibility is required. In General Order No. 182.09, issued on April 16, 2009, the Commission discussed the process to be followed for water and sewer certificate projects that are to be funded with stimulus funds under the ARRA.[1] The Commission noted that the State Bureau for Public Health will have approximately 19.5 million dollars in federal stimulus funds for water projects, while the DEP will have approximately 61 million dollars for sewer projects. Those projects have to be bid by August 2009 and the contracts awarded by October 2009. The economic stimulus projects are made more complicated by the fact that the funding agencies overseeing the distribution of economic stimulus funds will not be finally awarding those funds through a traditional commitment letter until approximately August or September of 2009. Economic stimulus money is awarded on a "first come, first served" basis and there is no guarantee that any project which received a letter from either DEP or the Bureau for Public Health, indicating that a project was eligible for certain level of ARRA funding, will actually receive the originally specified level of ARRA funding, or any ARRA funding at all.

In General Order No. 182.09, the Commission determined that, for already certificated municipal water or sewer projects whose funding packages will change due to the award of ARRA funds, a municipality need not petition the Commission to reopen the certificate proceeding for approval of that revised financing, but, instead, can simply file a letter with the Commission, as a closed entry, detailing the new financing package, with no further Commission action.

Traditionally, orders granting certificates of convenience and necessity to municipally-operated public utilities have specifically approved the funding package proposed for the municipal water or sewer project and have required that the municipally-operated public utility file a petition to reopen the proceeding to obtain Commission approval of any changes to project financing only in the event that project costs change and rates are affected, either requiring increases or decreases. That process is being retained in large part for municipal projects using ARRA funds, since that process provides a reasonable, and streamlined, means of addressing the timing problems associated with ARRA projects, i.e., the financing will not be finally committed until sometime in August or September of 2009 and contracts must be awarded on or before October 1, 2009. The biggest difference is the approval of project financing that has not been committed. To further accommodate the timing constraints of ARRA, essentially, the determination is being made in advance that any funding package that includes ARRA funds is reasonable, so that changes to an ARRA funding package do not require additional review, unless rates have to be increased.

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[1]While the availability of ARRA funding has generated a flurry of SCN certificate filings with accelerated timelines, there has been no statutory change in the West Virginia Code to accommodate the ARRA funding. For the purposes of W. Va. Code § 24-2-11, ARRA funding is no different from any other funding.

Despite the ARRA constraints, the Public Service Commission has an obligation with regard to any certificate application, whether it is filed by a private utility, a public service district or a municipality, to insure that the project is economically feasible and financially viable, which includes guaranteeing that there is adequate financing to fund the proposed project. See, Town of Man and Man Water Works, Inc., Case No. 81-433-W-PC, Order Affirming Hearing Examiner's Decision, April 16, 1982, 69 ARPSCWV 1893; Ohio County Public Service District, Case No. 82-482-S-CN, Order Affirming Hearing Examiner's Decision Without Prejudice, April 8, 1983, 70 ARPSCWV 2049. See also, Sexton v. Public Service Commission, 188 W. Va. 305, 423 S.E.2d 914, (1992). Accordingly, the Town must reopen this proceeding for Commission review and approval of project changes which generate rate changes, with the clarification that this requirement will apply only to rate increases. Further, it is reasonable to include an ordering paragraph prohibiting the municipally-operated public utility from commencing construction, unless it has secured adequate funding to cover all project costs, as those costs have been determined upon the conclusion of the bidding process and after bids have been awarded for all of the construction contracts associated with the project, and to file that information with the Commission. The Town will be required to file with the Commission a letter detailing the final funding package for this project upon that information being known, along with the bid tabulations for each construction contract to be awarded for the project. Those filings should be made as closed entries and should not be treated as petitions to reopen.

In the event that, after the filing of the letter by the municipally-operated public utility providing the details of the finalized funding package for the certificated project, Commission Staff concludes, based upon its own independent analysis, that either the specified funding package or the municipal rates are insufficient to cover all project costs, it will be the obligation of Commission Staff to petition the Public Service Commission to reopen the municipal certificate proceeding for the purpose of reviewing the financial viability of the certificated project.

As with all certificate applications filed with the Commission, in the event that the project scope changes, or changes in project cost and/or financing require a further rate increase, the Town will be required to file a petition to reopen this matter, to allow the Commission to assess the nature of the project changes, both to determine if they are adequately funded and to determine if those changes are appropriate and not in conflict with any state laws or Commission rules, and to insure that funding package and associated rates support the economic feasibility and financial viability of the project.

## FINDINGS OF FACT

1. On March 20, 2009, the Town of Bath, dba Berkeley Springs Water Works, filed an application for a certificate of convenience and necessity for the replacement of existing water mains in its water distribution system. Specifically, the proposed project will include the removal and replacement of 1300 linear feet of 8-inch water line; 22,000 linear feet of 6-inch water line; 2300 linear feet of 4-inch water line;

and 11,000 linear feet of 2-inch water line. (See, March 20, 2009 filing).

2. The project is estimated to cost $4,500,000 and will be financed by a $3,000,000 loan from the West Virginia Department of Health Drinking Water Treatment Revolving Fund and a $1,200,000 loan from the West Virginia Infrastructure and Jobs Development Council. (See, application filed March 20, 2009; Final Joint Staff Memorandum and attachment filed June 18, 2009).

3. The Town gave notice of the filing of the application for a certificate of convenience and necessity in accordance with the Commission's requirements by publishing a Notice of Filing on April 1, 2009, in The Morgan Messenger, a qualified newspaper as provided in West Virginia Code §59-3-1, et seq., published and of general circulation in Morgan County, West Virginia. (See, affidavit of publication filed April 13, 2009).

4. The Town passed an ordinance on April 7, 2009, adopting a 20% increase to its water rates and charges, to cover the debt service and additional operating expenses associated with its proposed project, to take effect upon substantial completion of said project. (See, April 13, 2009 filing).

5. No protests were received to the actual certificate application within the thirty-day response period, although seven (7) letters of protest to the Town's April 7, 2009 ordinance were received. (See, April 6, 9, 16, 20, 27 and 29 and July 20, 2009 letters; case file generally).

6. The proposed project is designed to address the Town's extremely high level of water loss, in excess of 60%, and is an integral part of a systemwide renovation to address that problem. The system renovation may also allow the Town to request that the current moratorium on new customers be lifted. (See, application filed March 20, 2009; Final Joint Staff Memorandum and attachment filed June 18, 2009).

7. Commission Staff was of the opinion that, based upon the rates established by the Town in its April 7, 2009 ordinance, the proposed project is financially feasible and, from an engineering perspective, is mandatory and that, accordingly, the certificate application filed herein should be approved. (See, Final Joint Staff Memorandum and attachment filed June 18, 2009).

## CONCLUSIONS OF LAW

1. The Public Service Commission is empowered to require all public utilities, including municipally-operated public utilities, to demonstrate that a proposed water or sewer project is economically feasible and financially viable by demonstrating that they have secured adequate funding to cover all project costs, as those project costs are determined to be at the conclusion of the bidding process, and that the resulting rates are just, reasonable, applied without unjust discrimination or preference and based primarily on the cost of providing service. See, W. Va. Code §24-2-4b; State ex. rel. Public Service Commission v. Town of Fayetteville, 212 W. Va. 427, 573 S.E.2d 338

(2002); Town of Man and Man Water Works, Inc., Case No. 81-433-W-PC, Order Affirming Hearing Examiner's Decision, April 16, 1982, 69 ARPSCWV 1893; Ohio County Public Service Commission, Case No. 82-482-S-CN, Order Affirming Hearing Examiner's Decision Without Prejudice, April 8, 1983, 70 ARPSCWV 2049. See also, Sexton v. Public Service Commission, 188 W. Va. 305, 423 S.E.2d 914, (1992).

2. In order to accommodate the unique timing issues involving the economic stimulus funds provided under *The American Recovery and Reinvestment Act of 2009*, and recognizing that these funds are available for a short period on a one-time only basis, it is reasonable to modify some of the Commission's traditional requirements regarding certificate applications, as set forth in the ordering paragraphs of this decision.

3. The public convenience and necessity requires the issuance of a certificate of convenience and necessity to the Town of Bath, dba Berkeley Springs Water Works, for the removal and replacement of existing water mains in its water distribution system as described in its certificate application filed herein on March 20, 2009.

4. It is reasonable to approve the financing of the project, which consists of a $3,000,000 loan from the West Virginia Health Department Drinking Water Treatment Revolving Fund and a $1,200,000 loan from the West Virginia Infrastructure and Jobs Development Council.

5. Because ARRA funds represent an additional one-time infusion of capital for West Virginia water and sewer projects, with extremely favorable terms, it is reasonable to conclude that any funding package which includes ARRA funds is convenient to the public, without further review, as long as rates do not have to be increased to support funding revisions made after a certificate is granted.

6. Since no protests were received to the actual certificate application, although letters of protest were received to the Town's April 7, 2009 rate ordinance, a certificate of convenience and necessity should be granted to the Town of Bath, dba Berkeley Springs Water Works, for the proposed project, as recommended by Commission Staff, without need for a formal hearing.

## ORDER

IT IS, THEREFORE, ORDERED that the application filed herein on March 20, 2009, by the Town of Bath, dba Berkeley Springs Water Works, for a certificate of convenience and necessity for the replacement of existing water mains in its water distribution system, as is more particularly described and set forth in said application, be, and hereby is, granted.

IT IS FURTHER ORDERED that the financing for the project, consisting of a West Virginia Department of Health Drinking Water Treatment Revolving Fund loan in the amount of $3,300,000 at a zero (0%) interest rate for a term of thirty (30) years with a one percent (1%) administrative fee and a West Virginia Infrastructure and Jobs Development Council loan in the amount of $1,200,000 at a zero percent (0%)

interest rate for a term of thirty-eight (38) years, be, and hereby is, approved.

IT IS FURTHER ORDERED that, upon finalization of the funding package, the Town shall file a letter with the Commission detailing the specifics of that funding package, including the terms and conditions of any loans awarded. If the funding package is revised to include funding through The American Reinvestment and Recovery Act of 2009, the Town is not required to petition the Commission for approval of that revised project financing, as long as the revised ARRA funding package does not require an additional rate increase. It will be sufficient for the Town to file the revised funding commitment documentation, along with a certification from its certified public accountant or bond counsel that the revised funding package is adequate to cover all project costs and will not require any additional rate increase.

IT IS FURTHER ORDERED that, if there are any changes in the plans and/or scope of the project or if a change in project cost or financing affects rates, the Town of Bath, dba Berkeley Springs Water Works, obtain Commission approval of such changes prior to commencing construction.

IT IS FURTHER ORDERED that the Town of Bath, dba Berkeley Springs Water Works, cannot proceed to construction unless and until it has received all required federal, state and local permits, and unless the finally-awarded funding package is adequate to cover all project costs, as determined at the conclusion of the bidding process with a bid awarded for each construction contract or vendor contract for the project.

IT IS FURTHER ORDERED that the Town of Bath, dba Berkeley Springs Water Works, be, and hereby is, directed to submit a certificate of substantial completion of the project from its engineer as soon as it becomes available.

IT IS FURTHER ORDERED that the Town of Bath, dba Berkeley Springs Water Works, be, and hereby is, directed to file a copy of the engineer's certified tabulation of bids for the project within ten (10) days of the opening date.

IT IS FURTHER ORDERED that, if this project requires the use of Division of Highways' rights-of-way, the Town of Bath, dba Berkeley Springs Water Works, comply with all rules and regulations of the Division of Highways regarding use of those rights-of-way.

IT IS FURTHER ORDERED that this matter be, and hereby is, removed from the Commission's docket of open cases.

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

Leave is hereby 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 order 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 order 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 order by filing an appropriate petition in writing with the 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 Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.

John P. Carter
Administrative Law Judge

JPC:MKM:bam
090389a.wpd

STEPTOE & JOHNSON PLLC
ATTORNEYS AT LAW

Chase Tower, Eighth Floor
P.O. Box 1588
Charleston, WV 25326-1588
(304) 353-8000 (304) 353-8180 Fax
www.steptoe-johnson.com

Writer's Contact Information
(304) 353-8196 – Telephone
(304) 353-8180 – Facsimile
John.stump@steptoe-johnson.com

FILE COPY

October 13, 2009

RECEIVED
09 OCT 13 AM 10
W VA PUBLIC SERVICE

***Via Hand Delivery***

Sandra Squire, *Executive Secretary*
Public Service Commission of West Virginia
201 Brooks Street
Charleston, West Virginia 25323

Re: Case No.: 09-0389-W-CN
**TOWN OF BATH**
Application for a certificate of convenience and necessity to construct certain additions and improvements to the water system in Morgan County

Dear Ms. Squire:

Enclosed herein for filing on behalf of the Town of Bath, please find an affidavit by the Town's certified public accountant.

Please file the enclosed affidavit and distribute the additional copies to the appropriate parties at the Commission. Additionally, I ask that you date stamp the file copy provided and return it with our messenger. Thank you in advance for your attention to this matter, and should you have any questions please contact me at (304) 353-8196.

Best Regards,

John C. Stump
(W. V. State Bar No. 6385)

Enclosures
cc: Margie Allgyer, Clerk (w/o enclosures)
Zachary D. Dobbins, CPA (w/o enclosures)
Richard G. Gay, Esquire (w/o enclosures)

055550.00002

Bennett & Dobbins PLLC
CERTIFIED PUBLIC ACCOUNTANTS

317 Cleveland Avenue
Fairmont, WV 26554-1604
Telephone: (304) 366-4295 Fax: (304) 366-4311

GARY K. BENNETT, MBA-CPA
ZACHARY D. DOBBINS, CPA

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

RECEIVED
09 OCT 13 AM 10
W VA PUBLIC SERVICE

Case No.: 09-0389-W-CN

TOWN OF BATH

Application for a certificate of convenience and necessity to construct certain additions and improvements to the water system in Morgan County

STATE OF WEST VIRGINIA
COUNTY OF Marion, TO-WIT:

AFFIDAVIT

I, Zack Dobbins, CPA, after making an oath of affirmation to tell the truth, say that, I have reviewed the Recommended Decision of the Public Service Commission of West Virginia in Case No. 09-0389-W-CN dated August 3, 2009 approving a $3,300,000 loan from the Drinking Water Treatment Revolving Fund at 0% interest for a term of 30 years and 1% administrative fee, and a $1,200,000 loan from the Infrastructure and Jobs Development Council at 0% interest for a term of 38 years, and based upon all the information that has been provided to me, to date, I am of the opinion that the rates and charges for the Town (i) are not affected by the revised funding consisting of a $2,193,910 loan from the Drinking Water Treatment Revolving Fund at 0% interest for a term of 30 years and no administrative fee, a $2,193,910 loan from the Drinking Water Treatment Revolving Fund at 0% interest with 100% debt forgiveness over a term of 10 years, and a $112,180 grant from the West Virginia Infrastructure & Jobs Development Council; and (ii) will be sufficient to provide revenues which, together with other revenues of the System, will allow me to provide the CPA certification required for the issuance of the Bonds.

This Affidavit is executed on the 12th day of October, 2009.

Zachary D. Dobbins, CPA
Bennett & Dobbins

Taken, subscribed and sworn to before me this 12th day of October, 2009.

My commission expires 12/21/2013.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
GARY K. BENNETT, CPA
317 Cleveland Avenue
Fairmont, West Virginia 26554
My Commission Expires Dec. 21, 2013

Notary Public

WEST VIRGINIA

Infrastructure & Jobs Development Council

Gov. Joe Manchin, III
Chairman

Kenneth Lowe, Jr.
Public Member

Dwight Calhoun
Public Member

David "Bones" McComas
Public Member

Ron Justice
Public Member

Angela K. Chestnut, P.E.
Executive Director

Barbara J. Pauley
Administrative Secretary

October 13, 2009

The Honorable Susan Webster
Mayor, Town of Bath
271 Wilkes Street, Suite A
Berkeley Springs, WV 25411

Re: Town of Bath
2009W-1153 Soft Cost Binding Commitment
**(Action Required October 31, 2009)**

Dear Mayor Webster:

The West Virginia Infrastructure and Jobs Development Council (Infrastructure Council), at its October 7, 2009 meeting, voted to offer a binding commitment for a $112,180 Infrastructure Fund grant (Grant) to the Town of Bath (Town) for soft costs to complete the funding for this $4,500,000 project (Project). The Grant will be subject to the terms set forth on Schedule A attached hereto and incorporated herein by reference. The final Grant amount will be established after the Town has received acceptable bids for the Project.

Please contact Angela K. Chestnut at 304-558-4607 if you have any questions.

Sincerely,

Kenneth Lowe, Jr.

KL:bjp

Enclosure

cc: Bob Decrease, BPH (w/o enclosure) *(via e-mail)*
Randy Watson, Thrasher Engineering, Inc.
Region IX-Eastern Panhandle Regional Planning and Development Council
Samme Gee, Esq., Jackson Kelly (w/o enclosure) *(via e-mail)*

180 Association Drive • Charleston, WV 25311 • Phone (304) 558-4607 • Fax (304) 558-4609

www.wvinfrastructure.com

NOTE: This letter is sent in triplicate. Please acknowledge receipt and immediately return two copies to the Infrastructure Council.

Town of Bath

By: _____

Its: _____

Date: _____

## WEST VIRGINIA INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL

Town of Bath
Water Project 2009W-1153

### SCHEDULE A

A. Approximate Amount: $112,180 Soft Cost Grant

B. Grant: $112,180

1. Grant Advancement Date(s): Monthly, upon receipt of proper requisition.

**NOTICE:** The terms set forth above are subject to change following the receipt of construction bids.

C. Special Conditions: The funding package may be reduced prior to closing if an additional grant source is procured.

D. Other Funding:

| | |
|---|---|
| DWTRF base loan | $2,193,910 |
| DWTRF ARRA loan | 2,193,910 |

E. Total Project Cost: $4,500,000

F. Proposed User Rates: Approximately $55.57 / 4000 gallons

# West Virginia Infrastructure & Jobs Development Council

Public Members:
Kenneth Lowe, Jr.
Shepherdstown
Dwight Calhoun
Petersburg
Dave McComas
Prichard
Ron Justice
Morgantown

300 Summers Street, Suite 980
Charleston, West Virginia 25301
Telephone: (304) 558-4607
Facsimile: (304) 558-4609

Jefferson E. Brady, PE
Executive Director

Jefferson.Brady@verizon.net

August 11, 2008

The Honorable Susan Webster
Mayor, Town of Bath
271 Wikes Street, Suite A
Berkley Springs, West Virginia 25411

Re: Town of Bath
Water Project 2008W-1052

Dear Mayor Webster:

The West Virginia Infrastructure and Jobs Development Council, at its August 6, 2008 meeting, determined that the Town of Bath (the "Town") should utilize a $1,575,000 Drinking Water Treatment Fund loan, pursue an additional $1,725,000 Drinking Water Treatment Revolving Fund loan and voted to offer a binding commitment for an Infrastructure Fund loan of $1,200,000 (0%, 40 years) to finance this $4,500,000 project. This project consists of replacing the existing potable water distribution lines.

In order to receive the proposed binding commitment the Town must adhere to a certain project schedule. Please contact Jeff Brady at (304) 558-4607 by **September 30, 2008** to establish the necessary schedule and finalize the proposed binding commitment.

Sincerely,

Kenneth Lowe, Jr.

cc: Bob DeCrease, P.E., BPH (via e-mail)
Region IX Planning & Development Council
Randy Watson, Thrasher Engineering, Inc.

# West Virginia Infrastructure & Jobs Development Council

Public Members:
Kenneth Lowe, Jr.
Shepherdstown
Dwight Calhoun
Petersburg
Dave McComas
Prichard
Ron Justice
Morgantown

300 Summers Street, Suite 980
Charleston, West Virginia 25301
Telephone: (304) 558-4607
Facsimile: (304) 558-4609

Jefferson E. Brady, PE
Executive Director

Jefferson.Brady@verizon.net

August 20, 2008

The Honorable Susan Webster
Mayor, Town of Bath
271 Wikes Street, Suite A
Berkley Springs, West Virginia 25411

RE: Town of Bath
Preliminary Application 2008W-1052
Emergency Project Status

Dear Mayor Webster:

The West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council"), at its July 9, 2008 meeting, reviewed the above referenced water project to replace existing potable water distribution lines in the Town with respect to section §31-15A-2 of the West Virginia Code.

The Infrastructure Council made the determination that the above referenced project met the criteria of section §31-15A-2 of the West Virginia Code, and therefore, should be deemed an emergency project.

If you have any questions, please contact Jeff Brady at 558-4607.

Sincerely,

Kenneth Lowe, Jr.

cc: Dave Acord, PSC
Randy Watson, Thrasher Engineering, Inc.
Katy Mallory, Steptoe & Johnson

TOWN OF BATH

Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

On the 29th day of October, 2009, the undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, and the undersigned Mayor of the Town of Bath (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the date hereof, the Authority received the Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), of the Issuer, in the principal amount of $2,193,910, numbered AR-1 (the "Series 2009 A Bonds") and the Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), in the principal amount of $2,193,910, numbered BR-1 (the "Series 2009 B Bonds"), each issued as a single, fully registered Bond, and dated October 29, 2009.

2. At the time of such receipt, all the Series 2009 A Bonds and Series 2009 B Bonds had been executed by the Mayor and the Recorder of the Issuer by their respective manual signatures, and the official seal of the Issuer had been affixed upon the Series 2009 A Bonds and Series 2009 B Bonds.

3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series 2009 A Bonds, of the sum of $299,441, being a portion of the principal amount of the Series 2009 A Bonds. The balance of the principal amount of the Series 2009 A Bonds will be advanced by the Authority and the West Virginia Bureau for Public Health to the Issuer as acquisition and construction of the Project progresses.

4. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series 2009 B Bonds, of the sum of $-0-, being a portion of the principal amount of the Series 2009 B Bonds. The balance of the principal amount of the Series 2009 B Bonds will be advanced by the Authority and the West Virginia Bureau for Public Health to the Issuer as acquisition and construction of the Project progresses.

[Remainder of Page Intentionally Blank]

Dated as of the day and year first written above.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: Carol A. Cummings
Its: Authorized Representative

TOWN OF BATH

By: Susan J. Webster
Its: Mayor

10.06.09
055550.00002



CH5258091.2

TOWN OF BATH

Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

The Huntington National Bank,
as Bond Registrar
Charleston, West Virginia

Ladies and Gentlemen:

There are delivered to you herewith on this 29th day of October, 2009:

(1) Bond No. AR-1, constituting the entire original issue of the Town of Bath Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), in the principal amount of $2,193,910 (the "Series 2009 A Bonds") and Bond No. BR-1 constituting the entire Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) in the principal amount of $2,193,910 (the "Series 2009 B Bonds"), both dated October 29, 2009 (collectively the "Series 2009 Bonds"), executed by the Mayor and Recorder of the Town of Bath (the "Issuer") and bearing the official seal of the Issuer, authorized to be issued under and pursuant to a Bond Ordinance duly enacted by the Issuer on October 6, 2009, and a Supplemental Resolution duly adopted by the Issuer on October 20, 2009 (collectively, the "Bond Legislation");

(2) A copy of the Bond Legislation authorizing the above-captioned Bonds, duly certified by the Recorder of the Issuer;

(3) Executed counterparts of an ARRA Assistance Agreement for the Series 2009 A Bonds and the Series 2009 B Bonds, dated October 29, 2009 by and between the Issuer and the West Virginia Water Development Authority, on behalf of the West Virginia Bureau for Public Health (the "ARRA Assistance Agreement"); and

(4) Executed opinion of nationally recognized bond counsel regarding the validity of the ARRA Assistance Agreement and the Series 2009 Bonds.

You are hereby requested and authorized to deliver the Series 2009 A Bonds to the Authority upon payment to the Issuer of the sum of $299,441, representing a portion of the principal amount of the Series 2009 A Bonds. You are further hereby requested and authorized to deliver the Series 2009 B Bonds to the Authority upon payment to the Issuer of the sum of $-0-, representing a

portion of the principal amount of the Series 2009 B Bonds. Prior to such delivery of the Series 2009 Bonds, you will please cause the Series 2009 Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the form of Certificate of Authentication and Registration thereon.

[Remainder of Page Intentionally Blank]

Dated as of the day and year first written above.

TOWN OF BATH

By: _____
Its: Mayor

10.06.09
055550.00002



CH5258188.2

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF BATH
WATER REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-1 $2,193,910

KNOW ALL MEN BY THESE PRESENTS: That on this the 29th day of October, 2009, 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 TWO MILLION ONE HUNDRED NINETY THREE THOUSAND NINE HUNDRED TEN DOLLARS ($2,193,910), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, the principal of, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011, to and including March 1, 2041 as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. This Bond shall not be subject to the Administrative Fee (as defined in the hereinafter described Bond Legislation).

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, 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"). The interest, if any, on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

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 ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated October 29, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, the Project, and any further 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 West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on October 6, 2009, and a Supplemental Resolution duly adopted by the Issuer on October 20, 2009 (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 (1) WATER REFUNDING REVENUE BONDS, SERIES 2008 A (BB&T), DATED NOVEMBER 5, 2008, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1.091,000 (THE "SERIES 2008 A BONDS"); (2) WATER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA DWTRF PROGRAM), DATED AUGUST 29, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,250,000 (THE "SERIES 2006 A BONDS"); (3) WATER REVENUE BONDS, SERIES 2006 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED AUGUST 29, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,237,000 (THE "SERIES 2006 B BONDS"); AND (4) WATER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA DWTRF PROGRAM), DATED DECEMBER 9, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,150,000 (THE "SERIES 2002 A BONDS") (COLLECTIVELY REFERRED TO AS THE "PRIOR BONDS") AND (5) THE WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) DATED OCTOBER 29, 2009 ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $2,193,910 (THE "SERIES 2009 B BONDS") ISSUED SIMULTANEOUSLY HEREWITH.

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 Gross Revenue in favor of the Holders of the Prior Bonds and the Series 2009 B Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2009 A Bonds Reserve Account"), and 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 which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, 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 monies in the Series 2009 A Bonds Reserve Account and unexpended proceeds of the Bonds. 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 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 payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds and the Series 2009 B Bonds;

provided however, that so long as there exists in the Series 2009 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds and the Series 2009 B 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 the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds 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 by 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 payment of the costs of the Project and costs of issuance described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, 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 in 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 and interest on 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.

[Remainder of page intentionally blank]

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 as of the day and year first written above.

[SEAL]

Mayor

ATTEST:

Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 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: October 29, 2009.

THE HUNTINGTON NATIONAL BANK,
as Registrar

Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

| AMOUNT | DATE | AMOUNT | DATE |
|---|---|---|---|
| (1) $299,441 | 10/29/09 | (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

**BOND DEBT SERVICE**

Town of Bath

30 Years

0% Interest Rate

| | |
|---|---|
| Dated Date | 10/29/2009 |
| Delivery Date | 10/29/2009 |

| Period Ending | Principal | Interest | Debt Service |
|---|---|---|---|
| 10/29/2009 | | | |
| 6/1/2011 | 18,283 | | 18,283 |
| 9/1/2011 | 18,283 | | 18,283 |
| 12/1/2011 | 18,283 | | 18,283 |
| 3/1/2012 | 18,283 | | 18,283 |
| 6/1/2012 | 18,283 | | 18,283 |
| 9/1/2012 | 18,283 | | 18,283 |
| 12/1/2012 | 18,283 | | 18,283 |
| 3/1/2013 | 18,283 | | 18,283 |
| 6/1/2013 | 18,283 | | 18,283 |
| 9/1/2013 | 18,283 | | 18,283 |
| 12/1/2013 | 18,283 | | 18,283 |
| 3/1/2014 | 18,283 | | 18,283 |
| 6/1/2014 | 18,283 | | 18,283 |
| 9/1/2014 | 18,283 | | 18,283 |
| 12/1/2014 | 18,283 | | 18,283 |
| 3/1/2015 | 18,283 | | 18,283 |
| 6/1/2015 | 18,283 | | 18,283 |
| 9/1/2015 | 18,283 | | 18,283 |
| 12/1/2015 | 18,283 | | 18,283 |
| 3/1/2016 | 18,283 | | 18,283 |
| 6/1/2016 | 18,283 | | 18,283 |
| 9/1/2016 | 18,283 | | 18,283 |
| 12/1/2016 | 18,283 | | 18,283 |
| 3/1/2017 | 18,283 | | 18,283 |
| 6/1/2017 | 18,283 | | 18,283 |
| 9/1/2017 | 18,283 | | 18,283 |
| 12/1/2017 | 18,283 | | 18,283 |
| 3/1/2018 | 18,283 | | 18,283 |
| 6/1/2018 | 18,283 | | 18,283 |
| 9/1/2018 | 18,283 | | 18,283 |
| 12/1/2018 | 18,283 | | 18,283 |
| 3/1/2019 | 18,283 | | 18,283 |
| 6/1/2019 | 18,283 | | 18,283 |
| 9/1/2019 | 18,283 | | 18,283 |
| 12/1/2019 | 18,283 | | 18,283 |
| 3/1/2020 | 18,283 | | 18,283 |
| 6/1/2020 | 18,283 | | 18,283 |
| 9/1/2020 | 18,283 | | 18,283 |
| 12/1/2020 | 18,283 | | 18,283 |
| 3/1/2021 | 18,283 | | 18,283 |
| 6/1/2021 | 18,283 | | 18,283 |
| 9/1/2021 | 18,283 | | 18,283 |

| | | |
|---|---|---|
| 12/1/2021 | 18,283 | 18,283 |
| 3/1/2022 | 18,283 | 18,283 |

**BOND DEBT SERVICE**
Town of Bath
30 Years
0% Interest Rate

| Period Ending | Principal | Interest | Debt Service |
|---|---|---|---|
| 6/1/2022 | 18,283 | | 18,283 |
| 9/1/2022 | 18,283 | | 18,283 |
| 12/1/2022 | 18,283 | | 18,283 |
| 3/1/2023 | 18,283 | | 18,283 |
| 6/1/2023 | 18,283 | | 18,283 |
| 9/1/2023 | 18,283 | | 18,283 |
| 12/1/2023 | 18,283 | | 18,283 |
| 3/1/2024 | 18,283 | | 18,283 |
| 6/1/2024 | 18,283 | | 18,283 |
| 9/1/2024 | 18,283 | | 18,283 |
| 12/1/2024 | 18,283 | | 18,283 |
| 3/1/2025 | 18,283 | | 18,283 |
| 6/1/2025 | 18,283 | | 18,283 |
| 9/1/2025 | 18,283 | | 18,283 |
| 12/1/2025 | 18,283 | | 18,283 |
| 3/1/2026 | 18,283 | | 18,283 |
| 6/1/2026 | 18,283 | | 18,283 |
| 9/1/2026 | 18,283 | | 18,283 |
| 12/1/2026 | 18,283 | | 18,283 |
| 3/1/2027 | 18,283 | | 18,283 |
| 6/1/2027 | 18,283 | | 18,283 |
| 9/1/2027 | 18,283 | | 18,283 |
| 12/1/2027 | 18,283 | | 18,283 |
| 3/1/2028 | 18,283 | | 18,283 |
| 6/1/2028 | 18,283 | | 18,283 |
| 9/1/2028 | 18,282 | | 18,282 |
| 12/1/2028 | 18,282 | | 18,282 |
| 3/1/2029 | 18,282 | | 18,282 |
| 6/1/2029 | 18,282 | | 18,282 |
| 9/1/2029 | 18,282 | | 18,282 |
| 12/1/2029 | 18,282 | | 18,282 |
| 3/1/2030 | 18,282 | | 18,282 |
| 6/1/2030 | 18,282 | | 18,282 |
| 9/1/2030 | 18,282 | | 18,282 |
| 12/1/2030 | 18,282 | | 18,282 |
| 3/1/2031 | 18,282 | | 18,282 |
| 6/1/2031 | 18,282 | | 18,282 |
| 9/1/2031 | 18,282 | | 18,282 |
| 12/1/2031 | 18,282 | | 18,282 |
| 3/1/2032 | 18,282 | | 18,282 |
| 6/1/2032 | 18,282 | | 18,282 |
| 9/1/2032 | 18,282 | | 18,282 |
| 12/1/2032 | 18,282 | | 18,282 |
| 3/1/2033 | 18,282 | | 18,282 |
| 6/1/2033 | 18,282 | | 18,282 |
| 9/1/2033 | 18,282 | | 18,282 |
| 12/1/2033 | 18,282 | | 18,282 |

| | | |
|---|---|---|
| 3/1/2034 | 18,282 | 18,282 |
| 6/1/2034 | 18,282 | 18,282 |

**BOND DEBT SERVICE**
Town of Bath
30 Years
0% Interest Rate

| Period Ending | Principal | Interest | Debt Service |
|---|---|---|---|
| 9/1/2034 | 18,282 | | 18,282 |
| 12/1/2034 | 18,282 | | 18,282 |
| 3/1/2035 | 18,282 | | 18,282 |
| 6/1/2035 | 18,282 | | 18,282 |
| 9/1/2035 | 18,282 | | 18,282 |
| 12/1/2035 | 18,282 | | 18,282 |
| 3/1/2036 | 18,282 | | 18,282 |
| 6/1/2036 | 18,282 | | 18,282 |
| 9/1/2036 | 18,282 | | 18,282 |
| 12/1/2036 | 18,282 | | 18,282 |
| 3/1/2037 | 18,282 | | 18,282 |
| 6/1/2037 | 18,282 | | 18,282 |
| 9/1/2037 | 18,282 | | 18,282 |
| 12/1/2037 | 18,282 | | 18,282 |
| 3/1/2038 | 18,282 | | 18,282 |
| 6/1/2038 | 18,282 | | 18,282 |
| 9/1/2038 | 18,282 | | 18,282 |
| 12/1/2038 | 18,282 | | 18,282 |
| 3/1/2039 | 18,282 | | 18,282 |
| 6/1/2039 | 18,282 | | 18,282 |
| 9/1/2039 | 18,282 | | 18,282 |
| 12/1/2039 | 18,282 | | 18,282 |
| 3/1/2040 | 18,282 | | 18,282 |
| 6/1/2040 | 18,282 | | 18,282 |
| 9/1/2040 | 18,282 | | 18,282 |
| 12/1/2040 | 18,282 | | 18,282 |
| 3/1/2041 | 18,283 | | 18,283 |
| | **2,193,910** | | **2,193,910** |

(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 of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, 20____.

_____

In the presence of:

_____

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF BATH
WATER REVENUE BONDS, SERIES 2009 B
(WEST VIRGINIA DWTRF PROGRAM/ARRA)

No. BR-1 $2,193,910

KNOW ALL MEN BY THESE PRESENTS: That on this the 29th day of October, 2009, 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 TWO MILLION ONE HUNDRED NINETY THREE THOUSAND NINE HUNDRED TEN DOLLARS ($2,193,910),or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011 to and including March 1, 2021, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. This Bond shall not be subject to the Administrative fee (as defined in the hereinafter describe Bond Legislation).

This Bond shall bear no interest. Principal installments of this Bond are forgivable quarterly as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

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 ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated October 29, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, the Project, and any further 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 West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on October 6, 2009, and a Supplemental Resolution duly adopted by the Issuer on October 20, 2009 (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 (1) WATER REFUNDING REVENUE BONDS, SERIES 2008 A (BB&T), DATED NOVEMBER 5, 2008, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1.091,000 (THE "SERIES 2008 A BONDS"); (2) WATER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA DWTRF PROGRAM), DATED AUGUST 29, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,250,000 (THE "SERIES 2006 A BONDS"); (3) WATER REVENUE BONDS, SERIES 2006 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED AUGUST 29, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,237,000 (THE "SERIES 2006 B BONDS"); AND (4) WATER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA DWTRF PROGRAM), DATED DECEMBER 9, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,150,000 (THE "SERIES 2002 A BONDS") (COLLECTIVELY, THE "PRIOR BONDS") AND (5) WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM) DATED OCTOBER 29, 2009 ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $2,193,910 (THE "SERIES 2009 A BONDS") ISSUED SIMULTANEOUSLY HEREWITH.

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 Gross Revenue in favor of the Holders of the Prior Bonds and the Series 2009 A Bonds, and 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 which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, 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 monies in the Series 2009 B Bonds Reserve Account and unexpended proceeds of the Bonds. 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 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 payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds and the Series 2009 A Bonds; provided however, that so long as there exists in the Series 2009 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds and the Series 2009 A 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 the

Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds 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 by 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 payment of the costs of the Project and costs of issuance described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, 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 in 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 and interest on 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.

[Remainder of page intentionally blank]

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 as of the day and year first written above.

[SEAL]

Mayor

SPECIMEN

ATTEST:

Recorder

SPECIMEN

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 B 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: October 29, 2009.

THE HUNTINGTON NATIONAL BANK,
as Registrar

SPECIMEN

Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

| AMOUNT | DATE | AMOUNT | DATE |
|---|---|---|---|
| (1) $-0- | 10/29/09 | (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

## BOND DEBT SERVICE
Town of Bath
10 Years

Dated Date 10/29/2009
Delivery Date 10/29/2009

| Period Ending | Debt Service | Principal Forgiveness |
|---|---|---|
| 10/29/2009 | | |
| 6/1/2011 | 54,848 | 54,848 |
| 9/1/2011 | 54,848 | 54,848 |
| 12/1/2011 | 54,848 | 54,848 |
| 3/1/2012 | 54,848 | 54,848 |
| 6/1/2012 | 54,848 | 54,848 |
| 9/1/2012 | 54,848 | 54,848 |
| 12/1/2012 | 54,848 | 54,848 |
| 3/1/2013 | 54,848 | 54,848 |
| 6/1/2013 | 54,848 | 54,848 |
| 9/1/2013 | 54,848 | 54,848 |
| 12/1/2013 | 54,848 | 54,848 |
| 3/1/2014 | 54,848 | 54,848 |
| 6/1/2014 | 54,848 | 54,848 |
| 9/1/2014 | 54,848 | 54,848 |
| 12/1/2014 | 54,848 | 54,848 |
| 3/1/2015 | 54,848 | 54,848 |
| 6/1/2015 | 54,848 | 54,848 |
| 9/1/2015 | 54,848 | 54,848 |
| 12/1/2015 | 54,848 | 54,848 |
| 3/1/2016 | 54,848 | 54,848 |
| 6/1/2016 | 54,848 | 54,848 |
| 9/1/2016 | 54,848 | 54,848 |
| 12/1/2016 | 54,848 | 54,848 |
| 3/1/2017 | 54,848 | 54,848 |
| 6/1/2017 | 54,848 | 54,848 |
| 9/1/2017 | 54,848 | 54,848 |
| 12/1/2017 | 54,848 | 54,848 |
| 3/1/2018 | 54,848 | 54,848 |
| 6/1/2018 | 54,848 | 54,848 |
| 9/1/2018 | 54,847 | 54,847 |
| 12/1/2018 | 54,847 | 54,847 |
| 3/1/2019 | 54,847 | 54,847 |
| 6/1/2019 | 54,847 | 54,847 |
| 9/1/2019 | 54,847 | 54,847 |
| 12/1/2019 | 54,847 | 54,847 |
| 3/1/2020 | 54,847 | 54,847 |
| 6/1/2020 | 54,847 | 54,847 |
| 9/1/2020 | 54,847 | 54,847 |
| 12/1/2020 | 54,847 | 54,847 |
| 3/1/2021 | 54,848 | 54,848 |
| | **2,193,910** | **2,193,910** |

(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 of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, 20___.

_____

In the presence of:

_____

STEPTOE & JOHNSON PLLC
ATTORNEYS AT LAW

Chase Tower, Eighth Floor
P.O. Box 1588
Charleston, WV 25326-1588
(304) 353-8000 (304) 353-8180 Fax
www.steptoe-johnson.com

Writer's Contact Information

October 29, 2009

Town of Bath
Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program)

Town of Bath
Berkeley Springs, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Bureau for Public Health
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the Town of Bath (the "Issuer"), a municipal corporation and political subdivision created and existing under the laws of the State of West Virginia, of its $2,193,910 Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of an ARRA Assistance Agreement dated October 29, 2009, including all schedules and exhibits attached thereto (the "ARRA Assistance 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 the Bonds, which are to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal only to the Authority, bearing no interest, with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011, to and including March 1, 2041, all as set forth in "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds. The Bonds are not subject to the Administrative Fee.

