

**THE TOWN OF BETHANY**

**Sewer Revenue Bonds, Series 2009 A  
(United States Department of Agriculture)**

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**TOWN OF BETHANY**  
**Sewer Revenue Bonds, Series 2009 A**  
**(United States Department of Agriculture)**

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THE TOWN OF BETHANY

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF THE TOWN OF BETHANY, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$700,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 A (UNITED STATES DEPARTMENT OF AGRICULTURE) IN ONE OR MORE SERIES; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

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

ARTICLE I

**STATUTORY AUTHORITY, FINDINGS  
AND DEFINITIONS**

Section 1.01. Authority for this Ordinance. This Ordinance is adopted and enacted pursuant to the provisions of Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law. The Town of Bethany (the "Issuer") is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia in Brooke County of said State.

Section 1.02. Findings and Determinations. It is hereby found, determined and declared as follows:

A. The Issuer currently owns and operates a public sewerage system and desires to acquire, construct and operate certain additional public sewerage facilities consisting of additions, betterments and improvements to such existing Sewerage facilities, with all appurtenant facilities.

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer and, accordingly, it is hereby ordered, that there be acquired and constructed certain additions, betterments

and improvements to the existing sewerage system of the Issuer, consisting of construction of certain additions and improvements to its existing wastewater system (the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Recorder of the Issuer. The existing sewerage facilities of the Issuer, together with the Project and any further additions, betterments and improvements, are herein called the "System". The acquisition and construction of the Project and the financing 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 estimated revenues to be derived in each year from the operation of the System after completion of the Project will be sufficient to pay all costs of operation and maintenance of the System, the principal of and interest on the Series 2009 A Bonds and the Prior Bonds (as hereinafter defined) and all debt service, reserve fund and other payments provided for herein and in the Prior Ordinance,

D. The estimated maximum cost of the acquisition and construction of the Project is \$700,000 which will be obtained from the proceeds of sale of the Bonds herein authorized, and \$65,000 will be obtained from a grant from the State.

E. It is necessary for the Issuer to issue its Sewer Revenue Bonds Series 2009 A (United States Department of Agriculture) in one or more series, in the aggregate principal amount of \$700,000 (the "Series 2009 A Bonds"), to finance a portion of the cost of acquisition and construction of the Project. The cost of such acquisition and construction shall be deemed to include, without being limited to, the acquisition and construction of the Project; the acquisition of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest on the Series 2009 A Bonds prior to and during acquisition and construction, and for a period not exceeding six months after completion of such acquisition or construction, of the Project; engineering, fiscal agents 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 Project, administrative expense, and such other expenses as may be necessary or incidental to the acquisition and construction of the Project and the financing authorized hereby; provided that, reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2009 A Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project.

F. The period of usefulness of the System, as herein defined, after completion of the Project is not less than 40 years.

G. The Issuer has outstanding its Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated February 22, 2005, issued in the original aggregate principal amount of \$1,250,000 (the "Series 2005 A Bonds" or the "Prior Bonds"). The Prior Bonds are payable from and secured by a first lien on the Net Revenues (as hereinafter defined) of the System.

The Series 2009 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 2009 A 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 Prior Bonds to the issuance of the Series 2009 A Bonds on a parity with the Prior 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. It is in the best interest of the Issuer that the Series 2009 A Bonds be sold to the Purchaser, pursuant to the terms and provisions of the Letter of Conditions dated March 18, 2008, and any amendments, thereto (collectively, the "Letter of Conditions").

I. The Issuer has complied with all requirements of law relating to the authorization of the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Series 2009 A Bonds, or will have so complied prior to issuance of the Series 2009 A Bonds, including, among other things and without limitation, obtaining a certificate of convenience and necessity and approval of the financing and necessary user rates and charges from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired or shall have been duly waived or otherwise provided for.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2009 A Bonds by those who shall be the Registered Owner of the same from time to time, this Ordinance (the "Bond Legislation") shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owner, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Series 2009 A Bonds.

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

"Act" means Chapter 16, Article 13 of the West Virginia Code of 1931, as amended.

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

"Bond Registrar" or "Registrar" means the Issuer, which shall usually so act by its Recorder.

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

"Closing Date" means the date upon which there is an exchange of the Series 2009 A Bonds for the proceeds, or at least a de minimus portion, thereof representing the purchase price of the Series 2009 A Bonds from the Purchaser.

"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 Engineer" means Cerrone Associates, Wheeling, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

"Depository Bank" means a bank or trust company which is a member of FDIC (herein defined), and its successors and assigns as designated in the Supplemental Resolution.

"Facilities" or "sewerage facilities" means all the tangible properties of the System and also any tangible properties which may hereafter be added to the System by additions, betterments, extensions and improvements thereto and properties, furniture, fixtures or equipment therefor, hereafter at any time constructed or acquired.

"FDIC" means the Federal Deposit Insurance Corporation.

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

"Governing Body" or "Council" means the Council of the Issuer.

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

"Grant" means any grant monies committed to the Project.

"Herein" or "herein" means in this Bond Legislation.

"Issuer" or "Borrower" means The Town of Bethany, a municipal corporation and political subdivision of the State of West Virginia, in Brooke County, West Virginia, and includes the Governing Body.

"Letter of Conditions" means, collectively, the Letter of Conditions of the Purchaser dated March 18, 2008, and all amendments thereto, if any.

"Mayor" means the Mayor of the Issuer.

"Minimum Reserve" 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.

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

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the Project and the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, materials and supplies, pumping costs, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the Project and the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting principles and retention of a sum not to exceed one-sixth of the budgeted Operating Expenses stated above for the current year as working capital, and language herein requiring payment of Operating Expenses means also retention of not to exceed such sum as working capital, provided that all monthly amortization payments upon the Series 2009 A Bonds and into the respective reserve accounts and the Renewal and Replacement Fund have been made to the last monthly date prior to the date of such retention.

"Ordinances" means, the Bond Legislation.

"Prior Bonds" means the Series 2005 A Bonds.

"Prior Ordinance" means the Ordinance of the Issuer authorizing the Prior Bonds.

"Project" shall have the meaning stated in Section 1.02B above.

"Purchaser" or "Government" means United States Department of Agriculture, Rural Utilities Service, and any successor thereof, acting for and on behalf of the United States of America.

"Qualified Investments" means and includes any of the following, to the extent such investments are permitted by law:

- (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 (hereinbefore defined) 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 Issuer.

"Registered Owner," "Bondholder," "Holder of the Bond" or any similar term means any person who shall be the registered owner of the Series 2009 A Bonds.

"Reserve Funds" means, the respective reserve funds for the Series 2009 A Bonds and the Prior Bonds.

"Revenues" or "Gross Revenues" means all rates, rents, fees, charges or other income received by the Issuer, or accrued to the Issuer, or any department, board, agency or instrumentality thereof in control of the management and operation of the System, from the operation of the System, and all parts thereof, all as calculated in accordance with sound accounting practices.

"Series 2005 A Bonds" means the Issuer's Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) dated February 22, 2005, issued in the original aggregate principal amount of \$1,250,000.

"Series 2009 A Bonds" means the Sewer Revenue Bonds, (United States Department of Agriculture) issued in one or more series authorized by this Ordinance.

"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 with the article "the", refers specifically to the supplemental resolution authorizing the sale of the Series 2009 A 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 not so included may be included in another supplemental resolution.

"System" means the complete Sewerage system of the Issuer and all Sewerage 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 sewerage systems, including the Project, and any and all additions, betterments, improvements, properties or other facilities at any time acquired or constructed for the Sewerage system from any source 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; and any requirement for execution or attestation of the Series 2009 A Bonds or any certificate or other document by the Mayor or the Recorder shall mean that such Series 2009 A Bonds, certificate or other documents may be executed or attested by an Acting Mayor or Acting Recorder.

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 \$700,000, 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 2009 A Bonds hereby authorized shall be applied as provided in Article IV hereof.

### ARTICLE III

#### **AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BONDS**

Section 3.01. Authorization of Bonds. Subject and pursuant to the provisions of this Bond Legislation, the Series 2009 A Bonds of the Issuer, to be known as "Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture)," are hereby authorized to be issued in the principal amount of not to exceed \$700,000 for the purpose of permanently financing a portion of the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bonds. The Series 2009 A Bonds shall be issued in one or more series, only as a fully registered Bond in an aggregate principal amount to be prescribed in the Supplemental Resolution, and shall be dated on the date of delivery thereof. The Series 2009 A Bonds shall bear interest from date of delivery, payable monthly at the rate not to exceed 4.375% per annum, which interest rate shall be prescribed in the Supplemental Resolution and shall be sold for the par value thereof.

The Series 2009 A Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the Bond form hereinafter set forth.

Section 3.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Series 2009 A Bonds shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Series 2009 A Bonds, and the right to the principal of and stated interest on the Series 2009 A Bonds, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Series 2009 A Bonds for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Bond Registrar.

Whenever the Series 2009 A Bonds shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new Bond or Bonds in authorized denominations, for a like aggregate principal amount. The Bond Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer, but the Issuer shall pay any other expenses incurred by the Bond Registrar with respect to such transfer.

No registration of transfer of the Series 2009 A Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Series 2009 A Bonds.

Section 3.04. Bond Registrar. The Issuer shall be the Bond Registrar and will keep or cause to be kept at its office by its agent, sufficient books for the registration and transfer of the Series 2009 A Bonds, and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Series 2009 A Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Series 2009 A Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 2009 A Bonds for registration of transfer only if ownership thereof is to be registered in the name of the Purchaser, an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust and the federal employer identification number and date of each trust and the name of the trustee of each trust, and/or such other identifying number and information as may be required by law. The Series 2009 A Bonds shall initially be fully registered as to both principal and interest in the name of the United States of America. So long as the Series 2009 A Bonds shall be registered in the name of the United States of America, the address of the United States of America for registration purposes shall be National Finance Office, St. Louis, Missouri 63103, or such other address as shall be stated in writing to the Issuer by the United States of America.

Section 3.05. Execution of Bonds. The Series 2009 A Bonds shall be executed in the name of the Issuer by the Mayor and the seal of the Issuer shall be affixed thereto and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed the Series 2009 A Bonds shall cease to be such officer of the Issuer before the Series 2009 A Bonds so signed and sealed has been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Series 2009 A Bonds had not ceased to hold such office. The Series 2009 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 Series 2009 A Bonds shall hold the proper office in the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Series 2009 A Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Series 2009 A Bonds so surrendered shall be canceled and held for the account of the Issuer. If the Series 2009 A Bonds shall have matured or be about to mature, instead of issuing a substitute Series 2009 A Bonds the Issuer may pay the same, and, if such Series 2009 A Bonds be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2009 A Bonds shall be secured forthwith by a first lien on the Net Revenues derived from the System, in addition to the statutory mortgage lien on the System hereinafter provided for as to the Series 2009 A Bonds on a parity with the Series 2005 A Bonds. The Net Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Series 2009 A Bonds and the Prior 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 2009 A Bonds as the same becomes due.

Section 3.08. Form of Bonds. Subject to the provisions hereof, the text of the Series 2009 A Bonds and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any supplemental resolution enacted after the date of enactment hereof and prior to the issuance thereof:

(FORM OF SERIES 2009 A BOND)

THE TOWN OF BETHANY

SEWER REVENUE BONDS, SERIES 2009 A  
(UNITED STATES DEPARTMENT OF AGRICULTURE)

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

No. AR-1

Date: \_\_\_\_\_, 2009

FOR VALUE RECEIVED, THE TOWN OF BETHANY (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), plus interest on the unpaid principal balance at the rate of \_\_\_\_\_% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of this Bond and continuing on the corresponding day of each month for the first twenty-four months after the date hereof, and \$ \_\_\_\_\_, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided herein below. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of acquisition and construction of additions, betterments and improvements to the Sewerage system (the "System") of Borrower, is payable solely from and secured by the revenues to be derived from the operation of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation, nor shall the Borrower be obligated to pay the same or the interest thereon except from the special fund so provided.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Ordinance, and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (herein called the "Act"), an Ordinance of Borrower duly enacted on \_\_\_\_\_, 2009, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2009 authorizing issuance of this Bond (collectively, the "Ordinance").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farm and Rural Development Act of 1965, as amended. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

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 SEWER REVENUE BONDS, SERIES 2005 A, DATED FEBRUARY 22, 2005 (WEST VIRGINIA INFRASTRUCTURE FUND), ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,250,000 (THE "SERIES 2005 A BONDS").

In accordance with the requirements of the United States Department of Agriculture, the Bonds will be in default should any proceeds of the Bonds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

IN WITNESS WHEREOF, THE TOWN OF BETHANY has caused this Bond to be executed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Recorder, all as of the date hereinabove written.

THE TOWN OF BETHANY

[CORPORATE SEAL]

\_\_\_\_\_  
Mayor

P.O. Box U  
Bethany, West Virginia 26032

ATTEST:

\_\_\_\_\_  
Recorder

EXHIBIT A  
RECORD OF ADVANCES

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

TOTAL \$ \_\_\_\_\_

(Form of Assignment)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers to

\_\_\_\_\_

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 Borrower with full power of substitution in the  
premises.

Dated: \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

In presence of:

\_\_\_\_\_

## ARTICLE IV

### **SYSTEM REVENUES AND APPLICATION THEREOF; DISPOSITION OF BOND PROCEEDS; FUNDS AND ACCOUNTS**

Section 4.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created (or continued if previously established by Prior Ordinance) and established with, and shall be held by, the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from each other:

- (1) Revenue Fund (established by Prior Ordinance and continued hereby);
- (2) Renewal and Replacement Fund (established by Prior Ordinance and continued hereby); and
- (3) Project Construction Account.

Section 4.02. 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 and the Issuer and from each other:

- (1) Series 2005 A Bonds Sinking Fund (established by Prior Ordinance and continued hereby);
- (2) Series 2005 A Bonds Reserve Account (established by Prior Ordinance and continued hereby);
- (3) Series 2009 A Bonds Reserve Account.

Section 4.03. Bond Proceeds; Project Construction Account. The proceeds of sale of the Series 2009 A Bonds shall be deposited upon receipt by the Issuer in the Project Construction Account. The monies in the Account in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Monies in the Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Monies in the Project Construction Account shall be used solely to pay the cost of acquisition and construction of the Project upon vouchers and other documentation approved by the Purchaser.

Until completion of acquisition and construction of the Project, the Issuer will additionally transfer from the Project Construction Account and pay to the Purchaser on or before the due date, such sums as shall be from time to time required to make the monthly installment payments on the Series 2009 A Bonds if there are not sufficient Net Revenues to make such monthly payment.

Pending application as provided in this Section 4.03, money and funds in the Project Construction Account shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

When acquisition and construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Project Construction Account shall be disposed of in accordance with the regulations of the Purchaser.

Section 4.04. Covenants of the Issuer as to Revenues and Funds. So long as any of the Series 2009 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2009 A Bonds Reserve Account, sums sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 2009 A Bonds remaining unpaid, together with interest accrued to the date of such payment, the Issuer further covenants with the holder of the Series 2009 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. The Revenue Fund shall constitute a trust fund for the purposes provided in the Ordinances 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 Ordinances.

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, subject to the provisions of the Prior Ordinances not otherwise modified herein:

(1) The Issuer shall first, each month, pay from the Revenue Fund the Operating Expenses of the System.

(2) The Issuer shall next, each month, on or before the due date thereof, transfer from the Revenue Fund and simultaneously remit (i) to the Commission for deposit in the Series 2005 A Sinking Fund Bonds the amount required by the Prior Ordinance to pay the interest on the Series 2005 A Bonds; and (ii) to the National Finance Office the amounts required to pay interest on the Series 2009 A Bonds.

(3) The Issuer shall next, each month, transfer from the Revenue Fund and simultaneously (i) on or before the due date thereof, remit to the Commission the amount required by the Prior Ordinance to pay the

principal of the Series 2005 A Bonds; and (ii) on or before the due date thereof, remit to the National Finance Office, commencing 24 months following the date of delivery of the Series 2009 A Bonds, the amount required to amortize the principal of the Series 2009 A Bonds over the life of the bond issue.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and (i) remit to the Commission, the amount required by the Prior Ordinance to be deposited in the Reserve Fund for the Series 2005 A Bonds; and (ii) beginning on the date specified by the Purchaser, but in any event not later than the 24<sup>th</sup> monthly anniversary of the Closing Date, thereafter, transfer from the Revenue Fund and remit to the Commission for deposit in the Series 2009 A Bonds Reserve Account, an amount equal to 10% of the monthly payment amount each month, until the amount in the Series 2009 A Bonds Reserve Account equals 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.

(5) The Issuer shall next, on the first day of 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 ½ % of the Gross Revenues each month, 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 Accounts (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with 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 Bonds, pro rata, or for any lawful purpose of the System.

Whenever the monies in the Series 2009 A Bonds Reserve Account shall be sufficient to prepay the Series 2009 A Bonds in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Series 2009 A Bonds, at the earliest practical date and in accordance with applicable provisions hereof.

The Depository Bank is hereby designated as the Fiscal Agent for the administration of the Renewal and Replacement Fund as herein provided, and all amounts required for the Renewal and Replacement Fund will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written directions stating the amount remitted for deposit into each such fund.

The Commission is hereby designated as the Fiscal Agent for the administration of the Series 2009 A Bonds Reserve Account as herein provided, and all amounts required for said account shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Purchaser at anytime, the Issuer shall make the necessary arrangements whereby required payments into said account shall be automatically debited from the Revenue Fund and Electronically transferred to the Commission on the dates required hereunder.

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 reserve account payments with respect to the 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 Revenue Fund and the Renewal and Replacement Fund shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Series 2009 A Bonds and the interest thereon, but the Depository Bank shall not be a trustee as to such funds.

If on any payment date the Revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates on a parity and pro rata with respect to the Prior Bonds.

The Commission and the Depository Bank, at the direction of the Issuer, shall keep the monies in the Series 2009 A Bonds Reserve Account and the Renewal and Replacement Fund invested and reinvested to the fullest extent possible, in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Legislation shall, unless otherwise required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia Board of Treasury Investments. 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 interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Earnings from monies in the Series 2009 A Bonds Reserve Account so long as the Minimum Reserve is on deposit and

maintained therein, shall be returned not less than once each year, by the Commission to the Issuer to be deposited in the Revenue Fund.

C. CHANGE OF DEPOSITORY BANK AND FISCAL AGENT.

The Issuer may designate another bank or trust company insured by FDIC as Depository Bank and Fiscal Agent 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. USER CONTRACTS. The Issuer shall, prior to delivery of the Series 2009 A Bonds, provide evidence that there will be at least 226 bona fide users upon the System on completion of the Project, in full compliance with the requirements and conditions of the Purchaser.

E. CHARGES AND FEES. The Issuer shall remit from the Revenue Fund to the Commission or the Depository Bank such additional sums as shall be necessary to pay the charges and fees of the Commission or the Depository Bank then due.

F. 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, in lawful manner for securing deposits of State and municipal funds under the laws of the State of West Virginia.

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

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

Section 4.05. Interim Construction Financing. In order to pay certain costs of the Project pending receipt of proceeds of the grants and advances of principal of the Series 2009 A Bonds, the Issuer may issue and sell its interim construction notes in an aggregate principal amount not to exceed \$700,000 (the "Notes"). The Notes shall be in the form of a line of credit from a commercial bank or other lender, and the Issuer is hereby authorized to enter into a credit agreement with such bank or other lender. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the credit agreement.

The Notes shall be special obligations of the Issuer payable as to principal and interest solely from proceeds of the Series 2009 A Bonds. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power of the Issuer, if any, is pledged for the payment of the Notes.

The Holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth herein.

ARTICLE V  
**GENERAL COVENANTS**

Section 5.01. General Statement. So long as the Series 2009 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2009 A Bonds Reserve Account a sum sufficient to prepay the entire principal of the Series 2009 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 Holder of the Series 2009 A Bonds.

Section 5.02. Rates. Prior to the issuance of the Series 2009 A Bonds, the Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as (i) will always provide Revenues in each Fiscal Year sufficient to produce Net Revenues equal to not less than 110% of the maximum annual debt service on the Series 2009 A Bonds and sufficient to make the payments required herein into all funds and accounts and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes; and (ii) so long as the Prior Bonds are Outstanding to provide for all reasonable expenses of operation, repair, maintenance of the System and to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any Fiscal Year for the payment of principal of and interest on the Bonds and all other obligations secured by or payable from such revenues; provided that, in the event that an amount equal to or in excess of the reserve requirements for the Bonds prior to or on a parity with the 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 the payment of principal of and interest on the Bonds and all other obligations secured by or payable from such revenues.

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 or encumber the System, or any part thereof, except as provided in the Prior Ordinance. Additionally, the System will not be sold without the prior written consent of the Purchaser so long as the Series 2009 A Bonds are outstanding.

Section 5.04. Issuance of Additional Parity Bonds or Obligations. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinances shall be applicable. In addition, no additional Parity Bonds or obligations payable out of the Revenues of the System shall be issued, except with the prior written consent of the Purchaser.

So long as the Series 2009 A Bonds are outstanding, no Parity Bonds shall be issued at any time, however, 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 for the Fiscal Year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements 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;
- (3) The Parity Bonds then proposed to be issued.

The foregoing limitation may be waived or modified by the written consent of the Holders of the Series 2009 A Bonds, representing 75% of the then-outstanding principal indebtedness.

So long as the Prior Bonds are Outstanding, 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 then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Ordinance then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues expected 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 prior to the 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 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, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the time for appeal of which shall have expired prior to issuance of such Parity Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Bond Legislation and the Prior Ordinances with respect to the Series 2009 A Bonds and Prior 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 and the Prior Ordinances.

Section 5.05. Insurance and Bonds. 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 2009 A Bonds remain outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

A. FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, to be procured upon acceptance of any part of the Project from the contractor, and immediately 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 actual cost 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. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

B. 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 2009 A Bonds.

C. 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.

D. WORKERS' COMPENSATION COVERAGE FOR ALL EMPLOYEES OF THE ISSUER 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 will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' Compensation coverage will be maintained as provided by law.

E. FLOOD INSURANCE to be procured, to the extent available at reasonable cost to the Issuer; provided, however, if the System is located in a community which has been notified as having special flood or mudslide prone areas, flood insurance must be obtained.

F. FIDELITY BONDS will be provided as to every member of the Governing Body and as to every officer and employee of the Issuer 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.

G. Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Series 2009 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, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Series 2009 A 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 the delivery of the Series 2009 A Bonds and shall be for the equal benefit of the Series 2009 A Bonds on a parity with the Series 2005 A Bonds.

Section 5.07. Events of Default. Each of the following events is hereby declared an "Event of Default":

A. Failure to make payment of any monthly amortization installment upon the Series 2009 A Bonds at the date specified for payment thereof;

B. Failure to duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Series 2009 A Bonds or herein, or violation of or failure to observe any provision of any pertinent law, or

C. If default occurs with respect to the Prior Bonds or the Prior Ordinances.

Section 5.08. Enforcement. 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 Series 2009 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 Owners of the Series 2009 A Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Series 2009 A Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holders of the Series 2009 A Bonds shall be on a parity with each other and with those of the Holders of the Series 2005 A Bonds.

Any Registered Owner of the Bonds, by proper legal action, compel the performance of the duties of the Issuer under this 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 the Bonds 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 exercise.

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 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 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.

Section 5.09. Fiscal Year; Budget. While the Series 2009 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 thirty 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 first 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 year next 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 5.10. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the acquisition and construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer and on file with the Recorder on the date of adoption hereof, subject to permitted changes.

Section 5.11. 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 5.12. 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 2009 A Bonds are outstanding.

Section 5.13. 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 shall be as set forth in the rate ordinance of the Issuer enacted on January 13, 2004 which rate ordinance is incorporated herein by reference as a part hereof.

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 a lien on the premises served if not paid when due. 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, including, without limitation, any right and power of foreclosure under the Act and/or such other applicable provisions of law.

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 shall not be liable to any customer for any damage resulting from bursting or breakage of any pipe, line, main, valve, equipment or part or from discontinuance of the operation of any part of the System or from failure of any part thereof for any cause whatever.

G. In case of emergency, the Issuer shall have the right to restrict the use of any part of the System in any reasonable manner for the protection of the System and the inhabitants of the Issuer.

H. The fees, rates and charges above provided will be increased whenever such increase is necessary in order to comply fully with all provisions hereof, and the Issuer shall always be obligated to and shall fix, establish and collect fees, rates and

charges for the services and facilities of the System which shall at all times be sufficient to provide revenues to meet its payments and obligations provided hereunder, but in any event, not less than 110% of the annual debt service on the Bonds outstanding after Prior Bonds are paid in full.

## ARTICLE VII

### MISCELLANEOUS

Section 7.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holder of the Series 2009 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 with respect to the Series 2009 A Bonds, the pledge of 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 2009 A Bonds, shall thereupon cease, terminate and become void and be discharged and satisfied.

Except through such direct payment to the Holder of the Series 2009 A Bonds, the Issuer may not defease the Series 2009 A Bonds or otherwise provide for payment thereof by escrow or like manner.

Section 7.02. Modification or Amendment. Prior to issuance of the Series 2009 A Bonds, this Ordinance may be amended or supplemented in any way by ordinance or resolution. Following issuance of the Series 2009 A Bonds, no modification or amendment of this Ordinance, or any ordinance or resolution amendatory hereof or supplemental hereto, shall be made without the prior written consent of the Purchaser.

Section 7.03. Delivery of Bonds. The Mayor is hereby authorized and directed to cause the Series 2009 A Bonds, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 7.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Series 2009 A Bonds.

Section 7.05. Conflicting Provisions Repealed. Except for the Prior Ordinance, all ordinances, resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed; provided that this section shall not be applicable to the Loan Resolution (Form FmHA 442-47).

Section 7.06. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 7.07. 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 and enactment 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 7.08. Effective Time. This Bond Legislation shall take effect following public hearing hereon in accordance with the Act.

Section 7.09. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Legislation, determined by the Council 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 *The Brooke County Review*, being qualified newspapers of general circulation in The Town of Bethany, no newspaper being published therein, together with a notice stating that this Ordinance has been adopted, and that the Issuer contemplates the issuance of the Bond, and that any person interested may appear before the Council upon a date certain, not less than ten days subsequent to the date of the first publication of the said abstract and notice and not prior to the last date of such publication, and present protests, and that a certified copy of the Ordinance is on file in the office of the Recorder of the Issuer for review by interested parties during regular office hours. At such hearing, all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

Passed on First Reading: January 13, 2009

Passed on Second Reading: February 4, 2009

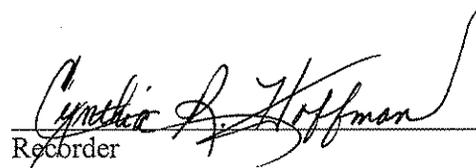
Passed on Final Reading  
Following Public Hearing: March 4, 2009

  
\_\_\_\_\_  
Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of The Town of Bethany on the 4th day of March, 2009, which Ordinance has not been repealed, rescinded, modified, amended or revoked, as witness my hand and the seal of The Town of Bethany on this 19th day of June, 2009.

[SEAL]

  
Recorder

12.11.08  
072270.00003

TOWN OF BETHANY

Sewer Revenue Bonds, Series 2009 A  
(United States Department of Agriculture)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION MAKING PROVISIONS AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 2009 A OF THE TOWN OF BETHANY, AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the council (the "Governing Body") of the Town of Bethany (the "Issuer") has duly and officially adopted and enacted a bond ordinance, March 4, 2009 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF THE TOWN OF BETHANY, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$700,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 A (UNITED STATES DEPARTMENT OF AGRICULTURE) IN ONE OR MORE SERIES; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

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 Sewer Revenue Bonds, Series 2009 A, of the Issuer (the "Series 2009 A Bonds"), in an aggregate principal amount not to exceed \$700,000, and has authorized the execution and delivery of the documents relating to the Bonds, all in accordance with Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (collectively, the "Act");

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF TOWN OF BETHANY:

Section 1. 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. Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture), of the Issuer, originally represented by a single Bond, numbered AR-1 in the principal amount of \$500,000. The Series 2009 A Bonds shall be dated the date of delivery thereof, shall bear interest at the rate of 4.375% per annum, interest only payable in monthly installments for the first 24 months commencing 30 days following delivery of the Series 2009 A Bonds and continuing on the corresponding day of each month and, thereafter, principal and interest are payable in monthly installments of \$ 2,255 on the corresponding day of each month, except that the final installment shall be paid at the end of forty (40) years from the date of the Series 2009 A Bonds, in the sum of the unpaid principal and interest due on the date thereof, except that prepayments may be made as hereinafter provided and as provided in the Series 2009 A Bonds, all such payments to be made at the National Finance Office, St. Louis, Missouri 63103, or at such other place as the Purchaser may designate after issuance of the Series 2009 A Bonds. Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer.

Section 2. 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 June 19, 2009, to the Purchaser.

Section 3. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

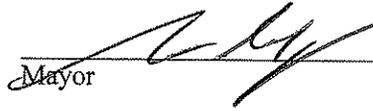
Section 4. The Issuer does hereby appoint and designate WesBanco Bank, Inc., Wellsburg, West Virginia for the purpose of serving in the capacity of Depository Bank.

Section 5. The cost of the Project is estimated not to exceed \$565,000, of which \$500,000 will be obtained from proceeds of the Series 2009 A Bonds.

Section 6. This Supplemental Resolution shall be effective immediately following adoption hereof.

[Remainder of Page Intentionally Blank]

Adopted this 3rd day of June, 2009.

  
\_\_\_\_\_  
Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the Town of Bethany on the 3rd day of June, 2009.

Dated: June 19, 2009.

[SEAL]

  
\_\_\_\_\_  
Recorder

05.27.09  
072270.00003

CH5054468.1

**TOWN OF BETHANY**

**SEWER REVENUE BONDS, SERIES 2004 A  
(WEST VIRGINIA INFRASTRUCTURE FUND)**

**CONFORMED BOND ORDINANCE**

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TOWN OF BETHANY

ORDINANCE AUTHORIZING THE REFUNDING OF THE OUTSTANDING SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2003, AND ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE TOWN OF BETHANY AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE TOWN OF BETHANY OF NOT MORE THAN \$3,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2004 A (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 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 BETHANY:

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 16, Article 13 and Chapter 31, Article 15 A 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 Bethany (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Brooke County of said State.

