$2,405,000.00
THE CITY OF BECKLEY SEWERAGE SYSTEM
REVENUE REFUNDING BONDS SERIES 2005

CLOSING DOCUMENT LIST

1. (a) Certified copy of Chapter 8, Article 20 of the West Virginia Code of 1931, as amended

   (b) Certified copy of Chapter 13, Article 2E of the West Virginia Code of 1931, as amended

   (c) Certified copy of Chapter 16, Article 13, of the West Virginia Code of 1931, as amended

2. Certified copy of the Charter of The City of Beckley

3. Certified copy of the Ordinance enacted by the City Council of The City of Beckley on April 12, 2005, authorizing the issuance of the Bonds and other matters

4. Petition of Beckley Sanitary Board to the City

5. Certificate of Publication of Abstract of Ordinance and Notice of Public Hearing

6. (a) Minutes of Public Hearing, third reading and adoption of the ordinance held on April 12, 2005

   (b) Minutes of second reading of the ordinance held on March 22, 2005

   (c) Minutes of first reading of the ordinance held on March 8, 2005

   (d) Minutes of adoption of Supplemental Resolution held on July 12, 2005

7. (a) Certified Copy of Supplemental Resolution adopted July 12, 2005

   (b) Copy of Resolution Approving Financial Terms adopted June 22, 2005

8. Bond Purchase Commitment dated June 6, 2005

9. Escrow Agreement dated July 20, 2005 relating to the refunding of the Series 1995 A Bonds

10. Receipt for Bonds

11. General Certificate of the Issuer

12. IRS Form 8038-G

13. Certificate of Registration

14. Specimen Bond

15. WDA Consent

16. Certificate of Accountant

17. Opinion of Vaughan Law Firm, Bond Counsel, concerning the validity of the Bonds

18. Opinion of Bill File, Counsel to the City

19. Opinion of Bowles Rice McDavid Graff & Love LLP, Counsel to the Bond Purchaser, Paying Agent, Registrar, and Depository Bank

20. Bank Investment Letter

21. Certificate of Defeasance

22. Notice of Optional Redemption

23. Closing Memorandum

24. Verification Report

State of West Virginia

Certificate

I, Betty Ireland, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 8, ARTICLE 20 OF THE WEST VIRGINIA CODE, AND CHAPTER 8, ARTICLE 20 OF THE 2004 SUPPLEMENT TO THE WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS OFFICE.

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

July 29, 2005

Secretary of State

sources for each hydrant or group of hydrants installed in compliance with section nine [§ 16-1-9], article one, chapter sixteen of the West Virginia code as amended: Provided, That all newly constructed water distribution systems transferred to a public or private utility shall have mains at least six inches in diameter where fire flows are desired or required by the public or private utility: Provided, however, That the utility providing service has sufficient hydraulic capacity as determined by the department of health and human resources. (1994, c. 31.)

ARTICLE 20.

COMBINED SYSTEMS.

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

Sec.
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8-20-1a. Acquisition and operation of combined systems; extension beyond corporate limits; definitions.
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8-20-11a. Governmental entities subject to established rates.
8-20-12. Use of revenues; sinking fund.
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8-20-14. Repair and maintenance of municipal sewerage system outside corporate limits.
8-20-15. Protection and enforcement of rights of bondholders, etc.; receivership.

Part IV. Grants, Loans and Advances; Cumulative Authority.

8-20-16. Grants, loans and advances.
8-20-17. Additional and alternative method for constructing, etc., and financing combined system; cumulative authority.

Part V. Operation by Board; Construction.

8-20-18. Alternative procedure for acquisition, construction, etc., of combined system.
8-20-19. Article to be liberally construed.

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

Legislative intent. — It appears clear that the legislature recognized the need for municipal utility systems; however, it did not wish the municipality to become generally obligated for the building or acquisition of the system. Financing is provided for primarily by revenue bonds, and bondholders are assured of a safe investment through the collection of sufficient

user charges to service the bonds and maintain the assets of the system. Op. Att'y Gen., April 3, 1979.