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 West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer; and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond Ordinance duly enacted by the Issuer on October 6, 2009, as supplemented by a Supplemental

Resolution duly adopted by the Issuer on October 20, 2009 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the ARRA Assistance Agreement has been 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 Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance 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 created and validly 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 adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The ARRA Assistance Agreement has been duly authorized by and executed on behalf of the Issuer, is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the BPH and cannot be amended by the Issuer 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.

3. The Bond Legislation and all other necessary ordinances, orders and resolutions have been duly and effectively enacted and adopted by the Issuer in connection with the issuance and sale of the Bonds and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

4. 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 Issuer's: (1) Water Refunding Revenue Bonds, Series 2008 A, dated November 5, 2008, issued in the original aggregate principal amount of $1,091,000 (the "Series 2008 A Bonds"); (2) Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program), dated August 29, 2006, issued in the original aggregate principal amount of $1,250,000 (the "Series 2006 A Bonds"); (3) Water Revenue Bonds, Series 2006 B (West Virginia Infrastructure Fund), dated August 29, 2006, issued in the original aggregate principal amount of $1,237,000 (the "Series 2006 B Bonds"); (4) Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), dated December 9, 2002, issued in the original aggregate principal amount of $1,150,000 (the "Series 2002 A Bonds"); and (5) Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) dated October 29, 2009 in the original aggregate principal amount of $2,193,910 issued concurrently herewith.

5. The Bonds are, 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, and the interest, if any, on the Bonds is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

6. The Bonds have not been issued on the basis that the interest thereon, if any, 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.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds, the ARRA Assistance Agreement and the Bond Legislation, and the liens and pledges set forth therein, may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion and the application of equitable remedies 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,

STEPTOE & JOHNSON PLLC

10.05.09
055550.00002

STEPTOE & JOHNSON PLLC
ATTORNEYS AT LAW

Chase Tower, Eighth Floor
P.O. Box 1588
Charleston, WV 25326-1588
(304) 353-8000 (304) 353-8180 Fax
www.steptoe-johnson.com

Writer's Contact Information

October 29, 2009

Town of Bath
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

Town of Bath
Berkeley Springs, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Bureau for Public Health
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the Town of Bath (the "Issuer"), a municipal corporation and political subdivision created and existing under the laws of the State of West Virginia, of its $2,193,910 Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of an ARRA Assistance Agreement dated October 29, 2009, including all schedules and exhibits attached thereto (the "ARRA Assistance 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 the Bonds, which are to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal and interest to the Authority, bearing no interest with principal installments forgivable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011, to and including March 1, 2021, all as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds. The Series 2009 B Bonds are not subject to the Administrative Fee.

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 West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer; and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond Ordinance duly enacted by the Issuer on October 6, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on October 20, 2009 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the ARRA Assistance Agreement has been 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 Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance 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 created and validly 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 adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The ARRA Assistance Agreement has been duly authorized by and executed on behalf of the Issuer, is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the BPH and cannot be amended by the Issuer 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.

3. The Bond Legislation and all other necessary ordinances, orders and resolutions have been duly and effectively enacted and adopted by the Issuer in connection with the issuance and sale of the Bonds and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

4. 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 Issuer's: (1) Water Refunding Revenue Bonds, Series 2008 A, dated November 5, 2008, issued in the original aggregate principal amount of $1,091,000 (the "Series 2008 A Bonds"); (2) Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program), dated August 29, 2006, issued in the original aggregate principal amount of $1,250,000 (the "Series 2006 A Bonds"); (3) Water Revenue Bonds, Series 2006 B (West Virginia Infrastructure Fund), dated August 29, 2006, issued in the original aggregate principal amount of $1,237,000 (the "Series 2006 B Bonds"); (4) Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), dated December 9, 2002, issued in the original aggregate principal amount of $1,150,000 (the "Series 2002 A Bonds"); and (5) Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) dated October 29, 2009 in the original aggregate principal amount of $2,193,910 issued concurrently herewith.

STEPTOE & JOHNSON PLLC
ATTORNEYS AT LAW

Chase Tower, Eighth Floor
P.O. Box 1588
Charleston, WV 25326-1588
(304) 353-8000 (304) 353-8180 Fax
www.steptoe-johnson.com

Writer's Contact Information

October 29, 2009

Town of Bath
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

Town of Bath
Berkeley Springs, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Bureau for Public Health
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the Town of Bath (the "Issuer"), a municipal corporation and political subdivision created and existing under the laws of the State of West Virginia, of its $2,193,910 Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of an ARRA Assistance Agreement dated October 29, 2009, including all schedules and exhibits attached thereto (the "ARRA Assistance 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 the Bonds, which are to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal and interest to the Authority, bearing no interest with principal installments forgivable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011, to and including March 1, 2021, all as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds. The Series 2009 B Bonds are not subject to the Administrative Fee.

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 West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer; and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond Ordinance duly enacted by the Issuer on October 6, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on October 20, 2009 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the ARRA Assistance Agreement has been 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 Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance 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 created and validly 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 adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The ARRA Assistance Agreement has been duly authorized by and executed on behalf of the Issuer, is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the BPH and cannot be amended by the Issuer 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.

3. The Bond Legislation and all other necessary ordinances, orders and resolutions have been duly and effectively enacted and adopted by the Issuer in connection with the issuance and sale of the Bonds and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

4. 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 Issuer's: (1) Water Refunding Revenue Bonds, Series 2008 A, dated November 5, 2008, issued in the original aggregate principal amount of $1,091,000 (the "Series 2008 A Bonds"); (2) Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program), dated August 29, 2006, issued in the original aggregate principal amount of $1,250,000 (the "Series 2006 A Bonds"); (3) Water Revenue Bonds, Series 2006 B (West Virginia Infrastructure Fund), dated August 29, 2006, issued in the original aggregate principal amount of $1,237,000 (the "Series 2006 B Bonds"); (4) Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), dated December 9, 2002, issued in the original aggregate principal amount of $1,150,000 (the "Series 2002 A Bonds"); and (5) Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) dated October 29, 2009 in the original aggregate principal amount of $2,193,910 issued concurrently herewith.

5. The Bonds are, 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, and the interest, if any, on the Bonds is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

6. The Bonds have not been issued on the basis that the interest thereon, if any, 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.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds, the ARRA Assistance Agreement and the Bond Legislation, and the liens and pledges set forth therein, may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion and the application of equitable remedies in appropriate cases.

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

Very truly yours,

STEPTOE & JOHNSON PLLC

10.06.09
055550.00002

STEPTOE & JOHNSON PLLC
ATTORNEYS AT LAW

Chase Tower, Eighth Floor
P.O. Box 1588
Charleston, WV 25326-1588
(304) 353-8000 (304) 353-8180 Fax
www.steptoe-johnson.com

Writer's Contact Information

October 29, 2009

Town of Bath
Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

Town of Bath
Berkeley Springs, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Bureau for Public Health
Charleston, West Virginia

Ladies and Gentlemen:

We are counsel to the Town of Bath, in Morgan County, West Virginia (the "Issuer"). As such counsel, we have examined copies of the ARRA Assistance Agreement dated October 29, 2009, including all schedules and exhibits attached thereto (the "ARRA Assistance 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"), the Bond Ordinance duly enacted by the Issuer on October 6, 2009, as supplemented by the Supplemental Resolution duly adopted by the Issuer on October 20, 2009 (collectively, the "Bond Legislation"), and other documents relating to the above-captioned Bonds of the Issuer (the "Bonds"). Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

We are of the opinion that:

1. The Bond Legislation has been duly adopted and enacted by the Issuer and is in full force and effect.

2. The ARRA Assistance 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 execution and delivery of the Bonds and the ARRA Assistance Agreement and the consummation of the transactions contemplated by the Bonds, the ARRA Assistance





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Agreement and the Bond Legislation 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 of or default under any ordinance, order, resolution, agreement or other instrument to which the Issuer is a party or any existing law, regulation, court order or consent decree to which the Issuer is subject.

4. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the receipt of all requisite orders and approvals from the Bureau for Public Health and the Public Service Commission of West Virginia, and 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.

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,

STEPTOE & JOHNSON PLLC

10.16.09
055550.00002

LAW OFFICE
of
RICHARD G. GAY, L.C.

31 CONGRESS STREET
BERKELEY SPRINGS
WEST VIRGINIA 25411
Phone: 304.258.1966 • Fax: 304.258.1967
richardgay@rglawoffices.com

RICHARD G. GAY
ADMITTED IN WEST VIRGINIA, PENNSYLVANIA, OHIO, AND THE DISTRICT OF COLUMBIA

NATHAN P. COCHRAN
ADMITTED IN PENNSYLVANIA AND WEST VIRGINIA

R. GREG GARRETSON
ADMITTED IN WEST VIRGINIA, MARYLAND AND PENNSYLVANIA

October 29, 2009

Town of Bath
Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

Town of Bath
Berkeley Springs, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Bureau for Public Health
Charleston, West Virginia

Steptoe & Johnson PLLC
Charleston, West Virginia

Ladies and Gentlemen:

I am special counsel to the Town of Bath, in Morgan County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinions of Steptoe & Johnson PLLC, as bond counsel, an ARRA Assistance Agreement dated October 29, 2009, including all schedules and exhibits attached thereto (the "ARRA Assistance 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"), the Bond Ordinance duly enacted by the Issuer on October 6, 2009, as supplemented by the Supplemental Resolution duly adopted by the Issuer on October 20, 2009 (collectively, the "Bond Legislation"), and other documents relating to the above-captioned Bonds of the Issuer (the "Bonds"). Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond

Legislation and the ARRA Assistance Agreement when used herein.

I am of the opinion that:

The Issuer has been duly created and is validly existing as a 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 Bond Legislation, all under the Act and other applicable provisions of law, and the Mayor, Recorder and members of the council of the Issuer have been duly and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act on behalf of the Issuer in their respective capacities.

2. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the receipt of all requisite orders and approvals from the West Virginia Infrastructure and Jobs Development Council and the Public Service Commission of West Virginia (the "PSC") and 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 Recommended Decision of the PSC entered August 3, 2009, which became Final Order on August 23, 2009, in Case No. 09-0389-W-CN, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project and CPA affidavit dated October 12, 2009. The time for appeal of the Order has expired prior to the date hereof without any appeal and remains in full force and effect.

3. To the best of my knowledge, there is no litigation, 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 Bonds, the ARRA Assistance Agreement, the Bond Legislation, 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 therefor.

4. Prior to construction I will ascertained that all successful bidders have provided the drug-free workplace affidavit, submitted their drug free workplace plan, and the contracts contain language that comply with the Drug Free Workplace Act, Article 1D, Chapter 21 of the West Virginia Code. Prior to construction I will ascertained that all successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds will be verified for accuracy and the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, and ensure that such surety bonds and policies (i) are in compliance with the contracts; (ii) are adequate in form, substance and amount to protect the various interests of the Issuer; (iii) have been executed by duly authorized representatives of the proper parties; (iv) meet the requirements of the Act, the Bond Legislation and the Loan Agreement; and (vi) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

October 21, 2009

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very Truly Yours,

Richard G. Gay, Esquire

THE Conrad LAW FIRM L.C.

55 Meridian Parkway, Suite 103
Post Office Box 738
Martinsburg, West Virginia 25402-0738
304-262-0000
facsimile 304-262-0001
email@theconradlawfirm.com

Randall R. Conrad, II
Rachel B. Spiker (WV & MD)

OFFICES:
114 North Charles St.
Charles Town, WV 25414
304-725-6000
facsimile 304-725-6012

October 5, 2009

West Virginia Bureau for Public Health
Room 702
350 Capitol Street
Charleston, West Virginia 25301

West Virginia Infrastructure & Jobs Development Council
Charleston, West Virginia

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311

Re: Town of Bath
Final Title Opinion

Dear Ladies & Gentlemen:

This firm represents Town of Bath (the "Town") with regard to a proposed project to upgrade the water system, together with all appurtenant facilities (the "Project"), and provides this final title opinion on behalf of the Town to satisfy the requirements of the West Virginia Bureau for Public Health and the West Virginia Infrastructure and Jobs Development Council (the "Council") with regard to the financing proposed for the Project. Please be advised of the following:

1. That I am of the opinion that the Town is a duly created and existing municipality possessed with all the powers and authority granted to municipality under the laws of the State of West Virginia and has the full power and authority to construct, operate and maintain the Project as approved by the Bureau for Public Health.

2. That the Town has obtained approval for all necessary permits and approvals for the construction of the Project.

3. That 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, attached hereto as Exhibit A.

4. That 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 Town has acquired legal title or such other estate or interest, by either deeded Right of Way Agreement or Court ordered Right of Entry, in the necessary site components for the Project sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the facilities to be constructed.

5. That all deeds or other documents which have been acquired to date by the Town have been duly recorded in the aforesaid Clerk's Office in order to protect the legal title to and interest of the Town.

Sincerely,

Randall R. Conrad, II

TOWN OF BATH

Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:


1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND OFFICIAL NAME
7. LAND AND RIGHTS-OF-WAY
8. MEETINGS, ETC.
9. CONTRACTORS' INSURANCE, ETC.
10. ARRA ASSISTANCE AGREEMENT
11. RATES
12. SIGNATURES AND DELIVERY
13. BOND PROCEEDS
14. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE
15. PUBLIC SERVICE COMMISSION ORDERS
16. SPECIMEN BOND
17. CONFLICT OF INTEREST
18. PROCUREMENT OF ENGINEERING SERVICES
19. SAFE DRINKING WATER ACT
20. EXECUTION OF COUNTERPARTS


We, the undersigned MAYOR and RECORDER of the Town of Bath in Morgan County, West Virginia (the "Issuer"), and the undersigned COUNSEL to the Issuer, hereby certify, on this the 29th day of October, 2009, in connection with the Issuer's Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) (the "Series 2009 A Bonds"), and Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) (the "Series 2009 B Bonds") dated the date hereof (collectively, the "Bonds" or the "Series 2009 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 as set forth in the Bond Ordinance of the Issuer duly enacted October 6, 2009, and the Supplemental Resolution duly adopted October 20, 2009 (collectively, the "Bond Legislation").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the receipt of the Gross Revenues, or in any way contesting or affecting the validity of the Bonds, or any proceedings of the Issuer taken with respect to the issuance or sale of the Bonds, the pledge or application of the Gross Revenues or any other monies or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection of the Gross Revenues or the pledge of Gross Revenues as security for the Bonds.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals, permits, exemptions, consents, authorizations, registrations 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 West Virginia Code of 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 ARRA Assistance Agreement, and the Issuer has met all conditions prescribed in the ARRA Assistance Agreement. The Issuer has or can provide the financial, institutional, legal and managerial capabilities necessary to complete the Project.

There are outstanding obligations of the Issuer which will rank on a parity with the Series 2009 Bonds as to liens, pledge, source of and security for payment, being the Issuer's (1) Water Refunding Revenue Bonds, Series 2008 A, dated November 5, 2008, issued in the original aggregate principal amount of $1,091,000 (the "Series 2008 A Bonds"); (2) Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program), dated August 29, 2006, issued in the original aggregate principal amount of $1,250,000 (the "Series 2006 A Bonds"); (3) Water Revenue Bonds, Series 2006 B (West Virginia Infrastructure Fund), dated August 29, 2006, issued in the original aggregate principal amount of $1,237,000 (the "Series 2006 B Bonds"); and (4) Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), dated December 9, 2002, issued in the original aggregate principal amount of $1,150,000 (the "Series 2002 A Bonds"), collectively referred to as the "Prior Bonds".

The Series 2009 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 2009 Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the registered owners of the Series 2006 A Bonds, Series 2006 B Bonds and Series 2002 A Bonds to the issuance of the Series 2009 Bonds on a parity with the Prior Bonds. The Series 2008 A Bonds do not require consent. 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. CERTIFICATION OF COPIES OF DOCUMENTS: The copies of the below-listed documents hereto attached or delivered herewith or heretofore delivered are true, correct and complete copies of the originals of the documents of which they purport to be copies, and such original documents are in full force and effect and have not been repealed, rescinded, amended or changed in any way unless modification appears from later documents also listed below:

Bond Ordinance

Supplemental Resolution

ARRA Assistance Agreement for Series 2009 Bonds

Public Service Commission Order

Infrastructure and Jobs Development Council Approval

Charter and Rules of Procedure

Oaths of Office of Officers and Council Members

Water Rate Ordinance

Minutes on Adoption and Enactment of Rate Ordinance

Affidavit of Publication of Rate Ordinance and Notice of Public Hearing

Minutes on Adoption and Enactment of Bond Ordinance, Adoption of Supplemental Resolution, Rules of Procedure, First Draw Resolution and Sweep Resolution

Affidavit of Publication of Abstract of Bond Ordinance and Notice of Public Hearing

Prior Bond Ordinances

WDA Consent to Issuance of Parity Bonds

Office of Environmental Health Services Permit

Evidence of Insurance

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "Town of Bath." The Issuer is a municipal corporation in Morgan County and is presently existing under the laws of, and a political subdivision of, the State of West Virginia. The governing body of the Issuer is its council, consisting of a Mayor and five (5) council members, all duly elected or

appointed, as applicable, qualified and acting, and whose names and dates of commencement and termination of current terms of office are as follows:

| Name | Date of Commencemt of Office | Date of Termination of Office |
|---|---|---|
| Susan Webster, Mayor | 7/1/2009 | 7/1/2011 |
| Irene Hedrick, Recorder | 7/1/2009 | 7/1/2011 |
| Ryan Rebant, Council Member | 7/1/2009 | 7/1/2011 |
| James Slough, Council Member | 7/1/2009 | 7/1/2011 |
| Kenneth Easton, Council Member | 7/1/2009 | 7/1/2011 |
| David Crosby, Council Member | 7/1/2009 | 7/1/2011 |
| Scott Merki, Council Member | 7/1/2009 | 7/1/2011 |

The duly appointed and acting Counsel to the Issuer is Richard Gay, Bath, West Virginia.

7. 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.

8. MEETINGS, ETC.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the acquisition, construction and financing of the Project or the operation of the System were authorized or adopted at regular or special meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including, particularly and without limitation, Chapter 6, Article 9A of the West Virginia Code of 1931, as amended, and a quorum of duly elected or appointed, as applicable, qualified and acting members of the Governing Body 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. CONTRACTORS' INSURANCE, ETC.: All contractors have been required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Bond Legislation. The successful bidders have provided the Drug-Free Workplace Affidavit as evidence of compliance with the provisions of Article

1D, Chapter 21 of the West Virginia Code. All insurance for the System required by the Bond Legislation and ARRA Assistance Agreement is in full force and effect.

10. ARRA ASSISTANCE AGREEMENT: As of the date hereof, (i) the representations of the Issuer contained in the ARRA Assistance Agreement is true and correct in all material respects as if made on the date hereof; (ii) the ARRA Assistance Agreement does not contain any untrue statement of a 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 ARRA Assistance 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 in the ARRA Assistance Agreement not misleading; and (iv) the Issuer is in compliance with the ARRA Assistance Agreement.

The Issuer will serve the additional customers at the location(s) as set forth in Certificate of Engineer. The Issuer will not reduce the amount of additional customers served by the project without the prior written approval of the Board of the Water Development Authority (the "Authority"). Following completion of the Project the Issuer will certify to the Authority the number of customers added to the System.

The Special Conditions of the ARRA Assistance Agreement are attached as Exhibit A and hereby incorporated herein.

11. RATES: The Issuer has duly enacted a water rate ordinance on April 7, 2009, setting forth the respective rates and charges for the services of the System. The time for appeal of such rate ordinance has expired prior to the date hereof without any appeal, and such rate ordinance is currently in effect.

12. SIGNATURES AND DELIVERY: On the date hereof, the undersigned Mayor did officially sign all of the Bonds of the aforesaid issue, consisting upon original issuance of a single Bond, dated the date hereof, by their manual signatures, and the undersigned Recorder did officially cause the official seal of the Issuer to be affixed upon said 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 ARRA Assistance Agreement. Said official seal of the Issuer is also impressed above the signatures appearing on this certificate.

13. BOND PROCEEDS: On the date hereof, the Issuer received $299,441 from the Authority and the BPH, being a portion of the principal amount of the Series 2009 A Bonds. The balance of the principal amount of the Series 2009 A Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

On the date hereof, the Issuer received $_-0- from the Authority and the BPH. The balance of the principal amount of the Series 2009 B Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

14. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE: Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body 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 Town of Bath, 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 such Bond Ordinance, stating that any person interested may appear before the Governing Body at the public hearing held at a public meeting of Governing Body on the 6th day of October, 2009, at 5:30 p.m., at 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 Governing Body 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.

15. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the Recommended Decision of the Public Service Commission of West Virginia entered August 3, 2009, which became Final Order on August 23, 2009 in Case No. 09-0389-W-CN, and CPA affidavit dated October 12, 2009, among other things, granting to the Issuer a certificate of convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the Order has expired. Such Order is in full force and effect.

16. SPECIMEN BONDS: Delivered concurrently herewith are true and accurate specimens of the Series 2009 Bonds.

17. CONFLICT 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 Bond Legislation 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.

18. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has complied in all respects with the requirements of Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended, in the procurement of engineering services to be paid from proceeds of the Bonds.

19. SAFE DRINKING WATER ACT: The Project as described in the Bond Legislation complies with the Safe Drinking Water Act.

20. EXECUTION OF COUNTERPARTS: This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

WITNESS our signatures and the official seal of the TOWN OF BATH on the day and year first written above.

[CORPORATE SEAL]

| SIGNATURE | OFFICIAL TITLE |
| --- | --- |
| Susan J. Webster | Mayor |
| Irene Hedrick | Recorder |
| | Counsel to the Issuer |

10.06.09
05550.00002



CH5258168.3

WITNESS our signatures and the official seal of the TOWN OF BATH on the day and year first written above.

[CORPORATE SEAL]

| SIGNATURE | OFFICIAL TITLE |
| --- | --- |
| _____ | Mayor |
| _____ | Recorder |
| _____ | Counsel to the Issuer |

10.06.09
05550.00002



CH5258168.3

TOWN OF BATH

Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

CERTIFICATE OF ENGINEER

I, Kenneth Moran, Registered Professional Engineer, West Virginia License No. 11309_, of Thrasher Engineering, Inc., Clarksburg, West Virginia, hereby certify this 29th day of October, 2009 as follows:

1. My firm is engineer for the acquisition and construction of certain additions, betterments and improvements (the "Project") to the existing public waterworks facilities (the "System") of the Town of Bath (the "Issuer"), to be constructed in Morgan County, West Virginia, which acquisition and construction are being financed in part by the proceeds of the above-captioned bonds (collectively, the "Bonds") of the Issuer. Capitalized terms used herein and not defined herein shall have the same meaning set forth in the Bond Ordinance enacted by the Issuer on October 6, 2009, as supplemented by the Supplemental Resolution adopted by the Issuer on October 20, 2009, and the ARRA Assistance 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 October 29, 2009 (the "ARRA Assistance Agreement").

2. The Bonds are being issued (i) to pay the costs of acquisition and construction of the Project; and (ii) to pay certain costs of issuance and related costs.

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 32 years, if properly constructed, 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 B attached hereto as Exhibit A and the Issuer's counsel has ascertained that all successful 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 have provided the Drug-Free Workplace Affidavit as evidence of the Vendor's compliance with the provisions of Article 1D, Chapter 21 of the West Virginia Code; (v) the successful bidders received any and all addenda to the original bid documents; (vi) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contain the critical operational components of the Project; (vii) the successful bids include prices for every

item on such bid forms; (viii) the uniform bid procedures were followed; (ix) 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 the operation of the System; (x) in reliance upon the certificate of Bennett & Dobbins, CPA, the Issuer's certified public accountant, of even date herewith, as of the effective date thereof, the rates and charges for the System will be sufficient to comply with the provisions of the ARRA Assistance Agreement; (xi) 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 the BPH; and (xii) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Cost of Financing" for the Project.

4. I have received the Buy American Certification from each contractor.

5. The Project will serve 0 new customers.

[Remainder of Page Intentionally Blank]

WITNESS my signature and seal on the day and year first written above.

THRASHER ENGINEERING, INC.

(SEAL)

KENNETH P. MORAN
REGISTERED
11309
STATE OF
WEST VIRGINIA
PROFESSIONAL ENGINEER

Kenneth Moran, P.E.
West Virginia License No.11309

10/8/09

10.06.09
055550.00002



CH5259818.2

SCHEDULE B -Town of Bath

| | TOTAL | IJDC grant | DWTRF/ Base | DWTRF / ARRA |
|---|---|---|---|---|
| A. COST OF PROJECT: | | | | |
| 1 Construction | | | | |
| Contract 1 | 2,110,413 | 0 | 0 | 2,110,413 |
| Contract 2 | 1,176,985 | 0 | 1,093,488 | 83,497 |
| Construction Contingency | 457,922 | 0 | 457,922 | 0 |
| 2 TECHNICAL SERVICES | | | | |
| Preliminary | 32,000 | 0 | 32,000 | 0 |
| Design | 320,000 | 0 | 320,000 | 0 |
| Inspection | 260,500 | 0 | 260,500 | 0 |
| Special Services | 15,000 | 0 | 15,000 | 0 |
| 3 DOH Inspection | 15,000 | 0 | 15,000 | 0 |
| 4 Legal | 40,000 | 40,000 | 0 | 0 |
| 5 Accountant | 10,500 | 10,500 | 0 | 0 |
| 6 Administrative | 10,000 | 10,000 | 0 | 0 |
| 7 Sites & Other Lands | 23,680 | 23,680 | 0 | 0 |
| 8 TOTAL | 4,472,000 | 84,180 | 2,193,910 | 2,193,910 |
| B. COST OF FINANCING | | | | |
| 9 Funded Reserve | 0 | 0 | 0 | 0 |
| 10 Registrar fees | 1,000 | 1,000 | 0 | 0 |
| 11 Bond Counsel | 27,000 | 27,000 | 0 | 0 |
| 12 Capitalized Interest | 0 | 0 | 0 | 0 |
| 13 Cost of Financing | 28,000 | 28,000 | 0 | 0 |
| 14 TOTAL Cost of Project | 4,500,000 | 112,180 | 2,193,910 | 2,193,910 |
| C SOURCES OF FUNDS | | | | |
| 15 State Grants | 112,180 | 112,180 | 0 | 0 |
| 16 Other sources | 0 | 0 | 0 | 0 |
| 17 Total Grants | 112,180 | 112,180 | 0 | 0 |
| 18 Net proceeds from Bond Issuance | 4,387,820 | 0 | 2,193,910 | 2,193,910 |

Town of Bath 10/29/09

Thrasher Engineering 10/29/09

**Bennett & Dobbins PLLC**
CERTIFIED PUBLIC ACCOUNTANTS

317 Cleveland Avenue
Fairmont, WV 26554-1604
Telephone: (304) 366-4295 Fax: (304) 366-4311

GARY K. BENNETT, MBA-CPA
ZACHARY D. DOBBINS, CPA

October 29, 2009

Town of Bath

Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

Town of Bath
Berkeley Springs, West Virginia

West Virginia Bureau for Public Health
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Ladies and Gentlemen:

Based upon the rates and charges set forth in the water rate ordinance of the Town of Bath (the "Issuer"), enacted April 7, 2009, and projected operation and maintenance expenses and anticipated customer usage as furnished to us by Thrasher Engineering, Inc., the consulting engineer, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the waterworks system (the "System") of the Issuer, will pay all repair, operation and maintenance expenses of the System and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Issuer's Water Revenue Bonds, Series 2009 A and Water Revenue Bonds, Series 2009 B (the "Bonds"), and all other obligations secured by or payable from the revenues of the System, on a parity with the Bonds, including the Issuer's: (i) Water Refunding Revenue Bonds, Series 2008 A, dated November 5, 2008, issued in the original aggregate principal amount of $1,091,000 (the "Series 2008 A Bonds"); (ii) Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program), dated August 29, 2006, issued in the original aggregate principal amount of $1,250,000 (the "Series 2006 A Bonds"); (iii) Water Revenue Bonds, Series 2006 B (West Virginia Infrastructure Fund), dated August 29, 2006, issued in the original aggregate principal amount of $1,237,000 (the "Series 2006 B Bonds"); and (iv) Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), dated December 9, 2002, issued in the original aggregate principal amount of $1,150,000 (the "Series 2002 A Bonds") (collectively, the "Prior Bonds").

It is further our opinion that (i) the Net Revenues for the Fiscal Year following the year in which the Bonds are issued will be at least 115% of the average annual debt service requirements on the Bonds and the Prior Bonds and that (ii) 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 Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the Bonds, are not less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for the principal of and interest on the Bonds and the Prior Bonds.

Very truly yours,

*Bennett & Dobbins PLLC*

Bennett & Dobbins PLLC

TOWN OF BATH

Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

CERTIFICATE AS TO USE OF PROCEEDS

The undersigned Mayor and Recorder 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 $2,193,910 Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) and $2,193,910 Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), of the Issuer, both dated October 29, 2009 (collectively the "Bonds" or the "Series 2009 Bonds") on the 29th day of October, 2009, hereby certifies 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 meanings set forth in the Bond Ordinance duly enacted by the Issuer on October 6, 2009, as supplemented by Supplemental Resolution duly adopted on October 20, 2009 (collectively, 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 October 29, 2009, the date on which the Bonds are being physically delivered in exchange for an initial advance of the principal amount of the Series 2009 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, if any, 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"), 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 Series 2009 A Bonds were sold on October 29, 2009, to the Authority, pursuant to an ARRA Assistance Agreement dated October 29, 2009, by and between the Issuer and the Authority, on behalf of the BPH, for an aggregate purchase price of $2,193,910 (100% of par), at which time, the Issuer received $299,441 from the Authority and the BPH, being the first advance of the principal amount of the Series 2009 A Bonds. No accrued interest has been or will be paid on the Series 2009 A Bonds. The balance of the principal amount of the Series 2009 A Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Series 2009 B Bonds were sold on October 29, 2009, to the Authority, pursuant to an ARRA Assistance Agreement dated October 29, 2009, by and between the Issuer and the Authority, on behalf of the BPH, for an aggregate purchase price of $2,193,910 (100% of par), at which time, the Issuer received $-0- from the Authority and the BPH, being the first advance of the principal amount of the Series 2009 B Bonds. No accrued interest has been or will be paid on the Series 2009 B Bonds. The balance of the principal amount of the Series 2009 B Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

7. The Series 2009 A Bonds and Series 2009 B 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 public waterworks facilities of the Issuer (the "Project"); and (ii) paying certain costs of issuance of the Bonds and related costs.

8. Within 30 days after the delivery of the Series 2009 Bonds, the Issuer shall enter into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bonds on the Project, constituting a substantial binding commitment. The acquisition and construction of the Project shall commence immediately and shall proceed with due diligence to completion, and with the exception of proceeds deposited in the Series 2009 Bonds respective Reserve Account, if any, all of the proceeds from the sale of the Series 2009 Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before March 1, 2011. The acquisition and construction of the Project is expected to be completed by September 1, 2010.

9. The total cost of the Project, a portion of which is financed from the proceeds of the Series 2009 Bonds (including all costs of issuance of the Series 2009 Bonds), is estimated at $4,500,000. Sources and uses of funds for the Project are as follows:

SOURCES

| | |
|---|---|
| Proceeds of the Series 2009 A Bonds | $2,193,910 |
| Proceeds of the Series 2009 B Bonds | $2,193,910 |
| WV Infrastructure Council Grant | $ 112,180 |
| Total Sources | $4,500,000 |

USES

| | |
|---|---|
| Costs of Acquisition and Construction of the Project | $4,472,000 |
| Costs of Issuance | $ 28,000 |
| Total Uses | $4,500,000 |

10. Pursuant to Article V of the Bond Ordinance, the following special funds or accounts have been created or continued relative to the Series 2009 Bonds:

(1) Revenue Fund (established by Prior Ordinance);

(2) Renewal and Replacement Fund (established by Prior Ordinance);

(3) Series 2009 Bonds Construction Trust Fund;

(4) Series 2009 A Bonds Sinking Fund;

(5) Series 2009 A Bonds Reserve Account;

(6) Series 2009 B Bonds Sinking Fund; and

(7) Series 2009 B Bonds Reserve Account.

11. Pursuant to Article VI of the Bond Ordinance, the proceeds of the Bonds will be deposited as follows:

(1) Series 2009 A Bonds proceeds in the amount of $-0- will be deposited in the Series 2009 A Bonds Reserve Account.

(2) The balance of the proceeds of the Series 2009 A Bonds will be deposited in the Series 2009 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 Series 2009 A Bonds and related costs.

(3) Series 2009 B Bonds proceeds in the amount of $-0- will be deposited in the Series 2009 B Bonds Reserve Account.

(4) The balance of the proceeds of the Series 2009 B Bonds will be deposited in the Series 2009 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 Series 2009 B Bonds and related costs.

12. Monies held in the Series 2009 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2009 A Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on monies in the Series 2009 A Bonds Sinking Fund and Series 2009 A Bonds Reserve Account will be withdrawn therefrom and deposited into the Series 2009 Bonds Construction Trust Funds 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.

13. Monies held in the Series 2009 B Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2009 B Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on monies in the Series 2009 B Bonds Sinking Fund and Series 2009 B Bonds Reserve Account will be withdrawn therefrom and deposited into the Series 2009 Bonds Construction Trust Funds 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.

14. 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 10 months of the date hereof.

15. The Issuer will take such steps as requested by the Authority to ensure that the Authority's bonds meet the requirements of the Code.

16. With the exception of the amount deposited in the Series 2009 A Bonds Reserve Account and Series 2009 B Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within 16 months from the date of issuance thereof.

17. 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.

18. 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.

19. All property financed with the proceeds of the Bonds will be owned and held by (or on behalf of) a qualified governmental unit.

20. 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.

21. The original proceeds of the Bonds will not exceed the amount necessary for the purposes of the issue.

22. 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.

23. The Bonds are not federally guaranteed.

24. 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 governmental bonds.

25. The Issuer has either (a) funded the Series 2009 A Bonds Reserve Account at the maximum amount of principal and interest 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 2009 A Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2009 A Bonds Reserve Account holds 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. Monies in the Series 2009 A Bonds Reserve Account and the Series 2009 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

26. The Issuer has either (a) funded the Series 2009 B Bonds Reserve Account at the maximum amount of principal and interest 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 2009 B Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2009 B Bonds Reserve Account holds 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. Monies in the Series 2009 B Bonds Reserve Account and the Series 2009 B Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

27. 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.

28. 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.

29. 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.

30. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

WITNESS our signatures on day and year first written above.

TOWN OF BATH

By: _____
Its: Mayor

By: _____
Its: Recorder

10.06.09
055550.00002



CH5138558.2

# CHAPTER ONE HUNDRED AND SEVENTY THREE OF THREE 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 resident 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 elections 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, 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 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 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 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 sidewalks 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 future act of the legislature of the 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. A no license to sell spirituous 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 therefore; 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 the 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 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.

26. It shall be the duty of the commissioner of streets to superintend the opening and repair of roads, streets, alleys, sidewalks, foot ways, 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 bylaw 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 consistent 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 may 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 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 or 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 elections 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).

Passed March 18, 1941. Approved by Legislature

# 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:

| News Media | Address |
|---|---|
| Morgan Messenger | P.O. Box 567<br>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.

Susan J. Webster

Mayor



M0368581.1

## 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



M0368581.1

# *Town of Bath*

*271 Wilkes Street*
*Berkeley Springs, WV 25411*

## *OATH OF OFFICE*

*STATE OF WEST VIRGINIA:*

*I,* Scott Merki, *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* ***COUNCILPERSON For the Town of Bath****, to the best of my skill and judgement. So help me God.*

Scott E Merki
*Signature*

*This Oath of Office administered on* June 29 2009
*Date*

*By:* Susan J. Webster

*Witnessed By:* Margi Allgyer

# Town of Bath

*271 Wilkes Street*
*Berkeley Springs, WV 25411*

## OATH OF OFFICE

*STATE OF WEST VIRGINIA:*

*I,* Irene Hedrick, *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.*

Irene Hedrick
*Signature*

*This Oath of Office administered on* June 29, 2009
*Date*

*By:* Susan Webster

*Witnessed By:* Marge Allger

# Town of Bath

271 Wilkes Street
Berkeley Springs, WV 25411

## OATH OF OFFICE

STATE OF WEST VIRGINIA:

I, James Slough, 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 **COUNCILPERSON For the Town of Bath**, to the best of my skill and judgement. So help me God.

James Slough
Signature

This Oath of Office administered on June 29, 2009
Date

By: Susan Webster

Witnessed By: Margie Wager

# *Town of Bath*

*271 Wilkes Street*
*Berkeley Springs, WV 25411*

## *OATH OF OFFICE*

*STATE OF WEST VIRGINIA:*

*I,* David Crosby, *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* ***COUNCILPERSON For the Town of Bath****, to the best of my skill and judgement. So help me God.*

David J. Crosby
*Signature*

*This Oath of Office administered on* July 7, 2009
*Date*

*By:* Susan L. Webster

*Witnessed By:* Margie Wager, Clerk

# Town of Bath

*271 Wilkes Street*
*Berkeley Springs, WV 25411*

## OATH OF OFFICE

*STATE OF WEST VIRGINIA:*

*I,* Kenny Easton, *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* ***COUNCILPERSON For the Town of Bath****, to the best of my skill and judgement. So help me God.*

Kenneth C. Easton
*Signature*

*This Oath of Office administered on* July 7, 2009
*Date*

*By:* Susan J. Webster

*Witnessed By:* Margie Allgyer, Clerk

# Town of Bath

*271 Wilkes Street*
*Berkeley Springs, WV 25411*

## OATH OF OFFICE

*STATE OF WEST VIRGINIA:*

*I,* Susan A. 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* ***MAYOR, For the Town of Bath****, to the best of my skill and judgement. So help me God.*

Susan A. Webster
*Signature*

*This Oath of Office administered on* June 29, 2009
*Date*

*By:* Margie Allgeier, Substitute Judge for the Town of Bath

*Witnessed By:* Irene Hedrick

# *Town of Bath*

*271 Wilkes Street*
*Berkeley Springs, WV 25411*

## *OATH OF OFFICE*

*STATE OF WEST VIRGINIA:*

*I,* Ryan Rebrant, *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* ***COUNCILPERSON For the Town of Bath****, to the best of my skill and judgement. So help me God.*

Ryan J. Rebrant
*Signature*

*This Oath of Office administered on* June 29, 2009
*Date*

*By:* Susan J. Webster

*Witnessed By:* Margie Allger

## TOWN OF BATH

**AN ORDINANCE SETTING FORTH THE RATES, FEES AND CHARGES FOR SERVICE TO CUSTOMERS OF THE WATER SYSTEM OF THE TOWN OF BATH.**

**THE COUNCIL OF THE TOWN OF BATH HEREBY ORDAINS:** The following rules, rates and charges are hereby fixed, determined and established for municipal water services provided to all general domestic, commercial, and industrial users and resale customers of the Town of Bath's Municipal Water System, commencing upon the effective date as hereinafter provided, and in accordance with the following Rates and Schedules:

## RULES AND REGULATIONS

I. *Rules and Regulations for the Government of Water Utilities*, adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto and modifications thereof hereafter made by said Commission.

II. Residences which have been converted into two or more separate living quarters will be supplied with service through separate meters; provided, however, that in instances where this is impracticable such residences may be supplied with service through a single meter and the owner or lessor of the residence will be billed under the applicable residential service schedule, with billing block increases in proportion to the number of living quarters served.

III. The plumbing on the premises of all new customers shall be equipped with a shut off valve. In the event the Town is required to turn off the water to a customer not having a shut-off valve, service will not be resumed until the customer has installed a shut-off valve.

DISCONNECT FOR NON-PAYMENT
The Utility disconnecting service to any customer for non-payment of a bill must first make a diligent effort to induce the customer to pay the same and no discontinuance shall be effected until after at least twenty-four (24) hours written notice to the customer.

MULTIPLE OCCPUANCY
On apartment buildings, or other multiple occupancy buildings, each family or business unit shall be required to pay not less than the minimum monthly charge herein established for a five-eights (5/8) inch meter. Motels and hotels shall pay according to the size of meter installed.

TRAILER COURTS
House trailer courts shall be provided with a master meter. No bill shall be rendered for less than the minimum bill herein established for a five-eights (5/8) inch meter, multiplied by the number of units situated on the court site at the time the meter is read or the actual charge for the size meter installed, whichever is greater. House trailer (as used hereinabove) shall include both mobile and immobile units.

House trailer, either mobile or immobile, located on sites other than a park or court, shall be billed in the same manner as any other family or business unit.