B. The Issuer presently owns and operates a public sewerage 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 sewerage system of the Issuer, consisting of wastewater treatment plant improvements, storm sewer separation and collection system rehabilitation and all necessary appurtenances (collectively, the "Project"), which constitute properties for the collection, treatment, purification and disposal of liquid or solid wastes, sewage or industrial wastes (the existing public sewerage 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 has heretofore financed the design of the Project by the issuance of the Sewerage System Bond Anticipation Notes, Series 2003, dated May 22, 2003, issued in the original aggregate principal amount of \$225,000 (the "Prior Notes").

D. The Prior Notes were issued pursuant to an ordinance of the Issuer previously enacted for such purpose (such ordinance, as so amended and supplemented, is here called the "Prior Ordinance").

E. It is deemed necessary and desirable for the Issuer to refund the Prior Notes to effect the release and termination of certain restrictions, conditions and limitations imposed in the Prior Ordinance.

F. The Issuer intends to refund the Prior Notes and 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 Infrastructure Fund (the "Infrastructure Fund") for the West Virginia Infrastructure and Jobs Development Council (the "Council").

G. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds, Series 2004 A (West Virginia Infrastructure Fund), in the total aggregate principal amount of not more than \$3,000,000 (the "Series 2004 A Bonds"), initially to be represented by a single bond, to refund the Prior Notes and 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. 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 2004 A 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 Series 2004 A Bonds Reserve Account (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; discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2004 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 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 2004 A Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

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

I. It is in the best interests of the Issuer that its Series 2004 A Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement (the "Loan Agreement") by and between the Issuer and the Authority, on behalf of the Council, in form satisfactory to the Issuer, the Authority and the Council, to be approved hereby if not previously approved by resolution of the Issuer.

J. Upon the refunding of the Prior Notes on the Closing Date, there will be no outstanding obligations of the Issuer which will rank on a parity with the Series 2004 A Bonds as to liens, pledge, source of and security for payment or are secured by revenues or assets of the System.

K. The estimated revenues to be derived in each year after completion of the Project and the refunding of the Prior Notes 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 2004 A Bonds and to make payments into all funds and accounts and other payments provided for herein.

L. 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 2004 A 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 2004 A Bonds or such final order will not be subject to appeal.

M. Pursuant to the Act, the Issuer has heretofore established a Sanitary Board, and the Sanitary Board has petitioned the Governing Body to issue the Series 2004 A Bonds for the purposes set forth herein.

N. 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 2004 A 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 2004 A 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 16, Article 13 and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2004 A Bonds, or any other agency, board or department of the State that succeeds to the functions of the Authority.

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

"Board" means the Sanitary Board of the Issuer.

"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 the Series 2004 A 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.

"Closing Date" means the date upon which there is an exchange of the Series 2004 A Bonds for all or a portion of the proceeds of the Series 2004 A 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 Cerrone Associates, Inc., Wheeling, 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 1.02G hereof to be a part of the cost of acquisition and construction of the Project.

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

"Depository Bank" means the bank designated as such in the Supplemental Resolution, and its successors and assigns.

"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, 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.

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

"Loan Agreement" means the loan agreement heretofore entered, or to be entered, into between the Authority and the Issuer, on behalf of the Council, providing for the purchase of the Series 2004 A 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.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 2004 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 2004 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 2004 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, 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, 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 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 X hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, or holders of any 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 Council.

"Prior Notes" means the Issuer's Sewerage System Bond Anticipation Notes, Series 2003, dated May 22, 2003, issued in the original principal amount of \$225,000.

"Prior Ordinance" means the ordinance of the Issuer, as supplemented by the supplemental resolution of the Issuer, authorizing the Prior Notes.

"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.

"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 Investment Management Board pursuant to Chapter 12, Article 6 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.

"Registered Owner," "Bondholder," "Holder" or any similar term means whenever used herein with respect to an outstanding Bond or Bonds, 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 Section 5.01 hereof.

"Revenue Fund" means the Revenue Fund created by Section 5.01 hereof.

"Series 2004 A Bonds" means the Sewer Revenue Bonds, Series 2004 A (West Virginia Infrastructure Fund), of the Issuer, authorized by this Bond Legislation.

"Series 2004 A Bonds Construction Trust Fund" means the Series 2004 A Bonds Construction Trust Fund established by Section 5.01 hereof.

"Series 2004 A Bonds Reserve Account" means the Series 2004 A Bonds Reserve Account established in Section 5.02 hereof.

"Series 2004 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 2004 A Bonds in the then current or any succeeding year.

"Series 2004 A Bonds Sinking Fund" means the Series 2004 A Bonds Sinking Fund established by Section 5.02 hereof.

"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 2004 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2004 A 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 Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Series 2004 A Bonds Sinking Fund and the Series 2004 A Bonds Reserve Account.

"System" means, collectively, the complete existing municipal sewage treatment and collection system of the Issuer, as presently existing in its entirety or any integral part thereof, and shall 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 Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Chapter 31, Article 15A, Section 9 of the West Virginia Code of 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 AND REFUNDING OF PRIOR NOTES

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 \$3,000,000, 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 2004 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, compatible with the financing plan submitted to the Council and the Authority. The cost of the Project is estimated not to exceed \$3,000,000, which will be obtained from proceeds of the Series 2004 A Bonds.

Section 2.02. Authorization of Refunding of the Prior Notes. There is hereby authorized and ordered the payment in full of the entire outstanding principal of and all accrued interest on the Prior Notes on the Closing Date. The cost of the refunding will be obtained from the proceeds of the Series 2004 A Bonds. Upon payment in full of the Prior Notes, the pledge of revenues in favor of the holders of the Prior Notes imposed by the Prior Ordinance and the monies in the funds and accounts created by the Prior Ordinance pledged to the payment of the Prior Notes are hereby ordered terminated discharged and released.

### 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 refunding the Prior Notes, capitalizing interest on the Series 2004 A Bonds, funding a reserve account for the Series 2004 A Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2004 A 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 2004 A Bonds of the Issuer. The Series 2004 A Bonds shall be issued as a single bond, designated "Sewer Revenue Bonds, Series 2004 A (West Virginia Infrastructure Fund)," 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 2004 A Bonds remaining after paying the outstanding principal of and interest on the Prior Notes, funding of the Series 2004 A Bonds Reserve Account (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Series 2004 A Bonds Construction Trust Fund established by Section 5.01 hereof.

Section 3.02.      Terms of Bonds. The Series 2004 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, 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 2004 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 2004 A 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 2004 A Bonds shall initially be issued in the form of a single 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 2004 A Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2004 A 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 2004 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 2004 A Bonds shall cease to be such officer of the Issuer before the Series 2004 A 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 2004 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 2004 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 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 2004 A 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 2004 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 the Series 2004 A 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 2004 A 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 2004 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 Series 2004 A Bonds or transferring the registered Series 2004 A Bonds are exercised, all Series 2004 A Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2004 A Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 2004 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 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 2004 A Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2004 A Bonds or, in the case of any proposed redemption of Series 2004 A 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 2004 A 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 2004 A 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 Net Revenues derived from the operation of the System as herein provided. No holder or holders of the Series 2004 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2004 A Bonds or the interest, if any, thereon.

Section 3.08.      Bonds Secured by Pledge of Net Revenues. The payment of the debt service on the Series 2004 A Bonds shall be secured by a first lien on the Net Revenues derived from the System. The Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2004 A 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 2004 A Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2004 A 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 2004 A 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 2004 A Bonds to the original purchasers;

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

D. . . An executed copy of the Loan Agreement; and

E. . . The unqualified approving opinion of bond counsel on the Series 2004 A Bonds.

Section 3.10.      Form of Bonds. The text of the Series 2004 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)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF BETHANY  
SEWER REVENUE BONDS, SERIES 2004 A  
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. AR-\_\_\_\_\_

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

KNOW ALL MEN BY THESE PRESENTS: That the TOWN OF BETHANY, a municipal corporation and political subdivision of the State of West Virginia in Brooke 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, 200\_\_, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The interest on this Bond at the rate per annum set forth on said Exhibit B, shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, \_\_\_\_\_, as set forth on said EXHIBIT B.

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 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 Infrastructure and Jobs Development Council (the "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 Council, dated \_\_\_\_\_, 2004.

This Bond is issued (i) to pay in full the entire outstanding principal of and all accrued interest on the Issuer's Sewerage System Bond Anticipation Notes, Series 2003 (the "Prior Notes"); (ii) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (iii) to pay certain costs of issuance of the Bonds and related costs. The existing public sewerage 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 16, Article 13 and Chapter 31, Article 15A of the West Virginia Code of 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.

UPON THE REFUNDING OF THE PRIOR NOTES, THE ISSUER WILL HAVE NO BONDS OR OBLIGATIONS OTHER THAN THIS BOND WHICH IS SECURED BY NET REVENUES OF THE SYSTEM.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2004 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net 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 hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2004 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 on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds; provided however, that so long as there exists in the Series 2004 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest 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, 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 Net 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.

IN WITNESS WHEREOF, the TOWN OF BETHANY 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 \_\_\_\_\_, 2004.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2004 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: \_\_\_\_\_, 2004.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

\_\_\_\_\_  
Authorized Officer

(Form of)

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 Series 2004 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 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 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 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 Council a schedule the form of the which will be provided by the 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 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;
- (2) Renewal and Replacement Fund; and
- (3) Series 2004 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 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 2004 A Bonds Sinking Fund; and
- (2) Series 2004 A 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 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, each month, transfer from the Revenue Fund an amount sufficient to pay all current Operating Expenses of the System.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission, commencing 3 months prior to the first date of payment of interest on the Series 2004 A Bonds for which interest has not been capitalized or as required in the Loan Agreement, for deposit in the Series 2004 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of interest which will become due on the Series 2004 A Bonds on the next ensuing quarterly interest payment date; provided that, in the event the

period to elapse between the date of such initial deposit in the Series 2004 A Bonds Sinking Fund and the next quarterly interest payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly interest payment date, the required amount of interest coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission, commencing 3 months prior to the first date of payment of principal of the Series 2004 A Bonds for deposit in the Series 2004 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2004 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 2004 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 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.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission, commencing 3 months prior to the first date of payment of principal of the Series 2004 A Bonds, if not fully funded upon issuance of the Series 2004 A Bonds, for deposit in the Series 2004 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2004 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2004 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 2004 A Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any reserve 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 as provided herein. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided that, any deficiencies in 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.

Monies in the Series 2004 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2004 A Bonds as the same shall become due. Monies in the Series 2004 A Bonds Reserve Account shall be used only for the purposes of paying principal of and interest, if any, on the Series 2004 A Bonds as the same shall come due, when other monies in the Series 2004 A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2004 A Bonds Sinking Fund and the Series 2004 A 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 2004 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, if any, due on the Series 2004 A Bonds and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2004 A Bonds Reserve Account which result in a reduction in the balance of the Series 2004 A Bonds Reserve Account to below the Series 2004 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the priority as set forth above.

As and when additional Bonds ranking on a parity with the Series 2004 A 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 2004 A Bonds Sinking Fund or the Series 2004 A Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2004 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2004 A Bonds Sinking Fund and the Series 2004 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 2004 A Bonds Sinking Fund and the Series 2004 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2004 A Bonds Sinking Fund and the Series 2004 A Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2004 A 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 2004 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. 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 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 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 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 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 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 Net 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 2004 A Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2004 A Bonds, there shall first be paid the amounts required to pay in full the entire outstanding principal of and all accrued interest on the Prior Notes.

B. From the proceeds of the Series 2004 A Bonds, there shall be deposited with the Commission in the Series 2004 A Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 2004 A Bonds for the period commencing on the date of issuance of the Series 2004 A Bonds and ending 6 months after the estimated date of completion of construction of the Project.

C. Next, from the proceeds of the Series 2004 A Bonds, there shall be deposited with the Commission in the Series 2004 A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2004 A Bonds Reserve Account.

D. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2004 A Bonds, such monies shall be deposited with the Depository Bank in the Series 2004 A 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 2004 A Bonds.

E. 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 2004 A Bonds shall be expended as directed by the Authority.

Section 6.02.      Disbursement from the Bond Construction Trust Fund.

A. The Issuer shall each month provide the Council with a requisition for the costs incurred for the Project, together with such documentation as the Council shall require. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 2004 A 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.

Pending such application, monies in the Series 2004 A Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

The Issuer shall expend all proceeds of the Series 2004 A 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.

## 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 2004 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 2004 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 the Series 2004 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 2004 A 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 2004 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2004 A Bonds or the interest, if any, thereon.

Section 7.03.      Bonds Secured by Pledge of Net Revenues. The payment of the debt service on the Series 2004 A Bonds shall be secured by a first lien on the Net Revenues derived from the System. The Net Revenues in an amount sufficient to pay the principal of and interest, if any, on the Series 2004 A 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. 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 of the facilities of the System shall be as set forth in the sewer rate ordinance of the Issuer enacted January 13, 2004, which rates are incorporated herein by reference as a part hereof.

So long as the Series 2004 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 the Bond Legislation and in compliance with the Loan Agreement. In the event the Series 2004 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, 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 Series 2004 A Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the Council, 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 2004 A Bonds, immediately be remitted to the Commission for deposit in the Series 2004 A Bonds Sinking Fund, 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 2004 A Bonds. Any balance remaining after the payment of the Series 2004 A 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 Series 2004 A Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Series 2004 A 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 2004 A Bonds. All obligations issued by the Issuer after the issuance of the Series 2004 A 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 2004 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 being on a parity with the lien of the Series 2004 A Bonds, and the interest, if any, thereon, upon any of the income and revenues of the System pledged for payment of the Series 2004 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 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. Additional Parity Bonds. No additional Parity Bonds payable out of the revenues of the System, shall be issued after the issuance of the Series 2004 A Bonds pursuant to this Ordinance, without the prior written consent of the Authority and the Council and without complying with the conditions and requirements herein provided.

All Parity Bonds issued hereafter shall be on a parity in all respects with the Series 2004 A 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 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 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 2004 A 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 Net Revenues of the System, and their source of and security for payment from said Net 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 2004 A Bonds on such revenues. Any such subordinate bonds, notes, certificates or other obligations shall be payable from the Net 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 2004 A 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 Series 2004 A 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 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 and the 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 and the 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 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 Council, or any other original purchaser of the Series 2004 A Bonds, and shall mail in each year to any Holder or Holders of the Series 2004 A 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 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 Accountants, or a summary thereof, to any Holder or Holders of the Series 2004 A Bonds and shall submit the report to the Authority and the Council, or any other original purchaser of the Series 2004 A Bonds. Such audit report submitted to the Authority and the 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 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 or the 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 and the 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 and the Council with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to the issuance of the Series 2004 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, if any, on the Series 2004 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2004 A Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirement are on deposit respectively in the Series 2004 A Bonds Reserve Account and reserve accounts for obligations on a parity with the Series 2004 A 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 2004 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2004 A 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 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 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 Council 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 Council 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 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 and the Council 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 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 and the Council, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the 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 and the 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 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 employ qualified operating personnel properly certified by the State to operate the System during the entire term of the Loan Agreement.

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, and any services and facilities of the water system, if so owned by the Issuer 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 either 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 or, if the waterworks facilities are not owned by the Issuer, the Issuer will, to the extent allowed by law, use diligent efforts to enter into a similar termination agreement with the provider of such water, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

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 2004 A 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 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 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 Council, and the Issuer shall verify such insurance prior to commencement of construction. 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.

Section 7.16. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State

Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the Issuer and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

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 has obtained 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 and the 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 2004 A Bonds required by State law, with all 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 will provide the Council 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 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.      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 2004 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 2004 A Bonds during the term thereof is, under the terms of the

Series 2004 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 2004 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 2004 A Bonds during the term thereof is, under the terms of the Series 2004 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 2004 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 2004 A Bonds are 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 to 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 2004 A Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

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 2004 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 2004 A Bonds and the interest thereon, including, without limitation, the information return required under Section 149(e) of the Code, if necessary.

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including, without limitation, those deemed necessary by the Authority) so that the interest on the Series 2004 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 (including, without limitation, those deemed necessary by the Authority), the result of which would adversely affect such exclusion.

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: Public Releases.      A.      The Issuer shall, simultaneously with the delivery of the Series 2004 A 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 Council for written approval. The Issuer shall obtain the written approval of the Council before expending any proceeds of the Series 2004 A 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 Council before expending any proceeds of the Series 2004 A Bonds made available due to bid or construction or project underruns.

C.      The Issuer shall list the funding as being provided by the Council 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 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 2004 A Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest, if any, on the Series 2004 A Bonds from gross income for federal income tax purposes.

Section 8.02.      Non-Arbitrage. 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 2004 A Bonds which would cause the Series 2004 A Bonds to be "arbitrage bonds" 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 2004 A Bonds) so that the interest on the Series 2004 A Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03.      Small Issuer Exemption from Rebate. 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 the Series 2004 A Bonds are not private activity bonds as defined in Section 141 of the Code; that 95% or more of the Net Proceeds of the Series 2004 A Bonds 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 bonds (other than private activity bonds as defined in Section 141 of the Code) issued by the Issuer during the calendar year in which the Series 2004 A Bonds are issued are not and will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code and the Regulations promulgated thereunder. For purposes of this Section 8.03 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 Section 8.03 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 Section 8.03 and Section 148(f)(4)(D) of the Code to any 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 148(f)(4)(D) of the Code and all other entities benefitting thereby shall be treated as one issuer.

Notwithstanding the foregoing, if in fact the Issuer is subject to the rebate requirements of Section 148(f) of the Code and not exempted from such requirements, the Issuer covenants to make, or cause to be made, all rebate calculations, computations and payments in the time, manner and as required in Section 148(f) of the Code and Regulations from time to time in effect and applicable to the Series 2004 A Bonds and otherwise covenants and agrees to comply with the provisions of such Section 148(f) of the Code and Regulations from time to time in effect and applicable to the Series 2004 A Bonds. In the event of a failure to pay the correct rebate amount, the Issuer will pay, from any lawful sources available therefor, to the United States such rebate amount, plus a penalty equal to 50% of the rebate amount not paid when required to be paid, plus interest on that amount, unless waived. The Issuer shall obtain a waiver from the Internal Revenue Service, if necessary, and take any other actions necessary to maintain the exclusion of interest on the

Series 2004 A Bonds from gross income for federal income tax purposes. In order to provide for the administration of this paragraph, the Issuer may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the Issuer may deem appropriate.

The Issuer shall furnish to the Authority, annually, and at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be requested by the Authority. In addition, the Issuer shall cooperate with the Authority in preparing any required rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer.

The Issuer shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation and certificate with respect thereto or, if the Issuer qualifies for the small governmental issue exception to rebate, or any other exception thereto, then the Issuer shall submit to the Authority a certificate stating that it is exempt from such rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Series 2004 A Bonds subject to rebate. The Issuer shall also furnish to the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority including information with respect to earnings on all funds constituting "gross proceeds" of the Series 2004 A Bonds (as such term "gross proceeds" is defined in the Code).

## 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 2004 A Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on any Series 2004 A Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2004 A Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2004 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, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond; 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.

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.

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 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 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 2004 A Bonds, the principal of and interest 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 Net 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 2004 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 2004 A 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 2004 A Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2004 A 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 2004 A Bonds shall be made without the consent in writing of the Registered Owners of the Series 2004 A Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 2004 A 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 2004 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 excludability of interest on the Series 2004 A 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 2004 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. 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.

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 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.

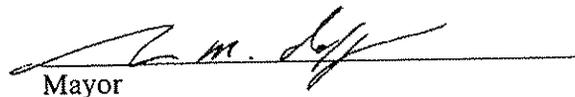
Section 11.07. Effective Date. This Ordinance shall take effect immediately following public hearing hereon.

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 Brooke County Review*, a newspaper published and of general circulation in the Town of Bethany, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Series 2004 A 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.

Passed on First Reading: January 13, 2004

Passed on Second Reading: February 10, 2004

Passed on Final Reading  
Following Public  
Hearing: March 9, 2004

  
Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the TOWN OF BETHANY on the 9th day of March, 2004.

Dated: February 22, 2005.

[SEAL]

Wesley M. Mace  
Recorder

02/09/05  
072720.00002

EXHIBIT A

Loan Agreement included in bond transcript as Document No. 3

TOWN OF BETHANY

Sewer Revenue Bonds, Series 2005A  
(West Virginia Infrastructure Fund)

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 SEWER REVENUE BONDS, SERIES 2005A (WEST VIRGINIA INFRASTRUCTURE FUND), OF THE TOWN OF BETHANY; APPROVING AND RATIFYING 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; CHANGING THE SERIES DESIGNATION; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the council (the "Governing Body") of the Town of Bethany (the "Issuer") has duly and officially adopted and enacted a bond ordinance, effective March 9, 2004 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE REFUNDING OF THE OUTSTANDING SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2003, AND ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE TOWN OF BETHANY AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE TOWN OF BETHANY OF NOT MORE THAN \$3,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2004 A (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 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, 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 Sewer Revenue Bonds, Series 2004 A (West Virginia Infrastructure Fund), of the Issuer (the "Bonds"), in an aggregate principal amount not to exceed \$3,000,000, and has authorized the execution and delivery of the loan agreement relating to the 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 Infrastructure and Jobs Development Council (the "Council") (the "Loan Agreement"), all in accordance with Chapter 16, Article 13 and Chapter 31, Article 15A 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 Loan 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 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 Sewer Revenue Bonds, Series 2004 A (West Virginia Infrastructure Fund), were not issued in 2004, but will be issued in 2005;

WHEREAS, the Governing Body desires to redesignate the Sewer Revenue Bonds, Series 2004 A (West Virginia Infrastructure Fund), as the Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) (the "Bonds" or the "Series 2005 A Bonds");

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;

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Bonds be redesignated, that the Loan Agreement be approved and ratified by the Issuer, that the exact principal amount, the date, the maturity date, the redemption provision, the interest rate, 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 BETHANY:

Section 1. The Issuer does hereby authorize the redesignation of the Sewer Revenue Bonds, Series 2004 A (West Virginia Infrastructure Fund), as the Sewer Revenue Bonds, Series 2005 A (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 Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of \$1,250,000. The Series 2005 A Bonds shall be dated the date of delivery thereof, shall finally mature June 1, 2026 and shall bear interest at the rate of 3% per annum. The principal of and the interest on the Series 2005 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2006, and maturing June 1, 2026, and 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 2005 A Bonds. The Series 2005 A Bonds shall be subject to redemption upon the written consent of the Authority and the 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 2005 A 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 does hereby authorize, approve, ratify and accept the Loan Agreement, 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 applications to the 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 does hereby appoint and designate 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 6. 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 7. The Issuer does hereby appoint and designate WesBanco Bank, Wellsburg, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 8. Series 2005 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2005 A Bonds Sinking Fund, as capitalized interest.

Section 9. Series 2005 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2005 A Bonds Reserve Account.

Section 10. Series 2005 A Bonds proceeds in the amount of \$224,233.93 shall be paid to Progressive Bank, N.A., to pay in full the outstanding principal of and interest on the Prior Notes at closing.

Section 11. The balance of the proceeds of the Series 2005 A Bonds shall be deposited in or credited to the Series 2005 A Bonds Construction Trust Fund as received from the Council from time to time for payment of the costs of the Project, including, without limitation, costs of issuance of the Bonds and related costs.

Section 12. 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 February 22, 2005, to the Authority pursuant to the Loan Agreement.

Section 13. The refunding of the Prior Notes, the acquisition and construction of the Project and the financing thereof in part 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 14. The Issuer does hereby approve and authorize all contracts relating to the financing, acquisition and construction of the Project.

Section 15. 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 2005 A Bonds Sinking Fund and the Series 2005 A Bonds Reserve Account shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 16. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code and Treasury Regulations promulgated or to be promulgated thereunder.

Section 17. The Issuer is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the Project and the System; no part of the Bonds are private activity bonds; 95% or more of the net proceeds of the Bonds are to be used for local governmental activities of the Issuer; and the Issuer reasonably expects to issue less than \$5,000,000 aggregate principal face amount of tax-exempt obligations (other than private activity bonds) during the calendar year 2005, being the calendar year in which the Bonds are to be issued. For purposes 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 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 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 148(f)(4)(D) of the Code and all other entities benefitting thereby shall be treated as one issuer.

Section 18. Pursuant to Section 11.01 of the Bond Ordinance the Issuer hereby approves the following amendment to Section 7.08 of the Bond Ordinance:

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 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 and the 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 and the 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 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 Council, or any other original purchaser of the Series 2004 A Bonds, and shall mail in each year to any Holder or Holders of the Series 2004 A 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.

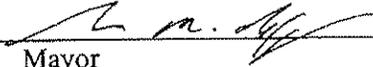
The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular, or any successor thereof, and the Single Audit Act, or any successor thereof, to the extent legally required, and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2004 A Bonds and shall submit the report to the Authority and the Council, or any other original purchaser of the Series 2004 A Bonds. Such audit report submitted to the Authority and the Council 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~~ 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 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 or the 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 and the 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 and the Council with respect to the System pursuant to the Act.

Section 19. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 8th day of February, 2005.

By:   
Its: Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the Town of Bethany on the 8th day of February, 2005.

Dated: February 22, 2005.

[SEAL]

*G. Helen Moore*

\_\_\_\_\_  
Recorder

02/08/05  
072227.00002

**SPECIMEN**

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF BETHANY  
SEWER REVENUE BONDS, SERIES 2005 A  
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. AR-1

\$1,250,000

KNOW ALL MEN BY THESE PRESENTS: That the TOWN OF BETHANY, a municipal corporation and political subdivision of the State of West Virginia in Brooke 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, 2006, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The interest on this Bond at the rate per annum set forth on said Exhibit B, shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2006, as set forth on said EXHIBIT B.

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 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 Infrastructure and Jobs Development Council (the "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 Council, dated February 22, 2005.

This Bond is issued (i) to pay in full the entire outstanding principal of and all accrued interest on the Issuer's Sewerage System Bond Anticipation Notes, Series 2003 (the "Prior Notes"); (ii) to pay the costs of acquisition and construction of certain additions,

betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (iii) to pay certain costs of issuance of the Bonds and related costs. The existing public sewerage 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 16, Article 13 and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on March 9, 2004, and a Supplemental Resolution duly adopted by the Issuer on February 8, 2005 (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.

UPON THE REFUNDING OF THE PRIOR NOTES, THE ISSUER WILL HAVE NO BONDS OR OBLIGATIONS OTHER THAN THIS BOND WHICH IS SECURED BY NET REVENUES OF THE SYSTEM.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2005 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net 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 hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2005 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 on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds; provided however, that so long as there exists in the Series 2005 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest 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, 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.

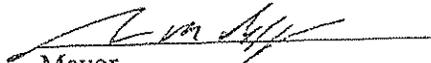
All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance described in the Bond Legislation, and there 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 Net 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.

IN WITNESS WHEREOF, the TOWN OF BETHANY 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 February 22, 2005.