SECURITY DEPOSIT FEE

A security deposit may be required only as provided by and in conformity with Rule 4.02 of the *Rules and Regulations for the Government of Water Utilities*, issued March 1, 1977, and effective May 1977.

## SECTION 1 – SCHEDULE NO. 1 TARIFF
## (Effective Upon Substantial Completion of Water Expansion and Improvement Project)

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for general domestic, commercial, and industrial and sale for resale service.

RATES (customers with metered water supply)

| | | | | |
|---|---|---|---|---|
| First | 6,000 | gallons used per quarter | $16.14 | per 1,000 gallons |
| Next | 9,000 | gallons used per quarter | $11.66 | per 1,000 gallons |
| Next | 135,000 | gallons used per quarter | $9.34 | per 1,000 gallons |
| Next | 450,000 | gallons used per quarter | $4.72 | per 1,000 gallons |
| All over | 600,000 | gallons used per quarter | $2.89 | per 1,000 gallons |

MINIMUM CHARGE

No bill will be rendered for less than the following amounts, according to the size of meter installed:

| | | | | | Equivalent Gallons (Gallons per quarter) |
|---|---|---|---|---|---|
| 5/8 | inch meter | – | $96.84 | per quarter | 6,000 |
| 3/4 | inch meter | – | $145.26 | per quarter | 10,153 |
| 1 | inch meter | – | $242.10 | per quarter | 19,317 |
| 1 1/2 | inch meter | – | $484.20 | per quarter | 45,238 |
| 2 | inch meter | – | $774.72 | per quarter | 76,343 |
| 3 | inch meter | – | $1,452.60 | per quarter | 148,921 |
| 4 | inch meter | – | $2,421.00 | per quarter | 353,160 |
| 6 | inch meter | – | $4,842.00 | per quarter | 1,034,370 |
| 8 | inch meter | – | $7,747.20 | per quarter | 2,039,630 |

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the Utility or a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by their bank due to insufficient funds.

PRIVATE FIRE PROTECTION SERVICE

Where connections, hydrants, sprinklers, etc., on property are maintained by customer:

| | | | |
|---|---|---|---|
| 1 | inch Service Line with hydrants, sprinklers, and/or hose connections | $37.50 | per quarter |
| 2 | inch Service Line with hydrants, sprinklers, and/or hose connections | $50.00 | per quarter |
| 3 | inch Service Line with hydrants, sprinklers, and/or hose connections | $77.50 | per quarter |
| 4 | inch Service Line with hydrants, sprinklers, and/or hose connections | $105.00 | per quarter |
| 6 | inch Service Line with hydrants, sprinklers, and/or hose connections | $135.00 | per quarter |
| 8 | inch Service Line with hydrants, sprinklers, and/or hose connections | $165.00 | per quarter |

PUBLIC FIRE PROTECTION SERVICE

The fee for a public fire hydrant is $10.30 per hydrant per quarter.

The Town of Bath shall pay a public fire service charge of $309 per quarter, payable in four equal quarterly installments.

DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

RECONNECTION CHARGE – $25.00

To be charged whenever the supply of water is turned off for violations of rules, non-payment of bills or fraudulent use of water.

ADMINISTRATIVE FEE – $25.00

To be charged in the event the Town collects payment in full of a delinquent water bill at the customer's premise in lien of discontinuance of service for nonpayment of a water bill.

TAP FEE

The following charge is to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of $577.50 will be charged to customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

LEAK ADJUSTMENT

$1.87 per 1,000 gallon is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.

SECURITY DEPOSIT

$50.00 or 2/12 of the average annual usage of the applicant's specific customer class, whichever is greater.

MUNICIPAL EXCISE TAX SURCHARGE

The municipality listed below having imposed a public utility tax computed on the basis of two percent (2%) of the revenues from water sales by the Berkeley Springs Water Works within the corporate limits of such municipality, said tax shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The water utility is required to collect the utility tax pursuant to *West Virginia Code* §8-13-5a.

Customers receiving water service within the corporate limits of the specified municipality shall pay a surcharge based on the following surcharge rates:

| **Municipality** | **Local Tax Rate** | **Utility Excise Tax** | **Surcharge Rate** |
|---|---|---|---|
| Town of Bath | 2% | | |

## SECTION 2 – SCHEDULE NO. 1 EFFECTIVE DATE

The rates, charges and penalties provided herein for Schedule No. 1 shall become effective upon substantial completion of a water expansion and improvement project to be undertaken by the Town of Bath, or as soon thereafter as the same may be approved by the Public Service Commission of West Virginia.

## SECTION 3 – SEVERABILITY; REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are severable, and if any clause, provision or section hereof shall be held void or unenforceable by the Public Service Commission of West Virginia or any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. Upon the effective date hereof, all ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed, and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

## SECTION 4 – STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the Town Recorder shall cause to be published a copy of this Ordinance in *The Morgan Messenger*, being the only newspaper published and of general circulation in Morgan County, West Virginia, and being of general circulation in the Town of Bath, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before the Town Council on Tuesday, April 7, 2009, at 6:00 p.m., which date is not less than five (5) days after the date of the publication of the Ordinance and notice, and present any comment or protest thereto, following which hearing, Council shall take such action as it shall deem proper. Copies of this Ordinance shall be available to the public for inspection at the office of the Town Recorder, Town of Bath, Berkeley Springs, West Virginia.

First Reading: March 17, 2009

Second Reading
and Public Hearing: April 7, 2009

TOWN OF BATH, a municipal corporation

Mayor: Susan Webster

Recorder: Irene McDaniel

3.17.09
055550.00002

## CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY that a legal publication

Notice of Public

Hearing

placed by

Town of Bath

Mayor Susan Webster

appeared for 1 consecutive weeks in THE MORGAN MESSENGER, a newspaper published in Berkeley Springs, WV, in its issue beginning

March 25, 2009

and ending

March 25, 2009

Per Sandra L. Bryant

THE MORGAN MESSENGER, INC.

Words 255

Charge $30.60

**NOTICE OF PUBLIC HEARING ON TOWN OF BATH WATER RATE ORDINANCE**

Notice is hereby given, that on the 17th day of March 2009, the TOWN OF BATH, caused to be read before the Town Council, an ordinance proposing increased water rates and charges in lieu of those rates and charges contained in the Town's existing water tariff currently on file at the Public Service Commission of West Virginia for furnishing water service to customers in Morgan County, West Virginia and is proposing adoption of the same. The proposed ordinance is titled:

**AN ORDINANCE SETTING FORTH THE RATES, FEES AND CHARGES FOR SERVICE TO CUSTOMERS OF THE WATER SYSTEM OF THE TOWN OF BATH.**

The Town Council of the Town of Bath will have its final reading and vote on the ordinance on Tuesday, April 7, 2009 at 5:30 p.m. in the Town of Bath, Town Hall, 271 Wilkes Street, Suite A, Berkeley Springs, West Virginia. Said meeting is open to the public and all interested parties may appear at the meeting and present protests, if any, with respect to the proposed ordinance. A copy of the proposed ordinance is available for inspection at the office of the Town Clerk of the Town of Bath, Town Hall, 271 Wilkes Street, Suite A, Berkeley Springs, West Virginia.

Susan Webster
Mayor
3-25-1tm

## CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY that a legal publication
Public Notice of Change in

Water Rates

placed by
The Town of Bath

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

April 15, 2009

and ending

April 22, 2009

Per Lisa Henry
THE MORGAN MESSENGER, INC.

Words 690

Charge $ 144.90

### PUBLIC NOTICE OF CHANGE IN WATER RATES OF THE TOWN OF BATH

NOTICE is hereby given that the TOWN OF BATH (the "Town") enacted an ordinance on April 7, 2009 containing increased rates and charges for furnishing water service to its one thousand six hundred and eighty-four (1,684) customers Morgan County.

The proposed increased rates and charges will become effective upon completion of the Town's water expansion and improvement project, which is the subject of a certificate proceeding pending before the Public Service Commission, unless otherwise ordered by the Public Service Commission, and will produce approximately $133,500 annually in additional revenue, an increase of approxiately 12.562%.

The average monthly bill for the various classes of customers will be changed as follows:

| TYPE OF CUSTOMER | ($) INCREASE | % INCREASE |
|---|---|---|
| Domestic (6,000 gallons per quarter) | $16.14 | 20% |
| Commercial (6,000 gallons per quarter) | $16.14 | 20% |
| Industrial (6,000 per quarter) | $16.14 | 20% |
| Resale | N/A | N/A |

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increasses or decreases) by the Public Service Commission in its review of this filing. The Public Service Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates and charges by:

(1) Any customer aggrieved by the changed rates or charges who presents to the Public Service Commission a petition signed by not less than twenty-five percent (25%) of the customers served by the Town's water system; or

(2) Any customer who is served by the Town's water system and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Public Service Commission a petition alleging discrimination between customers within and without the Town's boundaries. Said petition shall be accompanied by evidence of discrimination; or

(3) Any customer or group of customers who are affected by said change in rates who reside within the Town's boundaries and who present a petition to the Public Service Commission alleging discrimination between said customer or group of customers and other customers of the Town's water system. Said petition shall be accompanied by evidence of discrimination.

All petitions should be addressed to the Executive Secretary, Public Service Commission of West Virginia, 201 Brooks Street, Post Office Box 812, Charleston, West Virginia 25323.

A complete copy of the proposed rates, as well as a representative of the utility to provide any information requested concerning it, is available to all customers, prospective customers, or their agents at the Clerk's Office at the Town Hall, Berkeley Springs, West Virginia.

A copy of the proposed rates is available for public inspection at the Office of the Executive Secretary of the Public Service Commission at 201 Brooks Street, Post Office Box 812, Charleston, West Virginia 25323.

By: s/ Margie Allgyer
Town Clerk
4-15-2tm

TOWN OF BATH COUNCIL MEETING

Tuesday March 17, 2009

1. CALL TO ORDER by Mayor Susan Webster at 8:30 AM. Invocation by Mayor.

2. ROLL CALL:

Susan Webster (P) David Crosby (P) Ryan Rebant (P) Dale Lutman (P)
Irene Hedrick (P) Nancy Harvey (P) Scott Merki (A)

3. REVIEW OF MINUTES:

(1) March 3rd, 2009

MOTION by David Crosby to accept minutes with correction of typos, 2nd by Ryan Rebant. Motion carried.

4. COMMUNICATIONS FROM MAYOR:

(A) The Mayor expressed her appreciation of Nancy Harvey for her work on the Historic District Nomination and said she would like to name Nancy as the Town of Bath Volunteer Of The Year to be so recognized at the annual volunteer recognition ceremony on May 2, 2009 at the Country Inn. By common consent the Council agreed.

(B) Mayor Webster said the Town of Bath Office will be closed to the public from March 24th to April 2, 2009 for repairs to the building caused by the automobile that struck it recently. She said the estimate from State Farm Insurance Co. was $4,800 but that it is open ended and they will pay any necessary charges that result from the accident.

(C) She said the Train Station Committee will meet on Saturday at 10 A.M.

(D) She reminded those present of "Make It Shine" day on April 4th from 9 A.M. until Noon.

5. PERSONS BEFORE COUNCIL:

(A) Larry Lower reported that he has Notice to Proceed forms for the Mayor"s signature to begin the work on Wilkes Street. He said the State Highway people will be able to co-ordinate with the program.

He believes there will be some money left and it will be used for additional curbing on Wilkes Street. The existing sidewalks will stay in place.

Mr. Lower expects the construction period to be about 90 days and said the last thing will be the paving of the street by the state.

Regarding the Parking Study Mr. Lower said the Notice advertising for a consultant will be published this week and also next Wednesday. The Committee will interview and make a selection in April. He said the Parking Study includes the entire Town and sections of the County that are integrated in Town Parking.

Margie Allgyer said there will be no parking on Wilkes St between Fairfax and Congress during the construction period beginning on March 30th.

***** COMMITTEE AND BOARD REPORTS******

CLERK/RECORDER REPORT:

1. Clerk Report:

Margie said that even though the office is closed to the public the drawing for ballot position will be held on March 31st at 9 A.M here in Council Chambers.

Officer Pearrell also talked about a new law signed by President O'Bama on March 11th making $1,000,000 in grants available to existing police officers . The purpose is to keep from loosing good policemen. An application package came out on March 16 with a four week turn around. Mayor Webster ask him to get the paperwork so that it may be read and considered for our police Dept.
By common consent the Council agreed that this should be done.

WATER WORKS:

(A) Mayor Webster talked briefly about the flat rate Ordinance that was enacted in May 2008 which would have included money to pay for Phase II Water Line Replacement that we are now working on. The 2008 Ordinance was appealed by U.S. Silica and thrown out by the PSC who then created new water rates which did not address conservation, fairness or any debt service for this huge new project.

Now we must turn over all the paperwork to the State so that we can get a "Certificate of Convenience and Necessity". This is required before we can move forward in applying for Stimulus funds and we are required to address the debt service before we can get the Certificate.

The Mayor introduced Ordinance #2009-04 which was prepared by legal council Steptoe & Johnson and which raises the water rates to include debt service. The Ordinance will go into effect after the project is completed in 2010. The dates in the Ordinance as written are to be changed to reflect this before the second reading takes place.

MOTION by David Crosby to pass Ordinance for first reading with the understanding that the effective dates are to be changed. Second by Nancy Harvey. Ordinance carried.

(B) Terry Largent reported that 23 Rights of Way are still needed for the new project. Dick Gay and staff are working on this.

Terry also said another employee has passed the test for Class I Operator and that he has hired Justin Michael as a new employee.

Terry said Jim Close needs to go for his backhoe certification.

MOTION by David Crosby to approve that, 2nd by Dale Lutman. Motion carried.

PUBLIC WORKS:

(1) Ryan Rebant reported work at Myers Street is being finished. He has been meeting with electricians about rerouting lights and has been doing general clean up the past two weeks.

(2) David Crosby said the budget for street repair is down from last year. He feels that we need to look into the agreement for street repairs that has not been paid by other parties.

ORDINANCE:

Nancy Harvey said that she had ask Dave to copy the Code. She took it to the Chamber of Commerce so that it could be put on the website but has not heard back from them. She will try the library.

GRANT:

Ryan Rebant reported that:

1. The development grant for the Train Station is due March 31st.
2. That the State is sending post cards regarding small grants which he will look into.
3. That at the last Region 9 meeting funds available was a revolving loan. That he will hold off on that.
4. He has a list of equipment needed for the police department and will work on it later.
5. He has been told that chances are good for a portion of the parking study.

TREE BOARD:

Barbara Campbell offered a reminder of Arbor Day on April 17th and said observation of same will be at the north end of Town.

Ms. Campbell ask the Town of Bath to remove the asphalt in the median strip in front of the Community Market. Mayor Webster ask Ryan Rebant and Dale Lutman to look at it and report back. The Tree Committee wants to poant a tree there.

MOTION to Adjourn by Dale Lutman, Second by David Crosby.

Meeting adjourned at 10:17 A.M.

Susan Webster, Mayor

Irene Hedrick, Recorder

TOWN OF BATH COUNCIL MEETING

Tuesday, April 7, 2009

1. CALL TO ORDER by Mayor Susan Webster @ 6 P.M. Invocation by Mayor.

2. ROLL CALL: Susan Webster (P) David Crosby (P) Ryan Rebant (P) Dale Lutman (A) Irene Hedrick (P) Nancy Harvey (P) Scott Merki (P)

REVIEW OF MINUTES:

1. March 17, 2009

MOTION to accept minutes by David Crosby, 2nd by Ryan Rebant. Motion carried.

4. HEARING ON BERKELEY SPRINGS WATER WORKS RATE INCREASE:

The Mayor spoke briefly about Ordinance 2009-04 which was passed for the first reading at the last council meeting. The Mayor said the Ordinance has been published in the Morgan Messenger. She then invited the public to comment.

David Hall expressed the opinion that the Water Company should be charging the State Park for the water they use and give to the public. Mayor Webster explained that the State of WV owns the water, that they give it to us and that we would have to deal with the state to change the current arrangements. She referred the matter to the Water Committee for their consideration.

Jim Slough shared his opposition to the rate increase described in the Ordinance and his feelings of frustration with the PSC rulings that have that have brought it about. David Crosby told Mr. Slough that the council members share his frustration but are not in a position to follow his recommendations.

Mayor Webster ask Council what they wanted to do. David Crosby made a MOTION to accept and pass the Ordinance for the second reading. There was a second by Nancy Harvey and the motion carried.

5. PERSONS BEFORE COUNCIL:

1. Jim Bailey and John McCracken were present representing the Train Depot Committee. Mr. Bailey spoke about what the Committee wants to do with the building and the co-operation and support the Committee needs from the Council. Ordinance 2009-05 amending Ordinance 2009-02 was introduced and David Crosby made a MOTION to pass the ordinance for a first reading with a second by Nancy Harvey and the motion carried. Council will read the materials left by Mr. Bailey and will discuss their recommendations at the next Council Meeting.

2. Rick Kesecker representating Mountain State Cruisers ask Council to allow them to bag meters on the south side of Fairfax St. next to the Park at 4 P.M. on the first Friday of each month from May thru October as they have in years past. Council agreed by common consent.

3. Kate Evans from North Berkeley Park Committee talked about plans to develop the park with playgrounds, walking trail and outdoor fitness challenges for all ages. It will be developed in phases as funds are available.

The first landscaping to be done will be the planting of a redbud tree on April 17th at 11:30 A.M. which will also commemorate Arbor Day. The Grand Opening will be the first Saturday in June.

Ms. Evans had submitted a request for a building permit for the Park. The request was read by Ryan Rebant with detailed description for work to be done.
MOTION by Ryan to post, 2nd by David Crosby. Motion carried.

4. Larry Lower reported on recent Streetscape activities and said they are co-ordinating with the State Highway Pedestrian Crossing Div. He expects to consult with John Coleman soon. He said the 120 day contract period is now 60 days because of the funding situation.

5. Ron Nichols from Allegheny Power said they will be trimming trees in Town of Bath in October and November. He described the voucher program in which Allegheny Power will replace a tree that needs to be removed with one that is compatible with power lines. He said Allegheny representatives will be in town to talk with customers before the trimming begins.

6. Barbara Campbell gave a reminder of the Tree Planting Workshop on April 23rd at St. Mark's Church from 8 A.M. until noon.

******COMMITTEE AND BOSRD REPORTS******

CLERK/RECORDER REPORT:

Clerk Report:
Margie Allgyer said poll workers are needed for the June Election. Pay for this day's work is now $125.00.

FINANCE:

1. Town of Bath Bills:

MOTION by David Crosby to pay Town of Bath bills in the amount of $9,487.14 as funds become available, 2nd by Nancy Harvey. Motion carried.

2. Water Department Bills:

MOTION by David Crosby to pay Water Dept. bills in the amount of $23,136.21 as funds become available, 2nd by Nancy Harvey. Motion carried.

3. Streetscape Account:

Motion by David Crosby to pay advertising bill for Streetscape in the amount of $162.63, second by Scott Merki. Motion carried.

PUBLIC SAFETY:

1. Building Permits:

Second Reading:

Andrew and Diane Yost...20 S. Green St....Renovation work
Motion to accept by Ryan Rebant, 2nd by David Crosby. Motion carried.

2. Personnel:

Mayor Webster discussed a recently written Job Description for a Chief of Police in the Town of Bath which outlines duties and responsibilities along with Standard Operating Procedures of the Town's Police Department and the K-9 standard operating procedures which are included.

A MOTION to pass the document as revised on April 7, 2009 was made by David Crosby, 2nd by Ryan Rebant. Motion carried.

Mayor Webster ask for suggestions for filling the position. There was a MOTION by David Crosby to appoint Craig Pearrell as Chief of Police, 2nd by Irene Hedrick and the motion carried unaminously.

Mayor Webster proceeded to swear in the new Chief and pinned on his new badge. She expressed appreciation to Craig for his good work and he signed the "Terms of Employment" form.

3. The Mayor invited all Council members to attend the National Incident Management Systems training on April 20 and 21 at Cacapon Park.

ORDINANCE:

Nancy Harvey is working on getting the three amendments to the new Code proofed and in place.

Nancy ask the Council to select a date for the annual update of the Code so that it will always be current.

CEMETERY:

Irene Hedrick reported that seasonal workers will begin begin their activities on April 13th.

GRANT:

Ryan Rebant reported on attending an awards ceremony in Preston County where he reported on how the funds from the Governor's Community Participating Grant between the West Virginia Development Office and the Town of Bath had been used.

Ryan then made a motion to accept Resolution 2009-03, 2nd by Nancy Harvey and motion carried.

Ryan said the Region 9 mini-grant 0% program was not available but he had applied for the parking study matching grant of $4200 and was awarded the $4200.

He discussed the Fast Cops Department of Justice grant and said it covers newly hired full time police officers. The Council by common consent ask him to work on that.

A MOTION to adjourn was made by David Crosby, 2nd by Nancy Harvey. Motion carried.

Meeting adjourned at 8:50 P.M.

Mayor Susan Webster

Irene Hedrick, Recorder

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the Town of Bath and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 29th day of October, 2009.

Irene Hedrick

Recorder

10.15.09
055550.00002

## CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY that a legal publication

Notice of Public Hearing

placed by

Town of Bath

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

September 23, 2009

and ending

September 30, 2009

Per

THE MORGAN MESSENGER, INC.

Words 555

Charge $ $116.55

**NOTICE OF PUBLIC HEARING ON THE TOWN OF BATH BOND ORDINANCE**

A public hearing will be held on the following entitled Ordinance at a regular meeting of the Council of the Town of Bath (the "Town") to be held on Tuesday, October 6, 2009, at 6:00 p.m. at the Town Hall, 271 Wilkes Street, Suite A, Berkeley Springs, West Virginia, and at such hearing any person interested may appear before the Town and present protests, and all protests and suggestions shall be heard by the Town and it shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled:

**TOWN OF BATH**

ORDINANCE AUTHORIZING ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE TOWN OF BATH AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE TOWN OF BATH OF NOT MORE THAN $3,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM); AND NOT MORE THAN $3,000,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) 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 ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The above quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The Town contemplates the issuance of the Bonds described in the Ordinance. The proceeds of the Bonds will be used (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The Bonds are payable only from the Gross Revenues to be derived from the operation of the System. No taxes may at any time be levied for the payment of the Bonds or the interest thereon.

The above-entitled Ordinance was adopted by the Council of the Town of Bath on September 1, 2009. A certified copy of the above entitled Ordinance is on file with the Town for review by interested parties during regular office hours.

Following the public hearing, the Town intends to enact the Ordinance upon final reading.

/s/ Margie Allgyer
Clerk
9-23-2tm

TOWN OF BATH

Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program) and
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

EXCERPT OF MINUTES ON ADOPTION OF BOND ORDINANCE
AND DRAW RESOLUTION

The undersigned RECORDER of the Town of Bath of hereby certifies that the following is a true and correct excerpt of the minutes of a regular meeting of the said Council:

*** *** ***

The Council of the Town of Bath met in regular session, pursuant to notice duly posted, on the 6th day of October, 2009, in Morgan County, West Virginia, at the hour of 6:00 p.m.

PRESENT:
Susan Webster, Mayor
Irene Hedrick, Recorder
Margie Allgyer, Clerk
Ryan Rebant, Councilmember
James Slough, Councilmember
Kenneth Easton, Councilmember
David Crosby, Councilmember
Scott Merki, Councilmember

ABSENT:
None.

Susan Webster, Mayor, presided, and Garnet Marsh, acted as Recorder. The Mayor announced that a quorum of members was present and that the meeting was open for any business properly before it.

Thereupon, the Mayor 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 ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE TOWN OF BATH AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE TOWN OF BATH OF NOT MORE THAN $3,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM); AND NOT MORE THAN $3,000,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) 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 ARRA ASSISTANCE 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, upon motion duly made and seconded, it was unanimously ordered that the said Bond Ordinance be adopted and be in full force and effect on and from the date hereof.

Next, the Mayor presented a proposed Draw Resolution for the approval of invoices. Thereupon, on motion duly made and seconded, it was unanimously ordered that the said Draw Resolution be adopted.

*** *** ***

There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

[Remainder of Page Intentionally Blank]

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the Town of Bath and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 29th day of October, 2009.

Irene Hedrick

Recorder

10.15.09
055550.00002

TOWN OF BATH

Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program) and
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

EXCERPT OF MINUTES ON ADOPTION OF SUPPLEMENTAL
RESOLUTION AND SWEEP RESOLUTION

The undersigned RECORDER of the Town of Bath of hereby certifies that the following is a true and correct excerpt of the minutes of a regular meeting of the said Council:

*** *** ***

The Council of the Town of Bath met in regular session, pursuant to notice duly posted, on the 20th day of October, 2009, in Morgan County, West Virginia, at the hour of 5:30 p.m.

PRESENT:
Susan Webster, Mayor
Irene Hedrick, Recorder
Margie Allgyer, Clerk
Ryan Rebant, Councilmember
James Slough, Councilmember
Kenneth Easton, Councilmember
David Crosby, Councilmember
Scott Merki, Councilmember

ABSENT:
None.

Susan Webster, Mayor, presided, and Garnet Marsh, acted as Recorder. The Mayor announced that a quorum of members was present and that the meeting was open for any business properly before it.

Thereupon, the Mayor then presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES,

SALE PRICE AND OTHER TERMS OF THE WATER REVENUE BONDS SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM), AND WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) OF THE TOWN OF BATH; APPROVING AND RATIFYING THE ARRA ASSISTANCE AGREEMENTS 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, upon motion duly made and seconded, it was unanimously ordered that the said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

Next, the Mayor presented a proposed Sweep Resolution for the authorization of electronic monthly debt service and reserve fund payments to the Municipal Bond Commission. Thereupon, on motion duly made and seconded, it was unanimously ordered that the said Sweep Resolution be adopted.

*** *** ***

There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

[Remainder of Page Intentionally Blank]

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the Town of Bath and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 29th day of October, 2009.

Irene Hedrick

Recorder

10.15.09
055550.00002

TOWN OF BATH SPECIAL COUNCIL MEETING

August 21st, 2009

1. CALL TO ORDER by Mayor Susan Webster at 4 P.M.

2. ROLL CALL

Susan Webster (P) Irene Hedrick (P) Ryan Rebant (A) Jim Slough (A)
Kenny Easton (P) David Crosby (P) Scott Merki (P)

*** AGENDA***

FIRST READING OF MUNICIPAL BOND ORDINANCE:

After a brief discussion a MOTION was made by David Crosby to accept for first reading the Municipal Bond Ordinance concerning Phase II of the water replacement project, second by Scott Merki and the MOTION carried.

MOTION to adjourn by David Crosby, second by Kenny Easton. Motion carried.

Meeting adjourned at 4:08 P.M.

Susan Webster
Mayor Susan Webster

Irene Hedrick
Irene Hedrick, Recorder

1. CALL TO ORDER by Mayor Susan Webster at 6 P.M. Invocation by Mayor.

ROLL CALL:
Susan webster (P) David Crosby (P) Ryan Rebant (P) Jim Slough (P)
Irene Hedrick (P) Kenny Easton (P) Scott Merki(P)

REVIEW OF MINUTES:
(A) August 18, 2009
An error in the spelling of Himalayan and in the word asked was noted. A MOTION was made to accept the minutes with the errors corrected by Ryan Rebant, 2nd by Kenny Easton. Motion carried.
(B) August 21, 2008 (Special meeting)
MOTION to accept by Scott Merki, 2nd by Kenny Easton. Motion carried.

COMMUNICATIONS FROM THE MAYOR:
Mayor Webster reported that:
(a) She has received from Region 9 Planning Development Council a form requesting information on proposed projects. She has filled out the form and returned it to them listing many proje such as recycling, Streetscape, street paving and extra police projects.
(b) She requested that Parks & Recreation be added to the regular agenda for reports.
(c) That at the last train depot meeting the last grant that came in was discussed as a possible way to get a college intern to come and help with all of this.They ask for $800.00 from the Town to help pay for this. There was common consent from the Council to refer this to the Finance Committee.
(d) That the bike rodeo went well and that participation was good.
(e) That Governor Manchin had been here on Saturday and that he had visited the courthouse and the fire department.
(f) That the new tenants in the church in the small strip mall on Route 9 had reported that children are playing on the backhoe. She will ask Terry Largent to find another parking place for i
(g) That along with the Municipal Auditors Seminar at Flat Wood on the 29th and 30th of September there will be a work shop or snow and ice control and suggested that members of Public Work Committee consider going.

PERSONS BEFORE COUNCIL:
(A) Nancy Harvey, representing the Foxglove Garden Club presented letter requesting that the Volunteers in that group be covere by the Town of Bath liability insurance coverage. A copy of tl letter and the list of volunteers is attached..
The Mayor reminded all the chair people of various committees to do the same.
(B) Larry Lower reported on the upcoming final inspection of the Wilkes Street project. He said there would not be a center li on the street because of width requirements. He discussed pos ible handicapped ramps and cross walks and will work with Gen Kilduff on this.He said future Streetscape meetings will be o the first Tuesday of each month at 3 PM at the Chamber.

(C) Frankie Tan was present to report on the fall of a gentleman on the jaggered edges of a sidewalk on Congress Street. He asked that the side walk be inspected and possibly repaired. The Mayor asked Scott Merki to look into it.

*****COMMITTEE & BOARD REPORTS*****

Clerk/Recorder Reports:

Clerk Report:

Margie Allgyer said that she will be going to Charleston on Sept. 15 to lobby for the retirement legislation that is being worked on and that our Board of Risk costs have been reduced considerably.

Margie also introduced three bills from the Water Company that were unpaid as of August 27th.

1. A bill for Municipal Bond payments in the amount of $19,219.30. MOTION to pay by Irene Hedrick, 2nd by Ryan Rebant. Motion carri
2. A bill from JMT in the amount of $808.60. MOTION to pay by Scott Merki, 2nd by Ken Easton. Motion carried.
3. A bill from Desmond Associates in the amount of $7,060.00. MOTION to pay by Scott Merki, 2nd by Kenny Easton. Motion carrie

FINANCE:

1. MOTION to pay Town of Bath bills in the amount of $18,440.34 by Irene Hedrick, 2nd by Kenny Easton. Motion carried.
2. MOTION to pay Water Dept. bills in the amount of $26,719.90 by Irene Hedrick, 2nd by Kenny Easton. Motion carried.

PUBLIC SAFETY:

Building permits:

First Readings:

1. Bill Cary...1 Fairfax St...Masonry repair and painting. Motion to post by Ken Easton, 2nd by Ryan Rebant. Motion carrie
2. Ralph Hurley...210 N. Washington St...Remove window/Install doo Motion to post by Ken Easton, 2nd by Ryan Rebant. Motion carrie
3. Gantt Miller...Ewing St...Emergency foundation repairs. Motion to post by Ken Easton, 2nd by Ryan Rebant. Motion carrie

Second Readings:

1. Gat Caperton...192 Fairfax St...Carpet and painting. Motion to accept by Ken Easton, 2nd by Ryan Rebant. Motion carr
2. Sandra Swink...13 First Church St...New windows/doors/porch flo Motion to accept by Ken Easton, 2nd by Ryan Rebant. Motion carr
3. Dave and Marilyn Hall, 138 Johnson Mill Road...Bathroom, hall a bedroom. Motion to accept by Ken Easton, 2nd by Ryan Rebant. Mo carried.

Kenny Easton reported on progress of a tar and chip program involv town streets and some cemetery roads. The committee is working on organizing the information and getting the best proposals from co tractors.

Margie Allgyer said Allegheny Power will be notifying local citize about tree trimming for power lines in September and October.

WATER WORKS:

1. Mayor Webster gave a reminder that the pre-bid meeting for contractors will be Sept. 3rd at 9:30 AM. Anyone who wishes may attend.
2. Margie said the Engineers are searching for sites that may be used as staging areas for contractors.
3. Jim Slough read the Bond Ordinance having to do with the Phase II Water replacement lines for a second reading. A MOTION was made by Jim to accept for second reading out of committee and the motion carried.

ORDINANCE:

Jim Slough said that FEMA is requiring certain changes in the flood plain ordinance of the Town of Bath. The Authority and Purpose of the new Ordinance #2009-07 was read by Jim and the changes were explaine as he understood them. He ask the Council to approve this as a first reading. He will talk with FEMA officials and make any further changes that are required.

A MOTION was made by Scott Merki to pass the flood plain proposal as presented, 2nd by Kenny Easton and motion carried.

A MOTION was made by Jim Slough to give Jim the authority to proceed with any necessary changes, 2nd by Scott Merki. Motion carried.

Ordinance 2009-06 regarding the Police Special Vehicle was read for the second time. A MOTION by Scott Merki, 2nd by Kenny Easton to pass for second reading was carried.

CEMETERY:

Irene Hedrick said the brakes on the dump truck used in the cemeter has recently been replaced.

GRANT: None

PARKS AND RECREATION:

Mayor Webster said some paving is going on in N. Berkeley Park and the focus of the group seems to be on the athletic fields just now.

MOTION TO ADJOURN BY Ryan Rebant, 2nd by Scott Merki. Motion carried.

Meeting adjourned at 7:53 PM

Susan Webster

Mayor Susan Webster

Irene Hedrick

Irene Hedrick, Recorder

DEAR TOWN OF BATH TOWN COUNCIL, 1 SEPTEMBER,2009

THE FOXGLOVE GARDEN CLUB REQUESTS THAT THE TOWN OF BATH EXTEND UMBRELLA LIABILITY COVERAGE PROTECTION TO THE VOLUNTEER WORKERS AFFILIATED WITH THE FOXGLOVE GARDEN CLUB, THIS CLUB MAINTAINS: THE HERB GARDEN, THE FAIRFAX GREEN, "THE DEUTCH CEMETARY", STREETSCAPE PLANTS ON WILKES STREET, DECORATES THE TOWN FOR CHRISTMAS AND GIVES AWARDS TO THE BEAUTIFUL PLANTS AND GARDENS IN THE TOWN OF BATH. WE THINK THAT WE ARE AN IMPORTANT ADDITION TO THE TOWN OF BATH'S ATOMOSPHERE OF GRACE AND BEAUTY. THANK YOU FOR YOUR CONSIDERATION.

REGARDS, FOXGLOVE GARDEN CLUB

Nancy Powell Harvey
Foxglove Garden Representative

VOLUNTEER LIST

2009-2010

Byers, Miss Tina, Esq.
258-2063
209 Wilkes Street,
Berkeley Springs, WV 25411

Curtin, Mrs. Dennis (Beth)
258-4300
185 Little Creek Trail
Berkeley Springs, WV 25411

Day, Mrs. Richard (Ruth)
258-2128
314 Brosius East Lane,
Berkeley Springs, WV 25411

Foulds, Mrs Gareth (Gale) + GARETH FOULDS
258-6155
46 Covey Run Lane,
Berkeley Springs, WV 25411

Garbark, Mrs George (Nancy)
258-5902
110 Tower Circle,
Berkeley Springs, WV 25411

Hagstad, Mrs. Michael (Phyllis)
258-7775
P.O. Box 21
Great Cacapon WV 25422

Harkins, Mrs. Frankie Tan (Ann)
258-5309
PO Box 897,
Berkeley Springs, WV 25411

Harmison, Mrs. William (Betty Lou)
258-1088
146 South Washington Street,
Berkeley Springs, WV 25411



CURRENT MEMBERS
(*Indicates Associate Member)

Andrews, Mrs. Hale (Luella)
258-3199
PO Box 186
Berkeley Springs, WV 25411

Bailey, The Rev. Sarah (Sallie)
258-3057
2505 Spohrs Road
Berkeley Springs, WV 25411

Belton, Mrs. William (Cornelia)
258-3067
1099 Woodmont Road
Great Cacapon, WV 25422

Biggs, Mrs. Charles (Margaret) + CHARLES BIGGS
258-8477
PO Box 127,
Berkeley Springs, WV 25411

Breakall, Mrs. O.W. (Marty)
258-1358
46 Goff Street
Berkeley Springs, WV 25411

Bright, Mrs. Harold (Jan)
947-5190
HC 62 Box 90A1
Great Cacapon, WV 25422

~~*Butler, Mrs. Richard (Phyllis)~~
~~258-1918~~
~~16 Garden Terrace~~
~~Berkeley Springs, WV 25411~~

FOXGLOVE GARDEN CLUB
VOLUNTEER LIST 2009-2010

Miller, Dr. Margaret (Peggy)
258-9339
PO Box 945,
Berkeley Springs, WV 25411

O'Grady, Mrs. William (Pat)
258-4878
260 Morning Glory Lane,
Berkeley Springs, WV 25411

Russell, Miss Mary Jane (Jay)
258-1204
15 Rockwell St.
Berkeley Springs, WV 25411

Scriggins, Mrs. Larry (Victoria) + LARRY SCRIGGINS
947-7272
PO Box 918
Great Cacapon, WV 25422
480-860-4391
13663 East Columbine Drive
Scottsdale, AZ 85259

*Sensel, Mrs. Douglas (Ellen)
258-9726
110 Johnson Mill Road,
Berkeley Springs, WV 25411

Thomas, Mrs. Richard (Sylvia) + RICHARD THOMAS
258-3605
2442 Creek Road,
Berkeley Springs, WV 25411

Trittipoe, Mrs. Howard (Betty)
258-4749
1065 Culp Road,
Berkeley Springs, WV 25411



Harvey, Mrs. Richard (Nancy) + RICHARD HAY
258-6382
PO Box 143
Berkeley Springs WV 25411

*Helsley, Mrs Sylvester (Jean)
258-7726, 93 Garden Drive,
Berkeley Springs, WV 25411

Herlocker, Mrs. Helen
947-5914
P. O. Box 935
Great Cacapon, WV 25422

Hoffman, Mrs. Calvin (Velda)
258-3185
299 Yost Circle,
Berkeley Springs, WV 25411

Julien, Mrs. Beatty (Ruth)
258-1166
107 Rockwell Street,
Berkeley Springs, WV 25411

King, Mrs. Larry (Sandy)
258-4009
619 Weber Lane
Berkeley Springs, WV 25411

Michael, Mrs. James (Jackie)
258-5277
4594 Winchester Grade Road,
Berkeley Springs, WV 25411

Milburn, Mrs. David (Susan)
258-9496 or 258-7600
PO Box 422,
Great Cacapon, WV 25422

VOLUNTEER LIST

2009-2010

* Trump, Mrs. Samuel (Mary Lou)
258-2088
298 Grove Heights Road,
Berkeley Springs, WV 25411

Yost,Mrs Andrew (Dianne)
258-1927
20 South Green Street,
Berkeley Springs, WV 25411

HONORARY MEMBERS

Mrs. Philip Jackson (Catherine)
Mrs Sylvester Helsley (Jean)
Mrs. William Harmison (Betty Lou)

GARDEN MAINTENANCE

Work days will be the 2nd Tuesday of each month unless otherwise notified.