[SEAL]

  
\_\_\_\_\_  
Mayor

**SPECIMEN**

ATTEST:

  
\_\_\_\_\_  
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2005 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: February 22, 2005.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

SPECIMEN

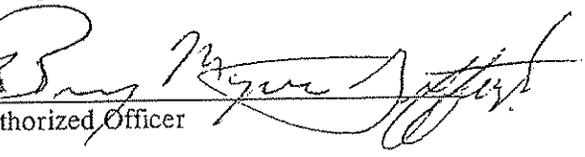
  
Authorized Officer

EXHIBIT A  
RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1)\$ 255,440	February 22, 2005	(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

Date	Principal	Coupon	Interest	Total P+I
03/01/2005	-	-	-	-
06/01/2005	-	-	-	-
09/01/2005	-	-	-	-
12/01/2005	-	-	-	-
03/01/2006	-	-	-	-
06/01/2006	-	-	-	-
09/01/2006	11,460.26	3.000%	9,375.00	20,835.26
12/01/2006	11,546.22	3.000%	9,289.05	20,835.27
03/01/2007	11,632.81	3.000%	9,202.45	20,835.26
06/01/2007	11,720.06	3.000%	9,115.21	20,835.27
09/01/2007	11,807.96	3.000%	9,027.30	20,835.26
12/01/2007	11,896.52	3.000%	8,938.75	20,835.27
03/01/2008	11,985.74	3.000%	8,849.52	20,835.26
06/01/2008	12,075.64	3.000%	8,759.63	20,835.27
09/01/2008	12,166.20	3.000%	8,669.06	20,835.26
12/01/2008	12,257.45	3.000%	8,577.81	20,835.26
03/01/2009	12,349.38	3.000%	8,485.88	20,835.26
06/01/2009	12,442.00	3.000%	8,393.26	20,835.26
09/01/2009	12,535.32	3.000%	8,299.95	20,835.27
12/01/2009	12,629.33	3.000%	8,205.93	20,835.26
03/01/2010	12,724.05	3.000%	8,111.21	20,835.26
06/01/2010	12,819.48	3.000%	8,015.78	20,835.26
09/01/2010	12,915.63	3.000%	7,919.64	20,835.27
12/01/2010	13,012.49	3.000%	7,822.77	20,835.26
03/01/2011	13,110.09	3.000%	7,725.18	20,835.27
06/01/2011	13,208.41	3.000%	7,626.85	20,835.26
09/01/2011	13,307.48	3.000%	7,527.79	20,835.27
12/01/2011	13,407.28	3.000%	7,427.98	20,835.26
03/01/2012	13,507.84	3.000%	7,327.43	20,835.27
06/01/2012	13,609.15	3.000%	7,226.12	20,835.27
09/01/2012	13,711.22	3.000%	7,124.05	20,835.27
12/01/2012	13,814.05	3.000%	7,021.21	20,835.26
03/01/2013	13,917.65	3.000%	6,917.61	20,835.26
06/01/2013	14,022.04	3.000%	6,813.23	20,835.27
09/01/2013	14,127.20	3.000%	6,708.06	20,835.26
12/01/2013	14,233.16	3.000%	6,602.11	20,835.27
03/01/2014	14,339.90	3.000%	6,495.36	20,835.26
06/01/2014	14,447.45	3.000%	6,387.81	20,835.26
09/01/2014	14,555.81	3.000%	6,279.45	20,835.26
12/01/2014	14,664.98	3.000%	6,170.29	20,835.27
03/01/2015	14,774.97	3.000%	6,060.30	20,835.27
06/01/2015	14,885.78	3.000%	5,949.49	20,835.27
09/01/2015	14,997.42	3.000%	5,837.84	20,835.26
12/01/2015	15,109.90	3.000%	5,725.36	20,835.26

Date	Principal	Coupon	Interest	Total P+I
03/01/2016	15,223.23	3.000%	5,612.04	20,835.27
06/01/2016	15,337.40	3.000%	5,497.86	20,835.26
09/01/2016	15,452.43	3.000%	5,382.83	20,835.26
12/01/2016	15,568.32	3.000%	5,266.94	20,835.26
03/01/2017	15,685.09	3.000%	5,150.18	20,835.27
06/01/2017	15,802.72	3.000%	5,032.54	20,835.26
09/01/2017	15,921.25	3.000%	4,914.02	20,835.27
12/01/2017	16,040.65	3.000%	4,794.61	20,835.26
03/01/2018	16,160.96	3.000%	4,674.30	20,835.26
06/01/2018	16,282.17	3.000%	4,553.10	20,835.27
09/01/2018	16,404.28	3.000%	4,430.98	20,835.26
12/01/2018	16,527.32	3.000%	4,307.95	20,835.27
03/01/2019	16,651.27	3.000%	4,183.99	20,835.26
06/01/2019	16,776.15	3.000%	4,059.11	20,835.26
09/01/2019	16,901.98	3.000%	3,933.29	20,835.27
12/01/2019	17,028.74	3.000%	3,806.52	20,835.26
03/01/2020	17,156.46	3.000%	3,678.81	20,835.27
06/01/2020	17,285.13	3.000%	3,550.13	20,835.26
09/01/2020	17,414.77	3.000%	3,420.50	20,835.27
12/01/2020	17,545.38	3.000%	3,289.89	20,835.27
03/01/2021	17,676.97	3.000%	3,158.29	20,835.26
06/01/2021	17,809.55	3.000%	3,025.72	20,835.27
09/01/2021	17,943.12	3.000%	2,892.15	20,835.27
12/01/2021	18,077.69	3.000%	2,757.57	20,835.26
03/01/2022	18,213.27	3.000%	2,621.99	20,835.26
06/01/2022	18,349.87	3.000%	2,485.39	20,835.26
09/01/2022	18,487.50	3.000%	2,347.77	20,835.27
12/01/2022	18,626.15	3.000%	2,209.11	20,835.26
03/01/2023	18,765.85	3.000%	2,069.41	20,835.26
06/01/2023	18,906.59	3.000%	1,928.67	20,835.26
09/01/2023	19,048.39	3.000%	1,786.87	20,835.26
12/01/2023	19,191.26	3.000%	1,644.01	20,835.27
03/01/2024	19,335.19	3.000%	1,500.07	20,835.26
06/01/2024	19,480.20	3.000%	1,355.06	20,835.26
09/01/2024	19,626.31	3.000%	1,208.96	20,835.27
12/01/2024	19,773.50	3.000%	1,061.76	20,835.26
03/01/2025	19,921.80	3.000%	913.46	20,835.26
06/01/2025	20,071.22	3.000%	764.05	20,835.27
09/01/2025	20,221.75	3.000%	613.51	20,835.26
12/01/2025	20,373.42	3.000%	461.85	20,835.27
03/01/2026	20,526.22	3.000%	309.05	20,835.27
06/01/2026	20,680.16	3.000%	155.10	20,835.26
<b>Total</b>	<b>\$1,250,000.00</b>	<b>-</b>	<b>\$416,821.13</b>	<b>\$1,666,821.13</b>

Accrued Interest from 02/22/2005 to 02/22/2005	(47,812.50)
Bond Year Dollars	\$15,487.79
Average Life	12.390 Years
Average Coupon	2.6912891%
Net Interest Cost (NIC)	2.6912891%
True Interest Cost (TIC)	3.0199636%
Bond Yield for Arbitrage Purposes	3.0199636%
All Inclusive Cost (AIC)	3.0199636%

**IRS Form 8038**

Net Interest Cost	3.0000001%
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Weighted Average Maturity

12.390 Years

(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: \_\_\_\_\_, \_\_\_\_\_.

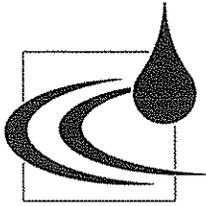
**SPECIMEN**

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

02/08/05  
072227.00002



WEST VIRGINIA  
**Water Development Authority**  
Celebrating 35 Years of Service 1974 - 2009

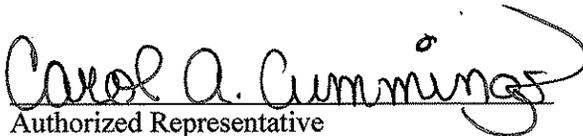
June 19, 2009

The Town of Bethany  
Sewer Revenue Bonds, Series 2009 A  
(United States Department of Agriculture)

TO WHOM IT MAY CONCERN:

In reliance upon the certificate of Smith Cochran & Hicks, 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 Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture), in the original aggregate principal amount of \$500,000 (the "Series 2009 A Bonds") by The Town of Bethany (the "Issuer"), under the terms of the bond ordinance authorizing the Series 2009 A Bonds, on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's outstanding Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated February 22, 2005, issued in the original aggregate principal amount of \$1,250,000 (the "Prior Bonds").

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

  
Authorized Representative

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Entered: November 24, 2008

FINAL

12/14/2008

CASE NO. 08-1259-S-CN

TOWN OF BETHANY SANITATION BOARD,  
a public utility,  
Bethany, West Virginia 26032.

Application for a certificate of public convenience and necessity to construct certain improvements to its existing wastewater system and for approval of the financing thereof.

RECOMMENDED DECISION

PROCEDURE

On July 28, 2008, the Town of Bethany Sanitary Board (Town or Applicant), by counsel, filed an unverified application for a certificate of public convenience and necessity with the Public Service Commission of West Virginia (Commission), pursuant to West Virginia Code §24-2-11(a), to construct certain additions and improvements to its existing wastewater system at an estimated cost of \$565,000.

The proposed project will be funded by a grant from the Governor's Community Participation Program in the amount of \$65,000 and a United States Department of Agriculture Rural Utilities Service (RUS) loan in the amount of \$500,000 at 4.375% interest for a term of 40 years. No interim financing has been secured for the project. The Town is not requesting an increase in its exiting tariff rates and, therefore, requested a waiver of the requirement to file a Tariff Rule 42 exhibit.

According to the application, the Town has received the necessary permits and approvals for construction from the Department of Highways, DEP (site NPDES Stormwater Discharge), Public Lands and the Bureau of Public Health, and clearance from the West Virginia Historic and Preservation Office. Additionally, the application stated that the Town has an agreement with the Ohio County Public Service District (Ohio County or District), whereby the District provides water service to the Town's water customers and performs wastewater billing services for the Town based on water usage. The application, however, did not contain a copy of the agreement, as required by Procedural Rule 26. Finally, the application stated that the West Virginia Infrastructure and Jobs Development Council has approved the proposed project.

On July 28, 2008, the Commission ordered that the Town publish the Notice of Filing regarding the proposed project.

By Commission Order entered on August 14, 2008, this case was referred to the Division of Administrative Law Judges (ALJ) with a decision due date of December 10, 2008, if no timely public protest was received in response to the publication of the notice. However, if timely public protest was filed in response to the publication of the notice, the decision due date would be February 23, 2009.

Also on August 14, 2008, the Town filed the Affidavit of Publication, evidencing that the Notice of Filing was published on August 8, 2008, as a Class I legal advertisement in The Brooke County Review. Unfortunately, the published Notice of Filing incorrectly stated the proposed financing secured for the project. The Town's funding package included a \$500,000 loan from the RUS, rather than a grant as published.

On September 3 and 8, 2008, respectively, initial memoranda on behalf of Commission Staff were filed by Staff Attorney Wendy Braswell of the Commission's Legal Division. Attached to the September 8, 2008 filing was an Initial Internal Memorandum prepared by Technical Analyst James Spurlock of the Engineering Division and Utilities Analyst Michael Quinlan of the Water and Wastewater Division. Staff supported the requested waiver regarding filing of a Tariff Rule 42 exhibit. Additionally, Staff advised that it would need additional information, which it would obtain through a data request, before filing its final substantive recommendation.

By Procedural Order issued on October 14, 2008, the Applicant's request for a waiver of the requirement to file a Tariff Rule 42 exhibit was granted. Additionally, the Town was ordered to publish a revised Notice of Filing as a Class I legal publication during the week of October 13, 2008, and file the Affidavit of Publication immediately upon receipt or obtain an appropriate extension of the Administrative Law Judge's decision due date. The Procedural Order also ordered the Town to file, within ten (10) days of the date of the Order, a proper verification of the certificate application and a copy of the agreement that the Town has with the Ohio County Public Service District referred to in the Town's certificate application.

On October 24, 2008, the Town filed an Affidavit of Publication verifying that the revised Notice of Filing had been published in The Brooke County Review as a Class I publication on October 17, 2008, as well as an unexecuted copy of the agreement referenced in the certificate application that it has with the Ohio County Public Service District and a proper verification of the Town's certificate application, which conformed to Tariff Form No. 12.

On October 27, 2008, Staff Attorney Wendy Braswell filed a Final Joint Staff Memorandum to which was attached a Final Internal Memorandum dated October 27, 2008, from Engineering Technical Analyst James Spurlock and Water and Wastewater Division Utilities Analyst Michael Quinlan (collectively referred to as Technical Staff). Technical Staff

recommended approval of the certificate application in addition to noting certain conditions that must be fulfilled by the Town. Technical Staff also recommended that the Town promptly file, in a separate case, both the billing and collection agreement and the termination agreement it has with the Ohio County Public Service District for the Commission's review and approval. In her cover memorandum, Staff Attorney Braswell recommended approval of the application, without hearing, stating that, "[a]s no protest has been received in this matter and rates are not affected, Staff recommends this certificate application be granted without hearing, as permitted by W. Va. Code §24-2-11(b)."

On October 28, 2008, the Town filed a response to the Final Joint Staff Memorandum specifically agreeing with Staff's recommendation that the certificate application be granted, without hearing, and requesting that the hearing scheduled for November 7, 2008, be canceled. The Town also specifically agreed with Staff's recommendation that the request for approval of the billing and collection agreement be filed as part of a separate docket number.

By Procedural Order issued on October 31, 2008, the procedural schedule adopted by Order on October 14, 2008, including the November 7, 2008 hearing, was canceled. Additionally, the October 31, 2008 Order required that the Applicant immediately file the termination agreement it has with Ohio County for Commission approval within the context of this case, citing to Procedural Rule 26. Procedural Rule 26 requires that the Applicant submit all information that the Commission needs for proper review of its certificate application. Finally, Staff was directed to review the billing and collection agreement as well as the termination agreement, and file a substantive recommendation thereon no later than November 10, 2008.

On November 7, 2008, the Town filed a response to the October 31, 2008 Procedural Order, stating that neither it nor Ohio County could locate the termination agreement. The Town suggested that the undersigned approve the certificate application and order that the Town and District file for approval of the termination agreement within 45 days after the entry of the recommended decision.

As of today's date, Commission Staff has filed no recommendation regarding the Town's billing and collection agreement with Ohio County. Furthermore, Staff has filed no response to the Town's November 7, 2008 filing.

Since the 30-day protest period for the revised Notice of Filing expired on November 16, 2008, and since no public protest was received, this matter is now ripe for decision.

#### DISCUSSION

The need for the instant project was established in Case No. 04-0510-S-CN, Town of Bethany Sanitary Board (2004). At that time, the

Town's existing system was aged and in need of substantial repairs and improvements to address the significant combined sewer overflows. The project was certificated by a Final Order of the Commission on August 24, 2004. However, once the project was let to bid, bids came in higher than anticipated, and the Town had to divide the project into two (2) phases. The instant certificate case is the second phase of the project originally certificated in 2004. (See Commission Order in Case No. 04-0510-S-CN (Reopened) on February 15, 2005).

The cost of this phase of the project is significantly lower than what was represented to the Commission in 2005 because a portion of the additions and improvements to the sewage treatment plant was completed with excess funds from the first phase of the project. (See the Town's September 25, 2008 response to question no. 1 of Staff's first data request). Technical Analyst Spurlock determined that the estimated cost of the construction is reasonable and that the issuance of Permit No. 15,915 for the project by the State Office of Environmental Health Services indicates that Office's approval of the construction. Mr. Spurlock also determined that the plans and specifications for the project did not reveal any conflicts with applicable Commission rules and regulations. Additionally, Financial Staff has determined that the project is financially feasible because the funding for the project is committed, rates will not increase as a result of the project, operation and maintenance (O&M) expenses are not expected to change, and the O&M expenses associated with the project are reasonable. Nevertheless, Mr. Quinlan strongly urged the Town to closely monitor its finances to insure that its rates are adequate to support the on-going operations of the system and meet its bond ordinance coverage requirements. Staff's current cash flow analysis of the Town's finances shows a debt service coverage of 117.45%. Finally, Mr. Quinlan included a recommended tariff with Commission-approved language for the Town to use as a guide when it adopted its next utility rate ordinance.

The ALJ will approve the certificate application filed by the Town on July 28, 2008, to construct certain additions and improvements to its existing wastewater system at a cost of \$565,000 to be financed by a grant from the Governor's Community Participation Program in the amount of \$65,000 and an RUS loan in the amount of \$500,000 at an interest rate of 4.375% for a term of 40 years. Based on the discussion above, the ALJ finds that the project is both necessary and convenient, and that it is in the public interest to approve the certificate. The construction undertaken by this project will improve the Town's plant capacity to 200,000 gallons per day and will allow the plant to meet all discharge parameters.

The ALJ now turns her attention to the Town's agreements with Ohio County Public Service District. By Procedural Order entered on October 31, 2008, the Town was ordered to immediately file its termination agreement with Ohio County, and Staff was ordered to file a substantive recommendation regarding its review of the billing and collection and termination agreements no later than November 10, 2008. The billing and collection agreement had been previously filed by the Town on October 28, 2008, as Exhibit A.

On November 7, 2008, the Town filed a letter, stating that both it and the District had diligently looked for the termination agreement but were unable to find the agreement. The Town, therefore, suggested that the undersigned approve the certificate application and order that the Town and District file for approval of the termination agreement within 45 days after the entry of the recommended decision.

In the interest of administrative economy and because it is required by Procedural Rule 26, the ALJ was prepared to rule on the adequacy of both agreements within the context of the instant case, hence the ALJ's directive that Staff file a substantive recommendation regarding the agreements no later than November 10, 2008. Unfortunately, the Town could not locate the termination agreement and advised the Commission accordingly on November 7, 2008. However, Staff still had the responsibility and obligation under the ALJ's October 31, 2008 Order to advise as to the sufficiency of the billing and collection agreement that the Town consummated with the District on December 11, 2003.

Since, as of today's date, Commission Staff has filed no objection to the billing and collection agreement, Staff's silence could have been construed as its agreement with the billing and collection arrangement that the Town has entered into. However, upon review of the billing and collection agreement by the ALJ, it is clear that the terms and interpretation of the billing and collection agreement are integrally intertwined with the missing termination agreement. For example, the agreement states at paragraph 3, Delinquent Accounts, as follows: "The DISTRICT shall issue delinquent shutoff notices to all delinquent BETHANY customers, and will shut off water service to BETHANY sewer customers in accordance with the Water Termination Agreement between the parties thereto." Therefore, without the termination agreement, a proper review of the billing and collection agreement cannot be undertaken. Furthermore, the ALJ's cursory review of the billing and collection agreement finds that the agreement, as currently written, is non-specific as to the time frames within which things must be done by the parties. What is clear, however, by the terms of the billing and collection agreement at paragraph 4, Initial Costs, is that the parties would need to obtain approval from the Public Service Commission of the agreements. Yet, almost 5 years after the agreements were signed, Commission approval has not been obtained. Based on the discussion above, the prudent thing to do is to allow the agreements to be reviewed in tandem. Therefore, the ALJ will direct that the Town file both agreements for Commission review and approval within 45 days after the recommended decision in this case becomes a final order of the Commission.

Finally, Staff is reminded that it cannot simply ignore a directive of the ALJ. Staff's input and expertise are valued in such matters and are necessary, particularly since Staff has cautioned that the Town should closely monitor its finances to insure that rates are adequate to support the system's operations and bond ordinance requirement. Properly worded and executed billing and collection and termination agreements can shore up the utility's revenue stream.

## FINDINGS OF FACT

1. On July 28, 2008, the Town of Bethany Sanitary Board filed an unverified application for a certificate of public convenience and necessity with the Public Service Commission of West Virginia, pursuant to West Virginia Code §24-2-11, to construct certain additions and improvements to its existing wastewater system at an estimated cost of \$565,000. The Town filed proper verification of its certificate application on October 24, 2008. (See certificate application filed July 28, 2008; filing made by Town on October 24, 2008).

2. On October 24, 2008, the Town filed an Affidavit of Publication of the revised Notice of Filing which properly published the particulars of the project in The Brooke County Review, a newspaper published in Wellsburg and of general circulation in Brooke County, West Virginia, as a Class I publication on October 17, 2008. No protests were received to that publication. (See filing made on October 24, 2008; case file generally).

3. After review of the project, Commission Staff recommended, among other things, approval of the project, without hearing, including granting a waiver of the requirement that the Town file a Tariff Rule 42 exhibit. Staff also recommended that the Town's billing and collection and termination agreements consummated with Ohio County Public Service District be filed and reviewed under a separate docket number rather than in the Town's certificate case. (See Further Joint Staff Memorandum filed September 9, 2008; Final Joint Staff Memorandum filed October 27, 2008).

4. The need for the instant project was originally established in Case No. 04-0510-S-CN, Town of Bethany Sanitary Board (2004) because the Town's system was aged and in need of substantial repairs and improvements to address the significant combined sewer overflows. The proposed project involves the construction of additions and improvements to the Town's sewage treatment plant which will increase the plant's gallon-per-day capacity to 200,000 gallons and allow the plant to meet all discharge parameters. (See Case No. 04-0510-S-CN, Town of Bethany Sanitary Board (2004); Final Joint Staff Memorandum filed October 27, 2008).

5. The State Office of Environmental Health Service has issued Permit No. 15,915 for the project. Additionally, Commission Staff determined that the plans and specifications did not reveal any conflicts with applicable Commission rules and regulations. (See case file generally; Final Joint Staff Memorandum filed October 27, 2008).

6. The cost of the project is estimated at \$565,000, which will be funded by a grant from the Governor's Community Participation Program in the amount of \$65,000 and an RUS loan in the amount of \$500,000 at 4.375% interest for a term of 40 years. The appropriate commitment letters were filed with the application. (See certificate application filed July 28, 2008).

7. The Town filed a letter on October 28, 2008, with attachments, which agreed, inter alia, with Staff's recommendations regarding the disposition of the issues in this case and included a copy of its executed billing and collection agreement with the Ohio County Public Service District. (See letter and attachments filed October 28, 2008).

8. By Procedural Order issued on October 31, 2008, the Town was ordered to immediately file a copy of its termination agreement with Ohio County Public Service District. Also, Staff was ordered to file a substantive recommendation regarding the Town's billing and collection and termination agreements no later than November 10, 2008. (See, Order).

9. On November 7, 2008, the Town filed a letter requesting that its certificate be approved and that it be directed to file the termination agreement for approval, under separate docket number, within 45 days of the entry of the recommended decision since neither the Town nor the District could locate a copy of the termination agreement. (See letter filed by the Town on November 7, 2008).

10. As of today's date, Staff has neither filed a substantive recommendation regarding the Town's billing and collection agreement nor responded to the Town's November 7, 2008 letter. (See case file generally).

#### CONCLUSIONS OF LAW

1. It is reasonable to grant the certificate application filed by the Town of Bethany on July 28, 2008, because the public convenience and necessity require the project, the project will increase capacity at the Town's plant to 200,000 gallons per day, the project will allow the plant to meet all discharge parameters, the project is fully funded, and the project will not increase rates.

2. The certificate application can be granted, without hearing, since the Notice of Filing was properly published on October 17, 2008, as required by West Virginia Code §24-2-11(b) and since no public protests have been received in response thereto.

3. It is reasonable to review the Town's billing and collection and termination agreements in tandem, under separate docket number, since those agreements are so intertwined and the Town could not locate its copy of the termination agreement for filing in this case.

#### ORDER

IT IS, THEREFORE, ORDERED that the certificate application filed by the Town of Bethany on July 28, 2008, pursuant to West Virginia Code §24-2-11(a), to construct certain additions and improvements to its existing wastewater system, at an estimated cost of \$565,000, be, and hereby is, approved.

IT IS FURTHER ORDERED that the proposed funding for the Town of Bethany's project, consisting of a grant from the Governor's Community Participation Program in the amount of \$65,000 and a United States Department of Agriculture Rural Utilities Service loan in the amount of \$500,000 at 4.375% interest for a term of 40 years, be, and hereby is, approved.

IT IS FURTHER ORDERED that the Town of Bethany obtain additional Commission approval, prior to construction, if the plans, scope or financing for the project changes.

IT IS FURTHER ORDERED that, if a change in the project cost does not change project rates, no additional Commission approval is necessary, however, the Town will be required to file an affidavit executed by its certified public accountant, verifying that the Town's rates and charges are not affected.

IT IS FURTHER ORDERED that the Town file with the Commission a copy of the engineer's certified bid tabulations for all contracts awarded for the project and submit a copy of the Certificate of Substantial Completion issued for each construction contract associated with the project, as soon as they become available.

IT IS FURTHER ORDERED that, if the project certificated herein requires the use of any West Virginia Department of Highways' rights-of-way, the Town of Bethany follow all applicable rules and regulations of the Department of Highways regarding those rights-of-way.

IT IS FURTHER ORDERED that the Town of Bethany file, no later than 45 days after this recommended decision becomes a final order of the Commission, copies of its billing and collection and termination agreements with the Ohio County Public Service District, under separate docket number, for review and approval by the Commission.

IT IS FURTHER ORDERED that the "PC" designation be removed from the instant case number since the Town's billing and collection and termination agreements with the Ohio County Public Service District will be reviewed under separate docket number.

IT IS FURTHER ORDERED that this case be, and it hereby is, stricken 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.

  
Meyishi Pearl Blair  
Administrative Law Judge

MPB:s  
081259ab.wpd

CERTIFICATE OF PUBLICATION

The Brooke County Review

Brooke County  
Wellsburg, West Virginia

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Entered by the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 28th day of July 2008

CASE NO: 08-1259-S-CN

TOWN OF BETHANY SANITATION BOARD Bethany WV 26032. Application for a certificate of convenience and necessity to construct certain additions and improvements to its existing wastewater system and for approval of the financing thereof.

NOTICE OF FILING

On July 28 2008 the Town of Bethany Sanitation Board (the Town) filed an application duly verified for a Certificate to construct certain additions improvements and extensions to its existing wastewater system in Brooke County. The application is on file with and available for public inspection at the Public Service Commission 201 Brooks Street in Charleston West Virginia.

The town of Bethany estimates that construction will cost approximately \$565 000.00. It is proposed that the construction will be financed by a grant from the West Virginia Governor's Office and a United States Departmental Agricultural RUS grant.

The Town proposes to construct certain additions and improvements to its existing wastewater system consisting of renewal and replacement of portions of its collection system and appurtenances relating thereto (the Project). In connection with the Project the town is seeking an increase in its existing wastewater rates. Therefore the Town anticipates charging its wastewater customers the rates and charges established in its existing wastewater tariff which was effective August 1 2005.

The requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing.

Pursuant to W. Va. Code §24-2-11 IT IS ORDERED that the Town of Bethany Sanitation Board give notice of the filing of said application by publishing a copy of this order once in a space daily published by the Secretary of State published and of general circulation in Brooke County making due return to this Commission of proper certification of publication immediately. 8/8/08

Public Service Commission  
of West Virginia  
Charleston

I, J.W. George Wallace publisher of The Brooke County Review, a newspaper of general circulation in Brooke County, West Virginia, published in Wellsburg, hereby Certifies that the attached advertisement was duly published in said Newspaper 1x successive weeks in the issues of August 8, 2008

Given under my hand this 8 day of Aug. 2008

*J. W. George Wallace*

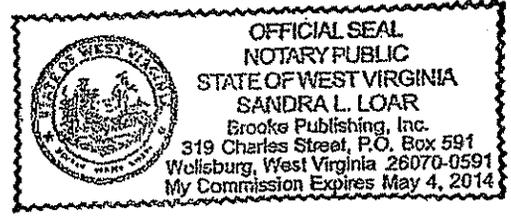
Publisher of the Brooke County Review

Printer's Fee \$ 53.19

Subscribed and sworn to this 8 day of Aug 2008

*Sandra L. Loar*

My Commission expires May 04, 2014



LOAN RESOLUTION  
(Public Bodies)

COPY

A RESOLUTION OF THE Town CouncilOF THE Bethany, Town ofAUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING  
PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS  
Sewer System

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO

WHEREAS, it is necessary for the Bethany, Town of  
(Public Body)

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

**FIVE HUNDRED THOUSAND AND XX / 100 DOLLARS (\$500,000.00)**pursuant to the provisions of Chapter 16, Article 13, West Virginia Code; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

- 11. To acquire and maintain such finance and fidelity bond coverage as may be required by the Government.
- 12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
- 13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
- 14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities, and replacement of short lived assets.
- 15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
- 16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
- 17. To accept a grant in an amount not to exceed \$ 0.00

under the terms offered by the Government; that Mayor

and Treasurer of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

Yeas 5 Nays 0 Absent 0

IN WITNESS WHEREOF, the Town Council of the

Bethany, Town of has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this 7<sup>th</sup> day of May, 2008

Bethany, Town of

(SEAL)

By Sven DeJong

Attest: Shirley Kemp

Title Mayor

Shirley Kemp  
Title Treasurer

**CERTIFICATION TO BE EXECUTED AT LOAN CLOSING**

I, the undersigned, as Recorder of the Town of Bethany

hereby certify that the Town Council of such Association is composed of

5 members, of whom, 5 constituting a quorum, were present at a meeting thereof duly called and

held on the 7th day of May 2008; and that the foregoing resolution was adopted at such meeting

by the vote shown above, I further certify that as of June 19, 2009,  
the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been  
rescinded or amended in any way.

Dated, this 19th day of June 2009



Cynthia R. Hoffman

Title Recorder

The Town of Bethany  
Sewer Revenue Bonds, Series 2009 A  
(United States Department of Agriculture)

RECEIPT FOR BONDS

The undersigned, authorized representative of the United States Department of Agriculture, Rural Utilities Service, for and on behalf of the United States of America (the "Purchaser"), hereby certifies as follows:

1. On the 19th day of June, 2009, at Bethany, West Virginia, the undersigned received for the Purchaser the single, fully registered The Town of Bethany Sewer Revenue Bonds, Series 2009 A (United States Department Agriculture), No. AR-1 (the "Series 2009 A Bonds"), in the principal amount of \$500,000, dated as of the date hereof, bearing interest at the rate of 4.375% per annum, and payable in monthly installments as stated in the Bond.

2. At the time of such receipt, the Series 2009 A Bonds had been executed and sealed by the designated officials of The Town of Bethany (the "Issuer").

4. At the time of such receipt, there was paid to the Issuer the sum of \$49,300, 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 paid to the Issuer as acquisition and construction of the Project progresses.

WITNESS my signature on this 19th day of June, 2009.

  
Authorized Representative

072270.00003

CH5000903.1

SPECIMEN

THE TOWN OF BETHANY

SEWER REVENUE BONDS, SERIES 2009 A  
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$500,000

No. AR-1

Date: June 19, 2009

FOR VALUE RECEIVED, THE TOWN OF BETHANY (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000), plus interest on the unpaid principal balance at the rate of 4.375% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of this Bond and continuing on the corresponding day of each month for the first twenty-four months after the date hereof, and \$2,255, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided herein below. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a

calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of acquisition and construction of additions, betterments and improvements to the Sewerage system (the "System") of Borrower, is payable solely from and secured by the revenues to be derived from the operation of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation, nor shall the Borrower be obligated to pay the same or the interest thereon except from the special fund so provided.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Ordinance, and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (herein called the "Act"), an Ordinance of Borrower duly enacted on March 4, 2009, and a Supplemental Resolution duly adopted by the Issuer on June 3, 2009 authorizing issuance of this Bond (collectively, the "Ordinance").

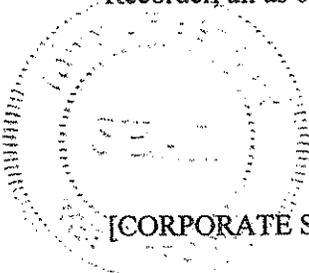
If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farm and Rural Development Act of 1965, as amended. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

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 SEWER REVENUE BONDS, SERIES 2005 A, DATED FEBRUARY 22, 2005 (WEST VIRGINIA INFRASTRUCTURE FUND), ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,250,000 (THE "SERIES 2005 A BONDS").

In accordance with the requirements of the United States Department of Agriculture, the Bonds will be in default should any proceeds of the Bonds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

IN WITNESS WHEREOF, THE TOWN OF BETHANY has caused this Bond to be executed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Recorder, all as of the date hereinabove written.



[CORPORATE SEAL]

THE TOWN OF BETHANY

  
Mayor

P.O. Box U  
Bethany, West Virginia 26032

ATTEST:

  
Recorder

**SPECIMEN**

**SPECIMEN**

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$49,300	June 19, 2009	(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 \$ \_\_\_\_\_

(Form of Assignment)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers to \_\_\_\_\_  
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 Borrower with  
full power of substitution in the premises.

Dated: \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

In presence of:

\_\_\_\_\_

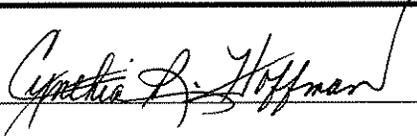
THE TOWN OF BETHANY

SEWER REVENUE BONDS, SERIES 2009 A  
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$500,000

REGISTRATION BOOKS

(No writing on these Books except by the Issuer as Registrar)

Bond No.	Date of Registration	In Whose Name Registered	Signature of Secretary of Registrar
AR-1	June 19, 2009	United States Department of Agriculture	

05.28.09  
072270.00003



June 19, 2009

The Town of Bethany  
Sewer Revenue Bonds, Series 2009 A  
(United States Department of Agriculture)

The Town of Bethany  
Bethany, West Virginia

United States Department of Agriculture  
Parkersburg, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by The Town of Bethany, in Brooke County, West Virginia (the "Issuer"), of its \$500,000 Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture), dated the date hereof (the "Series 2009 A Bonds"), pursuant to Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and a bond ordinance of the Issuer duly enacted on March 4, 2009, as supplemented by the Supplemental Resolution duly adopted by the Issuer on June 3, 2009 (collectively, the "Bond Legislation"). We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion.

As to questions of fact material to our opinion, we have relied upon the representations of the Issuer contained in the Bond Legislation and in the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Issuer is duly created and validly existing as a municipal corporation and political subdivision of the State of West Virginia with full power and authority to adopt and enact the Bond Legislation, perform the agreements on its part contained therein and issue and sell the Series 2009 A Bonds, pursuant to the provisions of the Act and other applicable provisions of law.

2. The Bond Legislation has been duly adopted and enacted by the Issuer and constitutes a valid and binding obligation of the Issuer enforceable upon the Issuer.

3. Pursuant to the Act, the Bond Legislation creates a valid lien on the funds pledged by the Legislation for the security of the Series 2009 A Bonds on a parity with the Issuer's Sewer Revenue Bond, Series 2005 A (West Virginia Infrastructure Fund), dated February 22, 2005, issued in the original aggregate principal amount of \$1,250,000 (the "Prior Bonds"). Other than the Prior Bonds, there are no

other outstanding bonds or obligations of the Issuer which rank prior to or on a parity with the Series 2009 A Bonds as to liens, pledge and/or source of and security for payment.

4. The Series 2009 A Bonds have been duly authorized, executed and delivered by the Issuer and is a valid and binding special obligation of the Issuer, payable solely from the sources provided therefor in the Bond Legislation.

5. The Series 2009 A Bonds have not been issued on the basis that the interest, if any, thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes; therefore, the interest on the Series 2009 A Bonds is not excluded from gross income for federal income tax purposes. We express no opinion regarding other federal tax consequences arising with respect to the Series 2009 A Bonds.

6. The Series 2009 A Bonds are, under the Act, exempt from all taxation by the State of West Virginia, and the other taxing bodies of said State, and interest on the Series 2009 A Bonds is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

It is to be understood that the rights of the holder of the Series 2009 A Bonds and the enforceability of the Series 2009 A Bonds, 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 the enforcement thereof may also be subject to the exercise of judicial discretion in appropriate cases.

Very truly yours,

  
STEPTOE & JOHNSON PLLC

072270.00003

June 19, 2009

The Town of Bethany  
Sewer Revenue Bonds, Series 2009 A  
(United States Department of Agriculture)

The Town of Bethany  
Bethany, West Virginia

United States Department of Agriculture  
Parkersburg, West Virginia

Steptoe & Johnson PLLC  
Charleston, West Virginia

Ladies and Gentlemen:

We are counsel to The Town of Bethany, a municipal corporation and political subdivision of the State of West Virginia in Brooke County of said State (the "Issuer"). As such counsel, we have examined a copy of the approving opinion of Steptoe & Johnson PLLC, as bond counsel, a bond ordinance of the Issuer duly enacted on March 4, 2009 (the "Bond Legislation"), and other documents and papers relating to the Issuer and the above-captioned Bonds of the Issuer (the "Bonds"). Terms used in the Bond Legislation and not otherwise defined herein shall have the same meanings as in the Bond Legislation when used herein.

We are of the opinion that:

1. The Issuer is duly created and validly existing as a municipal corporation and a political subdivision of the State of West Virginia.
2. The Mayor and Recorder and members of the Council of the Issuer have been duly, lawfully and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the Issuer.
3. The Bond Legislation has been duly adopted and enacted by the Issuer and is in full force and effect.
4. The execution and delivery of the Bonds and the consummation of the transactions contemplated by the Bonds 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 agreement, document or instrument to which the Issuer is a party or by which the Issuer or its properties are bound or any existing law, regulation, rule, order or decree to which the Issuer is subject.

5. We are of the opinion that the Issuer has received all orders and approvals from the Public Service Commission of West Virginia ("PSC"), including the Recommended Decision entered November 24, 2008, which became Final Order on December 14, 2008 in Case No. 08-1259-S-CN approving the financing for the Project. The time for appeal of the Commission Orders has expired prior to the date hereof. All Orders remain in full force and effect.

6. All permits, licenses, approvals, consents, certificates, orders, exemptions and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bond, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges have been entered and/or received, including, without limitation, all requisite orders, certificates, consents and approvals from the Public Service Commission of West Virginia, and the Issuer has duly 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 time for appeal of which has expired prior to the date hereof without successful appeal.

7. To the best of our knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bonds and the Bond Legislation, the acquisition and construction of the Project, the operation of the System, or the validity of the Bonds, or the collection or pledge of the Net Revenues therefor.

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

Very truly yours,

  
STEPTOE & JOHNSON PLLC

06.16.09  
072270.00003

THE TOWN OF BETHANY

Sewer Revenue Bonds, Series 2009 A  
(United States Department of Agriculture)

COMBINED CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. AUTHORIZATION AND AWARD OF BOND
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS
4. PUBLICATION AND NO PROTEST
5. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
6. SIGNATURES, ETC.
7. CERTIFICATION OF COPIES OF DOCUMENTS
8. INCUMBENCY AND OFFICIAL NAME, ETC.
9. DELIVERY AND PAYMENT AND USE OF PROCEEDS
10. LAND AND RIGHTS OF WAY
11. MEETINGS; PUBLICATION AND POSTING OF NOTICES, ETC.
12. CONTRACTORS' INSURANCE, ETC.
13. CONNECTIONS, ETC.
14. MANAGEMENT
15. CONFLICT OF INTEREST
16. PROCUREMENT OF ENGINEERING SERVICES
17. EXECUTION OF COUNTERPARTS

We, the undersigned MAYOR and RECORDER of The Town of Bethany, in Brooke County, West Virginia (the "Issuer"), and the undersigned COUNSEL to the Issuer, acting for the Issuer and in its name, hereby state and certify on this 19th day of June, 2009, in connection with The Town of Bethany Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture), No. AR-1, fully registered, dated the date hereof, in the principal amount of \$500,000, and bearing interest at the rate of 4.375% per annum (the "Series 2009 A Bonds") as follows:

1. AUTHORIZATION AND AWARD OF BOND: The undersigned are authorized to execute this certificate on behalf of the Issuer and are knowledgeable with respect to the matters set forth herein. The entire issue of the Series 2009 A Bonds have been duly awarded to the United States of America, acting by the United States Department of Agriculture, Rural Utilities Service (the "Purchaser"), pursuant to the Letter of Conditions from the Purchaser, as amended, and as appears in Section 7.03 of the Bond Ordinance duly enacted on March 4, 2009, as supplemented, authorizing issuance of the Bond (the "Ordinance" or "Bond Ordinance"). Terms used herein and not otherwise defined herein shall have the same meaning as defined in the Bond Ordinance when used herein. The Series 2009 A Bonds are being issued on this date to permanently finance a

portion of the cost of acquisition and construction of the Project located within the boundaries of the Issuer and to pay costs of issuance thereof.

2. NO LITIGATION: No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting the issuance and delivery of the Series 2009 A Bonds or receipt of any grant moneys committed for the System; nor questioning the proceedings and authority by which the Issuer authorized the issuance and sale of the Series 2009 A Bonds; nor in any way questioning or affecting the validity of the grants committed for the System or the Series 2009 A Bonds, or any provisions made or authorized for the payment thereof, including, without limitation, the pledge or application of any moneys or security therefor; nor questioning the existence, powers or proceedings of the Issuer or the Council of the Issuer (the "Governing Body") or the title of the members and officers thereof to their respective offices; nor questioning the operation of the sewerage system of the Issuer (the sewerage system, as improved and expanded by the Project, as defined in the Ordinance, is herein called the "System") or the acquisition and construction of the Project being financed in part out of the proceeds of sale of the Series 2009 A Bonds; nor questioning the rates and charges provided for services of the System.

3. GOVERNMENTAL APPROVALS: All applicable and necessary approvals, permits, authorizations, registrations, exemptions, consents and certificates required by law for the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Series 2009 A Bonds have been duly and timely obtained and remain in full force and effect, the time for appeal of which or rehearing having expired. Competitive bids for the acquisition and construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the Official West Virginia Code of 1931, as amended, which bids remain in full force and effect.

The Issuer has received the Recommended Decision of the Public Service Commission of West Virginia entered on November 24, 2008, which became Final Order on December 14, 2008, in Case No. 08-1259-S-CN, granting to the Issuer a certificate of public convenience and necessity for the Project, and approving the financing for the Project. The time for appeal of the Commission Orders have expired prior to the date hereof. Such Orders remain in full force and effect.

The Issuer enacted sewer rates and charges for the System on January 13, 2004. The time for appeal of such rates has expired prior to the date hereof without any timely appeals having been filed.

4. PUBLICATION AND NO PROTEST: Notice of public hearing upon the Bond Ordinance finally adopted and enacted March 4, 2009, as supplemented, was duly published as required by law.

There was not any protest to the passage of the Bond Ordinance, oral or written, and the Bond Ordinance became fully effective following the public hearing thereon and remains in full force and effect.

5. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS:

There has been no adverse change in the financial condition of the Issuer or the System since the approval by the Purchaser of a loan to assist in acquisition and construction of the Project.

There are outstanding obligations of the Issuer which will rank on a parity with the Series 2009 A Bonds as to liens, pledge and source of and security for payment, being the Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated February 22, 2005, issued in the original aggregate principal amount of \$1,250,000 (the "Series 2005 A Bonds" or the "Prior Bonds"). Other than the Prior Bonds, and the Series 2009 A Bonds, there are no other bonds or obligations of the Issuer outstanding which are secured by or payable from any revenues and/or assets of the System.

The Issuer is not in default under the terms of the Prior Bonds, the ordinance and resolution authorizing the Prior Bonds or any document in connection therewith, and has complied with all requirements of all the foregoing with respect to the issuance of parity bonds or has obtained a sufficient and valid consent or waiver thereof.

6. SIGNATURES, ETC.: The undersigned Mayor and Recorder did, for the Issuer on the date hereof, officially execute and seal the Series 2009 A Bonds with the official corporate seal of the Issuer, an impression of which seal is on this certificate above our signatures and said officers are the duly elected or appointed (as applicable), qualified and serving officers as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Series 2009 A Bonds for the Issuer.

7. 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, supplemented or changed in any way unless modification appears from later documents also listed below.

Bond Ordinance

Series 2005 A Bond Ordinance

Consent of West Virginia Water Development Authority  
to Issuance of Parity Bonds

Public Service Commission Orders

United States Department of Agriculture Loan Resolution

Specimen Series 2009 A Bond

Town Charter

Oaths of Office of Officers and Council Members

Resolution on Open Governmental Proceedings

Sewer Rate Ordinance

Affidavit of Publication on Rate Ordinance

Minutes on Adoption and Enactment of Rate Ordinance

Petition of Sanitary Board

Affidavit of Publication on Bond Ordinance

Minutes on Adoption and Enactment of Bond Ordinance

United States Department of Agriculture Letter of Conditions and Closing Instructions

Receipt of Depository Bank

8. INCUMBENCY AND OFFICIAL NAME, ETC.: The proper corporate title of the Issuer is "The Town of Bethany." The Issuer is a municipal corporation in Brooke 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, a Recorder and 5 councilmembers, 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:

<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Sven DeJong, Mayor	02/21/05	06/30/09
Cynthia Hoffman, Recorder	02/21/05	06/30/09
Patrick Sutherland, Councilmember	02/21/05	06/30/09
Helen Moren, Councilmember	02/21/05	06/30/09
James Forrester, Councilmember	02/21/05	06/30/09
Jay Eisenhower, Councilmember	02/20/05	06/30/09
Gary Williamson, Councilmember	02/21/05	06/30/09

The duly elected or appointed officers of the Sanitary Board for 2009 are as follows:

Sven DeJong  
Thom Furbee  
Frank Dorsch

The duly appointed and acting Counsel to the Issuer is Frank Andrew Jackson, Esquire, in Wheeling, West Virginia.

9. DELIVERY AND PAYMENT AND USE OF PROCEEDS: On the date hereof, the Series 2009 A Bonds were delivered to the Purchaser at Bethany, West Virginia, by the undersigned Mayor for the purposes herein set forth, and at the time of such delivery, the Series 2009 A Bonds had been duly and fully executed and sealed on behalf of the Issuer in accordance with the Bond Ordinance.

At the time of delivery of the Series 2009 A Bonds, the amount of \$49,300 was received by the undersigned Mayor, being a portion of the principal amount of the Series 2009 A, the balance to be paid as acquisition and construction of the Project progresses.

The Series 2009 A Bond is dated the date hereof and interest on advances thereon at the rate of 4.375% per annum is payable from the date of each respective advance.

The Series 2009 A Bonds and the entire proceeds thereof will be used for the purposes herein set forth and for no other purposes.

10. 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, 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 Series 2009 A Bonds.

11. MEETINGS; PUBLICATION AND POSTING OF NOTICES, 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 acquisition, construction, operation and financing of the Project and the System were authorized, enacted or adopted at meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Charter of the Issuer and any 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 published and/or posted were so published and/or posted.

12. CONTRACTORS' INSURANCE, ETC.: All contractors will be required to maintain Workers' Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Letter of Conditions of the Purchaser, as amended, and the Bond Ordinance.

13. CONNECTIONS, ETC.: The Issuer will serve at least 226 bona fide full time users of the System, upon completion of the Project, in full compliance with the requirements of the Purchaser.

14. MANAGEMENT: The Issuer has heretofore delivered to the Purchaser a plan concerning operation and management of the System, which plan was found to be acceptable by the Purchaser.

15. CONFLICT OF INTEREST: No 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 Bond, the Bond Ordinance and/or the Project, including, without limitation, with respect to the Depository Bank, as defined in the Bond Ordinance. 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.

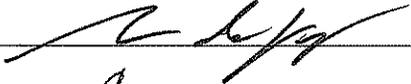
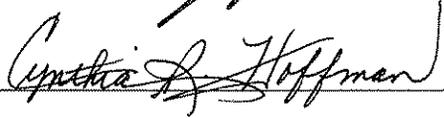
16. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has complied in all respects with the requirements of Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended, in the procurement of engineering services to be paid from proceeds of the Bonds.

17. 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.

[Remainder of Page Intentionally Blank]

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

[CORPORATE SEAL]

<u>SIGNATURE</u>	<u>OFFICIAL TITLE</u>
	Mayor
	Recorder
	Counsel to Issuer

072270.00003

THE TOWN OF BETHANY

Sewer Revenue Bonds, Series 2009 A  
(United States Department of Agriculture)

ENGINEER'S CERTIFICATE

I, Manning Frymier, Registered Professional Engineer, West Virginia License No. 8497, of Cerrone Associates, Inc., Wheeling, West Virginia, hereby certify that my firm was the engineer for the acquisition and construction of improvements and extensions to the existing sewerage system (the "Project") of The Town of Bethany (the "Issuer"), constructed in Brooke County, West Virginia, which acquisition and construction are being financed in whole or in part by the above-captioned revenue bonds of the Issuer.

I further certify that the Project has, to the best of my knowledge, been constructed in accordance with plans and specifications prepared by my firm.

I further certify to the best of my knowledge, that the Project is adequate for the purposes for which it was designed and that all necessary governmental approvals, consents, authorizations, certificates and permits for the acquisition and construction thereof have been obtained or can and will be obtained.

WITNESS my signature on this 19th day of June, 2009.

CERRONE ASSOCIATES, INC.

(SEAL)

  
Manning Frymier, P.E.  
West Virginia License No. 8497

072270.00003

CH5000602.1



Smith, Cochran & Hicks, P.L.L.C.

Certified Public Accountants

Oak Hill Bridgeport Charleston Montgomery

405 Capitol Street • Suite 908 • Charleston, West Virginia 25301 • 304-345-1151 • Fax 304-346-6731

June 19, 2009

The Town of Bethany  
Sewer Revenue Bonds, Series 2009 A  
(United States Department of Agriculture)

West Virginia Water Development  
Authority  
Charleston, West Virginia

Steptoe & Johnson PLLC  
Charleston, West Virginia

The Town of Bethany  
Bethany, West Virginia

United States Department of Agriculture  
Parkersburg, West Virginia

Ladies and Gentlemen:

Based upon the rates and charges set forth in the sewer rate ordinance enacted by The Town of Bethany (the "Issuer") on January 13, 2004, and projected operation and maintenance expenses and anticipated customer usage as furnished to me by the Issuer, it is my opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the sewerage 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 Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture) and the Issuer's outstanding (i) Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated February 22, 2005, issued in the original aggregate principal amount of \$1,250,000 (the "Prior Bonds").

It is further my opinion that the Net Revenues actually derived from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of the Series 2009 A 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 the Series 2009 A 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 Series 2009 A Bonds and the Prior Bonds currently outstanding.

SMITH COCHRAN & HICKS, CPA

072270.00003

AN ACT

(Chap. 513)

Incorporating the Town of Bethany.

Passed April 6, 1853

Be it enacted by the General Assembly that the Town of Bethany in the County of Brooke shall be comprised within the following limits, beginning at a point where the eastern line of the college grounds strikes Buffalo Creek. thence by the said line to Pendleton street. thence by the western line of Pendleton street to Buffalo Creek, by Buffalo Creek to the mouth of Richardson street, Thence by the eastern line of Richardson street to its intersection with Ross street, thence by Ross street to Buffalo Creek, thence by Buffalo Creek to the place of beginning and the said town within the limits aforesaid is hereby made a town corporate by the name and style of "the town of Bethany" and by that name shall have and exercise the powers conferred upon towns by the fifty-fourth chapter of the Code of Virginia and be subject to all the provisions of said Code

The officers of said town shall consist of nine trustees (five of whom can act) who shall compose the counsel and shall hold their offices for one year and until their successors are appointed and a sergeant who shall be elected annually

Isaac Stewart, John Mendel and A. W. Campbell or any two of them are hereby authorized to hold an election on the first Monday in July next agreeably to the aforesaid chapter of the Code of Virginia and annually thereafter on the first Monday in May

This act shall be in force from its passage

The above is a true copy of Chapter 513 of the Acts of the General

- 2 -

Assembly of the Commonwealth of Virginia for the session of 1852-53,  
approved April 6, 1853.

*George R. Nisbet*  
Clerk of the House of Delegates and  
Keeper of the Rolls of the State.

Richmond, Virginia

June 21, 1853

OATH OF OFFICE

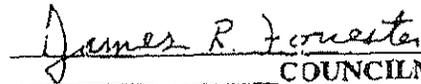
STATE OF WEST VIRGINIA

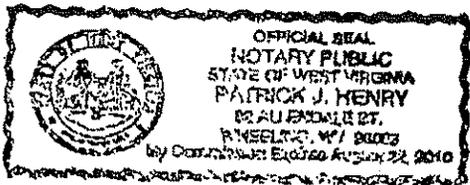
COUNTY OF BROOKE, TO-WIT:

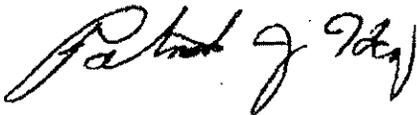
I, SVEN M. DE JONG, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the OFFICE OF MAYOR of the Town of Bethany, West Virginia, to the best of my skill and judgment, so help me God.

  
SVEN M. DE JONG

Subscribed and sworn to before me in said County and State this 21 day of February, 2005.

  
COUNCILMEMBER





OATH OF OFFICE

STATE OF WEST VIRGINIA

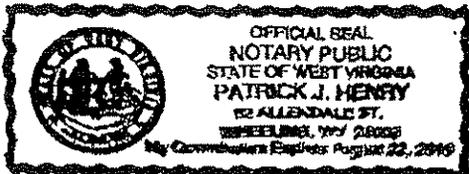
COUNTY OF BROOKE, TO-WIT:

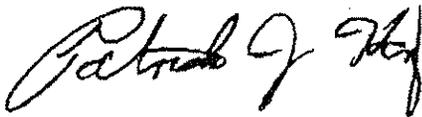
I, DEBRA HULL, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the OFFICE OF COUNCILMEMBER of the Town of Bethany, West Virginia, to the best of my skill and judgment, so help me God.

  
DEBRA HULL

Subscribed and sworn to before me in said County and State this 21 day of February, 2005.

  
SVEN M. DE JONG, MAYOR



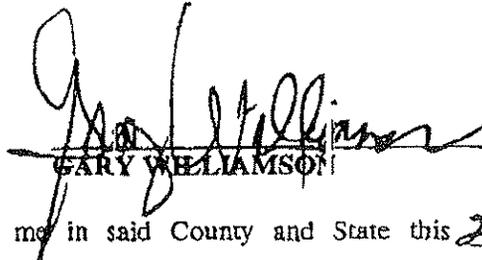


OATH OF OFFICE

STATE OF WEST VIRGINIA

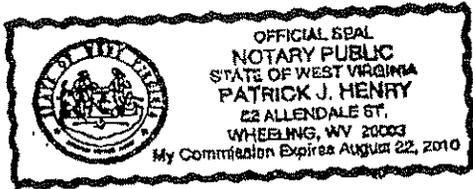
COUNTY OF BROOKE, TO-WIT:

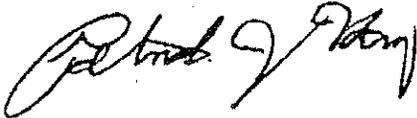
I, GARY WILLIAMSON, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the OFFICE OF COUNCILMEMBER of the Town of Bethany, West Virginia, to the best of my skill and judgment, so help me God.

  
GARY WILLIAMSON

Subscribed and sworn to before me in said County and State this 21 day of February, 2005.

  
SVEN M. DE JONG, MAYOR





OATH OF OFFICE

STATE OF WEST VIRGINIA

COUNTY OF BROOKE, TO-WIT:

I, JAY EISENHAUER, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the OFFICE OF COUNCILMEMBER of the Town of Bethany, West Virginia, to the best of my skill and judgment, so help me God.

  
JAY EISENHAUER

Subscribed and sworn to before me in said County and State this 20 day of February, 2005.

  
SVEN M. DE JONG, MAYOR

OATH OF OFFICE

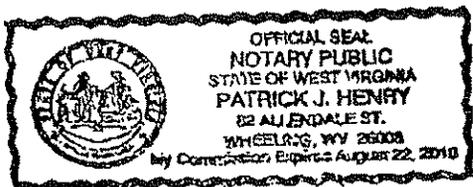
STATE OF WEST VIRGINIA

COUNTY OF BROOKE, TO-WIT:

I, JAMES FORRESTER, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the OFFICE OF COUNCILMEMBER of the Town of Bethany, West Virginia, to the best of my skill and judgment, so help me God.

James R. Forrester  
JAMES FORRESTER

Subscribed and sworn to before me in said County and State this 21 day of February, 2005.



Sven M. De Jong  
SVEN M. DE JONG, MAYOR

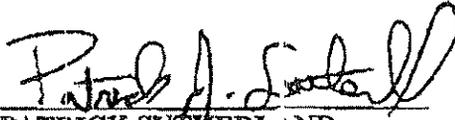
Patrick J. Henry

OATH OF OFFICE

STATE OF WEST VIRGINIA

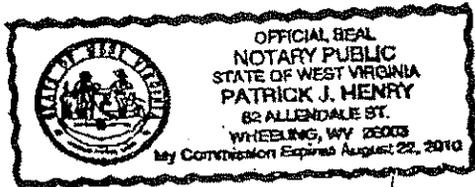
COUNTY OF BROOKE, TO-WIT:

I, PATRICK SUTHERLAND, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the OFFICE OF COUNCILMEMBER of the Town of Bethany, West Virginia, to the best of my skill and judgment, so help me God.

  
PATRICK SUTHERLAND

Subscribed and sworn to before me in said County and State this 21 day of February, 2005.

  
SVEN M. DE JONG, MAYOR





ORDINANCE NO. 117

AN ORDINANCE OF THE TOWN OF BETHANY, WEST VIRGINIA,  
PROVIDING FOR OPEN GOVERNMENTAL PROCEEDINGS

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BETHANY, WEST VIRGINIA:

Section 1. Policy. The council finds and declares that West Virginia law requires generally that proceedings of municipal government be conducted openly, except as otherwise expressly provided. Accordingly, it shall be the public policy of Bethany that the provisions of the open governmental proceedings act as enacted in West Virginia (Section 6-9A-1 et seq. of the West Virginia Code) shall be implemented as fully as practicable in the proceedings of this municipality.

Section 2. Definitions. As used in this ordinance:

(a) "Governing body" means the elected governing body of this municipality, comprised of a mayor, a recorder and a legislative council of five members, as described in Ordinance No. 109 of this municipality, Articles 5 and 9 of Chapter 8 of the West Virginia Code and other provisions of law, as such provisions be amended from time to time.

(b) "Other public agency" means any other administrative or legislative unit of this municipality authorized by law to exercise some portion of administrative or legislative power. Public agencies of Bethany include the municipal planning commission, the municipal sanitary board and any other commission, authority, board, committee or other agency or unit of municipal government, the membership of which shall consist of two or more members and which shall have authority to make decisions on matters of policy or administration or to make recommendations to the governing body or another public agency on such matters.

(c) "Meeting" means the convening of the governing body or other public agency for which a quorum is required in order to make a decision or recommendation or to deliberate toward a decision or recommendation on any matter which requires or results in an official action. The term "meeting" is not limited to gatherings of members in close proximity but may include telephone conferences and other electronic means. The term "meeting" does not include:

(i) A hearing for the purpose of making an adjudicatory decision in a case or controversy;

(ii) An on-site inspection of a project or program;

(iii) General discussions among members of the governing body or other public agency on issues of interest to the public when held in a planned or unplanned social, educational, training, informal, ceremonial or similar setting, without intent to conduct public business even if a quorum is present and public business is discussed, so long as there is no intention for the discussion to lead to an official action;  
or

(iv) Discussions by members of the governing body or other public agency on logistical and procedural methods to schedule and regulate a meeting.

(d) "Decision" means any determination, action, vote or final disposition of a motion, proposal, resolution, order, ordinance or measure on which the vote of the governing body or other public agency is required at any meeting at which a quorum is present.

(e) "Official action" means action which is taken pursuant to power granted by law, ordinance, policy or rule or by reason of the office held.

(f) "Quorum" means the gathering of a majority of the constituent membership of the governing body or other public agency, unless applicable law provides otherwise. In the case of the governing body, however, a quorum shall not be found unless three or more members of the council be present.

(g) "Executive session" means any meeting or part of a meeting of a governing body or other public agency which is closed to the public.

Section 3. Proceedings to Be Open; Public Notices of Meetings. (a) Except as expressly and specifically otherwise provided by law, whether previously or subsequently enacted, and except as provided in section 4 below, all meetings of the governing body and other public agencies shall be open to the public.

(b) If a majority of those present in person concur, a quorum may be found and a meeting be convened and held with one or more members participating by telephone and speakers so long as all members are audible to each other and to the public present. The approval of such telephonic participation shall be noted in the minutes.

(c) The governing body and other public agencies may make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend.

(d) This ordinance does not prohibit the removal from a meeting of any member of the public who is disrupting the meeting to the extent that the orderly conduct of the meeting is compromised.

(e) Comments from the public shall be permitted at all meetings. Persons who desire to address the governing body or other public agency may not be required to register for such purpose more than 15 minutes prior to the time the meeting is scheduled to commence.

(f) The governing body and other public agencies shall 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, except in the event of an emergency requiring immediate action.

(g) Unless and until council shall promulgate other rules by subsequent ordinance, the governing body shall regularly meet on the second Tuesday of every month, at 7:00 p.m., at the Bethany Community Center, at 101 Church Street, and the agenda for each such regular meeting shall be issued at least three days

in advance of the meeting and shall be posted on the exterior bulletin board of such building, in at least two other places of common public gathering within the municipality, and on the Internet at the web site regularly maintained by the municipality. Unless and until the council shall expressly determine otherwise, the places of public notice shall include the public post office at Ross and Pendleton Streets and the store on Main Street near Ross Street known as Chambers General Store. Special meetings of the governing body shall similarly be held at the Bethany Community Center, and two days' notice of the date, time and purpose of the meeting shall similarly be posted. In calculating three- and two-day notice periods, the day of the meeting, Saturdays, Sundays and legal holidays shall not be counted. Meetings shall not be held on legal holidays, and if a scheduled meeting shall fall on a legal holiday (as defined in Section 2-2-1 of the West Virginia Code) or shall otherwise be rescheduled, the meeting date shall be the first succeeding day which is not a legal holiday and for which three days' or two days' notice (as appropriate) shall have been given as provided in this subsection.

(h) In the event of an emergency requiring immediate official action, the governing body or other public agency shall post an emergency meeting notice at any time prior to the meeting. The emergency meeting notice shall state the date, time, place and purpose of the meeting and the facts and circumstances of the emergency.

(i) The agenda for each meeting shall reasonably describe all matters requiring official action by the governing body or other public agency that will be addressed at the meeting. Copies of each such agenda shall be available for inspection by the public attending the meeting before any vote is taken.

(j) A general notice containing the schedule for all regular meetings of the governing body or other public agency shall be posted annually on the exterior bulletin board of the Bethany Community Center and shall be maintained throughout the year.

(k) If members of the governing body or other public agency gather in any setting (for example, in an educational, training, informative or other work session) without intending to conduct public business, they may make no decision or recommendation nor may they deliberate toward a decision or recommendation on any matter which requires or results in an official action, even if a quorum be present.

(l) In the absence of more specific provisions in applicable law or established rules or procedures, the latest edition of Roberts' Rules of Order shall govern all meetings.

(m) Upon petition by any adversely affected party, a court of proper jurisdiction may invalidate an action taken at a meeting for which notice did not comply with the requirements of this section or of other applicable law.

Section 4. Executive Sessions. (a) The governing body or other public agency may hold an executive session during a regular, special or emergency meeting, in accordance with the provisions of this section and applicable law. During the open portion of the meeting, prior to convening an executive session, the presiding officer shall identify the authorization under this section for holding the executive session and shall present the authorization to the governing body or other public agency, as the case may be, and to the general public. No decision may be made in the executive session.

(b) An executive session may be held only upon a majority affirmative vote of the members present of the governing body or other public agency for any of the following purposes:

(i) To consider matters arising from the appointment, employment, retirement, promotion, transfer, demotion, disciplining, resignation, discharge, dismissal or compensation of a public officer or employee or a prospective public officer or employee, unless such person shall request an open meeting.