PROGRAM CALENDAR 2009-/20010

September 1, 2009 Noon
Place: Home of Victoria Scriggins
Business Meeting
Hostesses: Victoria Scriggins,
Helen Heriocker

October 6, 2009 NOON
Place Home of Cory Belton
"Street Scape" Larry Lower
Hostesses: Cory Belton, Sallie Bailey,
Peggy Miller, Nancy Harvey

**WV MUNICIPAL BOND COMMISSION**
1207 Quarrier Street
Suite 401
Charleston, WV 25301
(304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: 29-Oct-09

ISSUE: Town of Bath
Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Progam)

ADDRESS: 271 Wilkes Street, Suite A, Berkeley Springs, WV 25411 COUNTY: Morgan

PURPOSE OF ISSUE:
New Money: x
Refunding:

REFUNDS ISSUE(S) DATED: NA

ISSUE DATE: 29-Oct-09
CLOSING DATE: 29-Oct-09
ISSUE AMOUNT: $2,193,910
RATE: 0% Administrative Fee: 0%
1ST DEBT SERVICE DUE: 1-Jun-11
1ST PRINCIPAL DUE 1-Jun-11
1ST DEBT SERVICE AMOUNT $18,283
PAYING AGENT: Municipal Bond Commission

BOND COUNSEL:
Firm: Steptoe & Johnson PLLC
Contact John Stump, Esquire
Phone: (304) 353.8196

UNDERWRITERS COUNSEL
Firm: Jackson Kelly, PLLC
Contact: Samme Gee, Esquire
Phone: (304) 340-1318

CLOSING BANK:
Bank: CNB Bank, Inc.
Contact: Robin Brown
Phone: 304.258.1520

ESCROW TRUSTEE:
Firm:
Contact:
Phone:

KNOWLEDGEABLE ISSUER CONTACT
Contact: Susan Webster
Position: Mayor
Phone: 304.258.1102

OTHER:
Agency: West Virginia Bureau for Public Health
Contact: Robert DeCrease
Position: Manager
Phone: (304) 558-2981

DEPOSITS TO MBC AT CLOSE
By: ____ Wire ____ Check

| | | |
|---|---|---|
| ____ | Accrued Interest: | $ |
| ____ | Capitalized Interest: | $ |
| ____ | Reserve Account: | $ |
| ____ | Other: | $ |

REFUNDS & TRANSFERS BY MBC AT CLOSE
By: ____ Wire ____ Check ____ IGT

| | | |
|---|---|---|
| ____ | To Escrow Trustee | $ |
| ____ | To Issuer | $ |
| ____ | To Cons. Invest. Fun | $ |
| ____ | To Other: ____ | $ |

NOTES: The Series 2009 A Reserve Account to be funded over 10 years

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED:
TRANSFERS REQUIRED:

27A

**WV MUNICIPAL BOND COMMISSION**
1207 Quarrier Street
Suite 401
Charleston, WV 25301
(304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: 29-Oct-09

ISSUE: Town of Bath
Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Progam/ARRA)

ADDRESS: 271 Wilkes Street, Suite A, Berkeley Springs, WV 25411 COUNTY: Morgan

PURPOSE OF ISSUE:
New Money: x
Refunding:

REFUNDS ISSUE(S) DATED: NA

ISSUE DATE: 29-Oct-09

CLOSING DATE: 29-Oct-09

ISSUE AMOUNT: $2,193,910

RATE: 0% Administrative Fee: none

1ST DEBT SERVICE DUE: 100% forgivable

1ST PRINCIPAL DUE 100% forgivable

1ST DEBT SERVICE AMOUNT 100% forgivable

PAYING AGENT: Municipal Bond Commission

BOND COUNSEL:
Firm: Steptoe & Johnson PLLC
Contact John Stump, Esquire
Phone: (304) 353.8196

UNDERWRITERS COUNSEL
Firm: Jackson Kelly, PLLC
Contact: Samme Gee, Esquire
Phone: (304) 340-1318

CLOSING BANK:
Bank: CNB Bank, Inc.
Contact: Robin Brown
Phone: 304.258.1520

ESCROW TRUSTEE:
Firm:
Contact:
Phone:

KNOWLEDGEABLE ISSUER CONTACT
Contact: Susan Webster
Position: Mayor
Phone: 304.258.1102

OTHER:
Agency: West Virgina Bureau for Public Health
Contact: Robert DeCrease
Position: Manager
Phone: (304) 558-2981

DEPOSITS TO MBC AT CLOSE
By: ____ Wire ____ Check

____ Accrued Interest: $ ____
____ Capitalized Interest: $ ____
____ Reserve Account: $ ____
____ Other: $ ____

REFUNDS & TRANSFERS BY MBC AT CLOSE
By: ____ Wire ____ Check ____ IGT

____ To Escrow Trustee $ ____
____ To Issuer $ ____
____ To Cons. Invest. Fun $ ____
____ To Other: ____ $ ____

NOTES: The Series 2009 B Bonds are 100% forgivable. The Series 2009 B Reserve Account will not be funded.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED:
TRANSFERS REQUIRED:

27B

TOWN OF BATH

Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

CNB BANK, INC., Berkeley Springs, West Virginia, hereby accepts appointment as Depository Bank in connection with the Bond Ordinance of the Town of Bath (the "Issuer") enacted October 6, 2009, and the Supplemental Resolution of the Issuer adopted October 20, 2009 (collectively, the "Bond Legislation"), authorizing issuance of the Issuer's Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), dated October 29, 2009, issued in the principal amount of $2,193,910 and Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), dated October 29, 2009, issued in the principal amount of $2,193,910 (collectively the "Bonds"), and agrees to serve as Depository Bank in connection with the Bonds, all as set forth in the Bond Legislation.

WITNESS my signature on this 29th day of October, 2009.

CNB BANK, INC.

By: Robin Brown
Its: Authorized Officer

10.05.09
055550.00002



CH5138436.2

TOWN OF BATH

Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

ACCEPTANCE OF DUTIES AS REGISTRAR

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the Town of Bath Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), dated October 29, 2009, issued in the principal amount of $2,193,910 and Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), dated October 29, 2009, issued in the principal amount of $2,193,910 (collectively the "Bonds"), and agrees to perform all duties of Registrar in connection with the Bonds, all as set forth in the Bond Legislation authorizing issuance of the Bonds.

WITNESS my signature on this 29th day of October, 2009.

THE HUNTINGTON NATIONAL BANK

By: _____
Its: Authorized Officer

10.06.09
055550.00002



CH5138430.2

TOWN OF BATH

Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

CERTIFICATE OF REGISTRATION OF BONDS

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, as Registrar under the Bond Legislation and Registrar's Agreement providing for the above-captioned Bonds of the Town of Bath (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), of the Issuer, dated October 29, 2009, in the principal amount of $2,193,910, numbered AR-1, and the single, fully registered Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), of the Issuer, dated October 29, 2009 in the principal amount of $2,193,910, numbered BR-1, were registered as to principal and interest, if any, 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 Huntington National Bank, as Registrar.

WITNESS my signature on this 29th day of October, 2009.

THE HUNTINGTON NATIONAL BANK

By: _____
Its: Authorized Officer

10.06.09
055550.00002

TOWN OF BATH

Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

# REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 29th day of October, 2009, by and between the TOWN OF BATH, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its $2,193,910 Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) and $2,193,910 Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), in fully registered form (collectively, the "Bonds"), pursuant to the Bond Ordinance of the Issuer duly enacted October 6, 2009, and the Supplemental Resolution of the Issuer duly adopted October 20, 2009 (collectively, the "Bond Legislation");

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 Bond Legislation, a copy of which is attached as EXHIBIT A hereto and incorporated herein by reference;

WHEREAS, the Bond Legislation provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond Legislation 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 Bond Legislation, 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 Bond Legislation with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Legislation, the terms of the Bond Legislation 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 Bond Legislation 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 addresses:

ISSUER: Town of Bath
271 Wilkes Street, Suite A
Berkeley Springs, WV 25411
Attention: Mayor

REGISTRAR: The Huntington National Bank
One Huntington Square
Charleston, West Virginia 25301
Attention: Corporate Trust Department

8. The Registrar shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement. The registrar shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Registrar to carry out these requirements is a material breach of this Agreement which may result in the termination of this Agreement or other legal available remedies.

9. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Bond Legislation.

10. This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

[Remainder of Page Intentionally Blank]

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 day and year first above-written.

TOWN OF BATH

By: _____
Its: Mayor

THE HUNTINGTON NATIONAL BANK

By: _____
Its: Authorized Officer

10.06.09
055550.00002



CH5258413.2

EXHIBIT A

Bond Legislation included in bond transcript as Documents Nos. 1 and 2.

SCHEDULE OF COMPENSATION

(Please see attached)

Private Financial Group
P.O. Box 633 - WE3013
Charleston, West Virginia 25322-0633

Huntington

STATEMENT OF REGISTRAR'S FEES
Invoice Date October 29, 2009

**Town of Bath**
**Account Number 6089001809**

Town of Bath
Water Revenue Bonds, Series 2009 A
C/o John C. Stump
Steptoe & Johnson, PLLC
P.O. Box 1588
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

**********

FEE CALCULATION FOR October, 2009

**********

| | | |
|---|---|---|
| TOTAL AMOUNT | $ | 500.00 |
| **TOTAL DUE** | **$** | **500.00** |

* FEE INVOICES ARE PAYABLE WITHIN 30 DAYS. IF PAYMENT *
* IS NOT RECEIVED, FEES WILL BE DEDUCTED FROM THE PLAN *
* .. MAIL CHECK TO: HUNTINGTON NATIONAL BANK, ATTN: BARRY. . *
* .. GRIFFITH, PO BOX 633, CHARLESTON, WV 25322-0633 . . . . . *

**PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT**

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT
Barry Morgan Griffith at (304)348-5035

Private Financial Group
P.O. Box 633 - WE3013
Charleston, West Virginia 25322-0633

Huntington

STATEMENT OF REGISTRAR'S FEES
Invoice Date October 29, 2009

**Town of Bath**
**Account Number 6089001809**

Town of Bath
Water Revenue Bonds, Series 2009 B
C/o John C. Stump
Steptoe & Johnson, PLLC
P.O. Box 1588
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

**********

FEE CALCULATION FOR October, 2009

**********

| | | |
|---|---|---|
| TOTAL AMOUNT | $ | 500.00 |
| **TOTAL DUE** | **$** | **500.00** |

* FEE INVOICES ARE PAYABLE WITHIN 30 DAYS. IF PAYMENT *
* IS NOT RECEIVED, FEES WILL BE DEDUCTED FROM THE PLAN *
*.. MAIL CHECK TO: HUNTINGTON NATIONAL BANK, ATTN: BARRY. . *
*.. GRIFFITH, PO BOX 633, CHARLESTON, WV 25322-0633 . . . . . .*

**PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT**

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT
Barry Morgan Griffith at (304)348-5035

09-0389-W-CN

PWSID: WV3303301

# State of West Virginia
## OFFICE OF ENVIRONMENTAL HEALTH SERVICES

CAPITOL & WASHINGTON STREETS 1 DAVIS SQUARE, SUITE 200 CHARLESTON, WV 25301
Telephone (304) 558-2981

## PERMIT

**PROJECT:** (Water) Water Line Replacement, Phase II **PERMIT NO.:** 18,267

**LOCATION:** Bath **COUNTY:** Morgan **DATE:** 3-23-2009

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

**Town of Bath**
**271 Wilkes Street, Suite A**
**Berkeley Springs, West Virginia 25411**

is hereby granted approval to: install approximately 1,270 LF of 8", 21,845 LF of 6", 2,325 LF of 4", 20 LF of 3" and 10,600 LF of 2" water line; and all necessary valves and appurtenances.

Facilities are being installed to replace deteriorating old cast iron and galvanized water line in the Town of Bath.

**Note: This permit is contingent upon all new water line being disinfected, flushed and bacteriologically tested, prior to use.**

The Environmental Engineering Division of the **OEHS Kearneysville District Office (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.

RECEIVED
09 MAR 25 AM 10: 28
W VA PUBLIC SERVICE COMMISSION
SECRETARY'S OFFICE

FOR THE DIRECTOR

William S. Herold, Jr., P.E., Assistant Manager
Infrastructure and Capacity Development
Environmental Engineering Division

WSH: cls

pc: Thrasher Engineering, Inc.
James W. Ellars, P.E., PSC-Engineering Division
Amy Swann, Public Service Commission
Morgan County Health Department
OEHS-EED Kearneysville District Office

PUBLIC SERVICE COMMISSION
WATER & WASTEWATER DIVISION
MAR 25 2009
RECEIVED

IC-2
(10/09)

# GRANT AGREEMENT
(2009W-1153)

This Grant Agreement entered into by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority"), on behalf of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council") and the TOWN OF BATH (the "Governmental Agency").

## RECITALS

WHEREAS, the Council has authorized the Authority to make a grant to the Governmental Agency in the amount not to exceed $112,180 (the "Grant") for the purposes of the design, acquisition or construction of a project for which a preliminary application has been submitted and approved by the Council;

WHEREAS, the Governmental Agency wishes to accept the Grant upon such terms and conditions as are hereinafter set forth for the purposes of designing, acquiring or constructing the project described in Exhibit A attached hereto and incorporated herein by reference (the "Project");

WHEREAS, this Grant Agreement sets forth the Council, the Authority and the Governmental Agency's understandings and agreements with regard to the Grant.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Authority and the Governmental Agency hereby agree as follows:

## TERMS

1. Prior to the distribution of the Grant, the Governmental Agency shall provide the Authority with a Project budget and an anticipated monthly draw schedule reflecting the receipt dates and amounts from other funding sources. The Project budget shall not be amended unless the Governmental Agency has received the prior written consent of the Council.

2. The Authority shall advance the Council's share of the Project costs from the Grant from time to time upon receipt of a requisition evidencing the costs incurred, which requisition must be satisfactory to the Authority. Unless agreed to by the Council prior to the commencement of construction, the Grant shall be the last dollars expended on the Project.

3. The monthly requisition will also set forth (i) the amounts requested for that requisition period from all other funding agencies, and (ii) the amounts advanced for the Project to date from all other funding agencies.

4. The Authority shall wire the approved requisition amount using the wiring instructions provided in Exhibit A, unless the Council and Authority are provided replacement instructions in writing.

5. The Governmental Agency will use the proceeds of the Grant only for the purposes specifically set forth in Exhibit B.

6. The Governmental Agency shall comply with and is bound by the Council's rules set forth as Title 167, Series 1 and more particularly Section 5.9 with respect to the sale of the Project.

7. The Governmental Agency acknowledges that the Grant may be reduced, from time to time, to reflect actual Project costs and availability of other funding.

8. The Governmental Agency shall list the Grant provided by the Authority and the Council 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 groundbreaking or dedication of the Project.

9. This Grant Agreement shall be governed by the laws of the State of West Virginia.

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

TOWN OF BATH
By: _____
Its: Mayor
Date: October 29, 2009

(SEAL)

Attest: _____
Its: Recorder

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

By: _____
Its: Executive Director
Date: October 29, 2009

(SEAL)

Attest: _____
Its: Secretary-Treasurer

{C1615965.1}

## Exhibit A

## Project Description

The Project consists of replacement of a portion of the water distribution system.

**[To Be Placed on Letterhead]**

**Exhibit B**

**Wiring Instructions**

_____, 20__

**Town of Bath**
**271 Wilkes St., Ste A.**
**Berkeley Springs, West Virginia 26301**

| | |
|---|---|
| Payor: | West Virginia Water Development Authority |
| Source: | Grant Proceeds |
| Amount: | $_____ |
| Date: | _____, 20__ |
| Form: | Electronic Funds Transfer |
| Payee: | Town of Bath |
| Bank: | _____ |
| Bank Street Address: | _____ |
| Bank Contact: | _____ |
| Telephone: | _____ |
| Routing No.: | _____ |
| Account No.: | _____ |
| Account Name: | _____ |

Client#: 26671 BERSPWA

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/15/2009

PRODUCER
Smith-Nadenbousch Ins./BS
28 N Washington Street, Ste A
P O Box 538
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 | NAIC # |
|---|---|
| INSURER A: Westfield Group | |
| INSURER B: | |
| INSURER C: | |
| INSURER D: | |
| INSURER E: | |

INSURED
Berkeley Springs Water Works
271 Wilkes Street Suite A
Berkeley Springs, WV 25411

## 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.

| INSR LTR | ADD'L INSRD | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS | |
|---|---|---|---|---|---|---|---|
| A | | GENERAL LIABILITY | TRA3112725 | 11/22/08 | 11/22/09 | EACH OCCURRENCE | $1,000,000 |
| | | X COMMERCIAL GENERAL LIABILITY | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $150,000 |
| | | CLAIMS MADE X OCCUR | | | | MED EXP (Any one person) | $10,000 |
| | | | | | | PERSONAL & ADV INJURY | $1,000,000 |
| | | | | | | GENERAL AGGREGATE | $2,000,000 |
| | | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | PRODUCTS - COMP/OP AGG | $1,000,000 |
| | | POLICY PRO-JECT LOC | | | | | |
| | | AUTOMOBILE LIABILITY | | | | COMBINED SINGLE LIMIT (Ea accident) | $ |
| | | ANY AUTO | | | | BODILY INJURY (Per person) | $ |
| | | ALL OWNED AUTOS | | | | | |
| | | SCHEDULED AUTOS | | | | BODILY INJURY (Per accident) | $ |
| | | HIRED AUTOS | | | | | |
| | | NON-OWNED AUTOS | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | GARAGE LIABILITY | | | | AUTO ONLY - EA ACCIDENT | $ |
| | | ANY AUTO | | | | OTHER THAN AUTO ONLY: EA ACC | $ |
| | | | | | | AGG | $ |
| | | EXCESS/UMBRELLA LIABILITY | | | | EACH OCCURRENCE | $ |
| | | OCCUR CLAIMS MADE | | | | AGGREGATE | $ |
| | | | | | | | $ |
| | | DEDUCTIBLE | | | | | $ |
| | | RETENTION $ | | | | | $ |
| | | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | | WC STATU-TORY LIMITS / OTH-ER | |
| | | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? | | | | E.L. EACH ACCIDENT | $ |
| | | If yes, describe under SPECIAL PROVISIONS below | | | | E.L. DISEASE - EA EMPLOYEE | $ |
| | | | | | | E.L. DISEASE - POLICY LIMIT | $ |
| | | OTHER | | | | | |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

West Virginia Water Development Authority is named as
Lenders Loss Payee (since only building coverage) and additional insured
in regards to all locations
Loc# 1 - 103 Wilkes Street; Berkeley Springs, WV
(See Attached Descriptions)

CERTIFICATE HOLDER

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

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 15 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


© ACORD CORPORATION 1988

## DESCRIPTIONS (Continued from Page 1)

Building # 1 Water Treatment Plant
Loc# 2 - 504 N. Washington St.; Berkeley Springs, WV
Loc# 3 - Golden Lane; Berkeley Springs, WV
Loc# 4 - Off Davis Rd. Near Hospital; Berkeley Springs, WV
Loc# 5 - Myers St., South of Town; Berkeley Springs, WV
Loc# 6 - Off David Rd., Near Hospital; Berkeley Springs, WV
Loc# 7 - Cacapon Mt. West Of; Berkeley Springs, WV
Loc# 8 - Fairview Drive(behind Warm Springs Middle School);
Berkeley Springs, WV
Loc# 9 - Warm Springs Ridge (behind Castle); Berkeley Springs, WV
Loc# 10 - 271 Wilkes Street Suite A; Berkeley Springs, WV

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

| Amount | Date | Amount | Date |
|---|---|---|---|
| (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.

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| First Reading: | October 15, 2002 |
| Second Reading: | November 5, 2002 |
| Public Hearing and Third Reading: | November 19, 2002 |

Susan J. Webster
Mayor



M0368514.1

## 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



M0368514.1

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.

Susan J. Webster

Mayor



M0368583.1

## 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



M0368583.1

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

SPECIMEN

No. AR-1

$1,150,000

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

SPECIMEN

ATTEST:

Recorder

SPECIMEN



M0377839.1

# 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 _____ Vice President & Mortgage Lending
Its Authorized Officer

SPEC

# EXHIBIT A

## RECORD OF ADVANCES

| Amount | Date | Amount | Date |
|---|---|---|---|
| (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 | - | 9,583.00 |
| 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 | - | |

Ferris, Baker Watts
West Virginia Public Finance Office

File = Town of Bath Loans.sf-DWTRF 10-22-02
10/22/2002 10:20 AM

# 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 |

Ferris, Baker Watts
West Virginia Public Finance Office

File = Town of Bath Loans.sf-DWTRF 10-22-02
10/22/2002 10:20 AM

# 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 |

File = Town of Bath Loans.sf-DWTRF 10-22-02
10/22/2002 10:20 AM

Ferris, Baker Watts
West Virginia Public Finance Office

# 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:

_____

Ordinance 2006-03

TOWN OF BATH

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC 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 $1,250,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA DWTRF PROGRAM) AND NOT MORE THAN $1,350,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2006 B (WEST VIRGINIA INFRASTRUCTURE FUND); 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 LOAN AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; STATING THE REASONABLE EXPECTATION OF THE COUNCIL OF THE TOWN OF BATH TO REIMBURSE THE TOWN FOR CAPITAL EXPENDITURES IN CONNECTION WITH THE DESIGN, ACQUISITION, CONSTRUCTION AND EQUIPPING OF SUCH ADDITIONS, BETTERMENTS AND IMPROVEMENTS PRIOR TO THE ISSUANCE OF TAX-EXEMPT REVENUE BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

## ARTICLE I

## STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 8, Article 19, Chapter 16,

TOWN OF BATH

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC 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 $1,250,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA DWTRF PROGRAM) AND NOT MORE THAN $1,350,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2006 B (WEST VIRGINIA INFRASTRUCTURE FUND); 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 LOAN AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; STATING THE REASONABLE EXPECTATION OF THE COUNCIL OF THE TOWN OF BATH TO REIMBURSE THE TOWN FOR CAPITAL EXPENDITURES IN CONNECTION WITH THE DESIGN, ACQUISITION, CONSTRUCTION AND EQUIPPING OF SUCH ADDITIONS, BETTERMENTS AND IMPROVEMENTS PRIOR TO THE ISSUANCE OF TAX-EXEMPT REVENUE BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

## ARTICLE I

## STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 8, Article 19, Chapter 16, Article 13C and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

Section 1.02. Findings. It is hereby found, determined and declared that:

A. 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.

B. The Issuer presently owns and operates a public waterworks system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain additions, betterments and improvements to the existing public waterworks system of the Issuer, consisting of replacement of all existing 4" cast iron water lines new 6-inch and 8-inch PVC water lines, involving the replacement of approximately 1,800 linear feet of 8-inch water lines, 13,500 linear feet of six-inch water lines and 800 linear feet of two-inch water lines, the replacement of approximately 158 meter services, various gate valves and fire hydrants and trench repair items, together with all appurtenant facilities, for the primary purpose of reducing the Issuer's current water loss (collectively, the "Project"), which constitute properties necessary, appropriate, useful, convenient or incidental in connection with or to a water supply system (the existing public waterworks system of the Issuer, the Project and any further additions, betterments and improvements are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Recorder of the Issuer.

C. The Issuer intends to permanently finance a portion of the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), in connection with the West Virginia Drinking Water Treatment Revolving Fund and the West Virginia Infrastructure Fund pursuant to the Act.

D. It is deemed necessary for the Issuer to issue its Water Revenue Bonds in the total aggregate principal amount of not more than $2,600,000 in two series (collectively, the "Series 2006 Bonds"), being the Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program), in the aggregate principal amount of not more than $1,250,000 (the "Series 2006 A Bonds"), and the Water Revenue Bonds, Series 2006 B (West Virginia Infrastructure Fund), in the aggregate principal amount of not more than $1,350,000 (the "Series 2006 B Bonds"), to permanently finance a portion of the costs of acquisition and construction of the Project. The remaining costs of the Project shall be funded from the sources set forth in Section 2.01 hereof. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Series 2006 Bonds prior to and during acquisition or construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Reserve

Accounts (as hereinafter defined); engineering 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 expense, commitment fees, fees and expenses of the Authority, including the Administrative Fee (as hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2006 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 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 2006 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 40 years.

F. It is in the best interests of the Issuer that its Series 2006 A Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement by and between the Issuer and the Authority, on behalf of the West Virginia Bureau for Public Health (the "BPH"), and its Series 2006 B Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council"), both loan agreements in form satisfactory to the respective parties (collectively, the "Loan Agreement"), approved hereby if not previously approved by resolution of the Issuer.

G. There are outstanding obligations of the Issuer which will rank on a parity with the Series 2006 Bonds as to liens, pledge and source of and security for payment, being the (1) Water Revenue Refunding and Improvement Bonds, Series 1997A, dated July 15, 1997, issued in the original aggregate principal amount of $1,430,000 (the "Series 1997 A Bonds"); and (2) Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), dated December 9, 2002, issued in the original principal amount of $1,150,000 (the "Series 2002 A Bonds"). The Series 1997 A Bonds and the Series 2002 A Bonds are hereinafter collectively called the "Prior Bonds."

The Series 2006 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 2006 Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior

Bonds are met; and (ii) the written consent of the Registered Owners of the Series 2002 A Bonds to the issuance of the Series 2006 Bonds on a parity with the Series 2002 A Bonds. No consent is required from the Registered Owners of the Series 1997 Bonds. 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. 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 Series 2006 Bonds and all funds and accounts and other payments provided for herein.

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 the issuance of the Series 2006 Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the approval of the Project and the financing thereof by the Infrastructure Council and obtaining of a certificate of public convenience and necessity from the Public Service Commission of West Virginia (the "PSC") by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2006 Bonds or such final order will not be subject to appeal.

J. The Project has been reviewed and determined to be technically and financially feasible by the Infrastructure Council as required under Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended.

K. The Town reasonably expects to reimburse itself for certain capital expenditures made in connection with the design, acquisition, construction and equipping of the Project, such capital expenditures to be undertaken or incurred prior to the execution and delivery of the Bonds, from the proceeds of the Bonds, which are reasonably expected to be executed and delivered within 18 months from the later of (i) the expenditure for payment of said costs or (ii) placing of the Project in service.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2006 Bonds by 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 Registered Owners, 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 Series 2006 Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other

Bonds and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

"Act" means, collectively, Chapter 8, Article 19, Chapter 16, Article 13C and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended and in effect on the date of enactment hereof.

"Administrative Fee" means any administrative fee required to be paid under the Loan Agreement for the Series 2006 A Bonds.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2006 Bonds, or any other agency, board or department of the State that succeeds to the functions of the Authority, acting in its administrative capacity and upon authorization from the BPH and the Infrastructure Council under the Act.

"Authorized Officer" means the Mayor of the Issuer, or any other officer of the Issuer specifically designated by resolution of the Governing Body.

"Bond Legislation," "Ordinance," "Bond Ordinance" or "Local Act" means this Bond Ordinance and all ordinances, orders and resolutions supplemental hereto or amendatory hereof.

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

"Bond Year" means 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" means, collectively, the Series 2006 Bonds, the Prior Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

"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.

"Closing Date" means the date upon which there is an exchange of the Series 2006 Bonds for all or a portion of the proceeds of the Series 2006 Bonds from the Authority.

"Code" means the Internal Revenue Code of 1986, as amended, and the Regulations.

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

"Consulting Engineers" means Thrasher Engineering, Inc., Clarksburg, West Virginia, or any qualified engineer or firm of engineers, licensed by the State, that shall at any time hereafter be procured by the Issuer as Consulting Engineers for the System, or portion thereof, in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended; provided however, that the Consulting Engineers shall not be a regular, full-time employee of the State or any of its agencies, commissions, or political subdivisions.

"Costs" or "Costs of the Project" means those costs described in Section 1.02 D hereof to be a part of the costs of acquisition and construction of the Project.

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

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

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

"Fiscal Year" means each 12-month period beginning on July 1 and ending on the succeeding June 30.

"Governing Body" means the Council of the Issuer, as it may now or hereafter be 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, 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).

"Herein," "hereto" and similar words shall refer to this entire Bond Legislation.

"Independent Certified Public Accountant" 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 other agency of the State of West Virginia that succeeds to the functions of the Infrastructure Council.

"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 of West Virginia, in Morgan County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means, collectively, the Loan Agreement heretofore entered, or to be entered, into by and between the Issuer and the Authority, on behalf of the BPH, providing for the purchase of the Series 2006 A Bonds from the Issuer by the Authority, and the Loan Agreement heretofore entered, or to be entered, into by and between the Issuer and the Authority, on behalf of the Infrastructure Council, providing for the purchase of the Series 2006 B Bonds from the Issuer by the Authority, the forms of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 2006 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, 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 Series 2006 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 hereinafter defined.

"Nonpurpose Investment" means any Investment Property as defined in Section 148(b) of the Code, that is not a purpose investment.

"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 Paying Agent (all as hereinafter 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.

"Outstanding" when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered, except (i) any Bond canceled by the Bond Registrar or Registrar for Prior Bonds, at or prior to said date; (ii) any Bond for the payment of which moneys, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder, and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article X hereof; (iv) any Prior Bond deemed to have been paid; and (v) for purposes of consents, notices or other action by a specified percentage of Registered Owners, any Bonds 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 other entity designated as such for the Series 2006 Bonds in the Supplemental Resolution.

"Prior Bonds" means, collectively, the Issuer's (1) Water Revenue Refunding and Improvement Bonds, Series 1997 A, dated July 15, 1997, issued in the original principal amount of $1,430,000; and (2) Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), dated December 9, 2002, issued in the original principal amount of $1,150,000.

"Prior Ordinance" means, collectively, the ordinance of the Issuer enacted July 7, 1997, the Supplemental Resolution of the Issuer adopted July 17, 1997, the ordinance of the Issuer enacted October 21, 2002, and the Supplemental Resolution of the Issuer adopted November 19, 2002, 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, all as determined by the Code.

"Project" means the Project as described in Section 1.02B hereof.

"PSC" means the Public Service Commission of West Virginia and 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.

"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; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations 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 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 holder 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 Investors Service, Inc. or Standard & Poor's Corporation.

"Recorder" means the Clerk or the Recorder of the Issuer.

"Registered Owner" or any similar term whenever used herein with respect to an outstanding Bond or Bonds, means the person in whose name such Bond is registered.

"Registrar" means the Bond Registrar.

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

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

"Reserve Accounts" means, collectively, the respective Reserve Accounts created for the Series 2006 Bonds and the Prior Bonds.

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

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

"Series 2006 Bonds" means, collectively, the Series 2006 A Bonds and the Series 2006 B Bonds.

"Series 2006 Bonds Construction Trust Fund" means the Series 2006 Bonds Construction Trust Fund created by Section 5.01 hereof.

"Series 2006 A Bonds" means the Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program), of the Issuer, authorized by this Bond Legislation.

"Series 2006 A Bonds Reserve Account" means the Series 2006 A Bonds Reserve Account created by Section 5.02 hereof.

"Series 2006 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2006 A Bonds in the then current or any succeeding year.

"Series 2006 A Bonds Sinking Fund" means the Series 2006 A Bonds Sinking Fund created by Section 5.02 hereof.

"Series 2006 B Bonds" means the Water Revenue Bonds, Series 2006 B (West Virginia Infrastructure Fund), of the Issuer, authorized by this Bond Legislation.

"Series 2006 B Bonds Reserve Account" means the Series 2006 B Bonds Reserve Account created by Section 5.02 hereof.

"Series 2006 B Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2006 B Bonds in the then current or any succeeding year.

"Series 2006 B Bonds Sinking Fund" means the Series 2006 B Bonds Sinking Fund created by Section 5.02 hereof.

"Sinking Funds" means, collectively, the respective Sinking Funds created for the Series 2006 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 Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolution authorizing the sale of the Series 2006 Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2006 Bonds, and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Series 2006 Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Sinking Funds and the Reserve Accounts.

"System" means, collectively, the complete existing municipal waterworks system of the Issuer, as presently existing 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 and shall also include the Project and any 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.

"West Virginia DWTRF Program" means the West Virginia Drinking Water Treatment Revolving Fund program 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 acquisition, construction and improvement of drinking water projects.

"West Virginia Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Chapter 31, Article 15A, Section 9 of the Code of West Virginia, 1931, as amended and in effect on the date of enactment hereof.

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

## 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 $2,487,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2006 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, in an amount and otherwise compatible with the financing plan submitted to the BPH, the Infrastructure Council and the Authority.

The cost of the Project is estimated not to exceed $2,600,000, of which approximately $1,250,000 will be obtained from proceeds of the Series 2006 A Bonds and not to exceed $1,350,000 will be obtained from proceeds of the Series 2006 B Bonds.

## 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 2006 Bonds, funding the respective Reserve Accounts for the Series 2006 Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2006 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 2006 Bonds of the Issuer. The Series 2006 Bonds shall be issued in two series, each as a single bond, designated respectively as "Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program)," in the principal amount of not more than $1,250,000, and "Water Revenue Bonds, Series 2006 B (West Virginia Infrastructure Fund)," in the principal amount of not more than $1,350,000, and both shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2006 Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Series 2006 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 2006 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 a Supplemental Resolution or as specifically provided in the Loan Agreement. The Series 2006 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 2006 Bonds, if any, shall be paid by check or draft of the Paying Agent or its 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 2006 Bonds shall initially be issued in the form of a single bond for each series, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of each series of the Series 2006 Bonds. The Series 2006 Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series 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 be dated and shall have such items as set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2006 Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed the Series 2006 Bonds shall cease to be such officer of the Issuer before the Series 2006 Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2006 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 2006 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 Bond 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 Series 2006 Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond 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 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2006 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 the Series 2006 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 Registered

Owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide registered owner for value.

So long as the Series 2006 Bonds remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of such Bonds.

The registered Series 2006 Bonds shall be transferable only upon the books of the Bond 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 Bond Registrar, duly executed by the Registered Owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Series 2006 Bonds or transferring the registered Series 2006 Bonds are exercised, all Series 2006 Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2006 Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of Series 2006 Bonds, the Bond 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 Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Series 2006 Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2006 Bonds or, in the case of any proposed redemption of Series 2006 Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2006 Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate, register 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 Registered Owner's furnishing 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 Bond Registrar may incur. All Bonds so surrendered shall be canceled by the Bond 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 2006 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 System as herein provided. No Registered Owner of the Series 2006 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2006 Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Gross Revenues; Lien Position with respect to Prior Bonds. The payment of debt service of the Series 2006 A Bonds and the Series 2006 B Bonds shall be secured equally and ratably with each other 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 Registered Owners of the Prior Bonds. Such Gross Revenues in an amount sufficient to pay the principal of and interest, if any, on the Series 2006 Bonds and the Prior Bonds and to make all other payments provided for in the 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 2006 Bonds to the Registrar, and the Registrar shall authenticate, register and deliver the Series 2006 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, register and deliver the Series 2006 Bonds to the original purchasers.

Section 3.10. Form of Bonds. The text of the Series 2006 Bonds shall be in substantially the following forms, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 2006 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF BATH
WATER REVENUE BOND, SERIES 2006 A
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-____ $_____

KNOW ALL MEN BY THESE PRESENTS: That on this __ day of _____, 2006, 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 shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the Record of Advances attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____1, ____, 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 be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____1, ___, as set forth on EXHIBIT B attached hereto.

This Bond shall bear interest at the rate of ___ percent (__%) per annum. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, 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 by and between the Issuer and the Authority, on behalf of the BPH, dated _____, 200__.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The existing public waterworks system of the Issuer, the Project and any further 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 _____, 200_, and a Supplemental Resolution duly adopted by the Issuer on _____, 200_ (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 (1)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 "SERIES 1997 A BONDS"); (2) WATER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA DWTRF PROGRAM), DATED DECEMBER 9, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,150,000 (THE "SERIES 2002 A BONDS"); AND (3) WATER REVENUE BONDS, SERIES 2006 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED _____, 2006, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____ (THE "SERIES 2006 B BONDS"). THE SERIES 1997 A BONDS, THE SERIES 2002 A BONDS AND THE SERIES 2006 B BONDS ARE COLLECTIVELY CALLED THE "FIRST LIEN 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 System, on a parity with the pledge of Gross Revenues in favor of the registered owners of the First Lien Bonds and from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2006 A Bonds Reserve Account"), 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 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 2006 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 ordinance authorizing the Series 1997 A Bonds, so long as the Series 1997 A 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; provided however, that so long as there exists in the Series 2006 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 the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, 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 by 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 payment of the costs of the Project and the costs of issuance hereof as 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 at 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 Clerk, and has caused this Bond to be dated as of the date first written above.

[SEAL]

_____
Mayor

ATTEST:

_____
Clerk

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2006 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

_____
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

| | AMOUNT | DATE | | AMOUNT | DATE |
|---|---|---|---|---|---|
| (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 of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

(FORM OF SERIES 2006 B BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF BATH
WATER REVENUE BOND, SERIES 2006 B
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. BR-____ $_____

KNOW ALL MEN BY THESE PRESENTS: That on this ____ day of _____, 2006, 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 shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the Record of Advances attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, ____, as set forth on the Debt Service Schedule attached as EXHIBIT B hereto and incorporated herein by reference.

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 such installments, 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 Infrastructure and Jobs Development Council (the "Infrastructure Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Infrastructure Council, dated _____, 200__.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The existing public waterworks system of the Issuer, the Project and any further 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 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 200_, and a Supplemental Resolution duly adopted by the Issuer on _____, 200___ (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 (1)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 "SERIES 1997 A BONDS"); (2) WATER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA DWTRF PROGRAM), DATED DECEMBER 9, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,150,000 (THE "SERIES 2002 A BONDS"); AND (3) WATER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA DWTRF PROGRAM), DATED _____, 200_, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____ (THE "SERIES 2006 A BONDS"). THE SERIES 1997 A BONDS, THE SERIES 2002 A BONDS AND THE SERIES 2006 A BONDS ARE COLLECTIVELY CALLED THE "FIRST LIEN 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 System, on a parity with the pledge of Gross Revenues in favor of the registered owners of the First Lien Bonds and from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2006 B Bonds Reserve Account"), 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 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 2006 B 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 ordinance authorizing the Series 1997A Bonds, so long as the

Series 1997 A 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; provided however, that so long as there exists in the Series 2006 B 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 the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, 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 by 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 payment of the costs of the Project and the costs of issuance hereof as 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 at 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 Clerk, and has caused this Bond to be dated as of the date first written above.

[SEAL]

_____
Mayor

ATTEST:

_____
Clerk

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2006 B 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

_____
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

| | AMOUNT | DATE | | AMOUNT | DATE |
|---|---|---|---|---|---|
| (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 of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Loan Agreement, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Bond Legislation. The Series 2006 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.

Section 3.12. Filing of Amended Schedule. Upon completion of the acquisition and construction of the Project, the Issuer will file with the Authority, the BPH and the Infrastructure Council, the respective schedules, the forms of which will be provided by the BPH and the Infrastructure Council, setting forth the actual costs of the Project and sources of funds therefor.

## ARTICLE IV

[RESERVED]

## ARTICLE V

## FUNDS AND ACCOUNTS; 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, separate and apart from all other funds or accounts of the Depository Bank or the Issuer and from each other:

(1) Revenue Fund (created by the Prior Ordinance);

(2) Renewal and Replacement Fund (created by the Prior Ordinance); and

(3) Series 2006 Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with and shall be held by the Commission, separate and apart from all other funds or accounts of the Commission or the Issuer and from each other:

(1) Series 2006 A Bonds Sinking Fund;

(2) Series 2006 A Bonds Reserve Account;

(3) Series 2006 B Bonds Sinking Fund; and

(4) Series 2006 B Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited upon receipt by the Issuer 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 provided in the Prior Ordinance and this Bond Legislation. All moneys in the Revenue Fund shall be disposed of only in the following manner and order of 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 Series 1997 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 Sinking Funds for the Prior Bonds, the amounts required by the Prior Ordinance for payment of principal of the Prior Bonds; (ii) commencing 3 months prior to the first date of payment of principal of the Series 2006 A Bonds, for deposit in the Series 2006 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2006 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 2006 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; and (iii) commencing 3 months prior to the first date of payment of principal of the Series 2006 B Bonds, for deposit in the Series 2006 B Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2006 B 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 2006 B 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 Reserve Accounts for the Prior Bonds, the amounts required by the Prior Ordinance; (ii) commencing 3 months prior to the first date of payment of principal of the Series 2006 A Bonds, if not fully funded upon issuance of the Series 2006 A Bonds, for deposit in the Series 2006 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2006 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2006 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 2006 A Bonds Reserve Requirement; and (iii) commencing 3 months prior to the first date of payment of principal of the Series 2006 B Bonds, if not fully funded upon issuance of the Series 2006 B Bonds, for deposit in the Series 2006 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2006 B Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2006 B 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 2006 B Bonds Reserve Requirement.

(4) The Issuer shall next, each month, pay from the Revenue Fund the 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 2006 A Bonds Sinking Fund and the Series 2006 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2006 A Bonds and the Series 2006 B Bonds, respectively, as the same shall become due. Moneys in the Series 2006 A Bonds Reserve Account and the Series 2006 B Bonds Reserve Account shall be used only for the purposes of paying principal of and interest, if any, on the Series 2006 A Bonds and the Series 2006 B Bonds, respectively, as the same shall come due, when other moneys in the Series 2006 A Bonds Sinking Fund and the Series 2006 B Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2006 A Bonds Sinking Fund, the Series 2006 A Bonds Reserve Account, the Series 2006 B Bonds Sinking Fund and the Series 2006 B Bonds Reserve Account shall be returned, 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 2006 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, if any, due on the Series 2006 A Bonds and the Series 2006 B Bonds, respectively, and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Series 2006 A Bonds Reserve Account or the Series 2006 B Bonds Reserve Account which result in a reduction in the balance therein to below the respective Reserve Requirements 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 2006 Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay the 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 2006 A Bonds Sinking Fund, the Series 2006 A Bonds Reserve Account, the Series 2006 B Bonds Sinking Fund or the Series 2006 B Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the respective aggregate principal amount of the Series 2006 A Bonds and the Series 2006 B Bonds issued pursuant to this Bond Legislation 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 Series 2006 A Bonds and the Series 2006 B 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 2006 A Bonds Sinking Fund, the Series 2006 A Bonds Reserve Account, the Series 2006 B Bonds Sinking Fund and the Series 2006 B Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority at anytime, the Issuer shall make the necessary arrangements whereby required payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Moneys in the Series 2006 A Bonds Sinking Fund, the Series 2006 A Bonds Reserve Account, the Series 2006 B Bonds Sinking Fund and the Series 2006 B Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2006 A Bonds Sinking Fund, the Series 2006 A Bonds Reserve Account, the Series 2006 B Bonds Sinking Fund and the Series 2006 B Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2006 A Bonds and the Series 2006 B Bonds, respectively, under the conditions and restrictions set forth herein.