(ii) To conduct a hearing on a complaint, charge or grievance against the public officer or employee, unless such person requests an open hearing, but final action for the appointment, employment, retirement, promotion, transfer, demotion, disciplining, resignation, discharge, dismissal or compensation of an individual shall be taken in an open meeting. General personnel policy issues may not be discussed or considered in an executive session.

(iii) To issue, effect, deny, suspend or revoke a license, certificate, registration or other benefit, unless the person affected requests an open meeting.

(iv) To consider the physical or mental health of any person, unless such person requests an open meeting.

(v) To discuss any material the disclosure of which would constitute an unwarranted invasion of an individual's privacy, such as any records, data, reports, recommendations or other personal material relating to a program or institution operated by a public body.

(vi) To consider matters relating to crime prevention or law enforcement or to security personnel or security devices.

(vii) To consider matters affecting the purchase, sale or lease of property or other matters involving commercial competition, which if made public might adversely affect the financial or other interests of the municipality. Information involving commercial competition, however, shall be exempt from disclosure under this ordinance only until the commercial competition has been completed. Information not subject to release pursuant to the West Virginia freedom of information act (Chapter 29B of the West Virginia Code) shall not become the subject of disclosure because of an executive session.

(viii) To avoid the premature disclosure of a prize or award.

(ix) To enable privileged communications between the governing body or other public agency and its attorney, including consideration of a settlement of a disputed matter. After the matter is concluded, and if the terms of a settlement allow disclosure, the terms of the settlement shall be reported at a meeting of the governing body or other public agency and reflected in the minutes, within a reasonable time.

(x) To discuss any matter which by express provision of federal law or state statute or rule of court is rendered confidential or which is not considered a public record within the meaning of the West Virginia freedom of information act.

Section 5. Minutes. The governing body and other public agencies shall provide for the preparation of written minutes of all of their meetings. 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:

(i) The date, time and place of the meeting;

(ii) The names of the members present (including the names of any members participating telephonically) and absent;

(iii) All motions, proposals, resolutions, orders, ordinances and measures proposed, the names of the persons proposing such matters, and the disposition of each such matter; and

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

Section 6. Enforcement by Injunction; Voidability. (a) It shall be a violation of law for the governing body or other public agency to hold a private meeting with the intention of transacting public business, thwarting public scrutiny and/or making decisions that become official action.

(b) As provided with greater particularity in Section 6-9A-6 of the West Virginia Code, the provisions of this ordinance may be enforced by an appropriate and timely proceeding in the Circuit Court of Brooke County, West Virginia. Such court may annul a decision made in violation of this ordinance and may order other relief as permitted by law. If an order of such court shall compel compliance or enjoin noncompliance with the provisions of this ordinance or applicable law or shall annul a decision made in violation of this ordinance or such law, such order (including findings of fact and conclusions of law) shall be recorded in the minutes of the governing body or other public agency.

Section 7. Special Provision for Bond Issues. Notwithstanding the provisions of every other ordinance of this municipality and all other provisions of applicable law, no bond issue shall be finally considered, passed or approved by the governing body unless notice of such meeting and proposed bond issue was given at least 10 days prior to the meeting by a Class I legal advertisement published in a qualified newspaper of general circulation in accordance with the provisions of Section 59-3-1 et seq. of the West Virginia Code.

Section 8. Acting by Reference; Written Ballots. (a) Except as otherwise expressly provided by law, the members of the governing body or other public agency may not deliberate, vote or otherwise take official action upon any matter by referring to a letter, number or other designation or by other secret device or method which may render it difficult for persons attending the meeting to understand the deliberation, vote or action. Such prohibition shall not, by itself, prohibit the governing body or other public agency from referring to a written agenda so long as copies of the agenda are available for public inspection at the meeting.

(b) Neither the governing body nor any other public agency may vote by secret or written ballot.

Section 9. Broadcasting or Recording Meetings. (a) Except as otherwise provided in this section, a radio or television station may broadcast or record all or any part of a meeting required to be open.

(b) The governing body or other public agency 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, but the governing body or other public agency shall nevertheless 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 such equipment may not be declared to constitute undue interference. If the governing body or other public agency shall determine in good faith 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/or 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 governing body or other public agency, acting in good faith and consistently with the purposes of this ordinance, may require the pooling of the equipment and the operating personnel.

Section 10. Interpretive or Advisory Opinions. In the event of any question with respect to the application of this ordinance to the proceedings of the governing body or other public agency, an interpretive or advisory opinion may be sought from the executive director of the West Virginia ethics commission or the West Virginia ethics commission committee on open governmental meetings, as described in Sections 6-9A-10 and 11. of the West Virginia Code.

Section 11. Special Duties of Recorder. The recorder shall copy and forward to the members of the governing body and to the chairpersons of other public agencies such summaries and interpretations prepared by the office of the West Virginia attorney general as pertain to open governmental proceedings that the recorder may receive from time to time. In particular the recorder in a timely manner, as provided by law, shall provide copies or summaries of such materials to newly elected members of the governing body.

Section 12. Effective Date. This ordinance shall be effective upon its adoption.

/s/ Sven deJong  
Mayor

First Reading: 11/18/03

Second Reading (adopted): 12/ 9/03

#### ORDINANCE NO. 53

### AN ORDINANCE PROVIDING FOR INTEGRATING THE CONDUCT OF ALL MUNICIPAL ELECTIONS WITHIN THE SYSTEM OF PERMANENT REGISTRATION OF VOTERS

WHEREAS, the Town of Bethany is required by W. Va. Code Section 8-5-13 (1976 Replacement Vol.) to make provision for integrating the conduct of all municipal elections within the system of permanent registration of voters.

**ORDINANCE NO. 118**

**AN ORDINANCE OF THE TOWN OF BETHANY, WEST VIRGINIA,  
AMENDING THE RATES, FEES AND CHARGES FOR USE AND  
SERVICE OF THE MUNICIPAL SEWERAGE AND SEWAGE WORKS,  
OPERATED BY THE BETHANY SANITARY BOARD, AND  
SUPERSEDING ORDINANCE NO. 107, ADOPTED DECEMBER 10, 2002,  
AND ANY OTHER PRIOR INCONSISTENT LEGISLATION**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BETHANY, WEST VIRGINIA:

Section 1. The rates, fees and charges for the use and service of the municipal sewerage and sewage works, operated by the Bethany Sanitary Board, which rates, fees and charges were established by Ordinance No. 107, adopted December 10, 2002, are hereby superseded, and there are hereby imposed the following rates, fees and charges, to be paid by the owner of each and every lot, parcel of real estate, or building that is connected with and uses such works by or through any part of the sewerage system of the Town of Bethany, or that in any way uses or is served by such works:

\$6.45 per 1,000 gallons of water used (as determined from Ohio County Public Service District water meters, including estimates and minimums based on water meter size).

Section 2. The Bethany Sanitary Board shall cause each customer to be billed on a monthly basis, and there shall be a 10% penalty for payments made later than 20 days after the billing date. The minimum monthly charges will be \$19.35 for sewer customers with metered water supplies and \$29.03 for sewer customers with non-metered water supplies.

Section 3. There shall be a charge of \$100.00 for every residential customer tapping into the Bethany sewerage system and \$500.00 for every commercial customer.

Section 4. A charge of \$20.00 shall apply for reestablishing service whenever the supply of water is turned off for violation of rules and regulations, nonpayment of bills or fraudulent use of water. Such charge shall be paid to the Ohio County Public Service District and not to the Town of Bethany or the Bethany Sanitary Board. Neither the Town of Bethany nor the Bethany Sanitary Board shall make any such charge. The decision to increase or modify such charge shall rest with the Ohio County Public Service District.

Section 5. The Town Council does hereby state its findings, having been advised of its duty to consider such matters, that such rates are just and reasonable, are applied without unjust discrimination or preference, and are based primarily on the costs of providing service.

Section 6. Council finds that after the introduction of this ordinance, but before the ordinance was finally adopted, notice was given of a hearing, at which all the users of the works of the Bethany Sanitary Board and owners of property served or to be served thereby and others interested would have an opportunity to be heard concerning the proposed rates. Such notice was given by the Town Recorder by publication as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 et seq. of the West Virginia Code. The first publication was made at least ten (10) days before the date fixed in such notice for the hearing, and such hearing was held on the date and at the time and place specified in the notice, as provided in §16-13-16 and other relevant sections of the West Virginia Code.

Section 7. Not later than five (5) calendar days following adoption of this ordinance, the Bethany Sanitary Board shall provide notice to its customers of the pending rate change, in one of three (3) ways, as follows:

(i) Notice of the pending rate change may be specified on monthly billing statements of all customers within five days after the adoption of this ordinance; or

(ii) Notice of the pending rate change may be provided to all customers by first class mail within five days after the adoption of this ordinance; or

(iii) A press release may be issued announcing the adoption of the pending rate change and a Class II legal advertisement may be published, the first such publication to occur within five days after the adoption of this ordinance.

Section 8. The notice provided shall meet the requirements of §24-2-4b(c) of the West Virginia Code, Procedural Rule 2.1.(c)(4) of the West Virginia Public Service Commission, and other applicable provisions of law. Customers shall have a protest period that shall commence after the adoption of this ordinance and shall continue for 30 days.

Section 9. Also, within five (5) days after the adoption of this ordinance a filing shall be made in the office of the Executive Secretary of the Public Service Commission, in accordance with Procedural Rule 2.1.(f). Such filing shall contain the following:

(i) The new rates and charges;

(ii) A copy of this ordinance;

(iii) The justification for such ordinance, including a pro forma income statement showing the costs of providing service and the revenues to be generated by the new rates and charges;

(iv) An affidavit of publication with respect to the notice described in section 6 above;

(v) Documentation from the Bethany Sanitary Board verifying that one of the three (3) methods of notice described in section 7 above was given within the five-day period following adoption of this ordinance. If notice was provided by newspaper publication, the Bethany Sanitary

Board must within 20 days after adoption of the rate change, file a verification that a press release was issued together with an affidavit of publication of legal notice. If a method was used other than newspaper publication, the Bethany Sanitary Board must include with its filing an affidavit that indicates the method used and that notice was given; and

(vi) A statement of the correct number of customers served by the Bethany Sanitary Board, as determined by the number of bills rendered in the billing cycle last completed before adoption of this ordinance.

Section 10. If no protest be filed with the Public Service Commission under the provisions of §24-2-4b of the West Virginia Code, then this ordinance shall take effect upon the commencement of construction of the Sanitary Board's pending Sewer System Improvements Project, or soon thereafter as practicable, as the Sanitary Board by a written determination and notice shall specify, but not earlier than 45 days from the date of adoption of this ordinance.

Section 11. Ordinance No. 107, adopted December 10, 2002, is repealed as of the time that the rates established by this ordinance become effective. Similarly, any other prior inconsistent legislation of the Town Council is repealed as of such date, to the extent of the inconsistencies.

/s/ Sven deJong  
MAYOR

First Reading: December 23, 2003

Second Reading (adopted): January 13, 2004

sewageamd3.ord

# **Town Council Special Meeting**

Tuesday December 23, 2003

7:00 pm

Town Council Chambers

## **Agenda**

1. 1<sup>st</sup> Reading of Sanitation Ordinance Rate Increase to be effective upon the date construction for sanitation system improvements begins. (Anticipated date, September 2004)

Meeting Open to the Public

Sven de Jong  
Mayor

TOWN OF BETHANY  
JANUARY 13, 2004  
SVEN deJONG, MAYOR  
COUNCIL CHAMBERS

Council members present: Lisa Wenner, Gray Williamson, James Forrester, and Pat Sutherland. Others Shirley Kemp, Treasurer, Attorney Andy Jackson, Solicitor and Helen Moren, Recorder. Guest: Cyndi Hoffman, David George, Gary and Stephanie Kappel.

Pat Sutherland moved; seconded by Lisa Wenner to accept the minutes as corrected. Gray Williamson moved; seconded by Jim Forrester to accept the treasurer's report.

Mayors Report:

The City of Wheeling donated to radar guns to the town. Reported on the flooding at John and Millie Ferry's home. It was due to sewage blockage. He stated Marvin Platter and Bill Barnhart assisted the town in the clean-up. Mayor deJong thanked Jay Eisenhower for assisting the Mayor in cleaning out storm drains. He reported nine vehicles were vandalized and a water break at the community center. He spoke to the American Disposal Company about late pick-up, they are trying to make adjustments and are aware of the problem. Dr. John Cunningham was appointed Assistant to Bethany College President and will serve as liaison between town and Bethany College. The agreement was approved by Dr. Patricia Potat. Slide on Rt. 67. a contract has been signed and work will begin, utility lines will be move across the road. Some damage was done to the sewage plant. Pendleton Street will become a two-way street until the road project is finish. Mayor deJong thanked Gray Williamson for helping to direct traffic and Senator Andy McKenzie and Delegate Tim Ennis for their support on the Rt. 67 project. New lights have been installed at the Recreation Center on Rt. 67, signs will be install at top of hill and speed limit signs will be placed thru Main Street. Pat Sutherland thanked the Mayor for expediting the safety issue.

Jim Forrester praised Mayor Sven deJong on a wonderful job done doing the time of ~~the~~ flooding.

Solicitor Report:

✓ Lisa Wenner moved; seconded by Jim Forrester to hear the second reading of Ordinance No. 118 Amending the Rates, Fees, and Charges for use and service of the Municipal Sewage. Motion carried. Attorney Jackson stated we will need a sewage ordinance.

Sanitation Update: The sanitation board met December 18, 2003. The board was briefed on sanitation project and it is on schedule. The board will meet once a month.

Mayor deJong will meet with Rick Hudson in regards to getting the community center project started. He spoke to Congressman Alan Mollohan's office requesting funding for the building. The old committee will be activated. The Mayor will be working with Bethany College Development Office in securing grants.

Gray Williamson moved; seconded by Jim Forrester to hear the first reading of Ordinance 119 authorizing the refunding of the outstanding sewerage system bond anticipation notes, series 2003. Motion carried.

Lisa Wenner mover; seconded by Jim Forrester to accept Pat Sutherland resolution concerning Pedestrian and Driver Safety Concerns/Actions within Bethany town limits. Motion carried.

Pat Sutherland will do a news release in regards to the traffic pattern on Rt. 67.

Council Concerns:

Pat Sutherland stated the town is looking for an intern to help with projects. He met with Kayla Young -land use plan. Topics discussed : what are our plans and town future, tourism and etc. Communications with other communities. Lisa suggested using the intern and developing a town newsletter. The Mayor is going to suggest that Brooke County Commissioners meet at 7:00 P.M. once a month for interest people.

Jim Forrester stated that Karen McFadden was concerned about the up-date on the animal shelter. Mayor has spoken to Sylvia Benzo on this matter. Jim Forrester will relate this information to Karen McFadden.

Lisa Wenner officially resigned her position as town council member. Her new employment will take her to Erie, Pa. Mayor deJong thanked her for serving on council and the 150th anniversary committee and wished her well.

Reminder: Law enforcement meeting Jan 20, at 6:00 P.M. and record keeping Jan. 29, at 6:00 P.M. The Mayor has 300 gun safety locks to be given to interest citizens. Project ChildSafe project is funded by U.S. Department of Justice grant.

Jim Forrester moved; seconded by Lisa Wenner to adjourn at 08:25 P.M..

Helen Moren, Recorder

Helen Moren

Sven deJong, Mayor

TOWN OF BETHANY  
JANUARY 20, 2004  
SPECIAL MEETING  
SVEN deJONG, MAYOR

Council members present: Pat Sutherland, Jay Eisenhauer, Jim Forrester and Gray Williamson. Also Helen Moren, Recorder.

Pat Sutherland asked for variance to construct a deck and patio at 101 Point Breeze Drive. All paper work has been completed. Kim Lawless, representing the zoning board has given their approval for the variance. Gray Williamson moved; seconded by Jim Forrester to approve the variance. Motion carried.

Executive session was held with Larry Palmer, Bethany Police Department.

Helen Moren, Recorder

Helen Moren

Sven deJong, Mayor

**THE TOWN OF BETHANY  
PUBLIC NOTICE**  
THE TOWN OF BETHANY has proposed an ordinance amending the rates, fees and charges for use and service of the municipal sewage works, operated by the Bethany Sanitary Board as follows:

1. Usage rates of \$9.48 per 1,000 gallons of water used (as determined from Ohio County Public Service District water meters, including estimates and minimums based on water meter size).

2. Minimum monthly charges of \$19.35 for sewer customers with metered water supplies and \$29.03 for sewer customers with non-metered water supplies.

3. A charge of \$100.00 for every residential customer tapping into the Bethany sewerage system and \$500.00 for every commercial customer.

4. A charge of \$20.00 for reestablishing service whenever the supply of water is turned off, as provided in the ordinance.

5. A 10% penalty for payments made later than 20 days after the billing date.

The proposed usage rates represent a 98% increase over the present rates for residential customers and a 115% increase over the present rates for commercial customers. The increase in revenues will be applied to the costs of the pending Sewer System Improvements Project.

The proposed ordinance shall be considered for final reading and adoption at the regular meeting of the Bethany Town Council to be held on January 13, 2004.

Copies of the proposed ordinance setting forth the proposed rates, fees and charges in greater detail may be inspected at the Town of Bethany's offices, in the Bethany Community Building, 101 Church Street, Bethany, West Virginia.

All interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

Written inquiries or statements are encouraged for submission and should be addressed to the Town of Bethany, P.O. Box U, Bethany, West Virginia 26032.

HELEN MOREN  
Town Recorder  
Jan. 2, 9, 2004  
N.R., Jan. 2, 9, 2004

STATE OF WEST VIRGINIA  
COUNTY OF OHIO

I, Pat Wohel for the publisher of the NEWS REGISTER newspaper published in the CITY OF WHEELING, STATE OF WEST VIRGINIA, hereby certify that the annexed publication was inserted in said newspaper on the following dates:

1-02-04, 1-09-04

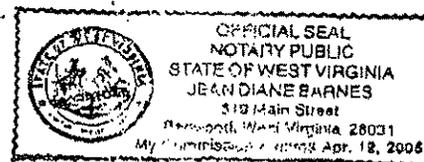
Given under my hand this 15<sup>th</sup> day of January, 2004.  
Pat Wohel

Sworn to and subscribed before me this 15<sup>th</sup> day of January, 2004 at WHEELING, OHIO COUNTY, WEST VIRGINIA.

Jean Diane Barnes  
Notary Public

of, in and for OHIO COUNTY, WEST VIRGINIA

My Commission expires April 12, 2005



CERTIFICATE OF PUBLICATION

The Brooke County Review

Brooke County  
Wellsburg, West Virginia

NOTICE OF PUBLIC HEARING ON  
TOWN OF BETHANY BOND ORDINANCE

A public hearing will be held on the following entitled Ordinance at a special meeting of the Council of the Town of Bethany (the "Town") to be held on Wednesday, March 4, 2009, at 6:00 p.m. in the Bethany Town Hall, Council Chambers, Bethany, 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 BETHANY

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF THE TOWN OF BETHANY AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$700,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 A (UNITED STATES DEPARTMENT OF AGRICULTURE) IN ONE OR MORE SERIES, DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS, PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS, AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

The above-entitled 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 the costs of acquisition and construction of certain additions, betterments and improvements to the sewerage system of the Issuer (the "Project"), and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds"), and related costs. The Bonds are payable solely from revenues to be derived from the ownership and operation of the system of the Town. 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 Bethany on February 4, 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/ Sven DeJong  
Mayor

(Feb 20 27)

I, J.W. George Wallace, publisher of The Brooke County Review, a newspaper of general circulation in Brooke County, West Virginia, published in Wellsburg, hereby Certifies that the attached advertisement was duly published in said Newspaper 2 successive weeks in the issues of February 20 & 27, 2009

Given under my hand this 27 day of Feb. 2009

*J.W. George Wallace*

Publisher of the Brooke County Review

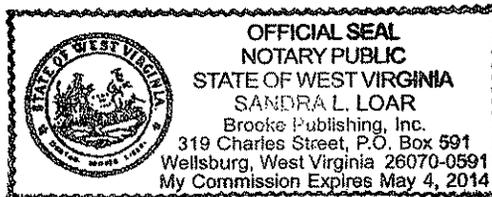
Printer's Fee \$ 89.36 Bond Ordinance Hearing

Subscribed and sworn to this 27 day of Feb 2009.

*Sandra L Loar*

May 04, 2014

My Commission expires



Regular Meeting of the Town Council February 4, 2009  
Bethany, West Virginia  
Town Council Chambers - 6pm

The following Minutes taken at the 1/7/09 meeting.

**Present:** Mayor -  
Recorder - Cynthia Hoffman  
Council Members - James Forrester  
Jay Eisenhauer  
Pat Sutherland

Treasurer – Shirley Kemp  
Solicitor - Mark D. Panepinto

**Absent:** Mayor Sven deJong  
Councilman Gray Williamson  
Councilwoman Helen Moren

**Guests –** William Hicks  
Hunter Knisley

Recorder Hoffman called the meeting to order and ask everyone to stand for the Pledge of Allegiance.

**Approval of Minutes:**

Recorder Hoffman asked if there are any additions or corrections to the minutes of the regular meeting December 3, 2008. Recorder Hoffman asks for a motion to accept the minutes. **A Motion** was made by Councilman Eisenhauer and seconded by Councilman Forrester to accept the Minutes of the regular meeting December 3, 2008. Roll call vote call for:

**Voting Ayes:** Councilman Sutherland  
Councilman Forrester  
Councilman Eisenhauer

**Absent:** Councilwoman Moren  
Councilman Williamson

**Noes:** None  
**Motion Carried**

\*The Agenda for this meeting January 7, 2009 is attached to these minutes and is made a part thereof.

**Treasurers Report/Sanitation Report:**

Attached are all the documents pertaining to the Treasurers Report:

- 1) Budget Report – General Fund December, 2008
- 2) Sanitation Report – December, 2008

Ms. Kemp explains, that the Sanitation account is building back up.

Recorder Hoffinan asks for a motion to accept the Treasurer’s Report.

**A Motion** was made by Councilman Forrester and seconded by Councilman Sutherland to accept the Treasurer’s Report. Roll call vote call for:

**Voting Ayes:** Councilman Sutherland  
Councilman Forrester  
Councilman Eisenhauer

**Absent:** Councilwoman Moren  
Councilman Williamson

**Noes:** None  
**Motion Carried**

**Bethany College Security Report:**

**Police Report:**

**Comments from the Public:** None

**Mayors Report:**

**Solicitors Report:**

Mr. Panepinto states that we haven’t heard anything, concerning the College Inn and the letter sent to Mr. George Bradley. Again, Mr. Panepinto states, that some of these ordinances and wording, go back to the year 1979.

Mr. Panepinto gave a brief report – re: Public Service Commission and Phase II of the sewer project.

Mr. Panepinto inquires about the contract – re: Veterans Memorial Grant (\$4,000) – he wants to make sure, that the paperwork has been sent to Charleston and that we are on track. The deadline for the completion of the memorial project is 6/30/09. Recorder Hoffinan states, that the paperwork has been sent to Charleston. We will have to contact Councilwoman Moren about the rest of the details.

Mr. Panepinto again asks for some direction, from the governing body concerning the weed ordinance, large animal issue and building permits. At this point, Councilman Sutherland suggests that the Mayor and Council have a "working session". Councilman Sutherland will get in touch with Mayor deJong.

**Unfinished Business:**

From the desk of Recorder Hoffman:

- 1) Recorder Hoffman states that the Bethany Municipal Planning Commission with a vote of eight (8) votes (the full commission), at a meeting held on January 6, 2009 would like to present, to the Mayor and Town Council the Bethany Comprehensive Plan. The "scope of changes" from the document given to the Mayor and Council a few months ago isn't that much different. If, the Mayor and Council accepts the Comprehensive Plan, the "governing body" has ninety (90) days to accept the plan, in the form of an ordinance. The "governing body" must hold a public hearing.

Recorder Hoffman asks for a motion to accept the Bethany Comprehensive Plan, from the Bethany Municipal Planning Commission and proceed with the WV Code, to accept the plan. **A Motion** was made by Councilman Forrester and seconded by Councilman Sutherland to accept the Bethany Comprehensive Plan, from the Bethany Municipal Planning Commission and proceed with the WV Code, to accept the plan. Roll call vote call for:

**Voting Ayes:** Councilman Sutherland - Councilman Forrester – Councilman Eisenhauer

**Absent:** Councilwoman Moren - Councilman Williamson

**Noes:** None

**Motion Carried**

- 2) Recorder Hoffman asks, if the council members would give her permission to attend the Mid-Winter Conference sponsored by WVML – Feb. 15-16, 2009 in Charleston, WV. Councilman Eisenhauer asks about the cost - Recorder Hoffman states that the registration fee is \$200.00 and the hotel cost is \$99.00 per night . **A MOTION** was made by Councilman Eisenhauer and seconded by Councilman Sutherland that Recorder Hoffman attend the Mid-Winter Conference sponsored by WVML with the spending ceiling of \$350.00. Roll call vote call for:

**Voting Ayes:** Councilman Sutherland – Councilman Forrester – Councilman Eisenhauer

**Absent:** Councilwoman Moren – Councilman Williamson

**Noes:** None

**Motion Carried**

**New Business:**

- 1) Recorder Hoffman asks for a motion, in Consideration of **FIRST READING** of \*(title only – attached is the full title) – Bond Ordinance – Sewer Revenue Bonds, Series 2009A – re: Ms. Kate Mallory – all letters and papers, on file, in the office of the Recorder. **A MOTION** was made by Councilman Sutherland and seconded by Councilman Forrester in Consideration of **FIRST READING** -\*as explained above. Roll call vote call for:

**Voting Ayes:** Councilman Sutherland – Councilman Forrester – Councilman Eisenhauer

**Absent:** Councilwoman Moren – Councilman Williamson

**Noes:** None

**Motion Carried**

- 2) Recorder Hoffman asks for a motion, in Consideration of **APPROVAL** of a **RESOLUTION TO ACCEPT THE MODIFICATIONS MADE BY FRANK A. JACKSON ON NOVEMBER 19, 2008 OF THE LEGAL SERVICES AGREEMENT, UNDER SECTION B – COMPENSATION.** **A MOTION** was made by Councilman Sutherland and seconded by Councilman Forrester in Consideration of Approval of a Resolution - \*as explained above. Roll call vote call for:

**Voting Ayes:** Councilman Sutherland – Councilman Forrester – Councilman Eisenhauer

**Absent:** Councilwoman Moren – Councilman Williamson

**Noes:** None

**Motion Carried**

**Comments of Council:**

Councilman Eisenhauer had a statement and a question – He stated to the members of the governing body, that he will not seek re-election, in the June, 2009 election. He asked Treasurer Kemp about the service fee amount on the budget report – Ms. Kemp stated that the amount was wrong and she would adjust the amount and correct the report. She stated, that Bethany College had made payment. We should expect another payment in April, 2009.

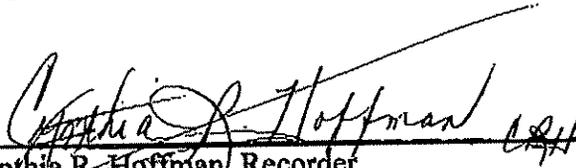
Councilman Sutherland stated, that with the upcoming business/issues for the governing body, we might want to look into conference call with our colleagues.

Councilman Forrester stated that he would miss the Council Meeting on 2/4/09.

**Adjournment:**

There being no further business to come before the Council **A Motion** was made for adjournment. (7:45PM) **Motion** made by Councilman Eisenhower and seconded by Councilman Forrester for adjournment. **Motion Carried**

Respected submitted by:

  
\_\_\_\_\_  
Cynthia R. Hoffman, Recorder

I, Cynthia R. Hoffman, Town Recorder of the Town of Bethany, West Virginia, DO HEREBY CERTIFY that the foregoing is a true and correct report of all Motions, Resolutions and Ordinances passed or enacted, and all other procedures had and taken by the Town Council at the Regular Meeting held January 7, 2009.

I, SVEN deJONG, Mayor of the Town of Bethany, West Virginia, DO HEREBY AFFIX my name this 4th day of February, 2009 approving the foregoing procedures had and taken by the Town Council at the Regular Meeting held January 7, 2009.

\_\_\_\_\_  
Sven deJong, Mayor

crh 2/09

Regular Meeting of the Town Council March 4, 2009  
Bethany, West Virginia  
Town Council Chambers - 6pm

**The following Minutes taken at the 2/4/09 meeting.**

**Present:** Mayor - Sven deJong  
Recorder - Cynthia Hoffman  
Council Members - Jay Eisenhauer  
Pat Sutherland  
Gray Williamson

Treasurer - Shirley Kemp  
Solicitor - Mark D. Panepinto

**Absent:** Councilwoman Helen Moren  
Councilman James Forrester

**Guests:** Darin Pizer, Bethany Police Department  
Warren Scott of the **Herald-Star/Brooke Scene**  
Dr. Jay Libby, Bethany College Communication Department

Mayor deJong called the meeting to order and ask everyone to stand for the Pledge of Allegiance.

**Approval of Minutes:**

Mayor deJong asked if there are any additions or corrections to the minutes of the regular meeting January 7, 2009. Mayor deJong asks for a motion to accept the minutes. **A Motion** was made by Councilman Eisenhauer and seconded by Councilman Williamson to accept the Minutes of the regular meeting January 7, 2009. Roll call vote call for:

**Voting Ayes:** Councilman Sutherland  
Councilman Williamson  
Councilman Eisenhauer

**Absent:** Councilwoman Moren  
Councilman Forrester

**Noes:** None  
**Motion Carried**

\*The Agenda for this meeting February 4, 2009 is attached to these minutes and is made a part thereof.

**Treasurers Report/Sanitation Report:**

Attached are all the documents pertaining to the Treasurers Report:

- 1) Budget Report – General Fund January, 2009
- 2) Sanitation Report – January, 2009

Ms. Kemp explains, that the Lottery revenues are good. The estimated amount for our insurance from BrickStreet was pro-rated/reimbursement check and put back into our account.

Ms. Kemp states, that our bank balances are good.

Councilman Eisenhower inquires about the service fees (re: Bethany College) – Ms.

Kemp explains that she left out the service fee amount, in the last report – the amount has been corrected and this Treasurer’s report reflects that correction.