B. 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 other period as required by the Act, such excess shall be considered as surplus revenues (the "Surplus Revenues"). Surplus Revenues may be used for any lawful purpose of the System.

C. 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 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. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. 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), deposit with the Commission the Administrative Fee as set forth in the Schedule Y attached to the Loan Agreement for the Series 2006 A Bonds.

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 to the Authority by the 5th day of such calendar month.

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent 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 and fees then due. In the case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority at anytime, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

F. The moneys in excess of the maximum amounts insured by FDIC in any of the 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.

G. 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; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03, and the Gross Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

## ARTICLE VI

## BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds. From the moneys received from the sale of the Series 2006 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2006 A Bonds, there shall first be deposited with the Commission in the Series 2006 A Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest.

B. From the proceeds of the Series 2006 B Bonds, there shall first be deposited with the Commission in the Series 2006 B Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest.

C. Next, from the proceeds of the Series 2006 A Bonds, there shall be deposited with the Commission in the Series 2006 A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2006 A Bonds Reserve Account.

D. Next, from the proceeds of the Series 2006 B Bonds, there shall be deposited with the Commission in the Series 2006 B Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2006 B Bonds Reserve Account.

E. Next, from the proceeds of the Series 2006 B Bonds, there shall be deposited with the Commission, together with other funds of, or available to, the Issuer, the amount set forth in the Supplemental Resolution for paying in full the entire outstanding principal of and all interest and administrative fees on the Prior Bonds.

F. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 2006 A Bonds, such moneys shall be deposited with the Depository Bank in the Series 2006 Bonds Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and until so expended, are hereby pledged as additional security for the Series 2006 A Bonds.

G. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 2006 B Bonds, such moneys shall be deposited with the Depository Bank in the Series 2006 Bonds Construction Trust Fund and applied solely to payment of the

costs of the Project in the manner set forth in Section 6.02 hereof and until so expended are hereby pledged as additional security for the Series 2006 B Bonds.

H. 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 2006 A Bonds shall be expended as approved by the BPH and any remaining proceeds of the Series 2006 B Bonds shall be expended as approved by the Infrastructure Council.

Section 6.02. Disbursements From Bond Construction Trust Fund. A. On or before the Closing Date, the Issuer shall have delivered to the BPH and the Authority a report listing the specific purposes for which the proceeds of the Series 2006 A Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for the costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements of the proceeds of the Series 2006 A Bonds from the Series 2006 Bonds Construction Trust Fund shall be made only after submission to and approval from the BPH of the following:

(1) a completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement for the Series 2006 A Bonds, in compliance with the Issuer's construction schedule, and

(2) a certificate, signed by an Authorized Officer 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 disbursement 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.

B. The Issuer shall each month provide the Infrastructure Council with a requisition for the costs incurred for the Project, together with such documentation as the Infrastructure Council shall require. Payments of all Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements of the proceeds of the Series 2006 B Bonds from the Series 2006 Bonds Construction Trust Fund shall be made only after submission to and approval from the Council of a certificate, signed by an Authorized Officer 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 disbursement 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.

The Issuer shall expend all proceeds of the Series 2006 B Bonds within 3 years of the date of issuance of the Council's bonds, the proceeds of which were used to make the loan to the Issuer.

Pending such application, moneys in the Series 2006 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 of 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 Registered Owner of the Series 2006 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Registered Owner of the Series 2006 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 the Series 2006 Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2006 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 Registered Owner of the Series 2006 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2006 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 2006 A Bonds and the Series 2006 B Bonds shall be secured equally and ratably with each other 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 Registered Owners of the Prior Bonds. The Gross Revenues in an amount sufficient to pay the principal of and interest, if any, on the Series 2006 Bonds and the Prior Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. 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 June 27, 2005.

So long as the Series 2006 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 the Bond Legislation and in compliance with the Loan Agreement. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2006 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, fees 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. So long as the Series 2006 Bonds are outstanding and except as otherwise required by law or with the written consent of the BPH, the Infrastructure Council and the Authority, 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 any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2006 Bonds, immediately be remitted to the Commission for deposit in the Sinking Funds, and, with the written permission of the BPH, the Infrastructure Council and the Authority, or in the event the Authority is no longer a Registered Owner, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 2006 Bonds. Any balance remaining after the payment of the Series 2006 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, by resolution duly adopted, 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 of 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, determine, upon consultation with a professional engineer, that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds of any such sale shall be remitted by the Issuer to the Commission for deposit in the appropriate Sinking Funds and shall be applied to the redemption of Bonds of the last maturities then outstanding at prices not greater than the redemption price of such Bonds. The payment of such proceeds into the Renewal and Replacement Fund and the Sinking Funds shall not reduce the amounts required to be paid into such funds by other provisions of this Bond Legislation.

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 Registered Owners, or their duly authorized representatives, of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Registered Owners 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 as provided for in Section 7.06 and 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 2006 Bonds. All obligations issued by the Issuer after the issuance of the Series 2006 Bonds and 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 2006 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts established by this Bond Legislation 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 being on a parity with the lien of the Series 2006 Bonds, and the interest, if any, thereon, upon any of the income and revenues of the System pledged for payment of the Series 2006 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, the BPH and the Infrastructure Council 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 the Series 2006 Bonds pursuant to this Bond Legislation, without the prior written consent of the Authority, the BPH and the Infrastructure Council and without complying with the conditions and requirements herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2006 Bonds.

No such Parity Bonds shall be issued, except for the purposes of financing the costs of the design, acquisition or construction of additions, extensions, improvements or betterments to the System or refunding any Bonds outstanding, 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 for, from the System during any 12 consecutive months, within the 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 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall be not 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 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 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 (without successful appeal) 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 Parity Bonds.

The Net Revenues actually derived from the System during the 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, as stated in a certificate, 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 (without successful appeal) 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 Registered Owners of the Bonds and the Registered Owners of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. All Parity 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 source of and security for payment from such 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 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 2006 Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from 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 2006 Bonds.

No Parity Bonds shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Bond Legislation with respect to 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 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, the BPH and the Infrastructure Council, 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, the BPH and the Infrastructure Council 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 grants or other sources of financing for the Project.

The Issuer shall permit the Authority, the BPH and the Infrastructure Council, 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 Registered Owner of the Series 2006 Bonds issued pursuant to this 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 and safeguards to the extent allowed and as prescribed by the PSC. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and 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 Issuer shall direct.

The Issuer shall file with the Authority, the BPH and the Infrastructure Council, or any Registered Owner of the Series 2006 Bonds, 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 audited by the Independent Certified Public Accountant in compliance with the applicable OMB Circular, or any successor thereof, and the Single Audit Act, or any successor thereof, to the extent legally required, and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountant, or a summary thereof, to any Registered Owner of the Series 2006 Bonds and shall submit said report to the Authority, the BPH and the Infrastructure Council, or any Registered Owner of the Series 2006 Bonds. Such audit report submitted to the Authority, the BPH and the Infrastructure Council shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Gross Revenues of the System are adequate to meet the Issuer's 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, the BPH and the Infrastructure Council, 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, the BPH and the Infrastructure Council, 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, the BPH and the Infrastructure Council 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 Exhibit E of the Loan Agreement for the Series 2006 A Bonds or as promulgated from time to time.

Section 7.09. Rates. Prior to the issuance of the Series 2006 Bonds, equitable rates or charges for the use of and service rendered by the System shall 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 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 ordinance authorizing the Series 1997 A Bonds, so long as the Series 1997 A Bonds are outstanding, and thereafter, sufficient (i) to provide for all Operating Expenses of 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 Series 2006 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2006 Bonds; provided that, in the event that amounts equal to or in excess of the Reserve Requirements are on deposit respectively in the Series 2006 A Bonds Reserve Account, the Series 2006 B Bonds Reserve Account and the Reserve Accounts for obligations on a parity with the Series 2006 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 Fiscal Year for payment of principal of and interest, if any, on the Series 2006 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2006 Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance described in Section 7.04.

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, the BPH and the Infrastructure Council within 30 days of 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 within 30 days of adoption thereof mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority, the BPH, the Infrastructure Council and any Registered Owner of the Series 2006 Bonds 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, the Infrastructure Council and any Registered Owner of the Series 2006 Bonds or anyone acting for and on behalf of such Registered Owner.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for 2 years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement, and forward a copy of such report to the Authority, the BPH and the Infrastructure Council by the 10th day of each month.

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, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Authority, the BPH and the Infrastructure Council, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority, the BPH and the Infrastructure Council 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.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Authority, the BPH and the Infrastructure Council 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, the Infrastructure Council and the Issuer at the completion of construction that construction of the Project 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 the Issuer 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 the final Operation and Maintenance Manual, as defined in the DWTRF Regulations, to the Issuer when the Project is 90% completed. The Issuer shall, at all times, provide operation and maintenance of the System in compliance with 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 legally allowable, 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, 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, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the PSC and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 20 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 the rules and regulations of the PSC, 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 the rules and regulations promulgated by the PSC, discontinue and shut off the services of the System to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of the System until all delinquent charges for the services 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 the 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 either shall avail itself or themselves 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. 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 2006 Bonds remain Outstanding, the Issuer will, 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 OR COMPLETION BONDS, such bonds to be in the amounts of not less than 100% of the amount of any construction contract and to be required of each contractor dealing 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, Section 38-2-39.

(4) FIDELITY BONDS will be provided as to every officer 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.

(5) 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.

(6) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

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 Authority, the BPH and the Infrastructure Council. 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 of Project; Permits and Orders. The Issuer shall 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 for the acquisition and construction of the Project, all 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 issuance of the Series 2006 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 shall perform, satisfy and comply with all the terms and conditions of the Loan Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer shall provide the BPH and the Infrastructure Council with copies of all documents submitted to the Authority.

The Issuer shall also comply with all applicable laws, rules and regulations issued by the Authority, the BPH, the Infrastructure Council or other State, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.19. Statutory Mortgage Lien. For the further protection of the Registered Owner of the Series 2006 Bonds, 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 2006 Bonds and shall be on a parity with the statutory mortgage lien in favor of the Registered Owners 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. A. The Issuer shall, simultaneously with the delivery of the Series 2006 Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the BPH and the Infrastructure Council for written approval. The Issuer shall obtain the written approval of the BPH and the Infrastructure Council before expending any proceeds of the

Series 2006 Bonds held in "contingency" as set forth in the schedule attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the BPH and the Infrastructure Council before expending any proceeds of the Series 2006 Bonds made available due to bid or construction or project underruns.

C. The Issuer shall list the funding as being provided by the Authority, the BPH and the Infrastructure Council 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

## INVESTMENTS

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 specific 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 on such liquidation. The Depository Bank may make any and all investments permitted by this section through its own investment or 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 reasonably 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 2006 Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest, if any, on the Series 2006 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 2006 Bonds as a condition to issuance of the Series 2006 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 2006 Bonds as may be necessary in order to maintain the status of the Series

2006 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 2006 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 Infrastructure Council or the BPH, as the case may be, from which the proceeds of the Series 2006 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 Infrastructure 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 2006 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 2006 Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on any Series 2006 Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on their respective parts relating to the Series 2006 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2006 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, the Authority, the Depository Bank, the Registrar, the Paying Agent or the Registered Owner of the Series 2006 Bonds; or

(3) 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

(4) 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 of the Series 2006 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, the Loan Agreement 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 Series 2006 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 Series 2006 Bonds, and (v) by action or bill in equity, enjoin any acts in violation of the Bond Legislation with respect to the Series 2006 Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Registered Owners of the Series 2006 Bonds shall be on a parity with the Registered Owners of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of the Series 2006 Bonds 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 Registered Owner 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 Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of the System and shall hold, operate and maintain, manage and control the System, 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 the System as the Issuer itself might do.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this 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 or it, 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 may be 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 the Registered Owners and the curing and making good of

any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of the 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, assign, 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 there shall otherwise be paid to the Registered Owners of the Series 2006 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 this Bond Legislation, then the pledge of Gross Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2006 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2006 Bonds from gross income for federal income tax purposes.

## ARTICLE XI

## MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to the issuance of the Series 2006 Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2006 Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2006 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2006 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 2006 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, if any, out of the funds herein pledged therefor without the consent of the Registered Owners thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2006 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 Registered Owner 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 excludability of interest, if any, on the Series 2006 Bonds from gross income of the Registered Owners thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Bonds, and no change, variation or alteration of any kind of the provisions of the 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 Ordinance 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 Ordinance, the Supplemental Resolution or the Series 2006 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, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed; provided

that, in the event of any conflict between this Ordinance 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, Etc. 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 the Governing Body 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 11.07. Reimbursement. (A) This Bond Ordinance is intended to constitute a "declaration of official intent" pursuant to Section 1.150-2 of the Treasury Regulations promulgated under the Internal Revenue Code of 1986, as amended (the "Reimbursement Regulations").

(B) The source of payment for such capital expenditures will be the temporary line of credit for the Project and upon issuance of the Bonds, proceeds thereof not to exceed the amount of such capital expenditures will be applied to reimbursement and repayment of such temporary line of credit.

(C) The maximum amount of such reimbursement is $400,000 and the maximum principal amount of the Bonds to be issued for design, acquisition, construction and equipping of the Project is $2,000,000.

(D) The Town shall provide written evidence of all reimbursement allocations within 30 days following the issuance of the Series 2006 Bonds.

Section 11.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance in the form set forth in Exhibit A attached hereto and incorporated herein by reference, shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in the Morgan Messenger, a newspaper published and 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 Series 2006 Bonds, and that any person interested may appear before the Governing Body upon a date certain, not less than 10 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 Governing Body for review by interested persons during office hours of the Governing Body. The Governing Body hereby determines that the abstract of this Ordinance as set forth in Exhibit

The Governing Body hereby determines that the abstract of this Ordinance as set forth in Exhibit A contains sufficient information as to give notice of the contents hereof. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Section 11.09. Effective Date. This Ordinance shall take effect immediately following public hearing and final reading hereof.

Passed on First Reading: 8-7, 2006

Passed on Second Reading: 8-14, 2006

Passed on Final Reading Following Public Hearing: 8-28, 2006

Mayor

A contains sufficient information as to give notice of the contents hereof. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Section 11.09. Effective Date. This Ordinance shall take effect immediately following public hearing and final reading hereof.

Passed on First Reading: _____, 2006

Passed on Second Reading: _____, 2006

Passed on Final Reading
Following Public
Hearing: _____, 2006

_____
Mayor

EXHIBIT A

TOWN OF BATH

NOTICE OF PUBLIC HEARING AND ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on _____, 2006, 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, not otherwise provided, thereof through the issuance of not more than $1,250,000 in aggregate principal amount of Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program) and not more than $1,350,000 in aggregate principal amount of Water Revenue Bonds, Series 2006 B (West Virginia Infrastructure Fund) (collectively, 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 respective Loan Agreements for the Bonds; authorized the execution and delivery of the Loan Agreements.

3. Directed the continuation of a revenue fund and the disposition of the revenues of the System; provided for the payment of operating expenses of the System and debt service on the Bonds; directed the creation of the respective sinking funds, reserve accounts, a renewal and replacement fund and a bond construction trust fund and the disbursement of Bond proceeds.

4. 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 registered owners of the Bonds to the Gross Revenues of the System; provided certain conditions for the issuance of additional bonds.

5. Provided for insurance coverage on the Project and the System, enforcement of collection of rates and other charges for the System, and other covenants of the Issuer in favor of the registered owners of the Bonds.

6. Established the events of default and the remedies of the registered owners of the Bonds; 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 _____ meeting on _____, 2006, at ___: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.

Clerk

# TOWN OF BATH
# WATER REVENUE BONDS,
# SERIES 2006 A (WEST VIRGINIA DWTRF PROGRAM) AND
# SERIES 2006 B (WEST VIRGINIA INFRASTRUCTURE FUND)

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TOWN OF BATH
WATER REVENUE BONDS,
SERIES 2006 A (WEST VIRGINIA DWTRF PROGRAM) AND
SERIES 2006 B (WEST VIRGINIA INFRASTRUCTURE FUND)

## SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNTS, DATES, MATURITY DATES, INTEREST RATES, PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE TOWN OF BATH WATER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA DWTRF PROGRAM) AND SERIES 2006 B (WEST VIRGINIA INFRASTRUCTURE FUND); AUTHORIZING AND APPROVING THE LOAN AGREEMENTS 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 August 14, 2006, effective August 28, 2006 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC 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 $1,250,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA DWTRF PROGRAM) AND NOT MORE THAN $1,350,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2006 B (WEST VIRGINIA

INFRASTRUCTURE FUND); 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 LOAN AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; STATING THE REASONABLE EXPECTATION OF THE COUNCIL OF THE TOWN OF BATH TO REIMBURSE THE TOWN FOR CAPITAL EXPENDITURES IN CONNECTION WITH THE DESIGN, ACQUISITION, CONSTRUCTION AND EQUIPPING OF SUCH ADDITIONS, BETTERMENTS AND IMPROVEMENTS PRIOR TO THE ISSUANCE OF TAX-EXEMPT REVENUE BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Ordinance when used herein;

WHEREAS, the Bond Ordinance provides for the issuance of the Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program) and Series 2006 B (West Virginia Infrastructure Fund), of the Issuer, in the respective aggregate principal amounts not to exceed $1,250,000 and $1,350,000 (collectively, the "Bonds" and individually, the "Series 2006 A Bonds" and "Series 2006 B Bonds"), and has authorized the execution and delivery of a loan agreement relating to the Series 2006 A Bonds, including all schedules and exhibits attached thereto, 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 a loan agreement relating to the Series 2006 B Bonds, including all schedules and exhibits attached thereto, by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") (collectively, the "Loan Agreement"), all in accordance with Chapter 8, Article 19 and Chapter 16, Article 13C and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the exact principal amounts, dates, maturity dates, interest rates, payment schedules, sale prices 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 amounts, dates, maturity dates, interest rates, payment schedules, sale prices 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 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 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, 271 Wilkes Street, Berkeley Springs, West Virginia, on August 28, 2006, at 5:30 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 following bonds of the Issuer:

(A) Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program), of the Issuer, originally represented by a single Bond, numbered AR-1, in the original principal amount of $1,250,000. The Series 2006 A Bonds shall be dated the date of delivery, shall finally mature June 1, 2037, and shall bear no interest. The principal of the Series 2006 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2007, in the amounts as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Series 2006 A Bonds. The Issuer hereby approves and shall pay the Administrative Fee equal to 1% of the principal amount of the Series 2006 A Bonds set forth in the Schedule Y attached to the Loan Agreement. The Series 2006 A Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the Registered Owner of the Series 2006 A Bonds.

(B) Water Revenue Bonds, Series 2006 B (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single Bond, numbered BR-1, in the original principal amount of $1,237,000. The Series 2006 B Bonds shall be dated the date of delivery, shall finally mature June 1, 2046, and shall bear no interest. The principal of the Series 2006 B Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2008, in the amounts as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Series 2006 B Bonds. The Series 2006 B Bonds shall be subject to redemption upon the written consent of the Authority and the Infrastructure Council, and upon payment of the redemption premium, if any, and otherwise in compliance with the

Loan Agreement, so long as the Authority shall be the Registered Owner of the Series 2006 B Bonds.

Section 3. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the forms 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, the Infrastructure Council 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 2006 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 2006 A Bonds Sinking Fund as capitalized interest.

Section 9. Series 2006 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 2006 A Bonds Reserve Account.

Section 10. Series 2006 B Bonds proceeds in the amount of $-0- shall be deposited in the Series 2006 B Bonds Sinking Fund as capitalized interest.

Section 11. Series 2006 B Bonds proceeds in the amount of $-0- shall be deposited in the Series 2006 B Bonds Reserve Account.

Section 12. The remaining proceeds of the Bonds, as advanced from time to time, shall be deposited in or credited to the Series 2006 Bonds Construction Trust Fund, as received from time to time for payment of costs of the Project, including costs of issuance of the Bonds.

Section 13. 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 August 29, 2006.

Section 14. 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 15. 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 2006 A Bonds Sinking Fund, the Series 2006 B Bonds Sinking Fund, the Series 2006 A Bonds Reserve Account and the Series 2006 B Bonds Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 16. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

Section 17. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 18. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 28th day of August, 2006.

Mayor

# CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the Town of Bath on the 28th day of August, 2006.

Dated this 29th day of August, 2006.

[SEAL]

Recorder

8/17/06
000802/00303

AR-1

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF BATH
WATER REVENUE BOND, SERIES 2006 A
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-1 $1,250,000

KNOW ALL MEN BY THESE PRESENTS: That on this 29th day of August, 2006, 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 Two Hundred-Fifty Thousand DOLLARS ($1,250,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the Record of Advances attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1 2007, 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 be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2007, 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 such installments, 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 by and between the Issuer and the Authority, on behalf of the BPH, dated August 29, 2006.

SPECIMEN

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The existing public waterworks system of the Issuer, the Project and any further 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 August 14, 2006, effective August 28, 2006 and a Supplemental Resolution duly adopted by the Issuer on August 28, 2006 (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 (1)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 "SERIES 1997 A BONDS"); (2) WATER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA DWTRF PROGRAM), DATED DECEMBER 9, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,150,000 (THE "SERIES 2002 A BONDS"); AND (3) WATER REVENUE BONDS, SERIES 2006 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED AUGUST 29, 2006, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,237,000 (THE "SERIES 2006 B BONDS"). THE SERIES 1997 A BONDS, THE SERIES 2002 A BONDS AND THE SERIES 2006 B BONDS ARE COLLECTIVELY CALLED THE "FIRST LIEN 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 System, on a parity with the pledge of Gross Revenues in favor of the registered owners of the First Lien Bonds and from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2006 A Bonds Reserve Account"), 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

 SPECIMEN

pursuant to the Act and 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 2006 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 ordinance authorizing the Series 1997 A Bonds, so long as the Series 1997 A 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; provided however, that so long as there exists in the Series 2006 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 the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, 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 by 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 payment of the costs of the Project and the costs of issuance hereof as 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 at 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 as of the date first written above.

[SEAL]

SPECIMEN

Mayor

ATTEST:

SPECIMEN

Recorder

{T0330280.1}

## CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2006 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: August 29, 2006.

CITIZENS NATIONAL BANK OF
BERKELEY SPRINGS, as Registrar

SPECIMEN

Pres/CEO

Authorized Officer

{T0330280.1}

AR-1

SPECIMEN

EXHIBIT A

RECORD OF ADVANCES

| | AMOUNT | DATE | | AMOUNT | DATE |
|---|---|---|---|---|---|
| (1) | $31,250 | 8/29/06 | (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

SPECIMEN

**$1,250,000**

Town of Bath

0% Interest Rate, 1% Administrative Fee, 30 Years

Closing Date: August 29, 2006

## Debt Service Schedule

| Date | Principal | Coupon | Total P+I |
|---|---|---|---|
| 09/01/2006 | - | - | - |
| 12/01/2006 | - | - | - |
| 03/01/2007 | - | - | - |
| 06/01/2007 | - | - | - |
| 09/01/2007 | 10,417.00 | - | 10,417.00 |
| 12/01/2007 | 10,417.00 | - | 10,417.00 |
| 03/01/2008 | 10,417.00 | - | 10,417.00 |
| 06/01/2008 | 10,417.00 | - | 10,417.00 |
| 09/01/2008 | 10,417.00 | - | 10,417.00 |
| 12/01/2008 | 10,417.00 | - | 10,417.00 |
| 03/01/2009 | 10,417.00 | - | 10,417.00 |
| 06/01/2009 | 10,417.00 | - | 10,417.00 |
| 09/01/2009 | 10,417.00 | - | 10,417.00 |
| 12/01/2009 | 10,417.00 | - | 10,417.00 |
| 03/01/2010 | 10,417.00 | - | 10,417.00 |
| 06/01/2010 | 10,417.00 | - | 10,417.00 |
| 09/01/2010 | 10,417.00 | - | 10,417.00 |
| 12/01/2010 | 10,417.00 | - | 10,417.00 |
| 03/01/2011 | 10,417.00 | - | 10,417.00 |
| 06/01/2011 | 10,417.00 | - | 10,417.00 |
| 09/01/2011 | 10,417.00 | - | 10,417.00 |
| 12/01/2011 | 10,417.00 | - | 10,417.00 |
| 03/01/2012 | 10,417.00 | - | 10,417.00 |
| 06/01/2012 | 10,417.00 | - | 10,417.00 |
| 09/01/2012 | 10,417.00 | - | 10,417.00 |
| 12/01/2012 | 10,417.00 | - | 10,417.00 |
| 03/01/2013 | 10,417.00 | - | 10,417.00 |
| 06/01/2013 | 10,417.00 | - | 10,417.00 |
| 09/01/2013 | 10,417.00 | - | 10,417.00 |
| 12/01/2013 | 10,417.00 | - | 10,417.00 |
| 03/01/2014 | 10,417.00 | - | 10,417.00 |
| 06/01/2014 | 10,417.00 | - | 10,417.00 |
| 09/01/2014 | 10,417.00 | - | 10,417.00 |
| 12/01/2014 | 10,417.00 | - | 10,417.00 |
| 03/01/2015 | 10,417.00 | - | 10,417.00 |
| 06/01/2015 | 10,417.00 | - | 10,417.00 |
| 09/01/2015 | 10,417.00 | - | 10,417.00 |
| 12/01/2015 | 10,417.00 | - | 10,417.00 |
| 03/01/2016 | 10,417.00 | - | 10,417.00 |
| 06/01/2016 | 10,417.00 | - | 10,417.00 |
| 09/01/2016 | 10,417.00 | - | 10,417.00 |
| 12/01/2016 | 10,417.00 | - | 10,417.00 |
| 03/01/2017 | 10,417.00 | - | 10,417.00 |
| 06/01/2017 | 10,417.00 | - | 10,417.00 |

AR-1

SPECIMEN

**$1,250,000**

Town of Bath

0% Interest Rate, 1% Administrative Fee, 30 Years

Closing Date: August 29, 2006

## Debt Service Schedule

| Date | Principal | Coupon | Total P+I |
|---|---|---|---|
| 09/01/2017 | 10,417.00 | - | 10,417.00 |
| 12/01/2017 | 10,417.00 | - | 10,417.00 |
| 03/01/2018 | 10,417.00 | - | 10,417.00 |
| 06/01/2018 | 10,417.00 | - | 10,417.00 |
| 09/01/2018 | 10,417.00 | - | 10,417.00 |
| 12/01/2018 | 10,417.00 | - | 10,417.00 |
| 03/01/2019 | 10,417.00 | - | 10,417.00 |
| 06/01/2019 | 10,417.00 | - | 10,417.00 |
| 09/01/2019 | 10,417.00 | - | 10,417.00 |
| 12/01/2019 | 10,417.00 | - | 10,417.00 |
| 03/01/2020 | 10,417.00 | - | 10,417.00 |
| 06/01/2020 | 10,417.00 | - | 10,417.00 |
| 09/01/2020 | 10,417.00 | - | 10,417.00 |
| 12/01/2020 | 10,417.00 | - | 10,417.00 |
| 03/01/2021 | 10,417.00 | - | 10,417.00 |
| 06/01/2021 | 10,417.00 | - | 10,417.00 |
| 09/01/2021 | 10,417.00 | - | 10,417.00 |
| 12/01/2021 | 10,417.00 | - | 10,417.00 |
| 03/01/2022 | 10,417.00 | - | 10,417.00 |
| 06/01/2022 | 10,417.00 | - | 10,417.00 |
| 09/01/2022 | 10,417.00 | - | 10,417.00 |
| 12/01/2022 | 10,417.00 | - | 10,417.00 |
| 03/01/2023 | 10,417.00 | - | 10,417.00 |
| 06/01/2023 | 10,417.00 | - | 10,417.00 |
| 09/01/2023 | 10,417.00 | - | 10,417.00 |
| 12/01/2023 | 10,417.00 | - | 10,417.00 |
| 03/01/2024 | 10,417.00 | - | 10,417.00 |
| 06/01/2024 | 10,417.00 | - | 10,417.00 |
| 09/01/2024 | 10,417.00 | - | 10,417.00 |
| 12/01/2024 | 10,417.00 | - | 10,417.00 |
| 03/01/2025 | 10,417.00 | - | 10,417.00 |
| 06/01/2025 | 10,417.00 | - | 10,417.00 |
| 09/01/2025 | 10,417.00 | - | 10,417.00 |
| 12/01/2025 | 10,417.00 | - | 10,417.00 |
| 03/01/2026 | 10,417.00 | - | 10,417.00 |
| 06/01/2026 | 10,417.00 | - | 10,417.00 |
| 09/01/2026 | 10,417.00 | - | 10,417.00 |
| 12/01/2026 | 10,417.00 | - | 10,417.00 |
| 03/01/2027 | 10,417.00 | - | 10,416.00 |
| 06/01/2027 | 10,416.00 | - | 10,416.00 |
| 09/01/2027 | 10,416.00 | - | 10,416.00 |
| 12/01/2027 | 10,416.00 | - | 10,416.00 |
| 03/01/2028 | 10,416.00 | - | |
| 06/01/2028 | | | |

AR-1

SPECIMEN

**$1,250,000**

Town of Bath

0% Interest Rate, 1% Administrative Fee, 30 Years

Closing Date: August 29, 2006

## Debt Service Schedule

| Date | Principal | Coupon | Total P+I |
|---|---|---|---|
| 09/01/2028 | 10,416.00 | - | 10,416.00 |
| 12/01/2028 | 10,416.00 | - | 10,416.00 |
| 03/01/2029 | 10,416.00 | - | 10,416.00 |
| 06/01/2029 | 10,416.00 | - | 10,416.00 |
| 09/01/2029 | 10,416.00 | - | 10,416.00 |
| 12/01/2029 | 10,416.00 | - | 10,416.00 |
| 03/01/2030 | 10,416.00 | - | 10,416.00 |
| 06/01/2030 | 10,416.00 | - | 10,416.00 |
| 09/01/2030 | 10,416.00 | - | 10,416.00 |
| 12/01/2030 | 10,416.00 | - | 10,416.00 |
| 03/01/2031 | 10,416.00 | - | 10,416.00 |
| 06/01/2031 | 10,416.00 | - | 10,416.00 |
| 09/01/2031 | 10,416.00 | - | 10,416.00 |
| 12/01/2031 | 10,416.00 | - | 10,416.00 |
| 03/01/2032 | 10,416.00 | - | 10,416.00 |
| 06/01/2032 | 10,416.00 | - | 10,416.00 |
| 09/01/2032 | 10,416.00 | - | 10,416.00 |
| 12/01/2032 | 10,416.00 | - | 10,416.00 |
| 03/01/2033 | 10,416.00 | - | 10,416.00 |
| 06/01/2033 | 10,416.00 | - | 10,416.00 |
| 09/01/2033 | 10,416.00 | - | 10,416.00 |
| 12/01/2033 | 10,416.00 | - | 10,416.00 |
| 03/01/2034 | 10,416.00 | - | 10,416.00 |
| 06/01/2034 | 10,416.00 | - | 10,416.00 |
| 09/01/2034 | 10,416.00 | - | 10,416.00 |
| 12/01/2034 | 10,416.00 | - | 10,416.00 |
| 03/01/2035 | 10,416.00 | - | 10,416.00 |
| 06/01/2035 | 10,416.00 | - | 10,416.00 |
| 09/01/2035 | 10,416.00 | - | 10,416.00 |
| 12/01/2035 | 10,416.00 | - | 10,416.00 |
| 03/01/2036 | 10,416.00 | - | 10,416.00 |
| 06/01/2036 | 10,416.00 | - | 10,416.00 |
| 09/01/2036 | 10,416.00 | - | 10,416.00 |
| 12/01/2036 | 10,416.00 | - | 10,416.00 |
| 03/01/2037 | 10,416.00 | - | 10,416.00 |
| 06/01/2037 | 10,416.00 | - | 10,416.00 |
| Total | $1,250,000.00 | - | $1,250,000.00 * |

*Plus $1,575.49 one-percent administrative fee paid quarterly. Total fee over life of loan is $189,058.80.

(Form of)

SPECIMEN

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 of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

BR-1

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF BATH
WATER REVENUE BOND, SERIES 2006 B
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. BR-1 $1,237,000

KNOW ALL MEN BY THESE PRESENTS: That on this 29th day of August, 2006, 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 Two Hundred Thirty-Seven Thousand DOLLARS ($1,237,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the Record of Advances attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2008, as set forth on the Debt Service Schedule attached as EXHIBIT B hereto and incorporated herein by reference.

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 such installments, 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 Infrastructure and Jobs Development Council (the "Infrastructure Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Infrastructure Council, dated August 29, 2006.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The existing public waterworks system of the Issuer, the Project and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the

SPECIMEN

Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on August 14, 2006, effective August 28, 2006 and a Supplemental Resolution duly adopted by the Issuer on August 28, 2006 (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 (1)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 "SERIES 1997 A BONDS"); (2) WATER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA DWTRF PROGRAM), DATED DECEMBER 9, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,150,000 (THE "SERIES 2002 A BONDS"); AND (3) WATER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA DWTRF PROGRAM), DATED AUGUST 29, 2006, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,250,000 (THE "SERIES 2006 A BONDS"). THE SERIES 1997 A BONDS, THE SERIES 2002 A BONDS AND THE SERIES 2006 A BONDS ARE COLLECTIVELY CALLED THE "FIRST LIEN 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 System, on a parity with the pledge of Gross Revenues in favor of the registered owners of the First Lien Bonds and from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2006 B Bonds Reserve Account"), 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 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 2006 B 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

SPECIMEN



the ordinance authorizing the Series 1997A Bonds, so long as the Series 1997 A 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; provided however, that so long as there exists in the Series 2006 B 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 the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, 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 by 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 payment of the costs of the Project and the costs of issuance hereof as 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 at 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 as of the date first written above.

[SEAL]

SPECIMEN

Mayor

ATTEST:

SPECIMEN

Recorder

## CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2006 B 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: August 29, 2006.

CITIZENS NATIONAL BANK OF
BERKELEY SPRINGS, as Registrar

Authorized Officer

BR-1
EXHIBIT A

SPECIMEN

## RECORD OF ADVANCES

| | AMOUNT | DATE | | AMOUNT | DATE |
|---|---|---|---|---|---|
| (1) | $103,000 | 8/29/06 | (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

SPECIMEN

## DEBT SERVICE SCHEDULE

**$1,237,000**

Town of Bath (West Virginia)
0% Interest Rate, 40 Years from Closing Date
Closing Date: August 29, 2006

### Debt Service Schedule

Part 1 of 4

| Date | Principal | Coupon | Total P+I |
|---|---|---|---|
| 09/01/2006 | - | - | - |
| 12/01/2006 | - | - | - |
| 03/01/2007 | - | - | - |
| 06/01/2007 | - | - | - |
| 09/01/2007 | - | - | - |
| 12/01/2007 | - | - | - |
| 03/01/2008 | - | - | - |
| 06/01/2008 | 8,085.00 | - | 8,085.00 |
| 09/01/2008 | 8,085.00 | - | 8,085.00 |
| 12/01/2008 | 8,085.00 | - | 8,085.00 |
| 03/01/2009 | 8,085.00 | - | 8,085.00 |
| 06/01/2009 | 8,085.00 | - | 8,085.00 |
| 09/01/2009 | 8,085.00 | - | 8,085.00 |
| 12/01/2009 | 8,085.00 | - | 8,085.00 |
| 03/01/2010 | 8,085.00 | - | 8,085.00 |
| 06/01/2010 | 8,085.00 | - | 8,085.00 |
| 09/01/2010 | 8,085.00 | - | 8,085.00 |
| 12/01/2010 | 8,085.00 | - | 8,085.00 |
| 03/01/2011 | 8,085.00 | - | 8,085.00 |
| 06/01/2011 | 8,085.00 | - | 8,085.00 |
| 09/01/2011 | 8,085.00 | - | 8,085.00 |
| 12/01/2011 | 8,085.00 | - | 8,085.00 |
| 03/01/2012 | 8,085.00 | - | 8,085.00 |
| 06/01/2012 | 8,085.00 | - | 8,085.00 |
| 09/01/2012 | 8,085.00 | - | 8,085.00 |
| 12/01/2012 | 8,085.00 | - | 8,085.00 |
| 03/01/2013 | 8,085.00 | - | 8,085.00 |
| 06/01/2013 | 8,085.00 | - | 8,085.00 |
| 09/01/2013 | 8,085.00 | - | 8,085.00 |
| 12/01/2013 | 8,085.00 | - | 8,085.00 |
| 03/01/2014 | 8,085.00 | - | 8,085.00 |
| 06/01/2014 | 8,085.00 | - | 8,085.00 |
| 09/01/2014 | 8,085.00 | - | 8,085.00 |
| 12/01/2014 | 8,085.00 | - | 8,085.00 |
| 03/01/2015 | 8,085.00 | - | 8,085.00 |
| 06/01/2015 | 8,085.00 | - | 8,085.00 |
| 09/01/2015 | 8,085.00 | - | 8,085.00 |
| 12/01/2015 | 8,085.00 | - | 8,085.00 |
| 03/01/2016 | 8,085.00 | - | 8,085.00 |
| 06/01/2016 | 8,085.00 | - | 8,085.00 |
| 09/01/2016 | 8,085.00 | - | 8,085.00 |
| 12/01/2016 | 8,085.00 | - | 8,085.00 |
| 03/01/2017 | 8,085.00 | - | 8,085.00 |
| 06/01/2017 | 8,085.00 | - | 8,085.00 |

BR-1

SPECIMEN

**$1,237,000**

Town of Bath (West Virginia)
0% Interest Rate, 40 Years from Closing Date
Closing Date: August 29, 2006

## Debt Service Schedule



| Date | Principal | Coupon | Total P+I |
|---|---|---|---|
| 09/01/2017 | 8,085.00 | - | 8,085.00 |
| 12/01/2017 | 8,085.00 | - | 8,085.00 |
| 03/01/2018 | 8,085.00 | - | 8,085.00 |
| 06/01/2018 | 8,085.00 | - | 8,085.00 |
| 09/01/2018 | 8,085.00 | - | 8,085.00 |
| 12/01/2018 | 8,085.00 | - | 8,085.00 |
| 03/01/2019 | 8,085.00 | - | 8,085.00 |
| 06/01/2019 | 8,085.00 | - | 8,085.00 |
| 09/01/2019 | 8,085.00 | - | 8,085.00 |
| 12/01/2019 | 8,085.00 | - | 8,085.00 |
| 03/01/2020 | 8,085.00 | - | 8,085.00 |
| 06/01/2020 | 8,085.00 | - | 8,085.00 |
| 09/01/2020 | 8,085.00 | - | 8,085.00 |
| 12/01/2020 | 8,085.00 | - | 8,085.00 |
| 03/01/2021 | 8,085.00 | - | 8,085.00 |
| 06/01/2021 | 8,085.00 | - | 8,085.00 |
| 09/01/2021 | 8,085.00 | - | 8,085.00 |
| 12/01/2021 | 8,085.00 | - | 8,085.00 |
| 03/01/2022 | 8,085.00 | - | 8,085.00 |
| 06/01/2022 | 8,085.00 | - | 8,085.00 |
| 09/01/2022 | 8,085.00 | - | 8,085.00 |
| 12/01/2022 | 8,085.00 | - | 8,085.00 |
| 03/01/2023 | 8,085.00 | - | 8,085.00 |
| 06/01/2023 | 8,085.00 | - | 8,085.00 |
| 09/01/2023 | 8,085.00 | - | 8,085.00 |
| 12/01/2023 | 8,085.00 | - | 8,085.00 |
| 03/01/2024 | 8,085.00 | - | 8,085.00 |
| 06/01/2024 | 8,085.00 | - | 8,085.00 |
| 09/01/2024 | 8,085.00 | - | 8,085.00 |
| 12/01/2024 | 8,085.00 | - | 8,085.00 |
| 03/01/2025 | 8,085.00 | - | 8,085.00 |
| 06/01/2025 | 8,085.00 | - | 8,085.00 |
| 09/01/2025 | 8,085.00 | - | 8,085.00 |
| 12/01/2025 | 8,085.00 | - | 8,085.00 |
| 03/01/2026 | 8,085.00 | - | 8,085.00 |
| 06/01/2026 | 8,085.00 | - | 8,085.00 |
| 09/01/2026 | 8,085.00 | - | 8,085.00 |
| 12/01/2026 | 8,085.00 | - | 8,085.00 |
| 03/01/2027 | 8,085.00 | - | 8,085.00 |
| 06/01/2027 | 8,085.00 | - | 8,085.00 |
| 09/01/2027 | 8,085.00 | - | 8,085.00 |
| 12/01/2027 | 8,085.00 | - | 8,085.00 |
| 03/01/2028 | 8,085.00 | - | 8,085.00 |
| 06/01/2028 | 8,085.00 | - | 8,085.00 |

BR-1

SPECIMEN

**$1,237,000**

Town of Bath (West Virginia)

0% Interest Rate, 40 Years from Closing Date

Closing Date: August 29, 2006

## Debt Service Schedule



| Date | Principal | Coupon | Total P+I |
|---|---|---|---|
| 09/01/2028 | 8,085.00 | - | 8,085.00 |
| 12/01/2028 | 8,085.00 | - | 8,085.00 |
| 03/01/2029 | 8,085.00 | - | 8,085.00 |
| 06/01/2029 | 8,085.00 | - | 8,085.00 |
| 09/01/2029 | 8,085.00 | - | 8,085.00 |
| 12/01/2029 | 8,085.00 | - | 8,085.00 |
| 03/01/2030 | 8,085.00 | - | 8,085.00 |
| 06/01/2030 | 8,085.00 | - | 8,085.00 |
| 09/01/2030 | 8,085.00 | - | 8,085.00 |
| 12/01/2030 | 8,085.00 | - | 8,085.00 |
| 03/01/2031 | 8,085.00 | - | 8,085.00 |
| 06/01/2031 | 8,085.00 | - | 8,085.00 |
| 09/01/2031 | 8,085.00 | - | 8,085.00 |
| 12/01/2031 | 8,085.00 | - | 8,085.00 |
| 03/01/2032 | 8,085.00 | - | 8,085.00 |
| 06/01/2032 | 8,085.00 | - | 8,085.00 |
| 09/01/2032 | 8,085.00 | - | 8,085.00 |
| 12/01/2032 | 8,085.00 | - | 8,085.00 |
| 03/01/2033 | 8,085.00 | - | 8,085.00 |
| 06/01/2033 | 8,085.00 | - | 8,085.00 |
| 09/01/2033 | 8,085.00 | - | 8,085.00 |
| 12/01/2033 | 8,085.00 | - | 8,085.00 |
| 03/01/2034 | 8,085.00 | - | 8,085.00 |
| 06/01/2034 | 8,085.00 | - | 8,085.00 |
| 09/01/2034 | 8,085.00 | - | 8,085.00 |
| 12/01/2034 | 8,085.00 | - | 8,085.00 |
| 03/01/2035 | 8,085.00 | - | 8,085.00 |
| 06/01/2035 | 8,085.00 | - | 8,085.00 |
| 09/01/2035 | 8,085.00 | - | 8,085.00 |
| 12/01/2035 | 8,085.00 | - | 8,085.00 |
| 03/01/2036 | 8,085.00 | - | 8,085.00 |
| 06/01/2036 | 8,085.00 | - | 8,085.00 |
| 09/01/2036 | 8,085.00 | - | 8,085.00 |
| 12/01/2036 | 8,085.00 | - | 8,085.00 |
| 03/01/2037 | 8,085.00 | - | 8,085.00 |
| 06/01/2037 | 8,085.00 | - | 8,085.00 |
| 09/01/2037 | 8,085.00 | - | 8,085.00 |
| 12/01/2037 | 8,085.00 | - | 8,085.00 |
| 03/01/2038 | 8,085.00 | - | 8,085.00 |
| 06/01/2038 | 8,085.00 | - | 8,085.00 |
| 09/01/2038 | 8,085.00 | - | 8,085.00 |
| 12/01/2038 | 8,085.00 | - | 8,085.00 |
| 03/01/2039 | 8,085.00 | - | 8,085.00 |
| 06/01/2039 | 8,085.00 | - | 8,085.00 |

BR-1

SPECIMEN

**$1,237,000**

Town of Bath (West Virginia)
0% Interest Rate, 40 Years from Closing Date
Closing Date: August 29, 2006

## Debt Service Schedule

Part 4 of 4

| Date | Principal | Coupon | Total P+I |
|---|---|---|---|
| 09/01/2039 | 8,085.00 | - | 8,085.00 |
| 12/01/2039 | 8,085.00 | - | 8,085.00 |
| 03/01/2040 | 8,085.00 | - | 8,085.00 |
| 06/01/2040 | 8,085.00 | - | 8,085.00 |
| 09/01/2040 | 8,085.00 | - | 8,085.00 |
| 12/01/2040 | 8,085.00 | - | 8,085.00 |
| 03/01/2041 | 8,085.00 | - | 8,085.00 |
| 06/01/2041 | 8,085.00 | - | 8,085.00 |
| 09/01/2041 | 8,085.00 | - | 8,085.00 |
| 12/01/2041 | 8,085.00 | - | 8,085.00 |
| 03/01/2042 | 8,085.00 | - | 8,085.00 |
| 06/01/2042 | 8,085.00 | - | 8,085.00 |
| 09/01/2042 | 8,085.00 | - | 8,085.00 |
| 12/01/2042 | 8,085.00 | - | 8,085.00 |
| 03/01/2043 | 8,085.00 | - | 8,085.00 |
| 06/01/2043 | 8,085.00 | - | 8,085.00 |
| 09/01/2043 | 8,085.00 | - | 8,085.00 |
| 12/01/2043 | 8,085.00 | - | 8,085.00 |
| 03/01/2044 | 8,085.00 | - | 8,085.00 |
| 06/01/2044 | 8,085.00 | - | 8,085.00 |
| 09/01/2044 | 8,085.00 | - | 8,085.00 |
| 12/01/2044 | 8,085.00 | - | 8,085.00 |
| 03/01/2045 | 8,084.00 | - | 8,084.00 |
| 06/01/2045 | 8,084.00 | - | 8,084.00 |
| 09/01/2045 | 8,084.00 | - | 8,084.00 |
| 12/01/2045 | 8,084.00 | - | 8,084.00 |
| 03/01/2046 | 8,084.00 | - | 8,084.00 |
| 06/01/2046 | 8,084.00 | - | 8,084.00 |
| **Total** | **$1,237,000.00** | - | **$1,237,000.00** |

### Yield Statistics

| | |
|---|---|
| Bond Year Dollars | $25,674.53 |
| Average Life | 20.755 Years |
| Average Coupon | - |
| Net Interest Cost (NIC) | - |
| True Interest Cost (TIC) | 7.27E-11 |
| Bond Yield for Arbitrage Purposes | 7.27E-11 |
| All Inclusive Cost (AIC) | 7.27E-11 |

### IRS Form 8038

| | |
|---|---|
| Net Interest Cost | - |
| Weighted Average Maturity | 20.755 Years |

(Form of)

SPECIMEN

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 of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

# TOWN OF BATH

## WATER REFUNDING REVENUE BONDS, SERIES 2008 A

## BOND ORDINANCE

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## TOWN OF BATH

ORDINANCE AUTHORIZING THE REFUNDING OF THE WATER REVENUE REFUNDING AND IMPROVEMENT BONDS, SERIES 1997, OF THE TOWN OF BATH THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN $1,200,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REFUNDING REVENUE BONDS, SERIES 2008 A; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE COUNCIL OF TOWN OF BATH:

## ARTICLE I

## STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolutions supplemental hereto, the "Bond Legislation") is adopted pursuant to the provisions of Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law.

Section 1.02. Findings. It is hereby found, determined and declared that:

A. 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.

B. The Issuer now owns and operates a public waterworks system. The refunding of the Series 1997 A Bonds, as hereinafter defined, hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. The Issuer has heretofore issued its Water Revenue Refunding and Improvement Bonds, Series 1997, dated July 29, 1997, issued in the original aggregate principal amount of $1,430,000 (the "Series 1997 A Bonds").

D. It is in the best interest of the Issuer that the Series 1997 A Bonds be currently refunded in order to allow the Issuer to take advantage of the interest savings.

E. It is deemed necessary for the Issuer to issue its Water Refunding Revenue Bonds, Series 2008 A (the "Series 2008 A Bonds") in the total aggregate principal amount of not more than $1,200,000 to pay in full the principal of and interest accrued on the Series 1997 A Bonds, to fund the Series 2008 A Bonds Reserve Account, as hereinafter defined, and to pay costs of issuance thereof and related costs.

F. It is in the best interest of the Issuer that the Series 2008 A Bonds be sold to the Purchaser (as hereinafter defined) pursuant to the terms and provisions of the commitment letter of the Purchaser.

G. The Issuer has complied with all requirements of West Virginia law relating to authorization of the refunding of the Series 1997 A Bonds, and the issuance of the Series 2008 A Bonds, or will have so complied prior to issuance of the Series 2008 A Bonds.

H. Upon the refunding of the Series 1997 A Bonds, there are outstanding obligations of the Issuer which will rank on a parity with the Series 2008 A Bonds as to liens, pledge and source of and security for payment, being the Issuer's (1) Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program), dated August 29, 2006, issued in the original aggregate principal amount of $1,250,000 (the "Series 2006 A Bonds"); (2) Water Revenue Bonds, Series 2006 B (West Virginia Infrastructure Fund), dated August 29, 2006, issued in the original aggregate principal amount of $1,237,000 (the "Series 2006 B Bonds"); and (3) Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), dated December 9, 2002, issued in the original aggregate principal amount of $1,150,000 (the "Series 2002 A Bonds") (collectively referred to herein as the "Prior Bonds").

Prior to the issuance of the Series 2008 A Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests, if any, of the Prior Bonds are met and (ii) the written consent of the Holders of the Prior Bonds to the issuance of the Series 2008 A Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no Outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all covenants of the Prior Bonds and the Prior Ordinance.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2008 A Bonds by those who shall be the Registered Owner 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 Registered Owner, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Series 2008 A Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds, and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

"Act" means Chapter 8, Article 19 of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

"Authorized Officer" means the Mayor of the Issuer or any other officer of the Issuer specifically designated by resolution of the Governing Body.

"Bondholder," "Holder of the Bonds," "Holder," "Registered Owner" or any similar term whenever used herein with respect to any outstanding Bond or Bonds, means the person in whose name such Bond is registered.

"Bond Legislation," "Ordinance" or "Bond Ordinance" means this Bond Ordinance and all orders and resolutions supplemental hereto or amendatory hereof.

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

"Bonds" means, collectively, the Series 2008 A Bonds, the Prior Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder of by another resolution of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Bonds for all or a portion of the proceeds thereof representing the purchase price of the Bonds by the Purchaser.

"Code" means the Internal Revenue Code of 1986, as amended, and the Regulations.

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

"Council" or "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.

"Depository Bank" means the bank designated as such in the Supplemental Resolution, and its successors and assigns.

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

"Fiscal Year" means each 12-month period beginning on July 1 and ending on the succeeding June 30.

"Governing Body" means the Town Council of the Issuer as it may now or hereafter be 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 or any Tap Fees, as hereinafter defined.

"Herein," "hereto" and similar words shall refer to this entire Bond Legislation.

"Independent Certified Public Accountants" shall mean 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.

"Investment Property" means any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract, investment-type property or 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, 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" means Town of Bath, a municipal corporation and political subdivision of the State of West Virginia in Morgan County, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Net Proceeds" means the face amount of the Series 2008 A Bonds, plus accrued interest and premium, if any, and less original issue discount, if any. 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 2008 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 hereinafter defined.

"Nonpurpose Investment" means any Investment Property as defined in Section 148(b) of the Code that is not a purpose investment.

"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, fees and expenses of fiscal agents, the Depository Bank, the Registrar and the Paying Agent (all as hereinafter defined), 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 Series 2008 A 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.

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

"Parity Bonds" means additional Parity Bonds issued under the provisions and within the limitations prescribed by Section 5.04 hereof.

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

"Prior Bonds" means the Series 2002 A Bonds, Series 2006 A Bonds and Series 2006 B Bonds.

"Prior Ordinance" means, collectively, the ordinances authorizing the Prior Bonds.

"Private Business Use" means 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.

"Purchaser" means the purchaser or purchasers of the Series 2008 A Bonds directly from the Issuer designated as such in the Supplemental Resolution and its successors and assigns.

"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; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations 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 FDIC or Federal Savings and Loan Insurance Corporation, 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 holder 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 Board of Treasury Investments pursuant to Chapter 12, Article 6C of the West Virginia Code of 1931, as amended; and

(i) Obligations of States or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service or Standard & Poor's Corporation.

"Recorder" means the Recorder of the Governing Body of the Issuer.

"Regulations" means temporary and permanent regulations promulgated under the Code.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by Prior Ordinance.

"Series 1997 A Bonds" means the Water Revenue Refunding and Improvement Bonds, Series 1997, dated July 29, 1997, issued in the original aggregate principle amount of $1,430,000.

"Series 1997 A Ordinance" means the Bond Ordinances authorizing the Series 1997 A Bonds.

"Series 2002 A Bonds" means the Issuer's Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), dated December 9, 2002, issued in the original aggregate principal amount of $1,150,000.

"Series 2006 A Bonds" means the Issuer's Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program), dated August 29, 2006, issued in the original aggregate principal amount of $1,250,000.

"Series 2006 B Bonds" means the Issuer's Water Revenue Bonds, Series 2006 B (West Virginia Infrastructure Fund), dated August 29, 2006, issued in the original aggregate principal amount of $1,237,000.

"Series 2008 A Bonds" means the Water Refunding Revenue Bonds, Series 2008 A, authorized hereby to be issued pursuant to this Ordinance.

"Series 2008 A Bonds Reserve Account" means the Series 2008 A Bonds Reserve Account created by Section 4.02 hereof.

"Series 2008 A Bonds Reserve Requirement" means the reserve amount required on the Series 2008 A Bonds equal to one years annual debt service.

"Series 2008 A Bonds Sinking Fund" means the Series 2008 A Bonds Sinking Fund created by Section 4.02 hereof.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the Supplemental Resolution authorizing the sale of the Series 2008 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2008 A Bonds and not so included may be included in another Supplemental Resolution.

"System" means the complete public waterworks system of the Issuer, presently existing in its entirety or any integral part thereof, and any further additions, extensions and improvements thereto hereafter constructed or acquired for the System from any sources whatsoever.

"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; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

## ARTICLE II

## AUTHORIZATION OF REFUNDING

Section 2.01. Authorization of Refunding. All Series 1997 A Bonds Outstanding as of the date of issuance of the Series 2008 A Bonds and all unpaid interest accrued thereon, if any, are hereby ordered to be refunded and paid in full and the pledge of Gross Revenues in favor of the Holders of the Series 1997 A Bonds imposed by the Series 1997 A Ordinance, the monies in the funds and accounts created by the Series 1997 A Ordinance pledged to payment of the Series 1997 A Bonds, and any other funds pledged by the Series 1997 A Ordinance to payment of the Series 1997 A Bonds are hereby ordered terminated, discharged and released upon such payment to the Holders of the Series 1997 A Bonds. Contemporaneously with the payment in full of the Series 1997 A Bonds, the amounts on deposit in the sinking fund, and all other funds and accounts created and maintained on behalf of the Series 1997 A Bonds, shall be released from the lien created by the Series 1997 A Ordinance. The portion of the proceeds of the Series 2008 A Bonds hereby authorized to be applied towards the refunding of the Series 1997 A Bonds shall be applied as provided in Article III hereof.

## ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purpose of refunding the Series 1997 A Bonds, funding the Series 2008 A Bonds Reserve Account and paying certain costs of issuance and related costs not otherwise provided for, or any all of such purposes, there is hereby authorized to be issued the Water Refunding Revenue Bonds, Series 2008 A, of the Issuer, in the aggregate principal amount of not more than $1,200,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution.

Section 3.02. Terms of Bonds. The Series 2008 A Bonds shall be issued in single form, numbered AR-1, and only as a fully registered Bond. The Series 2008 A Bonds shall be dated such date; shall be in such principal amount, not to exceed $1,200,000; shall bear interest at such rate or rates, not exceeding the then legally permissible limit on such dates; shall mature on such dates and in such amounts; and shall be subject to such repayment or redemption, prepayment penalty all as the Issuer shall prescribe in a Supplemental Resolution. The Series 2008 A Bonds shall be payable as to principal and interest at the office of the Paying Agent in any coin or currency which, on the dates of payment is legal tender for the payment of public or private debts under the laws of the United States of America.

Section 3.03. Execution of Bonds. The Series 2008 A Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed the Series 2008 A Bonds shall cease to be such officer of the Issuer before the Series 2008 A Bonds so signed and sealed have been actually sold and delivered, the Series 2008 A Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. The Series 2008 A 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 2008 A Bonds 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 3.09 shall have been manually executed by the Bond 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 Series 2008 A Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2008 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 Holder, in accepting any of the Series 2008 A Bonds, shall be conclusively deemed to have agreed that such Bond 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 Holder shall further be conclusively deemed to have agreed that said Bond shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2008 A Bonds remain outstanding, the Issuer, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the Series 2008 A Bonds.

The registered Series 2008 A Bonds shall be transferable only upon the books of the Bond 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 Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging the Series 2008 A Bonds or transferring the registered Bonds are exercised, the Bonds shall be delivered in accordance with the provisions of this Bond Legislation. Any Series 2008 A Bond surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of the Series 2008 A Bonds, the Bond 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 such new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the person requesting such exchange or transfer, as a condition precedent to the exercise of the privilege of making such transfer. The Bond Registrar shall not be obliged to make any such exchange or transfer of the Series 2008 A Bonds during the 15 days preceding a scheduled payment date on such Bonds or after notice of any prepayment of such Bonds has been given.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Series 2008 A Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Series 2008 A Bond of like tenor as the Bond 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 Series 2008 A Bond destroyed, stolen or lost, and upon the Holder's furnishing 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 Bond Registrar may incur. The Series 2008 A Bond so surrendered shall be cancelled by the Bond 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 Series 2008 A 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 2008 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 Holder or Holders of

the Series 2008 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2008 A Bonds or the interest 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 2008 A Bonds shall be secured forthwith by a lien on the Gross Revenues derived from the System, in addition to the statutory mortgage lien on the System hereinafter provided, on a parity with the Prior Bonds. The Gross Revenues derived from the System in an amount sufficient to pay the principal of and interest on the Series 2008 A Bonds, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 2008 A Bonds as the same become due.

Section 3.09. Form of Bond. The text of the Series 2008 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 hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

[FORM OF BOND]

TOWN OF BATH
WATER REFUNDING REVENUE BONDS, SERIES 2008 A

No. AR-1 $_____

KNOW ALL MEN BY THESE PRESENTS: That on this the _____ day of November, 2008, 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 order of

BRANCH BANKING AND TRUST COMPANY

or registered assigns (the "Payee"), the principal sum of _____ DOLLARS ($_____), plus interest as follows:

A. Interest on this Bond shall be payable at a rate of 4.18% per annum (hereinafter sometimes called the "Tax-Exempt Rate"). Interest shall be computed on the basis of a year of 360 days and 30 days in a month.

B. Notwithstanding any other provision herein, in the event the interest on this Bond is declared to be includible in gross income for federal income tax purposes by the Internal Revenue Service ("Determination of Taxability"), interest on this Bond shall be payable at a rate of ____% per annum (hereinafter sometimes called the "Taxable Rate"). Interest at the Taxable Rate shall commence to accrue on the date of Determination of Taxability and such interest rate shall be charged retroactively and prospectively for all periods in which interest paid on this Bond is asserted, declared or determined to be includible in gross income for federal income tax purposes, and shall continue until the entire principal of and interest on this Bond are paid, notwithstanding that the entire principal amount of this Bond may have been paid in full prior to the Determination of Taxability. Any interest being past due on this Bond by reason of such increase shall become immediately due and payable.

C. This Bond shall be payable in ____ installments commencing on the 1st day of _____, 2009 and on the 1st day of each month thereafter, to and including September 1, 2024. The monthly installments shall consist of principal and interest as listed on the attached debt service schedule attached hereto as EXHIBIT A.

D. All payments received by the Paying Agent on account of the Bond shall be applied first to payment of interest accrued on the Bond and next to payment of principal of the Bond. If not sooner paid, the entire principal amount of this Bond unpaid on September 1, 2024 together with all accrued interest and any other sums due and owing upon this Bond shall be due and payable on such date.

The principal of and interest on this Bond is payable in any coin or currency which on the date of payment thereof 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 is subject to prepayment of the principal balance in whole on a scheduled payment date with a 1.0 % prepayment premium.

This Bond is issued to (i) refund the Issuer's Water Revenue Refunding and Improvement Bonds, Series 1997 A; (ii) funding the Series 2008 A Bonds Reserve Account; and (iii) to pay costs of issuance and related costs. The existing public waterworks facilities of the Issuer, and any further additions, improvements or extensions 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 of the West Virginia Code of 1931, as amended (the "Act"), and a Ordinance duly adopted by the Issuer on November 3, 2008, and a Supplemental Resolution, duly adopted by the Issuer on November 3, 2008 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof.

THE PRINCIPAL OF AND INTEREST ON THIS BOND IS PAYABLE ONLY FROM AND SECURED BY A PLEDGE OF THE GROSS REVENUES TO BE DERIVED FROM THE OPERATION OF THE SYSTEM, ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S (1) WATER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA DWTRF PROGRAM), DATED AUGUST 29, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,250,000 (THE "SERIES 2006 A BONDS"); (2) WATER REVENUE BONDS, SERIES 2006 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED AUGUST 29, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,237,000 (THE "SERIES 2006 B BONDS"); AND (3) WATER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA DWTRF PROGRAM), DATED DECEMBER 9, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,150,000 (THE "SERIES 2002 A BONDS") (COLLECTIVELY REFERRED TO HEREIN AS THE "PRIOR BONDS").

This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from the source set forth above. Under the Bond Legislation, the Issuer has entered into certain covenants with the Payee, for the terms of which reference is made to said Bond Legislation. Remedies provided the Payee 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 Branch Banking and Trust Company, Charleston, West Virginia, as Registrar (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to such registration requirements, 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.

This Bond is hereby designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended.

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 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 by the Issuer for the prompt payment of the principal of and interest on 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.

This Bond shall not be valid or obligatory unless authenticated and registered by the Registrar by the execution of the Registrar's Certificate of Authentication and Registration attached hereto and incorporated 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 hereon and attested by its Recorder, and has caused this Bond to be dated the day and year first written above.

TOWN OF BATH

[SEAL]

By: _____
Its: Mayor

ATTEST:

_____
Recorder

## CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is to certify that this Bond is described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above.

Date: November ____, 2008

BRANCH BANKING AND TRUST COMPANY,
as Registrar

By: _____
Its: Authorized Officer

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within-mentioned Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Bond on the books of the Registrar on behalf of the said Issuer with full power of substitution in the premises.

Dated: _____, 20___.

_____

In the presence of:

_____

Section 3.10. Sale of Bonds. The Series 2008 A Bonds shall be sold to the Purchaser contemporaneously with, or as soon as practicable and authorized and permitted by applicable law after, the adoption of the Supplemental Resolution; provided, that the Purchaser and the Issuer shall have agreed to the purchase thereof.

Section 3.11. Disposition of Bond Proceeds. From the monies received from the sale of the Series 2008 A Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2008 A Bonds, the Issuer shall forthwith wire from the proceeds of the Series 2008 A Bonds an amount as specified in supplemental resolution which is equal to the amount necessary to pay in full the entire principal of and interest accrued on the Series 1997 A Bonds directly to the Holders of the Series 1997 A Bonds.

B. Next, the Purchaser shall pay to the Municipal Bond Commission an amount as specified in the supplemental resolution which is equal to the amount necessary to fully fund the Series 2008 A Bonds Reserve Account.

C. Next, the Purchaser shall pay the costs of issuance of the Series 2008 A Bonds.

Section 3.12. Designation of Bonds "Qualified Tax-Exempt Obligations." The Issuer hereby designates the Series 2008 A Bonds as "qualified tax-exempt obligations" for the purpose of Section 265(b)(3)(B) of the Code and covenants that the Bond does 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 does not exceed the amount of the refunded obligation and private activity bonds (excluding 501(c)(3) Bonds, as defined in Section 141 of the Code), including the Series 2008 A Bonds, have been or shall be issued by the Issuer, including all subordinate entities of the Issuer, during calendar year 2008.

## ARTICLE IV

## FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 4.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

(1) Revenue Fund (established by Prior Ordinance);

(2) Renewal and Replacement Fund (established in Prior Ordinance); and

(3) Series 2008 A Bonds Proceeds Fund.

Section 4.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with (or continued if previously established by the Prior Ordinance) and shall be held by the Commission separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

(1) Series 2002 A Bonds Sinking Fund (established by Prior Ordinance and continued hereby);

(2) Series 2002 A Bonds Reserve Account (established by Prior Ordinance and continued hereby);

(3) Series 2006 A Bonds Sinking Fund (established by Prior Ordinance and continued hereby);

(4) Series 2006 A Bonds Reserve Account (established by Prior Ordinance and continued hereby);

(5) Series 2006 B Bonds Sinking Fund (established by Prior Ordinance and continued hereby);

(6) Series 2006 B Bonds Reserve Account (established by Prior Ordinance and continued hereby);

(7) Series 2008 A Bonds Sinking Fund; and

(8) Series 2008 A Bonds Reserve Account.

Section 4.03. Covenants of the Issuer as to System Revenues and Funds. So long as the Series 2008 A Bonds shall be outstanding and unpaid, or until there shall have been set apart, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 2008 A Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the holder of the Series 2008 A Bonds as follows:

A. REVENUE FUND. The entire Gross Revenues derived from the operation of the System, and all parts thereof, and all Tap Fees received, shall be

deposited as collected by the Issuer in the Revenue Fund established with the Depository Bank. The Revenue Fund shall constitute a trust fund for the purposes provided herein 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 provided herein.

B. DISPOSITION OF REVENUES. 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 of each month, transfer from the Revenue Account and remit to the Commission the amounts required to pay the interest, on the Series 2008 A Bonds.

(2) The Issuer shall next, on the first of each month, transfer from the Revenue Account and remit to the Commission (i) the amounts required to pay the principal, on the Prior Bonds as required by Prior Ordinance; and (ii) the amount required to pay the principal on the Series 2008 A Bonds. All payments with respect to principal of and interest on the Prior Bonds and the Series 2008 A Bonds shall be made on an equal pro rata basis in accordance with the respective aggregate principal amounts thereof outstanding and on a parity with each other.

(3) The Issuer shall next, each month, pay from the monies in the Revenue Fund all current Operating Expenses.

(4) The Issuer shall next, on the first of each month, transfer from the Revenue Account and remit to the Commission, (i) the amounts required for deposit into the respective Reserve Fund for the Prior Bonds; and (ii) commencing the month following the Closing Date for deposit in the Series 2008 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2008 A Bonds Reserve Requirement, until the amount in the Series 2008 A Bonds Reserve Account equals the Series 2008 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2008 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 2008 A Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, from the monies remaining in the Revenue Fund, transfer to the Renewal and Replacement Fund, a sum equal to 2 ½% of the Gross Revenues each month (as previously set forth in the Prior Ordinances 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 monies from the Renewal and Replacement Fund.

(6) After all the foregoing provisions for use of monies in the Revenue Fund have been fully complied with, any monies remaining therein and not permitted to be retained therein may be used to prepay installments of the Prior Bonds and the Series 2008 A Bonds, pro rata, or for any lawful purpose.

Monies in the Series 2008 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 2008 A Bonds as the same shall become due. Monies in the Series 2008 A Bonds Reserve Account shall be used only for the purpose of paying principal of and interest on the Series 2008 A Bonds as the same shall come due, when other monies in the Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2008 A Bonds Sinking Fund shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during the Project, as applicable, be deposited in the Series 2008 A Bonds Project Trust Fund, and following completion thereof, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 2008 A Bonds.

Any withdrawals from the Series 2008 A Bonds Reserve Account, which result in a reduction in the balance of such account to below the Reserve Requirement thereof, shall be 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 2008 A Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay the 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 thereof.

The Issuer shall not be required to make any further payments into the Series 2008 A Bonds Sinking Fund, or the Series 2008 A Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2008 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

Principal, interest 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 2008 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 2008 A Bonds Sinking Fund, and the Series 2008 A Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. If required by the Authority at anytime, the Issuer shall make the necessary arrangements whereby required

payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the Series 2008 A Bonds Sinking Fund and the Series 2008 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2008 A Bonds Sinking Fund and the Series 2008 A Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2008 A Bonds, under the conditions and restrictions set forth herein.

C. CHANGE OF DEPOSITORY BANK. The Issuer may designate another bank or trust company insured by FDIC as Depository Bank if the Depository Bank should cease for any reason to serve or if the Governing Body determines by resolution that the Depository Bank or its successor should no longer serve as Depository Bank. Upon any such change, the Governing Body will cause notice of the change to be sent by registered or certified mail to the Purchaser.

D. CHARGES AND FEES. The Issuer shall remit from the Revenue Fund to the Depository Bank and the Commission such additional sums as shall be necessary to pay the charges and fees of the Depository Bank or the Commission then due.

E. INVESTMENT OF EXCESS BALANCES. The monies in excess of the sum insured by FDIC in any of such funds or 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 of West Virginia.

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

G. GROSS REVENUES. The Gross Revenues of the System shall only be used for purposes of the System.

## ARTICLE V

## GENERAL COVENANTS

Section 5.01. General Statement. So long as the Series 2008 A Bonds shall be outstanding and unpaid, or until there shall have been set apart a sum sufficient to prepay the entire principal of the Series 2008 A Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Bondholder.

Section 5.02. Rates. Prior to the issuance of the Series 2008 A Bonds, rates or charges for the use of the services and facilities of the System will be fixed and established, all in the manner and form required by law, and a copy of such rates and charges so fixed and established shall at all times be kept on file in the office of the Recorder of the Issuer, which copy will be open to inspection by all interested parties. The schedule or schedules 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 and accounts created hereunder. Such schedule or schedules of rates and charges shall be revised from time to time, 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 or schedules of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System, (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 year for payment of principal of and interest on the Series 2008 A Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2008 A Bonds; provided that, in the event that, an amount equal to or in excess of the Reserve Requirement is on deposit in the Series 2008 A Bonds Reserve Account and any reserve accounts for obligations on a parity with the Series 2008 A Bonds are funded at least at the requirement therefor, such sum need only equal 110% of the maximum amount required in any year for payment of principal of and interest on the Series 2008 A Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2008 A Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance described in Section 6.01.

The Issuer hereby covenants to commence enactment of such ordinance or ordinances as shall be required to increase the rates and charges for the services and facilities of the System within 30 days following a determination of the Independent Certified Public Accountant that less than the above-required coverage exists or in the event that the annual audit report shows less than the above-required coverage, such increase to provide rates and charges sufficient to produce such required coverage.

Section 5.03. 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 or any part thereof, except as provided in the Prior Ordinance.

Section 5.04. Issuance of Additional Parity Bonds. So long as the Prior Bonds are outstanding, no additional Parity Bonds or obligations payable out of any of the Revenues of the System shall be issued, except as set forth in the Prior Ordinance.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2008 A Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the construction or acquisition of extensions, improvements or betterments to the System or refunding the Prior Bonds or the Bonds issued pursuant hereto or subsequent Parity Bonds, or any combination of such purposes.

No Parity Bonds shall be issued at any time, unless 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 for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues expected to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest, if any, on the following:

(1) The Bonds 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 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 (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in the certificate of the Independent Certified Public Accountants.

The Net Revenues actually derived from the System during the 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, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the period for appeal of which has 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 Holder of the Series 2008 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. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond. 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 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 liens of the 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 Bond.

No Parity Bonds shall be issued any time, however, unless all the payments provided for in this Bond Legislation with respect to 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 such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Bond Legislation.

Section 5.05. Insurance and Bonds. A. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Series 2008 A Bonds remain outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(i) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion.

(ii) Public Liability Insurance, with limits of not less than $500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than $200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Series 2008 A Bonds.

(iii) Vehicular Public Liability Insurance, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated at any time or times for the benefit of the Issuer, with limits of not less than $500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than $200,000 to protect the Issuer from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle for the Issuer.

(iv) Workers' Compensation Coverage for All Employees of the Town Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds have been or will be filed with the Clerk of the County Commission of said County prior to commencement of construction in compliance with West Virginia Code Section 38-2-39. Workers' compensation coverage shall be maintained as required by the laws of the State of West Virginia.

(v) Flood Insurance to be procured, to the extent available at reasonable cost to the Issuer.

(vi) Fidelity Bonds will be provided as to every member of the Governing Body and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues

or other funds of the Issuer in such amount as may be requested by the Purchaser from time to time.

(vii) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, so long as the Series 2008 A Bonds are outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer with insurance carriers or bonding companies acceptable to Purchaser.

B. All insurance proceeds awarded to the Issuer that are not applied to the repair or replacement of the subject property damaged or destroyed, shall be applied by the Issuer to prepayment of the Bond, unless otherwise consented to in writing by the Bondholder.

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Bond, 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 the delivery of the Series 2008 A Bonds, on a parity with the Prior Bonds.

Section 5.07. Fiscal Year; Budget. While the Series 2008 A Bonds are outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a Fiscal Year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than 30 days prior to the beginning of each Fiscal Year, the Issuer agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each Fiscal Year.

If for any reason the Issuer shall not have adopted the Annual Budget before the 1st day of any Fiscal Year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the next year preceding by more than 10%; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

Section 5.08. Compensation of Members of Governing Body. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Governing Body in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Gross Revenues to fall below the amount required to meet all payments provided for herein, nor when there is default in the performance of or compliance with any covenant or provision hereof.

Section 5.09. Books and Records; Audits. 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 the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

The Issuer shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants and shall mail a copy of such audit report to the Purchaser. The Issuer shall further comply with the Act with respect to such books, records and accounts.

Section 5.10. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Series 2008 A Bonds are outstanding.

Section 5.11. No Competition. To the extent legally allowable, the Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

## ARTICLE VI

## RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules. A. The initial schedule of rates and charges for the services and facilities of the System, subject to change consonant with the provisions hereof, shall be as set forth in the Water Rate Ordinance of the Issuer dated May 6, 2008 as amended by Recommended Decision of the Public Service Commission dated September 22, 2008 in Case No. 08-0940-W-MA.

B. There shall not be any discrimination or differential in rates between customers in similar circumstances.

C. All delinquent fees, rates and charges for services or facilities of the System shall be liens on the premises served of equal degree, rank and priority with the lien on such premises of state, county, school and municipal taxes, as provided in the Act. The Issuer shall have all remedies and powers provided under the Act and other applicable provisions of law with regard to the collection and enforcement of such fees, rates and charges.

D. The Issuer will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the Issuer or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other revenues of the System.

E. The Issuer may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

F. The Issuer, to the extent permitted by law, will not accept payment of any water bill from a customer served with water and sewer services by the Issuer without payment at the same time of a sewer bill owed by such customer for the same premises.

## ARTICLE VII

## TAX COVENANTS

Section 7.01. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 2008 A Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 2008 A Bonds during the term thereof is, under the terms of the Series 2008 A Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series 2008 A Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 2008 A Bonds during the term thereof is, under the terms of the Series 2008 A Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 2008 A Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the project, or if the Series 2008 A Bonds is for the purpose of financing more than one project, a portion of the project, and shall not exceed the proceeds used for the governmental use of that portion of the project to which such Private Business Use is related. All of the foregoing shall be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% of the Net Proceeds of the Series 2008 A Bonds or $5,000,000 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.

C. 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 2008 A Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 2008 A Bonds and the interest thereon, including without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take all actions that may be required of it so that the interest on the Series 2008 A Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions which would adversely affect such exclusion.

Section 7.02. Arbitrage and Tax Exemption. The Issuer covenants that (i) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Series 2008 A Bonds which would cause the Series 2008 A Bonds to be an "arbitrage bond" within the meaning of 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 2008 A Bonds) so that the interest on the Series 2008 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 7.03. 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 2008 A Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Series 2008 A Bonds as may be necessary in order to 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 this Bond Legislation.

The Issuer shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. The Issuer shall pay, or cause to be paid, to the United States, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. 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 in time to time in effect with such reports and statements as may be prescribed by such Regulations. 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 7.03. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 7.03 in accordance with the requirements of Section 148(f) of the Code and such Regulations.

Section 7.04. Small Issuer Exemption from Rebate of Excess Investment Earnings to the United States. In accordance with Section 148 (f)(4)(D) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that no part of the Notes are private activity bonds; that 95% or more of the Net Proceeds of the Notes are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and that the aggregate face amount of all the tax-exempt obligations (other than private activity bonds) issued by the Issuer during the calendar year in which the Notes are issued does not and will not exceed $5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code and the Regulations from time to time in effect an applicable to the Notes. For purposes of the first paragraph of this Section and for purposes of applying Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this first paragraph of this Section and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this first paragraph of this Section and Section 148(f)(4)(D) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section

## ARTICLE VIII

## DEFAULT AND REMEDIES

Section 8.01. Events of Default. A. Each of the following events shall constitute an "Event of Default" with respect to the Series 2008 A Bonds:

1. If default occurs in the due and punctual payment of the principal of or interest on the Series 2008 A Bonds; or

(A) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2008 A Bonds set forth in this Bond Legislation, any supplemental resolution, or in the Series 2008 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 Paying Agent, Depository Bank, any other bank or banking association holding any fund or account hereunder or a Holder of a Series 2008 A Bonds;

(B) 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

(C) If default occurs with respect to the Prior Bonds or the Prior Ordinance.

Section 8.02. Remedies. Upon the happening and continuance of any Event of Default, the Registered Owner of the Series 2008 A 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 Owner 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 Series 2008 A 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 Owner of the Series 2008 A Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Series 2008 A Bonds, or the rights of such Registered Owner.

No remedy by the terms of this Ordinance conferred upon or reserved to the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Bondholders hereunder or now or hereafter existing at law or by statute. All rights and remedies of the Holders of the Series 2008 A Bonds shall be on a parity with those of the Holders of the Prior Bonds.

## ARTICLE IX

## DEFEASANCE

Section 9.01. Defeasance. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holder of the Series 2008 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then this Bond Legislation and the pledge of Gross Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Series 2008 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest on the Series 2008 A Bonds from gross income for federal income tax purposes.

The payment of the Series 2008 A Bonds with either monies in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide monies which, together with the monies, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due the principal installments of and interest on the Series 2008 A Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. The Series 2008 A 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 Paying Agent, either monies in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide monies which, together with other monies, if any, deposited with the Paying Agent at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on the Series 2008 A Bonds on and prior to the maturity dates thereof. Neither securities nor monies deposited with the Paying Agent pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on the Series 2008 A Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Paying Agent, 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 installments of and interest to become due on the Series 2008 A Bonds on and prior to the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Paying Agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

## ARTICLE X

## MISCELLANEOUS

Section 10.01. Amendment or Modification of Bond Legislation. This Bond Legislation may not be amended or modified after final passage without the prior written consent of the Registered Owner; provided, however, that this Bond Legislation may be amended without the consent of the Registered Owner as may be necessary to assure the exclusion of interest on the Series 2008 A Bonds from gross income of the Registered Owner for federal income tax purposes.

Section 10.02. Ordinance Constitutes Contract. The provisions of the Ordinance shall constitute a contract between the Issuer and the Holders of the Bonds, and no change, variation or alteration of any kind of the provisions of the Ordinance shall be made in any manner, except as in this Ordinance provided.

Section 10.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance 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 Ordinance, the Supplemental Resolution, or the Series 2008 A Bonds.

Section 10.04. Table of Contents and Headings. The table of contents and headings 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 10.05. Conflicting Provisions Repealed. All orders, indentures, or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed; provided that, in the event of any conflict between this Ordinance and the Prior Ordinance, the Prior Ordinance shall control, unless less restrictive, so long as the Prior Bonds are Outstanding.