There was an inquire, concerning delinquent accounts – Mayor deJong asks the Recorder to send a reminder letter, to those people.

Mayor deJong asks for a motion to accept the Treasurer’s Report.

**A Motion** was made by Councilman Sutherland and seconded by Councilman Eisenhower to accept the Treasurer’s Report. Roll call vote call for:

**Voting Ayes:** Councilman Sutherland  
 Councilman Williamson  
 Councilman Eisenhower

**Absent:** Councilwoman Moren  
 Councilman Forrester

**Noes:** None  
**Motion Carried**

**Bethany College Security Report:**

**Police Report:**

**Comments from the Public:**

Officer Darin Pizer told the Mayor, Recorder and members of the council that the West Virginia Governor’s Highway Safety Program has awarded the Bethany Police Department \$1,800.00 to be used towards the purchase of 1(one) Lap Top Computer at \$1,800.00 per unit. Under New Business, the council will vote on the spending of the \$1,800.00 for a lap top computer. \*Attached to these minutes is a copy of the letter/terms, of this award from WV Highway Safety Program and is made a part thereof.

Dr. Jay Libby of the Communications Department - Bethany College, informed the Mayor, Recorder and members of council about a \$25,000 Knight Foundation Grant that the Communication Department is applying for. The grant is a two year grant – some of the purposes of the grant, will be – create a website, develop workshops for high school

students (Brooke High), work with the community, county commissioners – this grant would create many avenues to explore. Dr. Libby and Councilman Sutherland ask Mayor deJong to write a letter of intent from the Town of Bethany. Mayor deJong states, that under New Business, the council will discuss/vote, in regards to the purposed letter.

### **Mayors Report:**

Mayor deJong stated, that the Sanitation construction (Phase II), should begin by the Spring, 2009. Also, that the water service agreement terms, from the Public Service Commission, must be executed by the Ohio County Public Service District.

### **Solicitors Report:**

Mr. Panepinto states that after the Ohio County Public Service District executes the water agreement – that the agreement, is to be sent to the WV Public Service Commission in Charleston, WV.

Mr. Panepinto inquires about the contract -- re: Veterans Memorial Grant (\$4,000) – he wants to make sure, that the paperwork has been sent to Charleston and that we are on track. Mr. Panepinto, this is a time sensitive issue. The deadline for the completion of the memorial project is 6/30/09. Recorder Hoffman states, that the paperwork has been sent to Charleston. We will have to contact Councilwoman Moren about the rest of the details.

Mr. Panepinto again asks for some direction, from the governing body concerning the weed ordinance, large animal issue and building permits. At this point, Mayor deJong states that Recorder Hoffman, Councilman Eisenhauer and himself had a work session and will have some direction, for the Solicitor under Unfinished Business.

Mr. Panepinto inquires about the status of the Comprehensive Plan? Mayor deJong states that Wednesday, March 4, 2009, at 5pm, the Mayor and council members will held a public hearing, required by WV State Code. Then, during the regular town council meeting (that same evening), the council members will consider a vote and acceptance of the plan.

### **Unfinished Business:**

Mayor de Jong asks our Solicitor to prepare draft ordinances, in regards to large animals and ordinance concerning weeds. The changes in Ordinance #6, regarding weeds – we would like to explore changes in the “purpose”.

In regards, to the building permit re-wording of Section 1 – “repair” \*( see purposed wording, submitted by Mayor deJong) where less than 49% of the total square footage of the structure is being remodeled with no changes being made to the footprint of the structure or its exterior structural appearance does not require a building permit. Also, under Section 3 – Fees – should consider a minimum building permit fee shall be \$25.00.

Councilman Eisenhauer states, that these purposed changes, in regards to the building permit issue, come "pretty close" to what we want.

Councilman Sutherland thanks the Mayor, Solicitor and others, for their work on moving these changes forward.

Mayor deJong asks, Mr. Panepinto to begin work on drafting the changes/writing a new ordinance – to be presented at the March 4<sup>th</sup> council meeting.

Mayor deJong asks for a motion of the second reading – by "title only" of the Town of Bethany Bond Ordinance. **A Motion** was made by Councilman Eisenhauer and seconded by Councilman Williamson for the second reading – by "title only" of the Town of Bethany Bond Ordinance. Roll call vote call for:

**Voting Ayes:** Councilman Sutherland - Councilman Williamson – Councilman Eisenhauer

**Absent:** Councilwoman Moren - Councilman Forrester

**Noes:** None

**Motion Carried**

Mayor deJong announced that the two (2) Public Hearings will be held on March 4, 2009. (a) Town of Bethany Comprehensive Plan – 5pm

(b) Bond Ordinance - 6pm - \*Mr. John Stump of Steptoe & Johnson, Charleston, WV will be present.

**New Business:**

Mayor deJong asks for a motion authorizing the Bethany Police Department to spend \$1,800.00 for a lap top computer \*(see information in the award – WV Highway Safety Program). **A Motion** was made by Councilman Williamson and seconded by Councilman Sutherland authorizing the Bethany Police Department to spend \$1,800.00 for a lap top computer. Roll call vote call for:

**Voting Ayes:** Councilman Sutherland – Councilman Williamson – Councilman Eisenhauer

**Absent:** Councilwoman Moren – Councilman Forrester

**Noes:** None

**Motion Carried**

Mayor deJong asks for a motion in support of the purposed Knight Foundation Grant – re: Bethany Communication Department from the Mayor and Bethany Town Council. \*Mayor deJong will work on writing the letter and submitting it to

Councilman Sutherland. **A Motion** was made by Councilman Eisenhower and seconded by Councilman Williamson to have Mayor deJong write a letter from the Mayor and Town Council in support of the purposed Knight Foundation Grant.

**Motion Carried**

Mayor deJong asks for a motion to accept the Water Service Termination Agreement. \* a copy of this agreement is attached to these minutes and made a part thereof. **A Motion** was made by Councilman Sutherland and seconded by Councilman Williamson to accept the Water Service Termination Agreement

**Motion Carried**

At this time, Councilman Sutherland brought up the issue of video game machines. It was decided that Ordinance #59 (1982) was outdated and Mayor deJong directed Mr. Panepinto, to look into drafting a change. This would be presented to the Mayor and Council for consideration, at the March council meeting. It was suggested, that the Bethany Municipal Commission take a look at Ordinance #59.

**Comments of Council:**

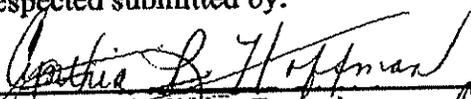
Councilman Sutherland stated, that there was an issue, regarding yellow line parking, at the post office parking lot. This issue has been reported to the Bethany Police Department.

Recorder Hoffman states, that Budget time is here again. She has all the information, from the state Auditor's office/ timeline, etc., Mayor deJong states, that he will contact the Fire Chief and the Police Chief.

**Adjournment:**

There being no further business to come before the Council **A Motion** was made for adjournment. (7:10PM) **Motion** made by Councilman Eisenhower and seconded by Councilman Sutherland for adjournment. **Motion Carried**

Respected submitted by:

  
Cynthia R. Hoffman, Recorder *CRH*

I, Cynthia R. Hoffman, Town Recorder of the Town of Bethany, West Virginia, DO HEREBY CERTIFY that the foregoing is a true and correct report of all Motions, Resolutions and Ordinances passed or enacted, and all other procedures had and taken by the Town Council at the Regular Meeting held February 4, 2009.

I, SVEN deJONG, Mayor of the Town of Bethany, West Virginia, DO HEREBY AFFIX my name this 4th day of March, 2009 approving the foregoing procedures had and taken by the Town Council at the Regular Meeting held February 4, 2009.

---

Sven deJong, Mayor

crh 3/09

Regular Meeting of the Town Council April 1, 2009  
Bethany, West Virginia  
Town Council Chambers - 6pm

The following Minutes taken at the 3/4/09 meeting.

Present: Mayor - Sven deJong  
Recorder - Cynthia Hoffman  
Council Members - James Forrester  
Pat Sutherland  
Gray Williamson

Treasurer - Shirley Kemp  
Solicitor - Mark D. Panepinto

Absent: Councilwoman Helen Moren  
Councilman Jay Eisenhauer

Guests: Warren Scott of the Herald-Star/Brooke Scene  
Red Schwertfeger  
William Hicks, Member of the Bethany Municipal Planning Commission  
John Stump, Bond Counsel, Steptoe & Johnson, Charleston, WV

Mayor deJong called the meeting to order and ask everyone to stand for the Pledge of Allegiance.

Approval of Minutes:

Mayor deJong asked if there are any additions or corrections to the minutes of the regular meeting February 4, 2009. Mayor deJong asks for a motion to accept the minutes. A Motion was made by Councilman Williamson and seconded by Councilman Forrester to accept the Minutes of the regular meeting February 4, 2009. Roll call vote call for:

Voting Ayes: Councilman Sutherland  
Councilman Williamson  
Councilman Forrester

Absent: Councilwoman Moren  
Councilman Eisenhauer

Noes: None  
Motion Carried

\*The Agenda for this meeting March 4, 2009 is attached to these minutes and is made a part thereof.

**Treasurers Report/Sanitation Report:**

Attached are all the documents pertaining to the Treasurers Report:

- 1) Budget Report – General Fund February, 2009
- 2) Sanitation Report – February, 2009

Ms. Kemp states, that our bank balances are good.

Ms. Kemp states, that the Sanitation deposits are up.

Recorder Hoffman adds, that she is working on the request from Mayor deJong, to send a second letter to the residents with delinquent accounts.

Mayor deJong asks for a motion to accept the Treasurer's Report.

**A Motion** was made by Councilman Forrester and seconded by Councilman Williamson to accept the Treasurer's Report. Roll call vote call for:

**Voting Ayes:** Councilman Sutherland  
Councilman Williamson  
Councilman Forrester

**Absent:** Councilwoman Moren  
Councilman Eisenhauer

**Noes:** None  
**Motion Carried**

**Bethany College Security Report:**

**Police Report:**

**Comments from the Public:**

Charles "Red" Schwertfeger verbally requests, in the name of the Bethany Park Board, the \$500.00, that the Town of Bethany gives to the board. Mayor deJong, thanks Mr. Schwertfeger, but reminds him, that the park board, should submit this \$500.00 request in writing – to the Town of Bethany.

Mr. Schwertfeger calls to the attention of the Mayor and Council that Ross Street/Pendleton Street, (at the post office corner and going up, to the Bethany College Education Department – is becoming an area for speeding and not stopping. Mayor deJong states, the he will mention this to Chief Palmer.

Mr. Schwertfeger mentioned his concerns about a hanging branch, that is hanging over Rt. #67. (Craft Hollow)

Mayor deJong thanked Mr. Schwertfeger for coming and for his input.

**Mayors Report:**

Mayor deJong stated, that the Sanitation construction (Phase II), should begin by the Spring, 2009.

Mayor deJong introduces Mr. John Stump, Bond Counsel and tells the members of council, that Mr. Stump will explain the bond ordinance during New Business.

Mayor deJong reports, that he attended a meeting, regarding the "new bridge". Of course, money is a big issue - \$100 million dollar project. \$18 million dollars has been secured from Senators Byrd and Rockefeller. The Market Street Bridge study is looking into keeping that bridge open for ten (10) more years. Mayor deJong will be writing a letter in support of the bridge project from the Town of Bethany – also, Dr. Scott Miller, President, Bethany College will be writing a letter in support of the project.

Mayor deJong asks the members of council, if Wednesday, March 11, 2009 at 6pm would be a good date to hold a budget meeting? The date and time was agreed upon.

Mayor deJong states, that he has had a request from Mr. Ted Williams, Physical Plant Manager, Bethany College. A request that the Allegheny Power Company, install three (3) light poles/street lights, in the alley/footpath leading up to the Bethany College Education Department. Mayor deJong will call and meet with representatives from the power company.

#### Solicitors Report:

Mr. Panepinto asks that after the Ohio County Public Service District executes the water agreement – if the agreement, was sent to the WV Public Service Commission in Charleston, WV? Recorder Hoffman states, that while in Charleston, she delivered the paperwork to the WV Public Service Commission.

Mr. Panepinto inquires about the contract – re: Veterans Memorial Grant (\$4,000) – he wants to make sure, that the paperwork has been sent to Charleston and that we are on track. **THIS IS A TIME SENSITIVE ISSUE.** The deadline for the completion of the memorial project is 6/30/09. Recorder Hoffman states, that the paperwork has been sent to Charleston. We should contact Councilwoman Moren for the rest of the details.

Mr. Panepinto handed out to the Mayor and Town Council Members, a copy of the purposed ordinances. Discussion will follow, later in the meeting.

Mr. Panepinto suggested, that we begin to "get our refrigerator in order." The new ordinances, that we have passed and will pass in the future, should be placed, correctly in the Table of Contents (updated Ordinance Book). Mr. Panepinto asks for help with this project. Mayor deJong and the Members of the Town Council thanked Mr. Panepinto for his hard work on these ordinances.

Mayor deJong suggested that at the May 6<sup>th</sup> meeting, Mr. Panepinto present a draft document, regarding the "Table of Contents". This would give us time, after the June meeting to have the Ordinance Book printed. It was suggested, by Mayor deJong, that we get the Comprehensive Plan book in order, so, that it can be printed, as a separate document.

As part of the Solicitor's Report – Councilman Forrester and Councilman Sutherland had questions regarding Section 5 - Penalty of the amended Weed Ordinance (Ordinance #6). Both Councilman thought, that the last part of the wording, was to strong. To be deleted - and/or imprisoned not more than seven (7) days, or both. Mr. Panepinto will make the changes and will present the changes at the next meeting.

The issue of the Moore (located on Main Street) property/maintenance of the property was discussed, in regards, to the new ordinance (weeds, etc., ) being drafted.

**Unfinished Business:**

A Public Hearing was held on 3/4/09, 5pm, to answer any questions, concerning the Bethany Comprehensive Plan. Attending this meeting were:

Mayor Sven deJong, Recorder Cynthia Hoffman, Councilman Williamson, Councilman Forrester, Charles "Red" Schwertfeger, William Hicks and Warren Scott.

The comprehensive plan is a tool to help facilitate the stated goals of the community. The Plan has twelve specific goals. This comprehensive plan is a written statement of intent for current and future development and land-use strategies. This statement will include text, graphics, and maps to communicate the goals of the community.

A question was raised about the lists on pages 27-28 of the document: #2 Educational Services, #4 Community/Social Services and #5 Cultural/Historical Services. Mayor deJong stated that these lists weren't meant to be a representative list of all schools, community/social services and cultural/historical services.

The document, even after be presented and voted on, will continue to change and have to be updated, by the Bethany Municipal Planning Commission.

Mayor deJong recommends to the council, in the form of a motion, to accept the Comprehensive Plan as presented to the Mayor and Town Council, by the Bethany Municipal Planning Commission and that this document should be printed and bound as a separate document. A Motion was made by Councilman Sutherland and seconded by Councilman Forrester to accept the Comprehensive Plan as presented to the Mayor and Town Council, by the Bethany Municipal Planning Commission and that this document should be printed and bound as a separate document. Roll call vote call for:

**Voting Ayes:** Councilman Sutherland - Councilman Forrester – Councilman Williamson

**Absent:** Councilwoman Moren - Councilman Eisenhauer

**Noes:** None

**Motion Carried**

Mayor deJong asks Recorder Hoffman to read the four (4) ordinances for the 1<sup>st</sup> reading – by Title Only. Mayor deJong will help read the ordinances by Title Only.

- 1) An Ordinance of the Town of Bethany, WV, repealing Ordinance #59 relative to coin amusement machines in the Town of Bethany.
- 2) Ordinance of the Town of Bethany, WV, regulating livestock and large animals upon public streets and other public areas.
- 3) An Ordinance of the Town of Bethany, WV, amending Ordinance #127, requiring Building Permits and superseding Ordinance #2, as amended by Ordinance #100, and Ordinance #108, which ordinances are repealed.
- 4) Ordinance amending Ordinance #6 providing for the removal of nuisance weeds, grass, deleterious and unhealthful growths and other noxious matter on private property.

**New Business:**

Info regarding USDA – this is a hands on group – they will be in constant contact with us. Recorder Hoffman states, that we must finish opening the checking account that was set up for the only purpose of paying bills for Phase II of the sewer improvement project.

Mayor deJong asks for a motion for Allegheny Power Company to install street lights/Diamond Alley. **A Motion** was made by Councilman Forrester and seconded by Councilman Williamson for Allegheny Power Company to install street lights/Diamond Alley. Roll call vote call for:

**Voting Ayes:** Councilman Sutherland – Councilman Forrester – Councilman Williamson

**Absent:** Councilwoman Moren – Councilman Eisenhauer

**Noes:** None

**Motion Carried**

\* In regards to the Budget – please look under the Mayor's Report in these minutes.

Mayor deJong asks John Stump of Steptoe & Johnson, Charleston, WV., to review the Bond Ordinance.

Mr. Stump opened the Public Hearing for the Bond Ordinance – Mr. Stump entertained a few questions.

- 1) The project cost is a half a million dollars. The rate of interest is 4.375%. This is over a forty (40) year period.

Mayor deJong entertains a motion for the 3<sup>rd</sup> reading of the Bond Ordinance, acceptance and approval of the same. A Motion was made by Councilman Williamson and seconded by Councilman Forrester to have the 3<sup>rd</sup> reading of the Bond Ordinance, acceptance and approval of the same. Roll call vote call for:

Mr. Stump read the Bond Ordinance by title, for the third reading. **To conduct a public hearing and consider on third reading and act upon a proposed bond ordinance providing for the issuance of its Sewer Revenue Bonds, Series 2009A (the "Bonds"). The proceeds of the bonds will be used (i) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the sewerage system of issuer (the "project"); and (ii) to pay certain costs of issuance of the bonds of this series (the "bonds") and related costs. The bonds are payable solely from revenues to be derived from the ownership and operation of the system of the town.**

Voting Ayes: Councilman Sutherland – Councilman Forrester – Councilman Williamson

Absent: Councilwoman Moren – Councilman Eisenhower

Noes: None

**Motion Carried**

**Comments of Council:**

Mayor deJong announces that he will not seek another term as Mayor of Bethany – he sights increase job responsibility and he is going to graduate school, working on his Masters Degree.

Councilman Sutherland thanks Mayor deJong for his years of service.

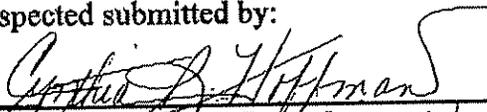
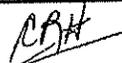
Councilman Forrester thanks Mayor deJong for his years of service and a job well done.

Councilman Forrester asks what is the procedures, now, that we have a Comprehensive Plan? Recorder Hoffman states, that this document will always be a work in progress and in the immediate future, the Bethany Municipal Planning Commission needs to look into recommending some updates in the zoning ordinance.

**Adjournment:**

There being no further business to come before the Council A Motion was made for adjournment. (7:25PM) Motion made by Councilman Williamson and seconded by Councilman Sutherland for adjournment. **Motion Carried**

Respected submitted by:

  
Cynthia R. Hoffman, Recorder 

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I, Cynthia R. Hoffman, Town Recorder of the Town of Bethany, West Virginia, DO HEREBY CERTIFY that the foregoing is a true and correct report of all Motions, Resolutions and Ordinances passed or enacted, and all other procedures had and taken by the Town Council at the Regular Meeting held March 4, 2009.

I, SVEN deJONG, Mayor of the Town of Bethany, West Virginia, DO HEREBY AFFIX my name this 1st day of April, 2009 approving the foregoing procedures had and taken by the Town Council at the Regular Meeting held March 4, 2009.

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Sven deJong, Mayor

crh 4/09

Regular Meeting of the Town Council  
Bethany, West Virginia  
Town Council Chambers - 6pm

**The following Minutes taken at the 6/3/09 meeting.**

**Present:** Mayor - Sven deJong  
Recorder - Cynthia Hoffman  
Council Members - James Forrester  
Pat Sutherland  
Gray Williamson  
Jay Eisenhauer  
Helen Moren

Treasurer - Shirley Kemp  
Solicitor - Mark D. Panepinto

Guests: Larry Palmer, Town of Bethany, Chief of Police  
Mikita Weaver  
Gina Garvey, Becky Rose and Kelly Weaver - Town Picnic Committee

Mayor deJong called the meeting to order and ask everyone to stand for the Pledge of Allegiance.

**Approval of Minutes:**

Mayor deJong asked if there are any additions or corrections to the minutes of the regular meeting May 6, 2009. Mayor deJong asks for a motion to accept the minutes as presented. **A Motion** was made by Councilman Williamson and seconded by Councilwoman Moren to accept the Minutes of the regular meeting May 6, 2009.

**Motion Carried**

\*The Agenda for this meeting June 3, 2009 is attached to these minutes and is made a part thereof.

**Treasurers Report/Sanitation Report:**

Attached to the original copy of the Minutes are all the documents pertaining to the Treasurers Report:

- 1) Budget Report – General Fund May, 2009
- 2) Sanitation Report – May, 2009

Ms. Kemp states that our bank balances are good.

Ms. Kemp states that a checking account has been opened "Town of Bethany – Sewer Improvements Construction Account", with a check for \$100.00, that will be reimbursed. RE: USDA Rural Development.

Ms. Kemp explains that on the Budget Report – General Fund – May, 2009 under Crime Victims (Expenditures) is over by \$70.00 – she is going to move that amount to City Hall and that this change will appear on the June, 2009 Report.

Mayor deJong asks for a motion to accept the Treasurer's Report.

**A Motion** was made by Councilman Sutherland and seconded by Councilman Forrester to accept the Treasurer's Report. Roll call vote call for:

**Voting Ayes:** Councilman Sutherland  
Councilman Williamson  
Councilman Forrester  
Councilwoman Moren  
Councilman Eisenhower

**Noes:** None

**Motion Carried**

### **Bethany College Security Report:**

### **Police Report:**

Chief Palmer announced that Officer Micah Knisley is leaving for Iraq. Chief Palmer states, that he will hold Officer Knisley's position open for him. Also, Officer Tom Jarrell has submitted his resignation. At this point, Mayor deJong stated that any police matters, should be taken up, with the new mayor and governing body.

Chief Palmer asks Recorder Hoffman to remove the town files from the file cabinet in the police office – making room for the police files.

Chief Palmer requested the new ordinance books, by in disk form, for his department. Everything is being done by computer. Also, the two (2) laptop computers for the police cruisers have been ordered.

### **Comments from the Public:**

Kelly Weaver passed out flyers, regarding the 3<sup>rd</sup> Annual Bethany Community Picnic. The picnic will be held on Sunday, 8/2/09 beginning at 2pm. In the coming weeks, information will be posted at Chambers. The committee will provide the main course (hot dogs, hamburgers, buns, etc.), condiments, the paper products (plates, napkins, silverware, etc.), and drinks. It is in this matter that the committee is again requesting assistance from the Council. Mayor deJong states, that this matter will be taken up during **New Business**. The Mayor, Recorder and members of the Council thanked the committee for their hard work and for continuing to hold this community event.

### **Mayors Report:**

Mayor deJong states, that the final stage of Phase II of the Sewer Improvement Project/closing will take place at 11am on Wednesday, June 17, 2009 at the Bethany Council Chambers. All papers will be signed and a construction timeline will be discussed. Phase II of this part of the sewer project, is to take 150 days. We have all worked very hard to come to the completion of this project. After, the paper work is returned to Town of Bethany – the documents will be open for public view.

### **Solicitors Report:**

Mr. Panepinto began his remarks, by stating, it has been a pleasure to work, with the current Mayor, Recorder and members of the Council. He noted that all members of the “governing body” had a high level of commitment.

Mr. Panepinto – re: Veterans Memorial Grant (\$4,000) - has written a letter to the WV Development Office requesting a one (1) year extension. He has called the development office and the extension has been granted.

Mr. Panepinto has made the changes to the proposed ordinance (weeds). In Section 2 – Definition of Nuisance Weeds – the change was made to read, “Any vegetation consisting of weeds and/or grasses over twelve inches (12”) in height located within the Town of Bethany, excluding specifically, corn, ornamental grasses, landscaping shrubs, trees, and other ornamental plants.” Mr. Panepinto noted, that in his research, he found that “corn” is a grass.

Mr. Panepinto handed out information regarding “Interpretive Rule” West Virginia Lottery, Series 7. He mentioned that we should look at our zoning ordinance, to see, if any changes should be made.

Mr. Panepinto stated that he had referred to Robert’s Rule of Order in regards to the tabling of a motion or a motion to postpone. The information is attached to the original copy of these Minutes and made a part thereof.

Mayor deJong thanked Mr. Panepinto for all of his work and stated, he had enjoyed working with him.

### **Unfinished (Old) Business:**

- (1) Mayor deJong asks Recorder Hoffman to read by **Title Only** for 1<sup>st</sup> reading, the “weed ordinance” – Amending Ordinance #6, providing for the removal of nuisance weeds, grass, deleterious and unhealthy growths and other noxious matter on private property.

- (2) **Recorder Report:**

Recorder Hoffman states that Jack Hoffman has been in contact with Mr. William J. Moore. He is the gentleman, that owns the property on Main Street. Mr. Moore is willing to talk with any of the town officials, regarding the upkeep of his property. No action was taken by the council on this matter.

Recorder Hoffman announced the Bethany College Summer Camp Schedule.

Camp Canyon will hold three sessions: (1) June 21-27 (2) June 28-July 17 (3) July 19-August 7.

Governor's Honors Academy June 28 thru July 18, 2009.

Band Camps during the month of July and first part of August.

**Town of Bethany Election Day is June 9, 2009, Council Chambers, 6:30am-7:30pm**

**New Business:**

Mayor deJong asks for a motion to consider a proposed Supplemental Resolution relating to the issuance of its Sewer Revenue Bonds, Series 2009 A (the "Bonds").  
\*Attached to these minutes is a copy of resolution. A Motion was made by Councilman Williamson and seconded by Councilman Eisenhauer that we consider the proposed Supplemental Resolution. Roll call vote call for:

**Voting Ayes:** Councilman Sutherland – Councilman Forrester - Councilwoman Moren - Councilman Williamson – Councilman Eisenhauer

**Noes:** None

**Motion Carried**

Mayor deJong asks for a motion to the funding request in the amount of \$500.00 of the picnic committee for supplies and to provide the main course for the 3<sup>rd</sup> Annual Bethany Community Picnic. (8/2/09) Discussion of this motion from Councilman Sutherland, to invite our State Officials, County Commissions and other local officials. Agreed to by all. A Motion was made by Councilman Eisenhauer and seconded by Councilman Forrester to the funding request in the amount of \$500.00 of the picnic committee for supplies and to provide the main course for the 3<sup>rd</sup> Annual Bethany Community Picnic. (8/2/09). Also, to invite State, County and Local officials. Roll call vote call for:

**Voting Ayes:** Councilman Sutherland – Councilman Forrester – Councilwoman Moren – Councilman Williamson and Councilman Eisenhauer.

**Noes:** None

**Motion Carried**

**Comments of Council:**

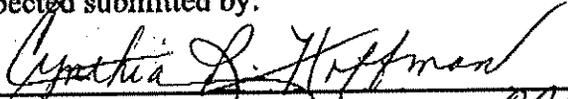
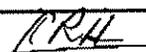
Councilman Sutherland thanked the Women's Club for hosting the Candidate Forum. Also, thanked Mayor deJong for his service to the Town of Bethany.

Councilman Williamson thanked everyone and stated, that he had enjoyed being a member of the Town Council. At this point, Councilman Williamson moved for adjournment.

**Adjournment:**

There being no further business to come before the Council **A Motion** was made for adjournment. (6:50PM) **Motion** made by Councilman Williamson and seconded by Councilman Eisenhower for adjournment. **Motion Carried**

Respected submitted by:

  
Cynthia R. Hoffinan, Recorder 

I, Cynthia R. Hoffman, Town Recorder of the Town of Bethany, West Virginia, DO HEREBY CERTIFY that the foregoing is a true and correct report of all Motions, Resolutions and Ordinances passed or enacted, and all other procedures had and taken by the Town Council at the Regular Meeting held June 3, 2009.

I, JAY A.EISENHAUER, Mayor of the Town of Bethany, West Virginia, DO HEREBY AFFIX my name this 1st day of July,2009 approving the foregoing procedures had and taken by the Town Council at the Regular Meeting held June 3, 2009.

\_\_\_\_\_  
Jay A. Eisenhower, Mayor

crh 6/09

Sanitary Board Members -

1. Sven deJong - Mayor
2. Thom Furbee
3. Frank Dorsch - Engineer

Shirley Kemp, Treasurer

Their terms - they serve at the pleasure of the Mayor.

Oath of Office - ?

## ORDINANCE NO. 98

### AN ORDINANCE CONTINUING THE MUNICIPAL SANITARY BOARD

WHEREAS the Town of Bethany owns, equips, operates and maintains a municipal sewage works, consisting of a sewage collection system, a sewage treatment plant, intercepting sewers, pumping stations and other appurtenances necessary or useful and convenient for the collection, treatment, purification and disposal, in a sanitary manner, of liquid and solid wastes within its service area;

WHEREAS the West Virginia Code, at Chapter 16, Article 13, provides that the construction, improvement, equipping, custody, operation and maintenance of any such works, and the collection of revenues from such works, shall be under the supervision and control of a sanitary board appointed by the governing body;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BETHANY:

#### ARTICLE I. TITLE

This Ordinance shall be known and may be cited as "The Municipal Sanitary Board Ordinance".

#### ARTICLE II. SANITARY BOARD CONTINUED

Section 1. The municipal sanitary board, previously created, is hereby continued. Such board shall be composed of the Mayor of the municipality and two persons appointed by the Town Council. Except for the Mayor no officer or employee of the municipality, whether holding a paid or unpaid office, shall be eligible to appointment on the sanitary board until at least one year after the expiration of the term of his or her public office. The appointees shall originally be appointed for terms of two and three years respectively, and upon the expiration of each term and each succeeding term, an appointment of a successor shall be made in like manner for a term of three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment. Each member shall give bond, if any, as may be required by ordinance. The Mayor shall act as chairman of the sanitary board, which shall elect a vice-chairman from its members and which shall also designate a secretary and treasurer, but the secretary and the treasurer may be one and the same and need not be a member or members of the sanitary board. The vice-chairman, secretary and treasurer shall hold office as such at the will of the sanitary board.