Section 10.06. Covenant of Due Procedure, Etc. 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 adoption 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, Recorder and members of the Governing Body 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 10.07. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance, determined by the Issuer to contain sufficient information as to give notice of the contents hereof, 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 *Morgan Messanger*, a newspaper published and 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 Council upon a date certain, not less than 10 days subsequent to the date of the first publication of the said

abstract and notice, and present protests, and that a certified copy of the Ordinance is on file in the office of the Recorder for review by interested parties during the office hours of the Recorder.

At such hearing, all objections and suggestions shall be heard and Council shall take such action as it shall deem proper in the premises.

| | |
|---|---|
| Passed on First Reading: | October 7, 2008 |
| Passed on Second Reading: | October 21, 2008 |
| Passed on Final Reading following Public Hearing: | November 3, 2008 |

Section 10.08. Effective Date. This Ordinance shall take effect immediately upon adoption.

[Remainder of Page Intentionally Blank]

Adopted this 3rd of November, 2008.

Mayor

CERTIFICATION

Certified a true copy of a Bond Ordinance duly adopted by the Council of the Town of Bath on the 3rd day of November, 2008.

Date: November 5, 2008.

[SEAL]

Recorder

055550.00001



CH4991876.1

TOWN OF BATH

Water Refunding Revenue Bonds, Series 2008 A

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO DATE, MATURITY, INTEREST RATE AND OTHER TERMS OF THE WATER REFUNDING REVENUE BONDS, SERIES 2008 A, OF THE TOWN OF BATH; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO THE BRANCH BANKING AND TRUST COMPANY; 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 adopted an ordinance on November 3, 2008 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE REFUNDING OF THE WATER REVENUE REFUNDING AND IMPROVEMENT BONDS, SERIES 1997 OF THE TOWN OF BATH THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN $1,200,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REFUNDING REVENUE BONDS, SERIES 2008 A; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Bond Ordinance provides for the issuance of Water Refunding Revenue Bonds, Series 2008 A, of the Issuer (the "Bonds" or the "Series 2008 A Bonds"), in an aggregate principal amount of not more than $1,200,000, all in accordance with Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (the "Act"); and in the Bond Ordinance, it is provided that the date, the maturity date, interest rate and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Bonds are proposed to be purchased by the Branch Banking and Trust Company, Charleston, West Virginia (the "Purchaser"), pursuant to the terms of the commitment letter dated September 19, 2008, a copy of which is attached hereto and made a part hereof (the "Commitment Letter"); and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the date, the maturity date, the interest rate 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 TOWN OF BATH:

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there is hereby authorized and ordered to be issued the Water Refunding Revenue Bonds, Series 2008 A, of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of $1,091,000. The Series 2008 A Bonds shall be dated November 5, 2008, shall mature on September 1, 2024 and shall bear interest as follows:

A. Interest on the Bonds shall be payable at a rate of 4.18% per annum (hereinafter sometimes called the "Tax-Exempt Rate"). Interest shall be computed on the basis of a year of 360 days, and 30 days in a month.

B. Notwithstanding any other provision herein, in the event the interest on the Bonds is declared to be includible in gross income for federal income tax purposes by the Internal Revenue Service ("Determination of Taxability"), interest on the Bonds shall be payable at a rate of 6.19% per annum (hereinafter sometimes called the "Taxable Rate"). Interest at the Taxable Rate shall commence to accrue on the date of Determination of Taxability and such interest rate shall be charged retroactively and prospectively for all periods in which interest paid on the Bonds is asserted, declared or determined to be includible in gross income for federal income tax purposes, and shall continue until the entire principal of and interest on the Bonds are paid, notwithstanding that the entire principal amount of the Bonds may have been paid in full prior to the Determination of Taxability. Any interest being past due on the Bonds by reason of such increase shall become immediately due and payable.

C. The Bond shall be payable in 189 monthly installments, commencing January 1, 2009, and continuing on the first day of each month thereafter to and including September 1, 2024. The monthly installments shall consist of principal and interest and shall be as listed on the debt service schedule attached hereto as Exhibit A.

D. The Bond shall have a prepayment premium of 1%.

E. All payments received by the Paying Agent on account of this Bond shall be applied first to payment of interest accrued on the Bond and next to payment of principal of this Bond. If not sooner paid, the entire principal amount of this Bond unpaid on September 1, 2024, together with all accrued interest and any other sums due and owing upon this Bond shall be due and payable on such date.

Section 2. 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 3. The Issuer does hereby approve the terms of the Commitment Letter dated September 19, 2008.

Section 4. The Bonds shall be sold to the Branch Banking and Trust Company, Charleston, West Virginia, and shall be registered in the name of such bank. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon.

Section 5. The Issuer does hereby appoint and designate the Branch Banking and Trust Company, Charleston, West Virginia, the Registrar for the Bonds.

Section 6. The Issuer does hereby appoint and designate the Commission, the Paying Agent for the Bonds.

Section 7. Series 2008 A Bonds Proceeds in the amount of $976,963.40 as shown in Exhibit B attached hereto shall be deposited with the Commission to net pay the entire outstanding balance of and all accrued interest on the Issuer's Water Revenue Refunding and Improvement Bonds, Series 1997 A (the "Series 1997 A Bonds") at Closing.

Section 8. The Series 1997 A Bonds were secured by a reserve account pledged for the payment of and principal on the Series 1997 A Bonds, which account is held at the Commission. The amount of $108,562 in the Series 1997 A Bonds Reserve Account shall be deposited with the Commission as shown in Exhibit B attached hereto to net pay the entire outstanding balance of and all accrued interest on the Issuer's Water Revenue Refunding and Improvement Bonds, Series 1997 A (the "Series 1997 A Bonds") at Closing.

Section 9. The amount of $20,782.73 in the Series 1997 A Sinking Fund shall be deposited with the Commission as shown in Exhibit B attached hereto to net pay the entire outstanding balance of and all accrued interest on the Issuer's Water Revenue Refunding and Improvement Bonds, Series 1997 A (the "Series 1997 A Bonds") at Closing.

Section 10. Series 2008 A Bonds Proceeds in the amount of $95,436.60 shall be deposited with the Commission as shown in Exhibit B attached hereto to fund the Series 2008 A Bonds Reserve Account.

Section 11. Series 2008 Bond Proceeds shall be disbursed as shown on the Closing Statement attached hereto as Exhibit C.

Section 12. The payment of the Series 1997 A Bonds with the proceeds of the Series 2008 A Bonds is in the public interest, serves a public purpose of the Issuer and will promote health, welfare and safety of the residents of the Issuer.

Section 13. The Issuer hereby designates the Bonds as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended.

Section 14. The Mayor and Recorder are hereby authorized and directed to execute and deliver the Bonds and 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 Purchaser on or about November 5, 2008.

Section 15. This Supplemental Resolution shall be effective immediately following adoption hereof.

[Remainder of Page Intentionally Blank]

Adopted this 3rd day of November, 2008.

TOWN OF BATH

By: Susan Webster
Its: Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of TOWN OF BATH on the 3rd day of November, 2008.

Date: November 5, 2008

[SEAL]

Recorder

EXHIBIT A

Debt Service Schedule

Town of Bath, West Virginia
Series 2008, Water Revenue Refunding Bond

Compound Period ..... : Monthly

Nominal Annual Rate .... : 4.180 %

CASH FLOW DATA

| Event | Date | Amount | Number | Period | End Date |
|---|---|---|---|---|---|
| 1 Loan | 11/05/2008 | 1,091,000.00 | 1 | | |
| 2 Payment | 01/01/2009 | 7,913.16 | 189 | Monthly | 09/01/2024 |

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

| Date | Payment | Interest | Principal | Balance |
|---|---|---|---|---|
| | | | | 1,091,000.00 |
| Loan 11/05/2008 | | | | |
| 1 01/01/2009 | 7,913.16 | 7,105.40 | 807.76 | 1,090,192.24 |
| 2 02/01/2009 | 7,913.16 | 3,797.50 | 4,115.66 | 1,086,076.58 |
| 3 03/01/2009 | 7,913.16 | 3,783.17 | 4,129.99 | 1,081,946.59 |
| 4 04/01/2009 | 7,913.16 | 3,768.78 | 4,144.38 | 1,077,802.21 |
| 5 05/01/2009 | 7,913.16 | 3,754.34 | 4,158.82 | 1,073,643.39 |
| 6 06/01/2009 | 7,913.16 | 3,739.86 | 4,173.30 | 1,069,470.09 |
| 2009 Totals | 47,478.96 | 25,949.05 | 21,529.91 | |
| 7 07/01/2009 | 7,913.16 | 3,725.32 | 4,187.84 | 1,065,282.25 |
| 8 08/01/2009 | 7,913.16 | 3,710.73 | 4,202.43 | 1,061,079.82 |
| 9 09/01/2009 | 7,913.16 | 3,696.09 | 4,217.07 | 1,056,862.75 |
| 10 10/01/2009 | 7,913.16 | 3,681.41 | 4,231.75 | 1,052,631.00 |
| 11 11/01/2009 | 7,913.16 | 3,666.66 | 4,246.50 | 1,048,384.50 |
| 12 12/01/2009 | 7,913.16 | 3,651.87 | 4,261.29 | 1,044,123.21 |
| 13 01/01/2010 | 7,913.16 | 3,637.03 | 4,276.13 | 1,039,847.08 |
| 14 02/01/2010 | 7,913.16 | 3,622.13 | 4,291.03 | 1,035,556.05 |
| 15 03/01/2010 | 7,913.16 | 3,607.19 | 4,305.97 | 1,031,250.08 |
| 16 04/01/2010 | 7,913.16 | 3,592.19 | 4,320.97 | 1,026,929.11 |
| 17 05/01/2010 | 7,913.16 | 3,577.14 | 4,336.02 | 1,022,593.09 |
| 18 06/01/2010 | 7,913.16 | 3,562.03 | 4,351.13 | 1,018,241.96 |
| 2010 Totals | 94,957.92 | 43,729.79 | 51,228.13 | |
| 19 07/01/2010 | 7,913.16 | 3,546.88 | 4,366.28 | 1,013,875.68 |
| 20 08/01/2010 | 7,913.16 | 3,531.67 | 4,381.49 | 1,009,494.19 |
| 21 09/01/2010 | 7,913.16 | 3,516.40 | 4,396.76 | 1,005,097.43 |
| 22 10/01/2010 | 7,913.16 | 3,501.09 | 4,412.07 | 1,000,685.36 |
| 23 11/01/2010 | 7,913.16 | 3,485.72 | 4,427.44 | 996,257.92 |
| 24 12/01/2010 | 7,913.16 | 3,470.30 | 4,442.86 | 991,815.06 |
| 25 01/01/2011 | 7,913.16 | 3,454.82 | 4,458.34 | 987,356.72 |
| 26 02/01/2011 | 7,913.16 | 3,439.29 | 4,473.87 | 982,882.85 |
| 27 03/01/2011 | 7,913.16 | 3,423.71 | 4,489.45 | 978,393.40 |
| 28 04/01/2011 | 7,913.16 | 3,408.07 | 4,505.09 | 973,888.31 |
| 29 05/01/2011 | 7,913.16 | 3,392.38 | 4,520.78 | 969,367.53 |
| 30 06/01/2011 | 7,913.16 | 3,376.63 | 4,536.53 | 964,831.00 |

Town of Bath, West Virginia
Series 2008, Water Revenue Refunding Bond

| | Date | Payment | Interest | Principal | Balance |
|---|---|---|---|---|---|
| 2011 Totals | | 94,957.92 | 41,546.96 | 53,410.96 | |
| 31 | 07/01/2011 | 7,913.16 | 3,360.83 | 4,552.33 | 960,278.67 |
| 32 | 08/01/2011 | 7,913.16 | 3,344.97 | 4,568.19 | 955,710.48 |
| 33 | 09/01/2011 | 7,913.16 | 3,329.06 | 4,584.10 | 951,126.38 |
| 34 | 10/01/2011 | 7,913.16 | 3,313.09 | 4,600.07 | 946,526.31 |
| 35 | 11/01/2011 | 7,913.16 | 3,297.07 | 4,616.09 | 941,910.22 |
| 36 | 12/01/2011 | 7,913.16 | 3,280.99 | 4,632.17 | 937,278.05 |
| 37 | 01/01/2012 | 7,913.16 | 3,264.85 | 4,648.31 | 932,629.74 |
| 38 | 02/01/2012 | 7,913.16 | 3,248.66 | 4,664.50 | 927,965.24 |
| 39 | 03/01/2012 | 7,913.16 | 3,232.41 | 4,680.75 | 923,284.49 |
| 40 | 04/01/2012 | 7,913.16 | 3,216.11 | 4,697.05 | 918,587.44 |
| 41 | 05/01/2012 | 7,913.16 | 3,199.75 | 4,713.41 | 913,874.03 |
| 42 | 06/01/2012 | 7,913.16 | 3,183.33 | 4,729.83 | 909,144.20 |
| 2012 Totals | | 94,957.92 | 39,271.12 | 55,686.80 | |
| 43 | 07/01/2012 | 7,913.16 | 3,166.85 | 4,746.31 | 904,397.89 |
| 44 | 08/01/2012 | 7,913.16 | 3,150.32 | 4,762.84 | 899,635.05 |
| 45 | 09/01/2012 | 7,913.16 | 3,133.73 | 4,779.43 | 894,855.62 |
| 46 | 10/01/2012 | 7,913.16 | 3,117.08 | 4,796.08 | 890,059.54 |
| 47 | 11/01/2012 | 7,913.16 | 3,100.37 | 4,812.79 | 885,246.75 |
| 48 | 12/01/2012 | 7,913.16 | 3,083.61 | 4,829.55 | 880,417.20 |
| 49 | 01/01/2013 | 7,913.16 | 3,066.79 | 4,846.37 | 875,570.83 |
| 50 | 02/01/2013 | 7,913.16 | 3,049.91 | 4,863.25 | 870,707.58 |
| 51 | 03/01/2013 | 7,913.16 | 3,032.96 | 4,880.20 | 865,827.38 |
| 52 | 04/01/2013 | 7,913.16 | 3,015.97 | 4,897.19 | 860,930.19 |
| 53 | 05/01/2013 | 7,913.16 | 2,998.91 | 4,914.25 | 856,015.94 |
| 54 | 06/01/2013 | 7,913.16 | 2,981.79 | 4,931.37 | 851,084.57 |
| 2013 Totals | | 94,957.92 | 36,898.29 | 58,059.63 | |
| 55 | 07/01/2013 | 7,913.16 | 2,964.61 | 4,948.55 | 846,136.02 |
| 56 | 08/01/2013 | 7,913.16 | 2,947.37 | 4,965.79 | 841,170.23 |
| 57 | 09/01/2013 | 7,913.16 | 2,930.08 | 4,983.08 | 836,187.15 |
| 58 | 10/01/2013 | 7,913.16 | 2,912.72 | 5,000.44 | 831,186.71 |
| 59 | 11/01/2013 | 7,913.16 | 2,895.30 | 5,017.86 | 826,168.85 |
| 60 | 12/01/2013 | 7,913.16 | 2,877.82 | 5,035.34 | 821,133.51 |
| 61 | 01/01/2014 | 7,913.16 | 2,860.28 | 5,052.88 | 816,080.63 |
| 62 | 02/01/2014 | 7,913.16 | 2,842.68 | 5,070.48 | 811,010.15 |
| 63 | 03/01/2014 | 7,913.16 | 2,825.02 | 5,088.14 | 805,922.01 |
| 64 | 04/01/2014 | 7,913.16 | 2,807.30 | 5,105.86 | 800,816.15 |
| 65 | 05/01/2014 | 7,913.16 | 2,789.51 | 5,123.65 | 795,692.50 |
| 66 | 06/01/2014 | 7,913.16 | 2,771.66 | 5,141.50 | 790,551.00 |
| 2014 Totals | | 94,957.92 | 34,424.35 | 60,533.57 | |
| 67 | 07/01/2014 | 7,913.16 | 2,753.75 | 5,159.41 | 785,391.59 |
| 68 | 08/01/2014 | 7,913.16 | 2,735.78 | 5,177.38 | 780,214.21 |
| 69 | 09/01/2014 | 7,913.16 | 2,717.75 | 5,195.41 | 775,018.80 |
| 70 | 10/01/2014 | 7,913.16 | 2,699.65 | 5,213.51 | 769,805.29 |

Town of Bath, West Virginia
Series 2008, Water Revenue Refunding Bond

| | Date | Payment | Interest | Principal | Balance |
|---|---|---|---|---|---|
| 71 | 11/01/2014 | 7,913.16 | 2,681.49 | 5,231.67 | 764,573.62 |
| 72 | 12/01/2014 | 7,913.16 | 2,663.26 | 5,249.90 | 759,323.72 |
| 73 | 01/01/2015 | 7,913.16 | 2,644.98 | 5,268.18 | 754,055.54 |
| 74 | 02/01/2015 | 7,913.16 | 2,626.63 | 5,286.53 | 748,769.01 |
| 75 | 03/01/2015 | 7,913.16 | 2,608.21 | 5,304.95 | 743,464.06 |
| 76 | 04/01/2015 | 7,913.16 | 2,589.73 | 5,323.43 | 738,140.63 |
| 77 | 05/01/2015 | 7,913.16 | 2,571.19 | 5,341.97 | 732,798.66 |
| 78 | 06/01/2015 | 7,913.16 | 2,552.58 | 5,360.58 | 727,438.08 |
| 2015 Totals | | 94,957.92 | 31,845.00 | 63,112.92 | |
| 79 | 07/01/2015 | 7,913.16 | 2,533.91 | 5,379.25 | 722,058.83 |
| 80 | 08/01/2015 | 7,913.16 | 2,515.17 | 5,397.99 | 716,660.84 |
| 81 | 09/01/2015 | 7,913.16 | 2,496.37 | 5,416.79 | 711,244.05 |
| 82 | 10/01/2015 | 7,913.16 | 2,477.50 | 5,435.66 | 705,808.39 |
| 83 | 11/01/2015 | 7,913.16 | 2,458.57 | 5,454.59 | 700,353.80 |
| 84 | 12/01/2015 | 7,913.16 | 2,439.57 | 5,473.59 | 694,880.21 |
| 85 | 01/01/2016 | 7,913.16 | 2,420.50 | 5,492.66 | 689,387.55 |
| 86 | 02/01/2016 | 7,913.16 | 2,401.37 | 5,511.79 | 683,875.76 |
| 87 | 03/01/2016 | 7,913.16 | 2,382.17 | 5,530.99 | 678,344.77 |
| 88 | 04/01/2016 | 7,913.16 | 2,362.90 | 5,550.26 | 672,794.51 |
| 89 | 05/01/2016 | 7,913.16 | 2,343.57 | 5,569.59 | 667,224.92 |
| 90 | 06/01/2016 | 7,913.16 | 2,324.17 | 5,588.99 | 661,635.93 |
| 2016 Totals | | 94,957.92 | 29,155.77 | 65,802.15 | |
| 91 | 07/01/2016 | 7,913.16 | 2,304.70 | 5,608.46 | 656,027.47 |
| 92 | 08/01/2016 | 7,913.16 | 2,285.16 | 5,628.00 | 650,399.47 |
| 93 | 09/01/2016 | 7,913.16 | 2,265.56 | 5,647.60 | 644,751.87 |
| 94 | 10/01/2016 | 7,913.16 | 2,245.89 | 5,667.27 | 639,084.60 |
| 95 | 11/01/2016 | 7,913.16 | 2,226.14 | 5,687.02 | 633,397.58 |
| 96 | 12/01/2016 | 7,913.16 | 2,206.33 | 5,706.83 | 627,690.75 |
| 97 | 01/01/2017 | 7,913.16 | 2,186.46 | 5,726.70 | 621,964.05 |
| 98 | 02/01/2017 | 7,913.16 | 2,166.51 | 5,746.65 | 616,217.40 |
| 99 | 03/01/2017 | 7,913.16 | 2,146.49 | 5,766.67 | 610,450.73 |
| 100 | 04/01/2017 | 7,913.16 | 2,126.40 | 5,786.76 | 604,663.97 |
| 101 | 05/01/2017 | 7,913.16 | 2,106.25 | 5,806.91 | 598,857.06 |
| 102 | 06/01/2017 | 7,913.16 | 2,086.02 | 5,827.14 | 593,029.92 |
| 2017 Totals | | 94,957.92 | 26,351.91 | 68,606.01 | |
| 103 | 07/01/2017 | 7,913.16 | 2,065.72 | 5,847.44 | 587,182.48 |
| 104 | 08/01/2017 | 7,913.16 | 2,045.35 | 5,867.81 | 581,314.67 |
| 105 | 09/01/2017 | 7,913.16 | 2,024.91 | 5,888.25 | 575,426.42 |
| 106 | 10/01/2017 | 7,913.16 | 2,004.40 | 5,908.76 | 569,517.66 |
| 107 | 11/01/2017 | 7,913.16 | 1,983.82 | 5,929.34 | 563,588.32 |
| 108 | 12/01/2017 | 7,913.16 | 1,963.17 | 5,949.99 | 557,638.33 |
| 109 | 01/01/2018 | 7,913.16 | 1,942.44 | 5,970.72 | 551,667.61 |
| 110 | 02/01/2018 | 7,913.16 | 1,921.64 | 5,991.52 | 545,676.09 |
| 111 | 03/01/2018 | 7,913.16 | 1,900.77 | 6,012.39 | 539,663.70 |
| 112 | 04/01/2018 | 7,913.16 | 1,879.83 | 6,033.33 | 533,630.37 |

Town of Bath, West Virginia
Series 2008, Water Revenue Refunding Bond

| | Date | Payment | Interest | Principal | Balance |
|---|---|---|---|---|---|
| 113 | 05/01/2018 | 7,913.16 | 1,858.81 | 6,054.35 | 527,576.02 |
| 114 | 06/01/2018 | 7,913.16 | 1,837.72 | 6,075.44 | 521,500.58 |
| 2018 Totals | | 94,957.92 | 23,428.58 | 71,529.34 | |
| 115 | 07/01/2018 | 7,913.16 | 1,816.56 | 6,096.60 | 515,403.98 |
| 116 | 08/01/2018 | 7,913.16 | 1,795.32 | 6,117.84 | 509,286.14 |
| 117 | 09/01/2018 | 7,913.16 | 1,774.01 | 6,139.15 | 503,146.99 |
| 118 | 10/01/2018 | 7,913.16 | 1,752.63 | 6,160.53 | 496,986.46 |
| 119 | 11/01/2018 | 7,913.16 | 1,731.17 | 6,181.99 | 490,804.47 |
| 120 | 12/01/2018 | 7,913.16 | 1,709.64 | 6,203.52 | 484,600.95 |
| 121 | 01/01/2019 | 7,913.16 | 1,688.03 | 6,225.13 | 478,375.82 |
| 122 | 02/01/2019 | 7,913.16 | 1,666.34 | 6,246.82 | 472,129.00 |
| 123 | 03/01/2019 | 7,913.16 | 1,644.58 | 6,268.58 | 465,860.42 |
| 124 | 04/01/2019 | 7,913.16 | 1,622.75 | 6,290.41 | 459,570.01 |
| 125 | 05/01/2019 | 7,913.16 | 1,600.84 | 6,312.32 | 453,257.69 |
| 126 | 06/01/2019 | 7,913.16 | 1,578.85 | 6,334.31 | 446,923.38 |
| 2019 Totals | | 94,957.92 | 20,380.72 | 74,577.20 | |
| 127 | 07/01/2019 | 7,913.16 | 1,556.78 | 6,356.38 | 440,567.00 |
| 128 | 08/01/2019 | 7,913.16 | 1,534.64 | 6,378.52 | 434,188.48 |
| 129 | 09/01/2019 | 7,913.16 | 1,512.42 | 6,400.74 | 427,787.74 |
| 130 | 10/01/2019 | 7,913.16 | 1,490.13 | 6,423.03 | 421,364.71 |
| 131 | 11/01/2019 | 7,913.16 | 1,467.75 | 6,445.41 | 414,919.30 |
| 132 | 12/01/2019 | 7,913.16 | 1,445.30 | 6,467.86 | 408,451.44 |
| 133 | 01/01/2020 | 7,913.16 | 1,422.77 | 6,490.39 | 401,961.05 |
| 134 | 02/01/2020 | 7,913.16 | 1,400.16 | 6,513.00 | 395,448.05 |
| 135 | 03/01/2020 | 7,913.16 | 1,377.48 | 6,535.68 | 388,912.37 |
| 136 | 04/01/2020 | 7,913.16 | 1,354.71 | 6,558.45 | 382,353.92 |
| 137 | 05/01/2020 | 7,913.16 | 1,331.87 | 6,581.29 | 375,772.63 |
| 138 | 06/01/2020 | 7,913.16 | 1,308.94 | 6,604.22 | 369,168.41 |
| 2020 Totals | | 94,957.92 | 17,202.95 | 77,754.97 | |
| 139 | 07/01/2020 | 7,913.16 | 1,285.94 | 6,627.22 | 362,541.19 |
| 140 | 08/01/2020 | 7,913.16 | 1,262.85 | 6,650.31 | 355,890.88 |
| 141 | 09/01/2020 | 7,913.16 | 1,239.69 | 6,673.47 | 349,217.41 |
| 142 | 10/01/2020 | 7,913.16 | 1,216.44 | 6,696.72 | 342,520.69 |
| 143 | 11/01/2020 | 7,913.16 | 1,193.11 | 6,720.05 | 335,800.64 |
| 144 | 12/01/2020 | 7,913.16 | 1,169.71 | 6,743.45 | 329,057.19 |
| 145 | 01/01/2021 | 7,913.16 | 1,146.22 | 6,766.94 | 322,290.25 |
| 146 | 02/01/2021 | 7,913.16 | 1,122.64 | 6,790.52 | 315,499.73 |
| 147 | 03/01/2021 | 7,913.16 | 1,098.99 | 6,814.17 | 308,685.56 |
| 148 | 04/01/2021 | 7,913.16 | 1,075.25 | 6,837.91 | 301,847.65 |
| 149 | 05/01/2021 | 7,913.16 | 1,051.44 | 6,861.72 | 294,985.93 |
| 150 | 06/01/2021 | 7,913.16 | 1,027.53 | 6,885.63 | 288,100.30 |
| 2021 Totals | | 94,957.92 | 13,889.81 | 81,068.11 | |
| 151 | 07/01/2021 | 7,913.16 | 1,003.55 | 6,909.61 | 281,190.69 |
| 152 | 08/01/2021 | 7,913.16 | 979.48 | 6,933.68 | 274,257.01 |

Town of Bath, West Virginia
Series 2008, Water Revenue Refunding Bond

| | Date | Payment | Interest | Principal | Balance |
|---|---|---|---|---|---|
| 153 | 09/01/2021 | 7,913.16 | 955.33 | 6,957.83 | 267,299.18 |
| 154 | 10/01/2021 | 7,913.16 | 931.09 | 6,982.07 | 260,317.11 |
| 155 | 11/01/2021 | 7,913.16 | 906.77 | 7,006.39 | 253,310.72 |
| 156 | 12/01/2021 | 7,913.16 | 882.37 | 7,030.79 | 246,279.93 |
| 157 | 01/01/2022 | 7,913.16 | 857.88 | 7,055.28 | 239,224.65 |
| 158 | 02/01/2022 | 7,913.16 | 833.30 | 7,079.86 | 232,144.79 |
| 159 | 03/01/2022 | 7,913.16 | 808.64 | 7,104.52 | 225,040.27 |
| 160 | 04/01/2022 | 7,913.16 | 783.89 | 7,129.27 | 217,911.00 |
| 161 | 05/01/2022 | 7,913.16 | 759.06 | 7,154.10 | 210,756.90 |
| 162 | 06/01/2022 | 7,913.16 | 734.14 | 7,179.02 | 203,577.88 |
| 2022 Totals | | 94,957.92 | 10,435.50 | 84,522.42 | |
| 163 | 07/01/2022 | 7,913.16 | 709.13 | 7,204.03 | 196,373.85 |
| 164 | 08/01/2022 | 7,913.16 | 684.04 | 7,229.12 | 189,144.73 |
| 165 | 09/01/2022 | 7,913.16 | 658.85 | 7,254.31 | 181,890.42 |
| 166 | 10/01/2022 | 7,913.16 | 633.58 | 7,279.58 | 174,610.84 |
| 167 | 11/01/2022 | 7,913.16 | 608.23 | 7,304.93 | 167,305.91 |
| 168 | 12/01/2022 | 7,913.16 | 582.78 | 7,330.38 | 159,975.53 |
| 169 | 01/01/2023 | 7,913.16 | 557.25 | 7,355.91 | 152,619.62 |
| 170 | 02/01/2023 | 7,913.16 | 531.63 | 7,381.53 | 145,238.09 |
| 171 | 03/01/2023 | 7,913.16 | 505.91 | 7,407.25 | 137,830.84 |
| 172 | 04/01/2023 | 7,913.16 | 480.11 | 7,433.05 | 130,397.79 |
| 173 | 05/01/2023 | 7,913.16 | 454.22 | 7,458.94 | 122,938.85 |
| 174 | 06/01/2023 | 7,913.16 | 428.24 | 7,484.92 | 115,453.93 |
| 2023 Totals | | 94,957.92 | 6,833.97 | 88,123.95 | |
| 175 | 07/01/2023 | 7,913.16 | 402.16 | 7,511.00 | 107,942.93 |
| 176 | 08/01/2023 | 7,913.16 | 376.00 | 7,537.16 | 100,405.77 |
| 177 | 09/01/2023 | 7,913.16 | 349.75 | 7,563.41 | 92,842.36 |
| 178 | 10/01/2023 | 7,913.16 | 323.40 | 7,589.76 | 85,252.60 |
| 179 | 11/01/2023 | 7,913.16 | 296.96 | 7,616.20 | 77,636.40 |
| 180 | 12/01/2023 | 7,913.16 | 270.43 | 7,642.73 | 69,993.67 |
| 181 | 01/01/2024 | 7,913.16 | 243.81 | 7,669.35 | 62,324.32 |
| 182 | 02/01/2024 | 7,913.16 | 217.10 | 7,696.06 | 54,628.26 |
| 183 | 03/01/2024 | 7,913.16 | 190.29 | 7,722.87 | 46,905.39 |
| 184 | 04/01/2024 | 7,913.16 | 163.39 | 7,749.77 | 39,155.62 |
| 185 | 05/01/2024 | 7,913.16 | 136.39 | 7,776.77 | 31,378.85 |
| 186 | 06/01/2024 | 7,913.16 | 109.30 | 7,803.86 | 23,574.99 |
| 2024 Totals | | 94,957.92 | 3,078.98 | 91,878.94 | |
| 187 | 07/01/2024 | 7,913.16 | 82.12 | 7,831.04 | 15,743.95 |
| 188 | 08/01/2024 | 7,913.16 | 54.84 | 7,858.32 | 7,885.63 |
| 189 | 09/01/2024 | 7,913.16 | 27.53 | 7,885.63 | 0.00 |
| 2025 Totals | | 23,739.48 | 164.49 | 23,574.99 | |
| Grand Totals | | 1,495,587.24 | 404,587.24 | 1,091,000.00 | |

EXHIBIT B

Sources and Uses

Town of Bath
Water Revenue Refunding Bonds, Series 2008 A

| A. COST OF PROJECT | | TOTAL | Series 2008 A | 1997 A Reserve | 1997 A Sinking Fund |
|---|---|---|---|---|---|
| 1 Refunding Series 1997 A | | | | | |
| Outstanding Principal | | 1,080,000.00 | 950,655.27 | 108,562.00 | 20,782.73 |
| Interest (Sept 1 to Dec 1) | 172.31/day | 15,508.13 | 15,508.13 | 0.00 | 0.00 |
| Premium | 1.0% | 10,800.00 | 10,800.00 | 0.00 | 0.00 |
| 2 Accounting | | 650.00 | 650.00 | 0.00 | 0.00 |
| 3 Bank fee | | 2,950.00 | 2,950.00 | 0.00 | 0.00 |
| 4 Municipal Bond Commission Fee | | 1,812.58 | 0.00 | 0.00 | 1,812.58 |
| 5 TOTAL of Lines 1 through 4 | | 1,111,720.71 | 980,563.40 | 108,562.00 | 22,595.31 |
| B. COST OF FINANCING | | | | | |
| 6 Funded Reserve | | 95,436.60 | 95,436.60 | 0.00 | 0.00 |
| 7 Bond Counsel | | 15,000.00 | 15,000.00 | 0.00 | 0.00 |
| 8 Cost of Issuance (lines 6 through 7) | | 110,436.60 | 110,436.60 | 0.00 | 0.00 |
| 9 TOTAL PROJECT COST line 5 plus line 8 | | 1,222,157.31 | 1,091,000.00 | 108,562.00 | 22,595.31 |
| C. SOURCES OFOTHER FUNDS | | | | | |
| 10 Federal Grants | | | | | |
| 11 State Grants | | | | | |
| 12 Any Other Source | 1997 A Sinking Fund | 22,595.31 | | | 22,595.31 |
| 13 Any Other Source | 1997 A reserve | 108,562.00 | | 108,562.00 | |
| 14 TOTAL GRANTS Lines 10 through 13 | | 131,157.31 | 0.00 | 108,562.00 | 22,595.31 |
| 15 Size of Bond Issue (line 9 minus Line 14) | | 1,091,000.00 | 1,091,000.00 | 0.00 | 0.00 |

Town of Bath

November 3, 2008
Date

EXHIBIT C

Closing Statement

# CLOSING MEMORANDUM

**To:** **Financing Team**

**From:** **John C. Stump, Esquire**

**Date:** **November 5, 2008**

**Re:** **Town of Bath, Water Refunding Revenue Bonds, Series 2008 A**

## DISBURSEMENTS TO MUNICIPAL BOND COMMISSION

| | |
|---|---|
| Payor: | Branch Banking and Trust Company |
| Source: | Series 2008 A Bonds Proceeds |
| Amount: | $976,963.40 |
| Form: | Transfer |
| Payee: | Town of Bath |
| Bank: | BB&T for benefit of Municipal Bond Commission |
| Routing #: | 051503394 |
| Account #: | 5270517317 |
| Reference: | Series 1997 A Bonds |
| Contact: | Sara Boardman, 304.558.3971 |

## DISBURSEMENTS TO MUNICIPAL BOND COMMISSION

| | |
|---|---|
| Payor: | Branch Banking and Trust Company |
| Source: | Series 2008 A Bonds Proceeds |
| Amount: | $ 95,436.60 |
| Form: | Transfer |
| Payee: | Town of Bath |
| Bank: | BB&T for benefit of Municipal Bond Commission |
| Routing #: | 051503394 |
| Account #: | 5270517317 |
| Contact: | Sara Boardman, 304.558.3971 |
| Account: | Series 2008 A Bonds Reserve Account |

## OTHER DISBURSEMENTS FOR BY CHECK

| | |
|---|---|
| Steptoe & Johnson PLLC | $15,000 |
| Bennett & Dobbins | $ 650 |
| Branch Banking & Trust | $ 2,950 |

055550.00001



CH5002233.1

SPECIMEN

TOWN OF BATH
WATER REFUNDING REVENUE BONDS, SERIES 2008 A

No. AR-1 $1,091,000

KNOW ALL MEN BY THESE PRESENTS: That on this the 5th day of November, 2008, 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 order of

BRANCH BANKING AND TRUST COMPANY

or registered assigns (the "Payee"), the principal sum of ONE MILLION NINETY-ONE THOUSAND DOLLARS ($1,091,000), plus interest as follows:

A. Interest on this Bond shall be payable at a rate of 4.18% per annum (hereinafter sometimes called the "Tax-Exempt Rate"). Interest shall be computed on the basis of a year of 360 days and 30 days in a month.

B. Notwithstanding any other provision herein, in the event the interest on this Bond is declared to be includible in gross income for federal income tax purposes by the Internal Revenue Service ("Determination of Taxability"), interest on this Bond shall be payable at a rate of 6.19% per annum (hereinafter sometimes called the "Taxable Rate"). Interest at the Taxable Rate shall commence to accrue on the date of Determination of Taxability and such interest rate shall be charged retroactively and prospectively for all periods in which interest paid on this Bond is asserted, declared or determined to be includible in gross income for federal income tax purposes, and shall continue until the entire principal of and interest on this Bond are paid, notwithstanding that the entire principal amount of this Bond may have been paid in full prior to the Determination of Taxability. Any interest being past due on this Bond by reason of such increase shall become immediately due and payable.

C. This Bond shall be payable in 189 installments commencing on the 1st day of January, 2009 and on the 1st day of each month thereafter, to and including September 1, 2024. The monthly installments shall consist of principal and interest as listed on the attached debt service schedule attached hereto as EXHIBIT A.

D. All payments received by the Paying Agent on account of the Bond shall be applied first to payment of interest accrued on the Bond and next to payment of principal of the Bond. If not sooner paid, the entire principal amount of this Bond unpaid on September 1, 2024 together with all accrued interest and any other sums due and owing upon this Bond shall be due and payable on such date.

The principal of and interest on this Bond is payable in any coin or currency which on the date of payment thereof 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 is subject to prepayment of the principal balance in whole on a scheduled payment date with a 1.0% prepayment premium.

This Bond is issued to (i) refund the Issuer's Water Revenue Refunding and Improvement Bonds, Series 1997 A; (ii) funding the Series 2008 A Bonds Reserve Account; and (iii) to pay costs of issuance and related costs. The existing public waterworks facilities of the Issuer, and any further additions, improvements or extensions 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 of the West Virginia Code of 1931, as amended (the "Act"), and a Ordinance duly adopted by the Issuer on November 3, 2008, and a Supplemental Resolution, duly adopted by the Issuer on November 3, 2008 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof.

THE PRINCIPAL OF AND INTEREST ON THIS BOND IS PAYABLE ONLY FROM AND SECURED BY A PLEDGE OF THE GROSS REVENUES TO BE DERIVED FROM THE OPERATION OF THE SYSTEM, ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S (1) WATER REVENUE BONDS, SERIES 2006 A (WEST VIRGINIA DWTRF PROGRAM), DATED AUGUST 29, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,250,000 (THE "SERIES 2006 A BONDS"); (2) WATER REVENUE BONDS, SERIES 2006 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED AUGUST 29, 2006, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,237,000 (THE "SERIES 2006 B BONDS"); AND (3) WATER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA DWTRF PROGRAM), DATED DECEMBER 9, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,150,000 (THE "SERIES 2002 A BONDS") (COLLECTIVELY REFERRED TO HEREIN AS THE "PRIOR BONDS").

This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from the source set forth above. Under the Bond Legislation, the Issuer has entered into certain covenants with the Payee, for the terms of which reference is made to said Bond Legislation. Remedies provided the Payee 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 Branch Banking and Trust Company, Charleston, West Virginia, as Registrar (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to such registration requirements, 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.

This Bond is hereby designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended.

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 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 by the Issuer for the prompt payment of the principal of and interest on 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.

This Bond shall not be valid or obligatory unless authenticated and registered by the Registrar by the execution of the Registrar's Certificate of Authentication and Registration attached hereto and incorporated herein.

[Remainder of Page Intentionally Blank]

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 hereon and attested by its Recorder, and has caused this Bond to be dated the day and year first written above.

TOWN OF BATH

[SEAL]

By: SPECIMEN

Its: Mayor

ATTEST:

SPECIMEN

Recorder

## CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is to certify that this Bond is described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above.