Section 2. The members of the sanitary board shall receive compensation for their services, either as a salary or as payments for meetings attended, as the Town Council may determine, and shall be entitled to payment for their reasonable expenses incurred in the performance of their duties. The Town Council shall fix a reasonable compensation of the secretary and treasurer in its discretion, and shall fix the amounts of bond to be given by the treasurer. All compensation, together with the expenses in this section referred to, shall be paid solely from the revenues of the works.

Section 3. The sanitary board shall operate, manage and control the sewage works of the municipality and may order and complete any extensions, betterments and improvements of and to the works that the board may consider expedient, if funds therefore be available or made available as provided by law, and shall establish rules and regulations for the use and operation of the works, and of other sewers, stormwater conduits and drains connected therewith so far as they may affect the operation of such works, and do all things necessary or expedient for the successful operation of such works, including but not limited to those activities necessary to comply with all federal and state requirements, including stormwater and surface runoff water quality improvement activities.

Section 4. The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys and other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do the work as the board shall direct. All compensation and all expenses incurred in carrying out such work shall be paid solely from funds derived from the operation of the sewage works or from the sale of revenue bonds, except necessary preliminary expenses to the extent provided by law, and the board shall not exercise or carry out any authority or power given to it so as to bind the board or the municipality beyond the extent to which money is properly available.

Section 5. The board shall have the power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties in the execution of its powers. No contract or agreement with any contractor or contractors for labor and/or material exceeding the sum of \$10,000 shall be made without advertising for bids, which bid shall be publicly opened and an award made to the best bidder, with the power of the board to reject any or all bids. The sanitary board may declare an emergency situation in the event of collector line breaks or vital treatment plant failure and shall be exempted from competitive bidding requirements and enter into direct purchase agreements or contracts for the expenses. Any other contract relating to the financing of the acquisition or construction of any works, or any trust indenture relating to any revenue bonds, shall be approved by the Town Council before the same shall become effective.

Section 6. The treasurer of the sanitary board shall have joint responsibility with the Town Recorder to develop and implement a proper system of internal controls over financial reporting and operations for the sanitary board.

Section 7. It shall be the duty of the sanitary board from time to time to recommend to the Town Council such changes and adjustments to the rates, fees and charges for the use and service of the municipal sewage works as the board may deem appropriate, which rates, fees and charges (i) shall be sufficient in each year for the payment of the proper and reasonable expenses of operation, repair, replacements and maintenance of the works and for the payment of sums required to be paid into bond sinking funds and (ii) shall be just, reasonable, applied without unjust discrimination or preference, and based primarily on the costs of service.

### ARTICLE III. WEST VIRGINIA CODE INCORPORATED

Section 1. The provisions of the West Virginia Code relating to the ownership, acquisition, construction, equipping, operation and maintenance of a sewage works, the collection of revenues from such works, and the establishment and powers of a sanitary board for the supervision and control of such works, and any later amendments thereto, are hereby incorporated by reference into

this Ordinance, as though fully set forth herein, and shall be the enabling authority and guide for all relevant future actions of the Town Council, the sanitary board and all other appropriate persons and groups.

Section 2. The Town of Bethany, its officers and employees shall take such actions as may be necessary, proper, desirable and permissible under the West Virginia Code to secure the prompt and effective operation of the sanitary board, and the Town Council may act by motion or resolution at subsequent meetings of said Council, unless other methods are mandated.

#### ARTICLE IV. SEVERABILITY

Should any provision of this Ordinance or any decision or action of the Town Council or the sanitary board in relation thereto be declared unconstitutional, improper or otherwise inoperative, the remaining provisions shall be retained and remain in effect.

#### ARTICLE V. EFFECTIVE DATE

This Ordinance shall become effective immediately.

/s/ Sven DeJong  
MAYOR

First Reading: December 11, 2001

Second Recording (adopted): January 8, 2002

**ORDINANCE NO. 98A**

**AN ORDINANCE AMENDING ORDINANCE NO. 98,  
RELATING TO THE MUNICIPAL SANITARY BOARD,  
TO PROVIDE ADDITIONAL REQUIREMENTS FOR SANITARY BOARD MEMBERS  
AND TO AUTHORIZE BYLAWS, RULES AND REGULATIONS  
FOR THE GOVERNANCE OF THE SANITARY BOARD**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BETHANY, WEST VIRGINIA:

FIRST. Article II of Ordinance No. 98, adopted January 8, 2002, relating to the continuation of the municipal sanitary board, is amended by the addition of a new section, section 2A, containing additional requirements for the members of the sanitary board, such section to read in its entirety as follows:

Section 2A. During any period of construction, including the construction of any improvements to works or systems previously completed, one of the members of the sanitary board must be a registered professional engineer. The engineer member of the board need not be a resident of the municipality. After the construction of the new work has been completed, the engineer member may be succeeded by a person not an engineer.

SECOND. Article II of such ordinance is further amended by the addition of another new section, Section 2B, relating to governance, such section to read in its entirety as follows:

Section 2B. The sanitary board shall have power to establish bylaws, rules and regulations for its own government.

THIRD. This ordinance shall become effective immediately upon its adoption.

/s/ Sven DeJong  
MAYOR

First Reading: February 12, 2002

Second Recording (adopted): March 12, 2002

THE TOWN OF BETHANY

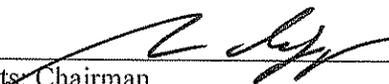
Sewer Revenue Bonds, Series 2009 A  
(United States Department of Agriculture)

PETITION OF SANITARY BOARD

The Sanitary Board of The Town of Bethany (the "Town") petitioned the Council of the Town to enact an ordinance directing that sewer revenue bonds of the Town be issued pursuant to the provisions of Chapter 16, Article 13 of the West Virginia Code of 1931, as amended, such bonds to be in an amount not to exceed \$700,000 for the purpose of financing a portion of the cost of acquisition and construction of certain additions, betterments and improvements to the existing sewerage system of the Town, together with all necessary appurtenances, and the costs of issuance and related costs.

Dated this 19th day of June, 2009.

SANITARY BOARD OF THE TOWN OF BETHANY

By:   
Its: Chairman

**WV MUNICIPAL BOND COMMISSION**

1207 Quarrier Street  
Suite 401  
Charleston, WV 25301  
(304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: 19-Jun-09

ISSUE: The Town of Bethany  
Sewer Revenue Bonds, Series 2009 A (United States Department of Agriculture)

ADDRESS: Box U, Bethany, West Virginia 26032 COUNTY: Brooke

PURPOSE OF ISSUE:

New Money: x

Refunding: \_\_\_\_\_

REFUNDS ISSUE(S) DATED: NA

ISSUE DATE: 19-Jun-09

CLOSING DATE: 19-Jun-09

ISSUE AMOUNT: \$500,000

RATE: NA

1ST DEBT SERVICE DUE: NA

1ST PRINCIPAL DUE NA

1ST DEBT SERVICE AMOUNT NA

PAYING AGENT: Issuer

BOND COUNSEL:

Firm: Steptoe & Johnson PLLC

Contact: John Stump, Esquire

Phone: (304) 353.8196

UNDERWRITERS COUNSEL

Firm: \_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

CLOSING BANK:

Bank: WesBanco Bank, Inc.

Contact: Holly Hamiliton

Phone: 304.737.2925

ESCROW TRUSTEE:

Firm: \_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

KNOWLEDGEABLE ISSUER CONTACT

Contact: Sven DeJong

Position: Mayor

Phone: 304.829.4217

OTHER:

Agency: United States Department of Agriculture

Contact: Virginia McDonald

Position: Rural Development Specialist

Phone: 304.420.6666

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. Fund \$ \_\_\_\_\_

To Other: \_\_\_\_\_ \$ \_\_\_\_\_

NOTES: Monthly debt service payments will be made by the Town directly to the National Finance Office.  
The Municipal Bond Commission will only hold the Series 2009 A Reserve Account. The payments into  
the Reserve Account will commence 25 months from the date hereof.

FOR MUNICIPAL BOND COMMISSION USE ONLY:

DOCUMENTS REQUIRED: \_\_\_\_\_

TRANSFERS REQUIRED: \_\_\_\_\_



United States Department of Agriculture  
Rural Development  
Parkersburg Area Office

May 15, 2008

The Honorable Seven DeJong  
Mayor, Town of Bethany  
P.O. Box U  
Bethany, WV 26032

Dear Mayor DeJong:

The pre-closing for the Town of Bethany's Rural Development (RD) loan will be held on June 17, 2009, at 11:00AM at the Town Hall, with the preconstruction conference following at 11:30AM. The official loan closing date for the Sewer System Improvements Project will be June 19, 2009.

Reference is made to our Letter of Conditions dated March 18, 2008. All of the requirements of this letter must be met and in addition, the loan must be closed in accordance with RUS Instruction 1780 and "Closing Guidelines for Community Facilities Loans to Public Bodies."

The RD loan of \$500,000 will be closed utilizing an interest rate of 4.375 %, resulting in a monthly payment of \$2,255. The Town of Bethany must establish a debt service reserve account at the West Virginia Municipal Bond Commission. This account must be funded on a monthly basis with an amount equal to 10% of the monthly payment until the equivalent of one annual installment on the loan is accumulated.

The following items should be submitted to our office as soon as possible but not later than June 10, 2009:

1. The Town of Bethany's engineer must provide a resume of the proposed inspector(s).
2. The Town of Bethany must provide a letter accepting the proposed inspector(s).
3. The Town of Bethany's accountant must certify that the accounts and records as required by the Town of Bethany's bond ordinance have been established and are operational.
4. The Town of Bethany must provide evidence that it has acquired insurance and bond coverage in accordance with Item 10 of the Letter of Conditions. The Town of Bethany's position fidelity coverage must be increased to at least the amount of the estimated highest monthly construction drawdown. The additional premium for this coverage is an eligible project expense and may be reimbursed from project funds. Once construction is complete, the position fidelity coverage may be decreased to not less than the amount of one annual installment on your Rural Development loans.

P.O. Box 303 Parkersburg, WV 26102-0303  
Phone: (304) 420-6664 • Fax: (304) 420-6876 • TDD: (304) 284-4836 • Web: <http://www.rurdev.usda.gov/wv>

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Washington, DC 20250-9410 or call (800)795-3272 (voice) or (202) 720-6382 (TDD).

5. The Town of Bethany must furnish evidence that it provides State Workers' Compensation Insurance. A certificate of good standing will be satisfactory.
6. An advance copy of the first drawdown.

On the day of pre-closing, the following documents must be provided:

1. The Town of Bethany's attorney will need to provide Form RD 442-22 "Opinion of Counsel Relative to Rights of Way," showing no exceptions. This form should be dated June 19, 2009.
2. The Town of Bethany's attorney must furnish a Form RD 1927-10 "Final Title Opinion," on all property being acquired and for all existing property owned by the Town of Bethany's in connection with the sewer system. A single final title opinion may be provided if it includes an attachment which adequately addresses each of the parcels identified in the preliminary title opinions. The opinion should be dated June 19, 2009.
3. The Town of Bethany must furnish evidence that the West Virginia Public Service Commission has approved the project.

If you have any questions regarding these or any other matters pertaining to your loan, please contact our office at your earliest convenience.

Sincerely,

  
VIRGINIA M. McDONALD  
Area Specialist

enclosure

cc: State Director  
USDA – Rural Development  
Morgantown, WV

Cerrone Associates, Inc.  
Wheeling, WV

Steptoe & Johnson, PLLC  
Charleston, WV

Frank A. Jackson, Esquire  
Wheeling, WV

Smith, Cochran and Hicks, PLLC  
Charleston, WV

**CLOSING GUIDELINES FOR  
COMMUNITY FACILITY LOANS TO PUBLIC BODIES**

At or before the closing for the financing, the following conditions must be satisfied:

1. **General Requirements.** There must be full compliance with all requirements specified in (a) applicable Farmers Home Administration Instructions, (b) correspondence from OGC, (c) any applicable correspondence from the Administrator's office, (d) FmHA letter of conditions, (e) clearinghouse comments, and (f) any state office memorandum of approval.
2. **Loan Resolution.** Confirm that the Applicant has duly adopted the fully executed Form FmHA 1942-47, Loan Resolution (Public Bodies).
3. **Grant Agreement.** In the event that a grant is also to be made to the Applicant, then the grant may be closed in accordance with FmHA Instructions provided that these Closing Instructions have also been complied with and duly authorized officials of the Applicant have fully executed Form FmHA 1942-31, Grant Agreement.
4. **Civil Rights.** Confirm that the following fully executed civil rights forms are in the docket:
  - a. Form RD 400-1, Equal Opportunity Agreement.
  - b. Form RD 400-4, Assurance Agreement.
  - c. Form FmHA 400-8, Compliance Review (Pre-loan closing).
5. **Environmental Impact.** Confirm that a completed and executed Environmental Impact Assessment, is in the docket. If the Assessment indicates that an Environmental Impact Statement must be filed, this must be accomplished prior to loan closing.
6. **Clearinghouse Comments.** Confirm that A-95 approvals have been received from both state and regional clearinghouses. Note any comments received and confirm that the Applicant intends to comply with such comments. If the Applicant expresses a contrary intention, the State Office should be notified immediately in detail. The State Office should consult OGC with respect to the legal ramification of any such noncompliance.
7. **Specimen Bond(s).** Prior to closing, confirm that the terms of the specimen bond(s) are consistent with FmHA Instructions, the FmHA Letter of Conditions and other obligating documents. Amortization schedules and maturity dates should be checked very carefully.
8. **Certification of Payment.** If FmHA loan proceeds will be used to retire interim indebtedness, the Applicant must provide FmHA with written statements in accordance with FmHA Instruction 1942-A, 1942.17(n)(2) [7 C.F.R. 1942.17].

- e. Certified documents evidencing that the Applicant has complied fully with all statutory requirements incident to advertising the consideration and/or adoption of the bond ordinance unless Bond Counsel advises you that this is not applicable.
- f. Certified copies of the resolutions or ordinances or other documents, such as the bond authorizing resolution or ordinance and any resolution establishing rates and regulating the use of the improvements, if such documents are not included in the minutes furnished.
- g. Copies of official Notice of Sale and Affidavit of Publication of Notice of Sale unless Bond Counsel advises you that this is not applicable.
- h. Specimen Bond (of each denomination), with any attached coupons.
- i. No Litigation Certificate of Local Counsel (See Item 12 below).
- j. Certified copies of resolutions or other documents pertaining to the award of the Bond(s).
- k. Non-Arbitrage Certificate.
- l. Any additional or supporting documents required by Bond Counsel.
- m. Preliminary approving opinion, if any, and final unqualified approving opinion of Bond Counsel, including opinion regarding interest on bonds being exempt from Federal and any State income taxes.

Any omissions from the Bond transcript should be supplied by the Rural Development Specialist with the assistance of the Applicant and Bond Counsel. Obviously, certain of the documents listed above will normally be delivered prior to the closing.

12. Attorney's No-Litigation Certificate. Local Counsel should deliver a manually-executed original attorney's no-litigation certificate dated the date of closing.
13. Evidence of Title. In all cases, confirm that Local Counsel has supplied FmHA with his or her title opinion regarding the sites for any project structures such as treatment plants and community buildings. The opinion should be on Form FmHA 1927-10 with any changes necessary to reflect the circumstances of this financing. In the case of utility-type financings, confirm that executed Form FmHA 442-21 and 442-22 concerning rights-of-way are also in the docket. Any title exceptions should either be removed prior to closing or be specifically cleared through OGC.
14. Additional Instructions. OGC will normally issue additional closing instructions on a case-by-case basis containing special requirements for specific loans. The District Director should review the Closing Instructions prepared by OGC relating to the specific case and close the loan in accordance with those instructions.



United States Department of Agriculture  
Rural Development  
West Virginia State Office

March 18, 2008

The Honorable Sven DeJong  
Mayor, Town of Bethany  
P.O. Box U  
Bethany, WV 26032

Dear Mayor DeJong:

This letter, with Attachments 1 through 11 and enclosures, establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area staff of USDA, Rural Development. Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by USDA, Rural Development, by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The docket may be completed on the basis of an RUS loan in the amount of \$500,000, and other funding in the amount of \$65,000, for a total project cost of \$565,000. The other funding is planned in the form of a grant from the State of West Virginia.

The loan will be considered approved on the date a signed copy of Form RD 1940-1, "Request for Obligation of Funds," is mailed to you. The interest rate will be the lower of the rate in effect at the time of loan approval or the time of loan closing.

Extra copies of this letter are being provided for use by your engineer, attorney, bond counsel and accountant. The enclosures and attachments listed below are attached to the copies as noted. Enclosed are the following:

- Attachment No. 1 - Project Construction Budget (All Copies)
- Attachment No. 2 - Water and Waste Processing Checklist (All Copies)
- Attachment No. 3 - RUS Instruction 1780, Subparts A and B (Applicant Copy)
- Attachment No. 4 - RUS Instruction 1780, Subpart C (Engineer Copy)
- Attachment No. 5 - RUS Instruction 1780, Subpart D (Attorney and Bond Counsel Copies)
- Attachment No. 6 - RUS Supplemental General Conditions (Engineer Copy)
- Attachment No. 7 - RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Standard Documents on Water and Waste Project with RUS Financial Assistance"
- Attachment No. 8 - Government Auditing Standards (Revision 2007) (Accountant Copy)

Federal Building • 75 High Street • Suite 320 • Morgantown, WV 26705-7500  
Phone: (304) 284-4860 OR 1-800-295-8228 • Fax: (304) 284-4893 • TDD: (304) 284-4836  
Web: <http://www.rurdev.usda.gov/wv>

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Attachment No. 9 - RUS Bulletin 1780-30, "Water Programs Audit Guide and Compliance Supplement"

Attachment No. 10 - RUS Bulletin 1780-31, "Water Programs Compliance Supplement for OMB Circular A-133 Audits"

Attachment No. 11 - Various other RD Forms as identified on Attachment No. 2

The conditions referred to above are as follows:

1. Loan Repayment - The loan will be scheduled for repayment over a period of 40 years. The payments due the first 24 months will consist of interest only. Payments for the remaining 456 months will be equal amortized monthly installments. For planning purposes use a 4.375% interest rate and a monthly amortization factor of 0.00451, which provides for a monthly payment of \$2,255. You have the option of participating in the PREAUTHORIZED DEBIT (PAD) payment process. It will allow for your payment to be electronically debited from your account on the day your payment is due. Your authority must establish and fund monthly a debt service reserve account, which equals 10% of your monthly payment each month until you accumulate the equivalent of one annual installment on your loan.

You are reminded that your authority may be required to refinance (graduate) the unpaid balance of its RUS loan, in whole or in part, upon the request of our agency if at any time it shall be determined the authority is able to obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time.

2. Security - The loan must be secured by a statutory lien of equal priority with the Town's existing sewer revenue bond, a pledge of the system's revenues and other agreements between you and RD as set forth in the bond ordinance which must be properly adopted and executed by the appropriate officials of your organization. Additional security requirements are contained in RUS Bulletin 1780-27 which is mentioned later.
3. Users - This conditional commitment is based upon you providing evidence that there will be at least 226 bona fide users on the proposed system when it has been completed and is placed in operation. This evidence will consist of a certification from you that identifies and attests to the number of users that are actually connected to the Town's existing sewer system which is to be partially replaced by the new system, at the time you request authorization to advertise the project for construction bids.

Before RD can agree to the project being advertised for construction bids, you must provide evidence that the total required number of bona fide users has been acquired and currently using the system.

4. Bond Counsel Services - The services of a recognized bond counsel are required. The bond counsel will prepare the form of ordinance to be used, in accordance with Subpart D of RUS Instruction 1780. You should immediately provide your bond counsel with a copy of this letter of conditions, its attachments and enclosures.
5. Legal Services - The Legal Services Agreement that has been submitted to our agency for review must be revised to include an hourly rate.

6. Accounting Services – It will be necessary for you to obtain the services of a qualified accountant. The accountant must agree to develop and provide the following:
  - a. All necessary accounting material required by the Public Service Commission of West Virginia (Rule 42 Exhibit).
  - b. Prior to loan closing, your accountant must certify that the accounts and records as required by your bond ordinance have been established and are operational.

The Accountant's Agreement should be submitted to RD for review. Compensation in the contract should include only those services identified above and not include payment for construction management services from the accountant unless RD concurrence is obtained.

RUS regulations (Attachment No. 3) outline requirements for the submission of management reports and audits. Appropriate state statutes place certain audit requirements on your Town. The attached booklets, "Government Auditing Standards (Revised 2007)" (Attachment No. 8), and RUS Bulletins 1780-30 and 1780-31 (Attachment Nos. 9 and 10) outline audit requirements.

You are reminded that certain provisions of the Office of Management and Budget Circular A-133 are applicable to any public body or nonprofit association that expends \$500,000 or more in federal funds in any one fiscal year. You must enter into an agreement annually with an accountant (or the State Tax Department) to perform the audit. The agreement must be in accordance with the requirements of the State Tax Commissioner of West Virginia. Compensation for preparation of the A-133 audit or your annual audit are not included in project funds and should be paid from the operational revenues generated from your system operation.

7. Facility Control - Prior to advertisement for construction bids, you must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands and rights needed for the project. Such evidence must be in the following form:
  - a. A right-of-way map showing clearly the location of all lands and rights needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
  - b. A copy of deeds, contracts or options for any lands needed other than rights-of-way, along with a preliminary title opinion covering such lands. Form RD 1927-9, "Preliminary Title Opinion" may be used. In the case of your existing system or where the Town already acquired real property (land or facilities), a preliminary title opinion(s) concerning all such property(s) will be provided.
  - c. A narrative opinion from your attorney concerning all permits, certifications and other items necessary to show that all legal requirements can be met and stating how they will be met. This narrative should also identify any condemnation proceedings that are anticipated and state how they will be handled.
  - d. A certification and legal opinion relative to title to rights-of-way and easements. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," may be used. This form may contain a few exceptions such as properties that must be condemned; however, prior to the

start of construction or loan closing, whichever occurs first, a new Form RD 442-22, must be provided which does not provide for any exceptions. The attorney's legal opinion should include a certification that all requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and West Virginia State Code Chapter 54 have been met in the acquisition of both real property and rights-of-way. Such requirements may include, but are not limited to, distributing informational material to all affected property owners, and completing appraisals of the affected properties.

- e. On the day of loan closing, the Town's attorney must furnish final title opinions on all land(s) being acquired. Form RD 1927-10, "Final Title Opinion" may be used. In the case of your existing system or where the Town has already acquired real property(s) (land or facilities), the Town's attorney will provide a separate final title opinion(s) covering such property(s) on the day of loan closing.
8. Permits - Copies of all permits needed for the project must be provided for review prior to advertisement for construction bids. Such permits will include but are not limited to the following:
    - West Virginia Department of Highways
    - State Department of Health
    - Department of Environmental Protection
    - Corps of Engineers
    - Public Land Corporation
  9. Public Service Commission Approvals - You must obtain the following from the West Virginia Public Service Commission:
    - a. A Certificate of Convenience and Necessity.
    - b. Approval of user charges that are acceptable to you and USDA-Rural Development.
    - c. Approval of financing for the project's proposed financing arrangements.The "Rule 42" Exhibit to be attached to the Public Service Commission application must contain at least the information shown in Attachment No. 1. A copy of the Public Service Commission application and its "Rule 42" Exhibit must be provided for review.
  10. Insurance and Bonding Requirements - Prior to preliminary loan closing, you must acquire the following insurance and bond coverage:
    - a. Liability Insurance - Personal Liability - \$500,000; Property Damage - \$200,000 - \$200,000. The limits of liability coverage noted herein should be considered as suggested amounts only. RD recommends that you consider analyzing your actual needs in detail before you obtain coverage in a specific amount.
    - b. Workers' Compensation - In accordance with appropriate State laws.
    - c. Position Fidelity Bond(s) - All positions occupied by persons entrusted with the receipt and/or disbursement of funds must be bonded. As a good business practice you will probably wish to have each position bonded in an amount equal to the maximum amount

of funds to be under the control of that position at any one time. During the construction phase of your project, this maximum amount will be much greater than normal; therefore, it is our recommendation that you temporarily increase your coverage to at least the estimated highest monthly construction drawdown. Once construction is complete, you may decrease the amount of your coverage. Please note that the cost of the temporary increase in coverage is an eligible project cost.

The minimum coverage acceptable to RD once your project is in operation will be for each position to be bonded for an amount at least equal to one annual installment on your loan(s).

- d. Real Property Insurance - Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all above-ground structures, to include machinery and equipment housed therein. This does not apply to water reservoirs, standpipes, elevated tanks or noncombustible materials used in treatment plants, clearwells, filters and the like.

11. Owner Construction - Under this delivery method, the Town may accomplish construction by using its own personnel and equipment for all or part of the work. The Town must provide evidence that it possesses the managerial and technical capacity, necessary skills and experience, and resources to perform and account for the work. Specific requirements for agency approval of owner construction will be provided to you by separate correspondence.

12. Contract Documents, Final Plans and Specifications -

- a. Any contract documents that will be utilized should consist of the following:

- (1) EJCDC Document No. C-521, 2002 Edition, "Suggested Form of Agreement between Owner and Contractor on the Basis of Stipulated Price" and EJCDC Document No. C-710, 2002 Edition, "Standard General Conditions of the Construction Contract - Funding Agency Edition" and Attachments. The EJCDC document is issued under copyright and cannot be provided by RD.

- (2) "RUS Supplemental General Conditions."

RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Standard Documents on Water and Waste Projects with RUS Financial Assistance," is enclosed for use by your engineer in the preparation of the contract documents (Attachment No. 7).

- b. The contract documents must provide, as a minimum, the following insurance:

- (1) Liability Insurance - Personal Liability - \$500,000; Property Damage - \$200,000 - \$200,000. This coverage must include indemnification of the Town and its engineer. RUS Bulletin 1780-13, Attachment 9, suggests certain limits of liability for insurance coverage. Those limits should be considered as minimum requirements only. It is recommended you consider increasing the given limits of liability after analyzing your specific needs.

- (2) Builder's Risk Insurance - On all structures and mechanical and electrical equipment in place or stored on the site to the full insurable value thereof.
  - (3) Workers' Compensation - In accordance with applicable State laws.
  - c. The contract documents and final plans and specifications must be submitted to RD for approval.
  - d. The project must be designed in compliance with Section 504 of the Rehabilitation Act of 1973.
13. State Prevailing Wage Law - You should ensure that all requirements of Article 5A of the West Virginia State Prevailing Wage Law, "Wages for Construction of Public Improvements" are met during construction of the project.
14. Disbursement of Funds - The RUS funds will be advanced as they are needed in the amount(s) necessary to cover the agency's proportionate share of any disbursements required of your Town, over 30 day periods.

The Town will establish a separate fund, to be known and hereafter referred to as the Construction Account, with a lending institution insured by the Federal Deposit Corporation. The account shall be used solely for the purpose of paying the costs of the project as outlined in the construction budget. All funds in the account will be secured by a collateral pledge equaling at least 100% of the highest amount of funds expected to be deposited in the Construction Account. All deposits in excess of \$100,000 will be secured by a collateral pledge in accordance with Treasury Circular Number 176.

The Town must assure that all project funds are expended only for the eligible items included in the final project budget or as may be later approved by RD.

15. Other Project Funds - Prior to advertisement for construction bids, you must provide evidence showing the approval of any other project funds. This evidence should include a copy of the funding award. Prior to award of the contract(s) to the contractor(s), you must provide evidence that the other project funds are available for expenditure. This evidence should consist of at least a letter from the funding agency stating the funds are available for expenditure.
16. At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided:
- Form RD 1940-1 - "Request for Obligation of Funds"
  - RUS Bulletin 1780-27 - "Loan Resolution (Public Bodies)"
  - Certification of Compliance
  - Form RD 1942-46, "Letter of Intent to Meet Conditions"
17. The enclosed Water and Waste Processing Checklist (Attachment No. 2) outlines the items needed to complete the loan docket. All the items listed must be included in the loan docket when it is forwarded to the USDA - Rural Development State Office with a request for loan closing instructions to be issued.

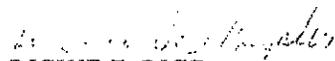
18. Upon receipt of the loan docket, which contains all the items required above, RD may authorize you to advertise the project for construction bids. Such advertisement must be in accordance with appropriate State statutes. Immediately after bid opening you must provide RD with (a) a bid tabulation, (b) recommendations from you and your engineer as to the acceptability of the bids received, and (c) your recommendations for contract awards. If all parties then agree the construction bids received are acceptable, it is determined that adequate funds are available to cover the total facility costs, and that all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued. The closing instructions, a copy of which will be forwarded to you, will set forth any further requirements that must be met before the loan can be closed. When all parties agree that the closing requirements can be met, a mutually acceptable date for the loan closing will be scheduled.

Any applicant contribution shall be considered as the first funds expended. After providing for all authorized costs, any remaining RUS project funds will be considered to be RUS loan funds and would be applied as an extra payment toward the loan balance.

If the conditions set forth in this letter are not met within twelve (12) months from the date hereof, RD reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of loan closing within the twelve-month period and it is determined the authority still wishes to proceed, it will be necessary that the proposed budget be reviewed again in detail. If during that review, it is determined the budget is no longer current and/or adequate, RD reserves the right to require that it be revised or replaced.

We believe the information herein clearly sets forth the actions which must be taken; however, if you have any questions, please do not hesitate to contact me.

Sincerely yours,

  
RICKIE E. RICE  
State Director

Enclosures

cc: Rural Development Specialist  
Parkersburg, WV

Smith, Cochran and Hicks, PLLC  
Charleston, WV

Frank A. Jackson, Esquire  
Wheeling, WV

Cerrone Associates, Inc.  
Wheeling, WV

Bond Counsel

Project Construction Budget

<u>PROJECT COST</u>	<u>State Funds</u>	<u>RUS LOAN</u>	<u>TOTAL</u>
CONSTRUCTION	\$ 65,000	\$ 325,700	\$390,700
CONST. CONTINGENCY		\$ 19,500	\$19,500
LEGAL FEES		\$ 5,000	\$5,000
BOND COUNSEL		\$ 17,000	\$17,000
ACCOUNTING		\$ 2,500	\$2,500
ENGINEERING FEES		\$ 84,500	\$84,500
Basic - \$32,500			\$0
Insp. - \$40,000			\$0
Special - \$12,000			\$0
INTEREST		\$ 11,000	\$11,000
EQUIPMENT		\$ 26,000	\$26,000
PROJECT CONTG.		\$ 8,800	\$8,800
<b>TOTAL</b>	<b>\$ 65,000</b>	<b>\$ 500,000</b>	<b>\$565,000</b>

Rates

Available for general domestic, commercial, and industrial service.