Date: November 5, 2008

BRANCH BANKING AND TRUST COMPANY,
as Registrar

SPECIMEN

By: _____
Its: Authorized Officer

# EXHIBIT A

## Debt Service Schedule

Town of Bath, West Virginia
Series 2008, Water Revenue Refunding Bond

Compound Period ..... Monthly

Nominal Annual Rate ..... 4.180 %

CASH FLOW DATA

| Event | Date | Amount | Number | Period | End Date |
|---|---|---|---|---|---|
| 1 Loan | 11/05/2008 | 1,091,000.00 | 1 | | |
| 2 Payment | 01/01/2009 | 7,913.16 | 189 | Monthly | 09/01/2024 |

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

| | Date | Payment | Interest | Principal | Balance |
|---|---|---|---|---|---|
| Loan | 11/05/2008 | | | | 1,091,000.00 |
| 1 | 01/01/2009 | 7,913.16 | 7,105.40 | 807.76 | 1,090,192.24 |
| 2 | 02/01/2009 | 7,913.16 | 3,797.50 | 4,115.66 | 1,086,076.58 |
| 3 | 03/01/2009 | 7,913.16 | 3,783.17 | 4,129.99 | 1,081,946.59 |
| 4 | 04/01/2009 | 7,913.16 | 3,768.78 | 4,144.38 | 1,077,802.21 |
| 5 | 05/01/2009 | 7,913.16 | 3,754.34 | 4,158.82 | 1,073,643.39 |
| 6 | 06/01/2009 | 7,913.16 | 3,739.86 | 4,173.30 | 1,069,470.09 |
| 2009 Totals | | 47,478.96 | 25,949.05 | 21,529.91 | |
| 7 | 07/01/2009 | 7,913.16 | 3,725.32 | 4,187.84 | 1,065,282.25 |
| 8 | 08/01/2009 | 7,913.16 | 3,710.73 | 4,202.43 | 1,061,079.82 |
| 9 | 09/01/2009 | 7,913.16 | 3,696.09 | 4,217.07 | 1,056,862.75 |
| 10 | 10/01/2009 | 7,913.16 | 3,681.41 | 4,231.75 | 1,052,631.00 |
| 11 | 11/01/2009 | 7,913.16 | 3,666.66 | 4,246.50 | 1,048,384.50 |
| 12 | 12/01/2009 | 7,913.16 | 3,651.87 | 4,261.29 | 1,044,123.21 |
| 13 | 01/01/2010 | 7,913.16 | 3,637.03 | 4,276.13 | 1,039,847.08 |
| 14 | 02/01/2010 | 7,913.16 | 3,622.13 | 4,291.03 | 1,035,556.05 |
| 15 | 03/01/2010 | 7,913.16 | 3,607.19 | 4,305.97 | 1,031,250.08 |
| 16 | 04/01/2010 | 7,913.16 | 3,592.19 | 4,320.97 | 1,026,929.11 |
| 17 | 05/01/2010 | 7,913.16 | 3,577.14 | 4,336.02 | 1,022,593.09 |
| 18 | 06/01/2010 | 7,913.16 | 3,562.03 | 4,351.13 | 1,018,241.96 |
| 2010 Totals | | 94,957.92 | 43,729.79 | 51,228.13 | |
| 19 | 07/01/2010 | 7,913.16 | 3,546.88 | 4,366.28 | 1,013,875.68 |
| 20 | 08/01/2010 | 7,913.16 | 3,531.67 | 4,381.49 | 1,009,494.19 |
| 21 | 09/01/2010 | 7,913.16 | 3,516.40 | 4,396.76 | 1,005,097.43 |
| 22 | 10/01/2010 | 7,913.16 | 3,501.09 | 4,412.07 | 1,000,685.36 |
| 23 | 11/01/2010 | 7,913.16 | 3,485.72 | 4,427.44 | 996,257.92 |
| 24 | 12/01/2010 | 7,913.16 | 3,470.30 | 4,442.86 | 991,815.06 |
| 25 | 01/01/2011 | 7,913.16 | 3,454.82 | 4,458.34 | 987,356.72 |
| 26 | 02/01/2011 | 7,913.16 | 3,439.29 | 4,473.87 | 982,882.85 |
| 27 | 03/01/2011 | 7,913.16 | 3,423.71 | 4,489.45 | 978,393.40 |
| 28 | 04/01/2011 | 7,913.16 | 3,408.07 | 4,505.09 | 973,888.31 |
| 29 | 05/01/2011 | 7,913.16 | 3,392.38 | 4,520.78 | 969,367.53 |
| 30 | 06/01/2011 | 7,913.16 | 3,376.63 | 4,536.53 | 964,831.00 |

Town of Bath, West Virginia
Series 2008, Water Revenue Refunding Bond

| | Date | Payment | Interest | Principal | Balance |
|---|---|---|---|---|---|
| 2011 Totals | | 94,957.92 | 41,546.96 | 53,410.96 | |
| 31 | 07/01/2011 | 7,913.16 | 3,360.83 | 4,552.33 | 960,278.67 |
| 32 | 08/01/2011 | 7,913.16 | 3,344.97 | 4,568.19 | 955,710.48 |
| 33 | 09/01/2011 | 7,913.16 | 3,329.06 | 4,584.10 | 951,126.38 |
| 34 | 10/01/2011 | 7,913.16 | 3,313.09 | 4,600.07 | 946,526.31 |
| 35 | 11/01/2011 | 7,913.16 | 3,297.07 | 4,616.09 | 941,910.22 |
| 36 | 12/01/2011 | 7,913.16 | 3,280.99 | 4,632.17 | 937,278.05 |
| 37 | 01/01/2012 | 7,913.16 | 3,264.85 | 4,648.31 | 932,629.74 |
| 38 | 02/01/2012 | 7,913.16 | 3,248.66 | 4,664.50 | 927,965.24 |
| 39 | 03/01/2012 | 7,913.16 | 3,232.41 | 4,680.75 | 923,284.49 |
| 40 | 04/01/2012 | 7,913.16 | 3,216.11 | 4,697.05 | 918,587.44 |
| 41 | 05/01/2012 | 7,913.16 | 3,199.75 | 4,713.41 | 913,874.03 |
| 42 | 06/01/2012 | 7,913.16 | 3,183.33 | 4,729.83 | 909,144.20 |
| 2012 Totals | | 94,957.92 | 39,271.12 | 55,686.80 | |
| 43 | 07/01/2012 | 7,913.16 | 3,166.85 | 4,746.31 | 904,397.89 |
| 44 | 08/01/2012 | 7,913.16 | 3,150.32 | 4,762.84 | 899,635.05 |
| 45 | 09/01/2012 | 7,913.16 | 3,133.73 | 4,779.43 | 894,855.62 |
| 46 | 10/01/2012 | 7,913.16 | 3,117.08 | 4,796.08 | 890,059.54 |
| 47 | 11/01/2012 | 7,913.16 | 3,100.37 | 4,812.79 | 885,246.75 |
| 48 | 12/01/2012 | 7,913.16 | 3,083.61 | 4,829.55 | 880,417.20 |
| 49 | 01/01/2013 | 7,913.16 | 3,066.79 | 4,846.37 | 875,570.83 |
| 50 | 02/01/2013 | 7,913.16 | 3,049.91 | 4,863.25 | 870,707.58 |
| 51 | 03/01/2013 | 7,913.16 | 3,032.96 | 4,880.20 | 865,827.38 |
| 52 | 04/01/2013 | 7,913.16 | 3,015.97 | 4,897.19 | 860,930.19 |
| 53 | 05/01/2013 | 7,913.16 | 2,998.91 | 4,914.25 | 856,015.94 |
| 54 | 06/01/2013 | 7,913.16 | 2,981.79 | 4,931.37 | 851,084.57 |
| 2013 Totals | | 94,957.92 | 36,898.29 | 58,059.63 | |
| 55 | 07/01/2013 | 7,913.16 | 2,964.61 | 4,948.55 | 846,136.02 |
| 56 | 08/01/2013 | 7,913.16 | 2,947.37 | 4,965.79 | 841,170.23 |
| 57 | 09/01/2013 | 7,913.16 | 2,930.08 | 4,983.08 | 836,187.15 |
| 58 | 10/01/2013 | 7,913.16 | 2,912.72 | 5,000.44 | 831,186.71 |
| 59 | 11/01/2013 | 7,913.16 | 2,895.30 | 5,017.86 | 826,168.85 |
| 60 | 12/01/2013 | 7,913.16 | 2,877.82 | 5,035.34 | 821,133.51 |
| 61 | 01/01/2014 | 7,913.16 | 2,860.28 | 5,052.88 | 816,080.63 |
| 62 | 02/01/2014 | 7,913.16 | 2,842.68 | 5,070.48 | 811,010.15 |
| 63 | 03/01/2014 | 7,913.16 | 2,825.02 | 5,088.14 | 805,922.01 |
| 64 | 04/01/2014 | 7,913.16 | 2,807.30 | 5,105.86 | 800,816.15 |
| 65 | 05/01/2014 | 7,913.16 | 2,789.51 | 5,123.65 | 795,692.50 |
| 66 | 06/01/2014 | 7,913.16 | 2,771.66 | 5,141.50 | 790,551.00 |
| 2014 Totals | | 94,957.92 | 34,424.35 | 60,533.57 | |
| 67 | 07/01/2014 | 7,913.16 | 2,753.75 | 5,159.41 | 785,391.59 |
| 68 | 08/01/2014 | 7,913.16 | 2,735.78 | 5,177.38 | 780,214.21 |
| 69 | 09/01/2014 | 7,913.16 | 2,717.75 | 5,195.41 | 775,018.80 |
| 70 | 10/01/2014 | 7,913.16 | 2,699.65 | 5,213.51 | 769,805.29 |

Town of Ba[illegible], West Virginia
Series 2008 Water Revenue Refunding Bond

| | Date | Payment | Interest | Principal | Balance |
|---|---|---|---|---|---|
| 71 | 11/01/2014 | 7,913.16 | 2,681.49 | 5,231.67 | 764,573.62 |
| 72 | 12/01/2014 | 7,913.16 | 2,663.26 | 5,249.90 | 759,323.72 |
| 73 | 01/01/2015 | 7,913.16 | 2,644.98 | 5,268.18 | 754,055.54 |
| 74 | 02/01/2015 | 7,913.16 | 2,626.63 | 5,286.53 | 748,769.01 |
| 75 | 03/01/2015 | 7,913.16 | 2,608.21 | 5,304.95 | 743,464.06 |
| 76 | 04/01/2015 | 7,913.16 | 2,589.73 | 5,323.43 | 738,140.63 |
| 77 | 05/01/2015 | 7,913.16 | 2,571.19 | 5,341.97 | 732,798.66 |
| 78 | 06/01/2015 | 7,913.16 | 2,552.58 | 5,360.58 | 727,438.08 |
| 2015 Total | | 94,957.92 | 31,845.00 | 63,112.92 | |
| 79 | 07/01/2015 | 7,913.16 | 2,533.91 | 5,379.25 | 722,058.83 |
| 80 | 08/01/2015 | 7,913.16 | 2,515.17 | 5,397.99 | 716,660.84 |
| 81 | 09/01/2015 | 7,913.16 | 2,496.37 | 5,416.79 | 711,244.05 |
| 82 | 10/01/2015 | 7,913.16 | 2,477.50 | 5,435.66 | 705,808.39 |
| 83 | 11/01/2015 | 7,913.16 | 2,458.57 | 5,454.59 | 700,353.80 |
| 84 | 12/01/2015 | 7,913.16 | 2,439.57 | 5,473.59 | 694,880.21 |
| 85 | 01/01/2016 | 7,913.16 | 2,420.50 | 5,492.66 | 689,387.55 |
| 86 | 02/01/2016 | 7,913.16 | 2,401.37 | 5,511.79 | 683,875.76 |
| 87 | 03/01/2016 | 7,913.16 | 2,382.17 | 5,530.99 | 678,344.77 |
| 88 | 04/01/2016 | 7,913.16 | 2,362.90 | 5,550.26 | 672,794.51 |
| 89 | 05/01/2016 | 7,913.16 | 2,343.57 | 5,569.59 | 667,224.92 |
| 90 | 06/01/2016 | 7,913.16 | 2,324.17 | 5,588.99 | 661,635.93 |
| 2016 Total | | 94,957.92 | 29,155.77 | 65,802.15 | |
| 91 | 07/01/2016 | 7,913.16 | 2,304.70 | 5,608.46 | 656,027.47 |
| 92 | 08/01/2016 | 7,913.16 | 2,285.16 | 5,628.00 | 650,399.47 |
| 93 | 09/01/2016 | 7,913.16 | 2,265.56 | 5,647.60 | 644,751.87 |
| 94 | 10/01/2016 | 7,913.16 | 2,245.89 | 5,667.27 | 639,084.60 |
| 95 | 11/01/2016 | 7,913.16 | 2,226.14 | 5,687.02 | 633,397.58 |
| 96 | 12/01/2016 | 7,913.16 | 2,206.33 | 5,706.83 | 627,690.75 |
| 97 | 01/01/2017 | 7,913.16 | 2,186.46 | 5,726.70 | 621,964.05 |
| 98 | 02/01/2017 | 7,913.16 | 2,166.51 | 5,746.65 | 616,217.40 |
| 99 | 03/01/2017 | 7,913.16 | 2,146.49 | 5,766.67 | 610,450.73 |
| 100 | 04/01/2017 | 7,913.16 | 2,126.40 | 5,786.76 | 604,663.97 |
| 101 | 05/01/2017 | 7,913.16 | 2,106.25 | 5,806.91 | 598,857.06 |
| 102 | 06/01/2017 | 7,913.16 | 2,086.02 | 5,827.14 | 593,029.92 |
| 2017 Total | | 94,957.92 | 26,351.91 | 68,606.01 | |
| 103 | 07/01/2017 | 7,913.16 | 2,065.72 | 5,847.44 | 587,182.48 |
| 104 | 08/01/2017 | 7,913.16 | 2,045.35 | 5,867.81 | 581,314.67 |
| 105 | 09/01/2017 | 7,913.16 | 2,024.91 | 5,888.25 | 575,426.42 |
| 106 | 10/01/2017 | 7,913.16 | 2,004.40 | 5,908.76 | 569,517.66 |
| 107 | 11/01/2017 | 7,913.16 | 1,983.82 | 5,929.34 | 563,588.32 |
| 108 | 12/01/2017 | 7,913.16 | 1,963.17 | 5,949.99 | 557,638.33 |
| 109 | 01/01/2018 | 7,913.16 | 1,942.44 | 5,970.72 | 551,667.61 |
| 110 | 02/01/2018 | 7,913.16 | 1,921.64 | 5,991.52 | 545,676.09 |
| 111 | 03/01/2018 | 7,913.16 | 1,900.77 | 6,012.39 | 539,663.70 |
| 112 | 04/01/2018 | 7,913.16 | 1,879.83 | 6,033.33 | 533,630.37 |

Town of Bn West Virginia
Series 200 ater Revenue Refunding Bond

| | D | Payment | Interest | Principal | Balance |
|---|---|---|---|---|---|
| 113 | 05 /2018 | 7,913.16 | 1,858.81 | 6,054.35 | 527,576.02 |
| 114 | 0 /2018 | 7,913.16 | 1,837.72 | 6,075.44 | 521,500.58 |
| 2018 Total | | 94,957.92 | 23,428.58 | 71,529.34 | |
| 115 | 07 /2018 | 7,913.16 | 1,816.56 | 6,096.60 | 515,403.98 |
| 116 | 08 01/2018 | 7,913.16 | 1,795.32 | 6,117.84 | 509,286.14 |
| 117 | 09 01/2018 | 7,913.16 | 1,774.01 | 6,139.15 | 503,146.99 |
| 118 | 1 /2018 | 7,913.16 | 1,752.63 | 6,160.53 | 496,986.46 |
| 119 | 1 /2018 | 7,913.16 | 1,731.17 | 6,181.99 | 490,804.47 |
| 120 | 1 /2018 | 7,913.16 | 1,709.64 | 6,203.52 | 484,600.95 |
| 121 | 01 /2019 | 7,913.16 | 1,688.03 | 6,225.13 | 478,375.82 |
| 122 | 0 /2019 | 7,913.16 | 1,666.34 | 6,246.82 | 472,129.00 |
| 123 | 0 /2019 | 7,913.16 | 1,644.58 | 6,268.58 | 465,860.42 |
| 124 | 0 /2019 | 7,913.16 | 1,622.75 | 6,290.41 | 459,570.01 |
| 125 | 0 /2019 | 7,913.16 | 1,600.84 | 6,312.32 | 453,257.69 |
| 126 | 0 /2019 | 7,913.16 | 1,578.85 | 6,334.31 | 446,923.38 |
| 2019 Tota | | 94,957.92 | 20,380.72 | 74,577.20 | |
| 127 | 0 /2019 | 7,913.16 | 1,556.78 | 6,356.38 | 440,567.00 |
| 128 | 0 /2019 | 7,913.16 | 1,534.64 | 6,378.52 | 434,188.48 |
| 129 | 0 /2019 | 7,913.16 | 1,512.42 | 6,400.74 | 427,787.74 |
| 130 | 1 /2019 | 7,913.16 | 1,490.13 | 6,423.03 | 421,364.71 |
| 131 | 1 /2019 | 7,913.16 | 1,467.75 | 6,445.41 | 414,919.30 |
| 132 | 1 /2019 | 7,913.16 | 1,445.30 | 6,467.86 | 408,451.44 |
| 133 | 0 /2020 | 7,913.16 | 1,422.77 | 6,490.39 | 401,961.05 |
| 134 | 0 /2020 | 7,913.16 | 1,400.16 | 6,513.00 | 395,448.05 |
| 135 | 0 /2020 | 7,913.16 | 1,377.48 | 6,535.68 | 388,912.37 |
| 136 | 0 /2020 | 7,913.16 | 1,354.71 | 6,558.45 | 382,353.92 |
| 137 | 0 /20 | 7,913.16 | 1,331.87 | 6,581.29 | 375,772.63 |
| 138 | 0 /2020 | 7,913.16 | 1,308.94 | 6,604.22 | 369,168.41 |
| 2020 Tota | | 94,957.92 | 17,202.95 | 77,754.97 | |
| 139 | 0 /2021 | 7,913.16 | 1,285.94 | 6,627.22 | 362,541.19 |
| 140 | 0 /20 | 7,913.16 | 1,262.85 | 6,650.31 | 355,890.88 |
| 141 | 0 /20 | 7,913.16 | 1,239.69 | 6,673.47 | 349,217.41 |
| 142 | 1 /20 | 7,913.16 | 1,216.44 | 6,696.72 | 342,520.69 |
| 143 | 1 /2020 | 7,913.16 | 1,193.11 | 6,720.05 | 335,800.64 |
| 144 | 1 /2020 | 7,913.16 | 1,169.71 | 6,743.45 | 329,057.19 |
| 145 | 0 /2021 | 7,913.16 | 1,146.22 | 6,766.94 | 322,290.25 |
| 146 | 0 /20 | 7,913.16 | 1,122.64 | 6,790.52 | 315,499.73 |
| 147 | 0 /20 | 7,913.16 | 1,098.99 | 6,814.17 | 308,685.56 |
| 148 | 0 /20 | 7,913.16 | 1,075.25 | 6,837.91 | 301,847.65 |
| 149 | 0 /20 | 7,913.16 | 1,051.44 | 6,861.72 | 294,985.93 |
| 150 | 0 /2021 | 7,913.16 | 1,027.53 | 6,885.63 | 288,100.30 |
| 2021 Tot | | 94,957.92 | 13,889.81 | 81,068.11 | |
| 151 | 0 /20 | 7,913.16 | 1,003.55 | 6,909.61 | 281,190.69 |
| 152 | 0 /20 | 7,913.16 | 979.48 | 6,933.68 | 274,257.01 |

Town of B... West Virginia
Series 200... Water Revenue Refunding Bond

| | Date | Payment | Interest | Principal | Balance |
|---|---|---|---|---|---|
| 153 | 0...1/2021 | 7,913.16 | 955.33 | 6,957.83 | 267,299.18 |
| 154 | 1...1/202... | 7,913.16 | 931.09 | 6,982.07 | 260,317.11 |
| 155 | 1...1/202... | 7,913.16 | 906.77 | 7,006.39 | 253,310.72 |
| 156 | 1...01/2021 | 7,913.16 | 882.37 | 7,030.79 | 246,279.93 |
| 157 | 0...01/2022 | 7,913.16 | 857.88 | 7,055.28 | 239,224.65 |
| 158 | 0...1/2022 | 7,913.16 | 833.30 | 7,079.86 | 232,144.79 |
| 159 | 0...1/2022 | 7,913.16 | 808.64 | 7,104.52 | 225,040.27 |
| 160 | 0...1/2022 | 7,913.16 | 783.89 | 7,129.27 | 217,911.00 |
| 161 | 0...1/202... | 7,913.16 | 759.06 | 7,154.10 | 210,756.90 |
| 162 | 0...1/202... | 7,913.16 | 734.14 | 7,179.02 | 203,577.88 |
| 2022 Total | | 94,957.92 | 10,435.50 | 84,522.42 | |
| 163 | 0...1/2022 | 7,913.16 | 709.13 | 7,204.03 | 196,373.85 |
| 164 | 0...1/2022 | 7,913.16 | 684.04 | 7,229.12 | 189,144.73 |
| 165 | 0...1/202... | 7,913.16 | 658.85 | 7,254.31 | 181,890.42 |
| 166 | 0...1/20... | 7,913.16 | 633.58 | 7,279.58 | 174,610.84 |
| 167 | 1...1/2024 | 7,913.16 | 608.23 | 7,304.93 | 167,305.91 |
| 168 | 1...01/2022 | 7,913.16 | 582.78 | 7,330.38 | 159,975.53 |
| 169 | 0...1/2023 | 7,913.16 | 557.25 | 7,355.91 | 152,619.62 |
| 170 | 0...1/2023 | 7,913.16 | 531.63 | 7,381.53 | 145,238.09 |
| 171 | 0...1/202... | 7,913.16 | 505.91 | 7,407.25 | 137,830.84 |
| 172 | 0...1/20... | 7,913.16 | 480.11 | 7,433.05 | 130,397.79 |
| 173 | 0...1/202... | 7,913.16 | 454.22 | 7,458.94 | 122,938.85 |
| 174 | 0...1/202... | 7,913.16 | 428.24 | 7,484.92 | 115,453.93 |
| 2023 Tot... | | 94,957.92 | 6,833.97 | 88,123.95 | |
| 175 | 0...1/2023 | 7,913.16 | 402.16 | 7,511.00 | 107,942.93 |
| 176 | 0...1/202... | 7,913.16 | 376.00 | 7,537.16 | 100,405.77 |
| 177 | 0...1/202... | 7,913.16 | 349.75 | 7,563.41 | 92,842.36 |
| 178 | 1...1/202... | 7,913.16 | 323.40 | 7,589.76 | 85,252.60 |
| 179 | 1...1/2023 | 7,913.16 | 296.96 | 7,616.20 | 77,636.40 |
| 180 | 0...1/2023 | 7,913.16 | 270.43 | 7,642.73 | 69,993.67 |
| 181 | 0...01/2024 | 7,913.16 | 243.81 | 7,669.35 | 62,324.32 |
| 182 | 0...1/2024 | 7,913.16 | 217.10 | 7,696.06 | 54,628.26 |
| 183 | 1...1/2024 | 7,913.16 | 190.29 | 7,722.87 | 46,905.39 |
| 184 | 0...1/202... | 7,913.16 | 163.39 | 7,749.77 | 39,155.62 |
| 185 | 0...1/2024 | 7,913.16 | 136.39 | 7,776.77 | 31,378.85 |
| 186 | 0...1/2024 | 7,913.16 | 109.30 | 7,803.86 | 23,574.99 |
| 2024 Tot... | | 94,957.92 | 3,078.98 | 91,878.94 | |
| 187 | 0...1/2024 | 7,913.16 | 82.12 | 7,831.04 | 15,743.95 |
| 188 | 0...1/2024 | 7,913.16 | 54.84 | 7,858.32 | 7,885.63 |
| 189 | 0...1/2024 | 7,913.16 | 27.53 | 7,885.63 | 0.00 |
| 2025 Tot... | | 23,739.48 | 164.49 | 23,574.99 | |
| Grand To... | | 1,495,587.24 | 404,587.24 | 1,091,000.00 | |

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____, the within-mentioned Bond and _____ does hereby irrevocably constitute and appoint _____ Attorney to transfer the said Bond on the books of the Registrar on behalf of the said Issuer with full power of substitution in the premises.

Dated: _____, 20___

_____

In the presence of:

_____

WEST VIRGINIA
Water Development Authority
*Celebrating 35 Years of Service 1974 - 2009*

October 29, 2009

TOWN OF BATH

Water Revenue Bonds, Series 2009 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2009 B
(West Virginia DWTRF Program/ARRA)

TO WHOM IT MAY CONCERN:

In reliance upon the certificate of Bennett & Dobbins, PLLC, the independent certified public accountant, and the opinion of Steptoe & Johnson PLLC, bond counsel, that the coverage and parity tests have been met, the undersigned duly authorized representative for the West Virginia Water Development Authority, the registered owner of the entire outstanding aggregate principal amount of the Prior Bonds, hereinafter defined and described, hereby consents to the issuance of the Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), in the original aggregate principal amount of $2,193,910 (the "Series 2009 A Bonds") and Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), in the original aggregate principal amount of $2,193,910 (the "Series 2009 B Bonds") by the Town of Bath (the "Issuer"), under the terms of the bond ordinance authorizing the Series 2009 A Bonds and Series 2009 B Bonds, on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's outstanding (i) Water Revenue Bonds, Series 2006 A (West Virginia DWTRF Program), dated August 29, 2006, issued in the original aggregate principal amount of $1,250,000; (ii) Water Revenue Bonds, Series 2006 B (West Virginia Infrastructure Fund), dated August 29, 2006, issued in the original aggregate principal amount of $1,237,000; and (iii) Water Revenue Bonds, Series 2002 A (West Virginia DWTRF Program), dated December 9, 2002, issued in the original aggregate principal amount of $1,150,000 (collectively, the "Prior Bonds").

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

By: Carol A. Cummings
Its: Authorized Representative

10.06.09
055550.00002

CH5258100.2

180 Association Drive, Charleston, WV 25311-1217
phone (304) 558-3612 / fax (304) 558-0299
www.wvwda.org

STEPTOE & JOHNSON PLLC
ATTORNEYS AT LAW

Chase Tower, Eighth Floor
P.O. Box 1588
Charleston, WV 25326-1588
(304) 353-8000 (304) 353-8180 Fax
www.steptoe-johnson.com

Writer's Contact Information

# CLOSING MEMORANDUM

**To:** **Financing Team**

**From:** **John C. Stump, Esquire**

**Date:** **October 29, 2009**

**Re:** **Town of Bath**
**271 Wilkes Street, Suite A, Berkeley Springs, WV 25411**
**Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program); and Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA)**

---

## 1. DISBURSEMENTS TO THE TOWN OF BATH

A.

| | |
|---|---|
| Payor: | West Virginia Bureau for Public Health |
| Source: | Water Revenue Bonds, Series 2009 A |
| Amount: | $299,441.00 |
| Form: | Wire Transfer |
| Payee: | Town of Bath |
| Bank: | CNB Bank, Inc. |
| Contact: | Robin Brown 304-258-1520 |
| Acct. No.: | 2292928 |
| ABA: | 052204359 |
| Account: | Series 2009 Bonds Construction Trust Fund |

B.

| | |
|---|---|
| Payor: | West Virginia Bureau for Public Health |
| Source: | Water Revenue Bonds, Series 2009 B |
| Amount: | $-0- |
| Form: | Wire Transfer |
| Payee: | Town of Bath |
| Bank: | CNB Bank, Inc. |
| Contact: | Robin Brown 304-258-1520 |
| Acct. No.: | 2292928 |
| ABA: | 052204359 |
| Account: | Series 2009 Bonds Construction Trust Fund |

C.

| | |
|---|---|
| Payor: | West Virginia Infrastructure Council |
| Source: | Infrastructure Council Grant |
| Amount: | $64,314 |
| Form: | Wire Transfer |
| Payee: | Town of Bath |
| Bank: | CNB Bank, Inc. |
| Contact: | Robin Brown 304-258-1520 |
| Acct. No.: | 2292928 |
| ABA: | 052204359 |
| Account: | Series 2009 Bonds Construction Trust Fund |

**Total Disbursements:** **$363,755**



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Huntington, WV • Columbus, OH

TERRALEX
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Resolution 2009-09

**TOWN OF BATH**
**2008W-1052**

**RESOLUTION OF THE TOWN OF BATH APPROVING INVOICES RELATING TO ACQUISITION AND CONSTRUCTION AND OTHER SERVICES FOR THE PROPOSED WATER PROJECT AND AUTHORIZING PAYMENT THEREOF,**

**WHEREAS,** the Town of Bath has reviewed the invoices attached hereto and incorporated herein by reference relation to the construction of the Water Project funded by a Drinking Water Treatment Revolving Fund ARRA (DWTRF) Loan and a Infrastructure Council grant (IJDC) and find as follows:

a) That none of the items for which payment is proposed to be made has formed the basis for any disbursement theretofore made.

b) That each item for which the payment is proposed to be paid is or was necessary in connection with the Project and constitutes a Cost of the project.

c) That each of such costs has been otherwise properly incurred.

d) That the payment for each of the items proposed is due and owing.

**NOW, THEREFOR, BE IT RESOLVED** The Town of Bath by as follows: There is hereby authorized and directed the payment of the attached invoices as follows:

| Vendor | Total | DWTRF | IJDC |
|---|---|---|---|
| Huntington Banks (Registrar) | 1,000.00 | 0.00 | 1,000.00 |
| Steptoe & Johnson (Bond Counsel) | 27,000.00 | 0.00 | 27,000.00 |
| Thrasher Engineering | 299,440.20 | 299,440.20 | 0.00 |
| Bennett & Dobbins | 10,500.00 | 0.00 | 10,500.00 |
| Conrad Law Firm (Title) | 15,100.00 | 0.00 | 15,100.00 |
| Town of Bath (Reimburse for Richard Gay Legal) | 10,714.00 | 0.00 | 10,714.00 |
| | | | |
| Total | 363,754.20 | 299,440.20 | 64,314.00 |

**ADOPTED BY the Town of Bath**, at the meeting held on the 6th day of October, 2009.

By: Susan J. Webb Jr

Its: Mayor

Attest: Margie Wagner, Clerk

State of West Virginia

# WATER DEVELOPMENT AUTHORITY

180 Association Drive, Charleston, WV 25311-1217
(304) 558-3612 - (304) 558-0299 (Fax)
Internet: www.wvwda.org - Email: contact@wvwda.org

## PRECLOSING ATTENDANCE LIST

Date 10/29/09 Time 1:30 LGA Town of Bath Program DWTRF

| NAME | COMPANY, AGENCY, OR ORGANIZATION | TELEPHONE | FAX | E-MAIL |
|---|---|---|---|---|
| Carol Cummings | WDA | 558-3612 | 558-0299 | ccummings@wvwda.org |
| Ryan White | Jackson Kelly | 304 340-1293 | 304 340 1272 | srwhite@jacksonkelly.com |
| John Stump | Steptoe & Johnson PLLC | 304.353.8196 | 304.353.8181 | johnstump@steptoe-johnson.com |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

The Authority requests that the following information concerning the individual who will be responsible for sending Debt Service Payments to the Municipal Bond Commission be provided. (If that individual is in attendance, he/she should also sign above.) Please Print:

Name Susan Webster, Mayor Telephone 304.258.1102 E-Mail townofbath@wvdsl.net

Address 271 Wilkes Street, Berkeley Springs, WV 25411

REMINDER: As a participant in this program, the Local Governmental Agency (LGA) agrees and is required to submit annually to the WDA a copy of its audited financial statements and a copy of its adopted budget. Also, pursuant to the Loan Agreement and the NonArbitrage Certificate (both of which are contained in the bond transcript) you are to provide annually to the WDA a rebate calculation certificate or an exception opinion showing whether a rebate amount is due to the US Government under arbitrage requirements in Section 148(f) of the US Internal Revenue Code, 1986, as amended.

## SWEEP RESOLUTION

### Town of Bath

**WHEREAS**, the Town of Bath (the "Issuer") is a governmental body and political subdivision of West Virginia;

**WHEREAS**, the Issuer has issued bonds, as more specifically set forth on Exhibit A, attached hereto and incorporated herein by reference (the "Bonds");

**WHEREAS**, the Issuer makes or will make monthly debt service payments on and transfers reserve funds for the Bonds by check to the West Virginia Municipal Bond Commission (the "MBC") which in turn pays the owners of the Bonds and deposits funds in the reserve accounts;

**WHEREAS**, the MBC may accept such monthly payments by electronic funds transfer, thereby eliminating delay in payments and lost checks;

**WHEREAS**, the Issuer finds and determines that it is in the best interest of the Issuer, its citizens and the owners of the Bonds that the administrative fees, monthly debt service and reserve fund payments be made by electronic funds transfer with the State Treasurer sweeping the Issuer's account.

**NOW THEREFORE BE IT RESOLVED AS FOLLOWS:**

1) The monthly debt service payments on and reserve funds for the Bonds, as set forth in Exhibit A, shall be made to the MBC by an electronic transfer, to the extent funds are available, by the State Treasurer from the accounts set forth in Exhibit A in such form and at such directions as are provided by the MBC.

2) The Mayor and Recorder are hereby authorized to sign and execute all such documents as are necessary to facilitate the electronic transfer of the Bond debt service and reserve fund payments.

3) This resolution shall be effective immediately upon adoption.

Adopted this 20th day of October, 2009.

Susan J. Webster

Mayor

# American Recovery and Reinvestment Act of 2009 (ARRA)

## Project Certification

**Program:** West Virginia Drinking Water Treatment Revolving Fund (DWTRF)

**Project:** Town of Bath, Morgan County

**Description:** The project will correct excessive water loss, add fire hydrants, and provide for future growth, replacing old and deteriorating cast iron and galvanized pipes in the distribution system. The majority of the replacement will take place north, south, and east of town. This project will replace approximately 7 miles of water line.

**Total Project Cost**

$4,500,000

**ARRA Assistance Provided**

$2,193,910

I hereby certify that the above project has received the full review and vetting required by federal law and that the investment of federal and state funds in this infrastructure project is an appropriate use of taxpayer dollars.

This certification will be posted on the Governor's website and linked to the federal ARRA website www.recovery.gov

Patsy A. Hardy, Cabinet Secretary, FACHE, MSN, MBA

10/22/09
Date

WEST VIRGINIA
Department of
Health & Human Resources

**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 16th day of April 2009

GENERAL ORDER NO. 182.09

Public Service Commission intended procedures concerning water and sewer projects that are funded with federal stimulus funds.

## COMMISSION ORDER

Earlier this year, Congress enacted and the President signed the *American Recovery and Reinvestment Act of 2009*. Under this legislation, the State of West Virginia is to receive certain stimulus funds, a portion of which will be dedicated to the construction of water and sewer infrastructure. The Public Service Commission ("Commission") has received information from various funding agencies. The State Bureau for Public Health through its drinking water treatment revolving fund will have approximately $19.5 million for water projects. In addition, the State Department of Environmental Protection through the clean water state revolving fund will have approximately $61 million for sewer projects. Both of these state agencies have indicated that they intend to have the projects bid by August 2009 and contracts awarded by October 2009. In addition, certain other stimulus funds for water and sewer projects will be administered by the U.S. Department of Agriculture, Rural Utilities Service.

Although the Commission is not a funding source for the stimulus funds, it will nonetheless be called upon to process utility applications for certificates of public convenience and necessity ("certificates") to authorize the construction of stimulus-funded water and sewer projects. Given the aggressive schedule planned by the funding agencies, and the requirement in the federal law that water and sewer projects be "shovel ready," meaning under construction within a quick time line, the Commission intends to expedite these applications to the greatest extent possible consistent with existing State Law.

As a preliminary observation, the Commission would stress that applications must be complete and the statutory thirty-day notice to the public must be given at the outset of the application. Failure to file complete applications or failure to provide timely public notice will lead to delays in processing projects and jeopardize the ability to receive federal stimulus funds. The Commission anticipates that it will receive (i) new applications for water and sewer projects using federal stimulus funds, (ii) amendments to pending applications

containing some measure of federal stimulus funds, and (iii) petitions to reopen certificates already issued seeking to amend funding by including federal stimulus funds. The Commission issues this General Order to inform the public, regulated utilities, attorneys who practice before the Commission, funding agencies, and the staff of the Commission of its intended procedures and processes.

With respect to new stimulus project applications, the Commission intends that applicants and Staff observe the following procedures. At the outset, the Commission again stresses that it is essential that a utility project sponsor file a complete application and provide timely public notice of its application.

1. Staff assigned to the case should immediately review the filing to determine if it is complete. The Initial Joint Staff Memorandum should be filed within ten days.[1]

2. If the filing is complete and does not require an increase in rates for the project, Staff should file its Final Joint Staff Memorandum in thirty-five days which allows for the protest period assuming the applicant has timely published notice.

3. If the filing is complete and includes a proposed increase in rates for the project, Staff may deem it necessary to file a data request for items needed to complete the review and make a final Staff recommendation. This data request should be filed within ten days. The applicant should expedite its response to Staff's requests and Staff should file its Final Joint Staff Memorandum within forty-five to sixty days

4. If the filing is not complete, irrespective of whether or not the application seeks an increase in rates, Staff should file a data request, if necessary, for the items needed to complete the review and make a final Staff recommendation. This data request should be filed within ten days. The applicant should expedite its responses to Staff's requests and Staff should file its Final Joint Staff Memorandum within forty-five to sixty days.

5. If rates are required for the project and a rate change has not been included with the application:

   A. For municipalities, the processing time is out of the Commission's ability to control. Staff needs to determine where the municipality is in the ordinance process and what else is needed to process the case. This should all be part of the Initial Joint Staff Memorandum to let the Commission know if the case can be processed or needs dismissed. (Certificates and rate ordinances need to be coordinated for a municipal appeal.) Data requests should still be filed within the ten-day period.

---

[1] Days in this Order are calendar days. Filings due on weekends or holidays are due the next working day.

B. Public service districts ("districts") that need rates for the project can follow steps 1 and 3 or 4 above.

C. Districts that require rates outside of the project and are in default on bonds cannot move forward. Staff must address this in its initial memorandum.

5. For newly-filed water or sewer applications for certificates of convenience and necessity where the funding is described at the time of the filing as Stimulus Funding the Commission shall designate the filings as "SCN." The Commission, its Staff and Administrative Law Judges, will process those designated filings as expeditiously as possible.

The stimulus funds may be used to replace existing funding for projects that are ready to proceed, allowing the State of West Virginia to fund more projects than planned and provide an enhanced investment in water and sewer infrastructure to unserved and under-served areas of the State. To expedite the processing of projects that have already received a certificate and are eligible to receive stimulus funds, the Commission plans the following process and procedures:

6. In instances where municipalities or municipal water or sewer boards ("municipal utilities") have already been granted certificates, and in the event the municipality is awarded a stimulus assistance funding package to replace either existing grant or loan funding from another source, the municipal utility shall only be required to file with the Commission a letter from the funding agency that describes the change in the project funding. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action by the Commission.

7. Similarly, for districts that are awarded a stimulus assistance funding package equivalent to the existing grant money from another source, that has no impact on rates, the district shall only be required to file with the Commission a letter from the funding agency that describes the change in the project funding. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action by the Commission.

8. In the event that a district is awarded a stimulus assistance funding package and the benefit to the customers of such improved financing is lower project costs, the district will only be required to file a petition to reopen the original formal case granting the certificate in order that the Commission may review the rates established for the project.

The Commission will provide for such petitions to reopen to be handled in an expedited manner. To that end, the district will be required to file with its petition to reopen a letter from the funding agency that describes the change in project funding, specifically setting forth the newly-committed funding and an accompanying calculation by the district

of the impact to its rates together with supporting documentation. Upon the filing of this information, Staff will perform a review of the revised project funding and rate calculations and file a final recommendation with the Commission stating its recommended rates as soon as possible, but no later than ten days after receipt of the petition. The Commission will issue an order as soon thereafter as possible.

9. For districts that are awarded a stimulus assistance funding package to supplement funding to deal with a cost overrun in whole or part, that has no impact on rates, the district may utilize the enhanced funding to first fund any project alternatives that were reviewed as either deducts or adducts that were approved as a part of the original certificate, contingent upon funding, in order that all portions of the project can be constructed. In this event, the district shall be required to file with the Commission a letter from the funding agency that describes both the change in the project funding and also notes the deducts or adducts that will be funded for construction. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action on its part.

The issuance of these guidelines should expedite these projects and the continuing effort to provide quality water and sewer service throughout the State of West Virginia. The Commission understands that there will be instances and situations where events will disrupt these intended procedures; however, the Commission expects all parties to use their best efforts to process these cases in a timely manner. Finally, given the aggressive time frame contemplated by the funding agencies and the intent to have bids out by August 2009, project applications should be filed no later than June 1, 2009, to avoid jeopardizing the timely consideration of those applications.

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission give public notice of this order in a manner deemed most efficient and appropriate.

A True Copy, Teste:

Sandra Squire
Executive Secretary

go18209c.wpd