First	3,000	gallons @	\$ 6.45	per M gallons
Over	3,000	gallons @	\$ 6.45	per M gallons

Minimum Charge

No bill shall be rendered for less than the following amounts according to the size of meter installed.

5/8" x 3/4"	meter	\$ 19.35	per month
3/4"	meter	\$ 29.03	per month
1"	meter	\$ 48.38	per month
1 1/2"	meter	\$ 96.75	per month
2"	meter	\$ 154.80	per month
3"	meter	\$ 290.25	per month
4"	meter	\$ 483.75	per month
6"	meter	\$ 967.50	per month
8"	meter	\$ 1,548.00	per month

Minimum Monthly Bill \$ 29.03 for 4,500 gallons

Delayed Payment Penalty

The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to net amount shown.

If any bill is not paid within sixty (60) days after date, water service to the customer will be discontinued. Water service will not be restored until all past due water bills have been paid in full and all accrued penalties plus a reconnection charge have been paid.

Connection Charge

Residential - \$100.00  
Commercial - \$500.00

Reconnection Charge

\$20.00

Use and Income Analysis - See Attached

Cash Flow Analysis - See Attached

TOWN OF BETHANY  
USE AND INCOME ANALYSIS  
EXISTING SYSTEM

Blocking	Cust.	Gal/ Mo.	Minimum Bills	First 3,000	Over 3,000	TOTAL REVENUE
0 - 3,000	101	145.39	101			
Over 3,001	125	2,262.83		375.0	1887.8	
<hr/>						
Annual Total	226	2,408.22	101	375.0	1887.8	
<hr/>						
Rates			\$ 19.35	\$ 6.45	\$ 6.45	
<hr/>						
Monthly Revenues			\$ 1,954.35	\$ 2,418.75	\$ 12,176.50	\$ 16,549.60
<hr/>						
Annual Revenues			\$ 23,452.20	\$ 29,025.00	\$ 146,118.04	\$ 198,595.24
<hr/>						
				Correction Factor	1.007824	
				Adjusted Annual Revenues	\$ 200,149	

Average Monthly Bill (4,500 gals.) \$29.03

TOWN OF BETHANY  
OPERATING BUDGET

OPERATING INCOME

Metered Sales \$200,149  
Penalties \$ 2,431  
Misc. Income \$ 3,133

TOTAL OPERATING INCOME \$ 205,713

NON OPERATING INCOME

Interest income  
TOTAL NON OPERATING INCOME \$ -

TOTAL INCOME

\$ 205,713

EXPENSES

O & M \$ 74,452  
Taxes \$ 4,767

TOTAL EXPENSES \$ 79,219

INCOME AVAILABLE FOR D/S

\$ 126,494

DEBT SERVICE

Existing Bond P & I \$ 83,341  
Proposed Bond P & I \$ 27,060

TOTAL DEBT SERVICE \$ 110,401

DEBT SERVICE RESERVE

Existing Debt Service Reserve \$ 8,334  
Proposed Debt Service Reserve \$ 2,706

TOTAL DEBT SERVICE RESERVE \$ 11,040

SURPLUS (DEFICIT)

\$ 5,053

DEBT COVERAGE

115%

**UNITED STATES DEPARTMENT OF AGRICULTURE  
 RURAL UTILITIES SERVICE  
 Water and Waste Processing Checklist**

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
SF 424.2	Application for Federal Assistance	3	1780.31(b)	Applicant		Have	3
	DUNS Number	1		Applicant			3
	CAIVRS Number	1		RUS			CPAP Form
	Public Notice of Intent to File App./ Env. Notice	3	1780.19(a) 1794	Applicant			3
Bulletin 1780-22	Applicant Eligibility Certification/ Other Credit Certification	1	1780.33(d)	Applicant		Have	3
	Bond Ordn. or Resol. On Outstanding Debts	1	1780.33(e)	Applicant/ Attorney		Have	5
	Bonds or Notes Outstanding Debt	1	1780.33(e)	Applicant/ Attorney		Have	2
	Audit for last year of operation	1	1780.33(e)	Applicant/ Accountant		Have	1
	Staff Review Financial Statements	1	S.I. 1780.2	RUS		Have	1
	EJCDC No. 1910-1-FA	Agreement between Owner & Engineer	3	1780.39(b)	Applicant/ Engineer		Have

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
Bulletin 1780-7 or other approved	Legal Services Agreement with Local Attorney	3	1780.39 (b)(2)	Applicant/ Attorney			5
	Site Visit		S.I. 1780-2	RUS		Have	3
	Processing Conference	1	1780.39(a)	RUS		Have	3
	Environmental Report	2	1794	Applicant		Have	3
Exhibit H S.I. 1794-1	Categorical Exclusion	2	1794	RUS		Have	3
Bulletins 1780-2 1780-3	Preliminary Engineering Report	2	1780.33(c)	Engineer		Have	6
	Staff Engineer PER Review	1	1780.33(c)	RUS		Have	3
	Bill Analysis for existing system(s)	2	1780.33(c)	Applicant/ Engineer		Have	8
	Rate Tariff	2	1780.33	Applicant		Have	8
	Applicant's IRS Tax Number(TIN)	1	1780.33(g)	Applicant		Have	3
	Agency Determination on the Availability of "Other Credit" with Documentation	1	1780.7(d)	RUS			3
	Documentation on Service Area	1	1780.11	RUS		Have	3
Bulletin 1780-1	Project Selection Criteria	2	1780.17	RUS		Have	1
	Letter of Conditions	7	1780.41 (a)(5)	RUS			3

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
Exhibit A / A-1	Certifications Regarding Lobbying	2	1780.33(h)	Applicant			2
CPAP Form	Project Information	3	1780.41(a)	RUS			1
CPAP Form	Underwriting Information	3	1780.33(h)	Applicant			3
RD 1940-1	Request for Obligation of Funds	4	1780.41(a)	RUS/ Applicant			2
RD 1942-46	Letter of Intent to Meet Conditions	2	1780.41 (a)(6)	Applicant			3
AD 1047	Certification Regarding Debarment (Primary)	1	1780.33(h)	Applicant			5
	Relationships/Associations with Agency Employees	1	1780.1(f)	RUS			3
RD 1910-11	Applicant Certification, Federal Collection Policies	1	1780.33(h)	Applicant			3
Bulletin 1780-27	Loan Resolution	1	1780.45 (a)(2)	Applicant			5
RD 400-1	Equal Opportunity Agreement	1	1901-E	Applicant			6
RD 400-4	Assurance Agreement	1	1901-E	Applicant			3
	Legal Services Agreement with Bond Counsel	1	1780.39 (b)(3)	Applicant/ Bond Counsel			5
	Agreement for Accounting Services	1	1780.39 (b)(2)	Applicant/ Accountant			5

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
	Certification Relative to Existing Users	1	LOC	Applicant			5
	Verification of Users	1	1780.44(b)	RUS			3
	Accountant's Certification	1	LOC	Applicant/ Accountant			3
	RUS Review of Accounting Records	1	S.I. 1780-4 (1)(ii)	RUS			3
	Copy of PSC Rule 42 Exhibit	1	State	Attorney/ Accountant			3
	Public Land Corp. Permit	1	1780.15(d)	Applicant			6
	Corps of Engineers Permit	1	1780.15(d)	Applicant			6
	Dept. of Health Approval	1	1780.15(d)	Engineer			6
	Dept. of Environmental Protection Permit	1	1780.15(d)	Engineer			6
	Contract Documents, Plans & Specifications	2	1780.61(a)	Engineer			Separate File
	Agency Determination on Procurement	1	1780.70(d)	RUS			6
	Preliminary Bond Transcript Documents w/o Defeasance Provisions	2	1780.83	Bond Counsel			5
	Right-of-Way Map	1	1780.44(g)	Engineer			Separate File

Form Number	Document or Action	Number Needed	Procedure Reference	Provided By	Target Date	Date Received	File Position
	Deeds and/or Options		1780.44.(g)	Applicant/ Attorney			5
RD 1927-9	Preliminary Title Opinion	1	1780.44 (g)(2)	Applicant/ Attorney			5
	Narrative Opinion from Attorney	1	1780.44(g)	Attorney			5
RD 442-22	Opinion of Counsel Relative to R/Ways		1780.44 (g)(1)	Attorney			5
	Review of Outstanding Judgment	1	1780.7(g)	RUS/ Attorney			3
	Evidence of "Other Funds"	1	1780.44(f)	Applicant			2
SF 3881	Electronic Funds Transfer Payment Enrollment Form	1	31 CFR 208	Applicant/ Financial Institution			2
	PSC Approval	1	1780.15(b)	Applicant/ Attorney			6
	Bid Tabulation	1	1780.61(b)	Engineer			6
	OGC Closing Instructions	1	1780.44(h)	RUS			5
	S/O Closing Instructions	1	1780.44(h)	RUS			5
RD 1927-10	Final Title Opinion	1	1780.44 (g)(2)	Applicant/ Attorney			5
	Bond Transcript Documents w/o Defeasance Provisions	3	1780.83	Bond Counsel			Separate File
RD 400-8	Compliance Review	1	1780.44(c)	RUS			5

<u>Form Number</u>	<u>Document or Action</u>	<u>Number Needed</u>	<u>Procedure Reference</u>	<u>Provided By</u>	<u>Target Date</u>	<u>Date Received</u>	<u>File Position</u>
	Liability Insurance	1	1780.39(g)	Applicant			7
	Workers' Compensation Certificate	1	1780.39(g)	Applicant			7
440-24	Fidelity Bond	1	1780.39(g)	Applicant			7
1924-16	Record of Pre-Construction Conference	1	1780.76(a)	RUS/ Engineer			6
AD 1048	Certification Regarding Debarment (Contractor)	1 each	1780.33(h)	All Appropriate Vendors			5
	OGC Final Opinion	1	1780.45(g)	RUS			5

The Town of Bethany

Sewer Revenue Bonds, Series 2009 A  
(United States Department of Agriculture)

RECEIPT OF DEPOSITORY BANK

I, the undersigned duly authorized representative of WesBanco Bank, Inc., Wellsburg, West Virginia (the "Bank"), hereby certify that on June 19, 2009, the Bank received an automated clearinghouse transfer in the amount of \$49,300 for the Series 2009 A Bonds to the credit of the Project Construction Account (Account Number 0102590419).

WITNESS my signature on this 19th day of June, 2009.

WESBANCO BANK, INC.

By: Jessette Buffington  
Its: Authorized Officer

APR 25 2008



*State of West Virginia*  
*Joe Manchin III*  
*Governor*

Office of the Governor  
State Capitol  
1900 Kanawha Boulevard, East  
Charleston, WV 25305

Telephone: (304) 558-2000  
Toll Free: 1-888-438-2731  
FAX: (304) 342-7025  
[www.wv.gov.org](http://www.wv.gov.org)

February 27, 2008

The Honorable Sven DeJong  
Mayor  
Town of Bethany  
Box U  
Bethany, West Virginia 26032

Dear Mayor DeJong:

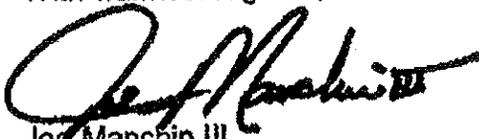
Thank you for your fiscal year 2008 application to the Governor's Community Participation Program.

Your request has been approved in the amount of \$65,000. These funds will assist in the completion of upgrades to the wastewater treatment plant serving the Town of Bethany as part of a comprehensive update of the system.

The West Virginia Development Office, Community Development staff, will contact you to complete the necessary contract in order to proceed with your project.

I am pleased to work with you to make this improvement a reality for the citizens of the Town of Bethany.

With warmest regards,

  
Joe Manchin III  
Governor

JM:kwd

Project Number: 08CPGP0729N



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BUREAU FOR PUBLIC HEALTH  
OFFICE OF ENVIRONMENTAL HEALTH SERVICES

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

October 24, 2008

Manning H. Frymier, P.E.  
Cerrone Associates, Inc.  
401 Main Street  
Wheeling, West Virginia 26003

RE: Town of Bethany  
Wastewater Collection & Treatment  
Permit No. 15,915  
Brooke County

Dear Mr. Frymier:

Reference is made to your letter dated October 9, 2008 requesting our office verify that the proposed improvements to the Town of Bethany's wastewater treatment lagoons is covered by Permit No. 15,915 issued January 23, 2004.

The proposed replacement of the existing aeration piping and diffusion systems in lagoons A and B; adding a new baffle in lagoon A; adding bio-filtration media in lagoons A and B; covering lagoon B; and adding the bio-augmentation system are covered by Permit No. 15,915. No additional permitting will be required.

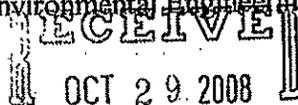
Should you have any questions, I may be contacted at (340) 558-6760 or by e-mail at [wherold@wvdhhr.org](mailto:wherold@wvdhhr.org).

Very truly yours,

William S. Herold, Jr., P.E., Assistant Manager  
Infrastructure and Capacity Development  
Environmental Engineering Division

WSH: cls

pc: Kathryn Emery, P.E., DEP



BY: .....

---

Capitol and Washington Streets  
1 Davis Square, Suite 200  
Charleston, West Virginia 25301-1798  
Telephone: 304-558-2981

# State of West Virginia

## OFFICE OF ENVIRONMENTAL HEALTH SERVICES

815 QUARRIER STREET, SUITE 418

CHARLESTON, WEST VIRGINIA 25301-2616

TELEPHONE 304-558-2981

(Sewage)

### PERMIT

PROJECT: Wastewater Collection and Treatment  
System Improvements

PERMIT NO.: 15,915

LOCATION: Bethany

COUNTY: Brooke

DATE: 1-23-2004

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

**Town of Bethany  
Post Office Box U  
Bethany, West Virginia 26032**

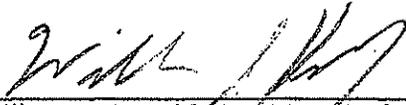
is hereby granted approval to: separate some of the sanitary and storm water in the existing combined sewage collection system; add approximately 188 LF of 6" sewer line; clean and TV inspect approximately 7,870 LF of existing sewer line; install new manhole lids; seal existing manholes; and repair approximately 41 sewer inverts; repair 41 sewer line points; and replace the existing main wastewater pump station with a new 385 G.P.M. duplex submersible sewage pump station and approximately 340 LF of 6" force main. Also, to upgrade and improve the existing 200,000 G.P.D. (average daily design flow) wastewater treatment lagoons by replacing the existing aeration piping and diffusion systems in lagoons A and B; adding a new baffle in lagoon A; adding biofiltration media in lagoons A and B; covering lagoon B; adding two (2) new blowers; replacing the existing ultraviolet disinfection system with a new open channel gravity flow ultraviolet disinfection system; adding a non-potable water system for the bioaugmentation process; construction of a new blower/bioaugmentation/flow meter building; construction of a new ultraviolet disinfection shelter; addition of an emergency generator for the wastewater plant blowers and the main wastewater pump station; and all necessary piping, valves, controls and appurtenances.

Facilities are to serve the Town of Bethany.

The Office of Environmental Health Services Wheeling District Office, telephone (304) 238-1145, is to be notified when construction begins.

Validity of this permit is contingent upon conformity with plans, specifications, application forms, and other information submitted to the West Virginia Bureau for Public Health.

FOR THE DIRECTOR

  
William S. Herold, Jr., P.E., Assistant Manager  
Infrastructure and Capacity Development  
Environmental Engineering Division

WSH:sec

pc: Cerrone Associates, Inc.  
O. Robert Coontz, P.E., DEP  
Permitting Section, DEP  
James W. Ellars, P.E., PSC-Engineering Division  
Amy Swann, PSC  
Brooke County Health Department  
OEHS-EED Wheeling District Office

RECEIVED

JAN 26 2004

COPY

SEWER BILLING AGREEMENT

THIS AGREEMENT, Made this 9 day of ~~November~~ <sup>DECEMBER</sup>, 2003, by and between OHIO COUNTY PUBLIC SERVICE DISTRICT, a public utility with its principal address at 411 National Road, P. O. Box 216, Triadelphia, West Virginia, 26059 (hereinafter "DISTRICT"), and the TOWN OF BETHANY, a municipal corporation situate in Brooke County, West Virginia, with a mailing address of Church Street, Bethany, West Virginia, 26032 (hereinafter "BETHANY"),

WHEREAS, BETHANY provides sewer service to certain of its citizens; and

WHEREAS, DISTRICT operates a water distribution public utility in Brooke, Ohio and Marshall Counties in West Virginia, which utility supplies water service to certain of the citizens of BETHANY and bills those citizens for their water consumption; and

WHEREAS, BETHANY desires to have DISTRICT assume responsibility for billing its citizens for sewer service based upon their water consumption; and

WHEREAS, the parties wish to define and state their respective responsibilities in writing.

NOW, THEREFORE, WITNESSETH: That for and in consideration of the mutual covenants and promises hereinafter stated and intending to be legally bound thereby, the parties do hereby agree as follows:

1. Billing Services. The DISTRICT will read the water meters of the BETHANY customers on a regular basis, being monthly if weather or other circumstances do not interfere with the meter reading process. Thereafter, the DISTRICT will include the charges for the BETHANY sewer service as set forth on BETHANY's tariffs on the DISTRICT's regular water bills upon such frequency as those bills may be sent out to customers.

2. Receipts. The DISTRICT shall receive all payments for BETHANY sewer customers. Said payments shall be credited first to the DISTRICT's own charges, with the

remainder being credited to the BETHANY sewer charges. The DISTRICT shall, on a weekly basis, deposit all receipts credited to BETHANY into an account to be designated by BETHANY. To that end, BETHANY agrees to provide DISTRICT with deposit slips for the BETHANY account into which receipts are to be deposited.

3. **Delinquent Accounts.** The DISTRICT shall issue delinquent and shutoff notices to all delinquent BETHANY customers, and will shut off water service to BETHANY sewer customers in accordance with the Water Service Termination Agreement between the parties hereto.

4. **Initial Costs.** BETHANY agrees to pay the DISTRICT the sum of Four Hundred Dollars (\$400.00) for the administrative time and cost of setting up the billing for BETHANY. In addition, BETHANY agrees to reimburse the DISTRICT for any and all computer programming and consultant costs to add the BETHANY tariffs and other necessary programming to the system and the legal costs in drafting this Agreement, the Water Service Termination Agreement, and obtaining approval from the Public Service Commission.

5. **Monthly Costs.** BETHANY agrees to pay the DISTRICT the sum of One Hundred Dollars (\$100.00) per month for its services under this Agreement. In addition, BETHANY shall pay the DISTRICT all amounts required under the Water Service Termination Agreement.

6. **Customer Information.** BETHANY agrees to provide DISTRICT with all current customer information and to keep such information updated and current.

7. **Termination.** This Agreement may be terminated by either party upon sixty (60) days written notice given by certified mail.

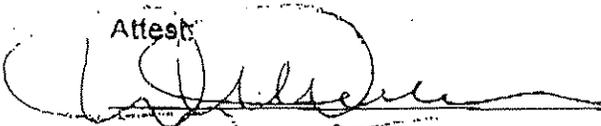
8. **Assignment.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, including their respective successors and assigns, but may not be assigned without the consent of the other party, provided that such consent shall not be unreasonably withheld.

9. Notices. All notices and written communications between the parties hereto shall be effective when delivered by the parties to the United States Postal Service. All applicable written communications shall be addressed as follows until changed by either party in writing:

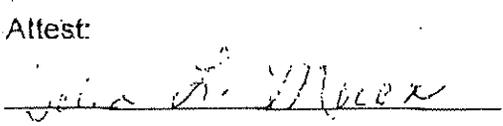
DISTRICT: Ohio County Public Service District  
411 National Road  
P. O. Box 216  
Triadelphia, WV 26059

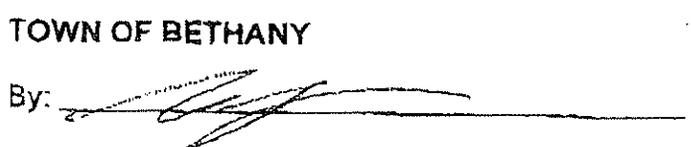
BETHANY: Town of Bethany  
Church Street  
Bethany, WV 26032

IN WITNESS WHEREOF, the Town of Bethany has caused this Agreement to be signed by Sven M. de Jong, Mayor of the Town of Bethany, and its corporate seal to be affixed by authority of an ordinance of the Town Council of Bethany regularly adopted on the 9th day of December, 2003; and the Ohio County Public Service District has caused this Agreement to be signed by ~~James C. Boyd, Jr.~~ <sup>Robert R. Lochetti</sup>, Chairman of the Board of the Ohio County Public Service District and its corporate seal to be hereunto affixed by authority of a resolution of the Board of the Ohio County Public Service District regularly adopted on the 11th day of March, 2003.

Attest:  
  
Title: Secretary

OHIO COUNTY PUBLIC SERVICE DISTRICT  
By: Robert R. Lochetti  
Title: Chairman

Attest:  
  
Title: Recorder

TOWN OF BETHANY  
By:   
Title: Mayor

WATER SERVICE TERMINATION AGREEMENT

THIS AGREEMENT, Made this 4<sup>th</sup> day of February, 2009, by and between the **TOWN OF BETHANY**, a municipal corporation of the State of West Virginia (hereinafter "Sewer Authority"), and **OHIO COUNTY PUBLIC SERVICE DISTRICT**, a public corporation of the State of West Virginia (hereinafter "Water Authority").

**WITNESSETH:**

THAT WHEREAS, the Sewer Authority is engaged in supplying sewer service to the citizens and residents within its service area; and

WHEREAS, the Sewer Authority is experiencing difficulty in the collection of delinquent sewer fees; and

WHEREAS, the Water Authority is the owner and operator of a water distribution system serving some of the customers of the Sewer Authority, under the applicable Rules and Regulations of the Public Service Commission of West Virginia (hereinafter "Commission"); and

WHEREAS, the Water Authority is required by law, at the request and direction of the Sewer Authority and with the approval of the Commission, to terminate the supply of water from its system to any customer or premises with regard to which the fees for sewer service supplied thereto by the Sewer Authority are delinquent; and

WHEREAS, the Water Authority is willing to cooperate and assist the Sewer Authority in the collection of its delinquent accounts upon the terms hereinafter set forth.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, and the covenants hereinafter expressed, the parties hereto do mutually agree that:

1. Upon receipt by the Water Authority of a written request by the Sewer Authority for termination of water service to a specified customer or premises with regard to which the fees for sewer service provided by the Sewer Authority shall not have been paid for a period of not less than thirty (30) days from the due date thereof, together with the hereinafter mentioned affidavit, the Water Authority will, within three (3) regular working days following receipt of the aforesaid written request (except as otherwise provided below), discontinue the supply of water from its system to such customer or premises until it is advised in writing by the Sewer Authority either that (i) all delinquent fees (for which the customer's water service may be terminated under this Agreement), together with any interest thereon or other permissible charges pertaining thereto, have been paid, or (ii) a satisfactory payment plan has been initiated pursuant to Rule 4.08(5)(b) of the Commission's Rules and Regulations for the Government of Water Utilities, or (iii) until the Sewer Authority otherwise directs. It is expressly understood and agreed that the three (3) day termination response period set forth above may be extended at the sole discretion of the Water Authority to a maximum of six (6) days when and if necessary due to a large number of termination requests or for other scheduling problems. The Water Authority shall not terminate water service to any customer or premises pursuant to this Agreement (i) prior to the expiration of the notice period required by the terms of Rule 4.08(1)(c) of the Rules and Regulations for the Government of Water Utilities, or

(ii) on a Friday, Saturday, Sunday, day prior to a legal holiday or if an emergency exists. All disconnections of water service shall be performed between the hours of 8:00 a.m. and 4:00 p.m..

2. The Sewer Authority shall pay to the Water Authority, within thirty (30) days after delivery of the aforesaid written request for discontinuance of water service, a disconnection fee for each water service terminated, said fee to be in the amount set forth on Schedule A attached hereto. In addition, the Sewer Authority shall also pay to the Water Authority, within 30 days of a request for restoration of a water service previously terminated at the Sewer Authority's request, a reconnection fee in the amount set forth on the attached Schedule A for each water service restored by the Water Authority. The Water Authority will upon written request reconnect the customer on the next working day following the receipt of the written request.

It is understood and agreed that the aforesaid fees for termination and restoration of water services shall automatically increase without any further notice or action by the Water Authority, upon an increase in such corresponding fees as may now or hereafter be approved by the Commission and set forth in the Water Authority's tariffs.

The customer shall reimburse the Sewer Authority for any termination and reconnection fees, or other costs previously paid by the Sewer Authority with regard to such customer, provided said customer is notified in writing pursuant to Water Rule 4.08(1)(c) that in the event water service is terminated the customer will be responsible for such fees charged to the Sewer Authority by the Water Authority and that these fees and charges be specifically expressed in the termination notice.

3. The Sewer Authority shall deliver to the Water Authority, concurrently with delivery of the aforesaid written request for termination of water service, an affidavit executed by an officer or authorized employee of the Sewer Authority stating:

(a) That the delinquent sewer fees upon which the Sewer Authority's request for termination of water service is based were incurred by the present occupant of the premises or a member of the same household or that someone other than the occupant of the premises is liable for the payment of the delinquent sewer fees, such as a landlord pursuant to West Virginia Code § 8-18-23; and

(b) That the Sewer Authority has given written notice to one or more persons liable for the payment of the delinquent sewer fees, pursuant to the aforesaid Rule 4.08(1)(c) of the Commission's rules, of the Sewer Authority's intention to request termination of water service, a copy of which notice shall be attached to said affidavit.

4. The Water Authority shall not be liable for any loss, damage or other claim asserted by the owner or occupant of the premises, the Sewer Authority's customer, the Water Authority's customer or any other person or corporation, including the Sewer Authority, based on or arising out of the termination of such supply of water, and the Sewer Authority does hereby indemnify and save harmless the Water Authority, its agents, officers, servants and employees, from any such loss, damage or other claims, including counsel fees and expenses incurred in connection therewith, except to the extent that any such loss, damage or claim, or portion thereof, is finally adjudicated to

be the proximate result of the negligence, omissions or willful acts of the Water Authority, its agents and employees. In this regard, the Sewer Authority further agrees as follows:

(a) The Sewer Authority shall provide the Water Authority a working telephone to which customer inquiries resulting from termination of water service at the request of the Sewer Authority for delinquent sewer bills may be referred.

(b) The Sewer Authority shall be responsible for promptly answering all complaints, either verbal or written, lodged with the Commission, or received by or directed toward the Water Authority, due to termination of water service at the request of the Sewer Authority for delinquent sewer bills. The Water Authority shall promptly forward any such complaints received by it to the Sewer Authority.

5. The Agreement shall become effective upon receipt by Water Authority of an original or counterpart hereof, duly executed by both parties hereto, shall continue thereafter for a period of one (1) year and shall automatically be renewed for like successive periods unless and until terminated as hereinafter provided. This Agreement may be terminated at any time by order of the Public Service Commission or by either party hereto upon written notice in the event of legislative enactments, court rulings or administrative rulings which render all or any of the terms hereof null, void or unenforceable.

6. It is understood and agreed by the parties hereto that the Water Authority may be required to comply with any existing or future regulations of the Commission relating to notice of termination of service, in addition to any other notice that might be required under this contract or

any applicable statute or ordinance. It is further understood and agreed by the parties hereto that the Water Authority is under no obligation to the Sewer Authority to investigate, verify or make any inquiry in respect of any affidavit or notice submitted to the Water Authority by the Sewer Authority.

7. The Sewer Authority shall deliver all written requests, statements, fees, notices and other documents or payments called for or permitted by the terms of this Agreement to the Water Authority at the following address:

Ohio County Public Service District  
Post Office Box 216  
Triadelphia, West Virginia 26059

8. The Water Authority shall deliver all statements, notices and other documents called for or permitted by the terms of this Agreement to the Sewer Authority at the following address:

Town of Bethany  
P.O. Box U  
Bethany, West Virginia 26032

9. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Upon execution by both parties hereto, one counterpart of this Agreement shall be filed with the Commission by the Water Authority.

IN WITNESS WHEREOF, Ohio County Public Service District has caused this Agreement to be signed on its behalf by its Chairman, and its corporate seal to be hereunto affixed by its Secretary, by authority of a Resolution of the Board of Ohio County Public Service District adopted on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and also IN WITNESS WHEREOF, the town of Bethany has caused this Agreement to be signed on its behalf by its Mayor, and its corporate seal to be hereunto affixed by its Recorder, by authority of a Resolution of the Council of the town of Bethany duly adopted on the 4<sup>th</sup> day of February, 2009.

THE TOWN OF BETHANY,  
a municipal corporation,

(Seal)

By: \_\_\_\_\_

Its Mayor

OHIO COUNTY PUBLIC SERVICE DISTRICT,  
a public corporation,

(Seal)

By: \_\_\_\_\_

Its Chairman

SCHEDULE A

FEE FOR THE DISCONNECTION  
AND RECONNECTION OF WATER SERVICE

Disconnection Fee: \$ 20.00

Reconnection Fee: \$ 20.00

IN WITNESS WHEREOF, Ohio County Public Service District has caused this Agreement to be signed on its behalf by its Chairman, and its corporate seal to be hereunto affixed by its Secretary, by authority of a Resolution of the Board of Ohio County Public Service District adopted on the 11<sup>th</sup> day of February, 2009, and also IN WITNESS WHEREOF, the town of Bethany has caused this Agreement to be signed on its behalf by its Mayor, and its corporate seal to be hereunto affixed by its Recorder, by authority of a Resolution of the Council of the town of Bethany duly adopted on the 1<sup>st</sup> day of February, 2009.

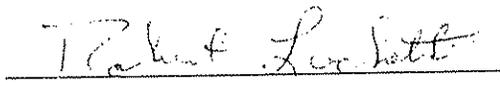
THE TOWN OF BETHANY,  
a municipal corporation,

(Seal)

By:   
Its Mayor

OHIO COUNTY PUBLIC SERVICE DISTRICT,  
a public corporation,

(Seal)

By:   
Its Chairman