PART I. COMBINED WATERWORKS AND SEWERAGE SYSTEMS AUTHORIZED; DEFINITIONS.

§ 8-20-1. Acquisition and operation of combined waterworks and sewerage systems; extension beyond corporate limits; definitions.

Any municipality may acquire, construct, establish and equip and thereafter repair, maintain and operate a combined waterworks and sewerage system either wholly within or partly within and partly without the corporate limits thereof, under the provisions of this article, and any municipality owning and operating either a waterworks or a sewerage system, but not both, may acquire, construct, establish and equip the waterworks or sewerage system which it does not then own and operate, and in either of such cases such municipality may provide by ordinance that when such waterworks or sewerage system, or both, shall have been acquired, constructed, established and equipped, the same shall thereafter be owned, repaired, maintained and operated as a combined undertaking under the provisions of this article, and any municipality already owning and operating an existing waterworks system and an existing sewerage system may by ordinance combine the same into a single undertaking under the provisions of this article.

Any municipality which has combined its waterworks and sewerage system under the provisions of this article, or pursuant to provisions of any other law, may hereafter construct extensions, additions, betterments and improvements to either the waterworks system or the sewerage system of said combined waterworks and sewerage system, or both, and may finance the acquisition, construction, establishment and equipment of any such waterworks or sewerage system, or both, or the construction of extensions, additions, betterments and improvements to either the waterworks system or the sewerage system of such combined waterworks and sewerage system, or both, by the issuance of revenue bonds under the provisions of this article.

Notwithstanding the provisions of any other law or charter to the contrary, any such municipality may serve and supply the area included within twenty miles outside its corporate limits with the water or sewer services and facilities, or both, of its combined waterworks and sewerage system: Provided, That such water or sewer services and facilities shall not be served or supplied within the corporate limits of any other municipality without the consent of the governing body of such other municipality.

When used in this article, the term "waterworks system" shall be construed to mean and include a waterworks system in its entirety or any integral part thereof, including mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, pumping stations, intakes, wells, impounding reservoirs, pumps, machinery, purification plants, softening apparatus, and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or

to a water supply system; the term "sewerage system" shall be construed to mean and include any or all of the following: A sewage treatment plant or plants, collecting, intercepting and outlet sewers, lateral sewers, drains, force mains, conduits, pumping stations, ejector stations and all other appurtenances, extensions, additions and improvements necessary, appropriate, useful, convenient or incidental for the collection, treatment and disposal in a sanitary manner of sewage and industrial wastes; and the term "combined waterworks and sewerage system" shall be construed to mean and include a waterworks and sewerage system, which a municipality determines by ordinance to operate in combination. (1939, c. 98, §§ 1, 2; 1947, c. 112; 1955, c. 131; 1969, c. 86.)

Eminent domain. — Municipalities that operate sewer systems may exercise the power of eminent domain. When such a municipality is obliged to exercise that power in furtherance of its public responsibility, but refuses to do so, the public service commission may require the exercise of the power by appropriate order. Broadmoor/Timberline Apts. v. Public Serv. Comm'n, 180 W. Va. 387, 376 S.E.2d 593 (1988).

Plant expansion or repair. — Considering the general grant of authority provided by § 8-12-5(32) there is no language in this article that would prevent a municipality from granting funds to its combined waterworks and sewerage system to be used for plant expansion or repair. What this section does say, however, is that if the municipality wishes to finance any of the activities governed by the article, it must do so by revenue bonds or by loans or advances under § 8-20-16. Op. Att'y Gen., April 3, 1979.

Stated in Berkeley County Pub. Serv. Sewer Dist. v. West Va. Pub. Serv. Comm'n, 204 W. Va. 279, 512 S.E.2d 201 (1998).

§ 8-20-1a. Acquisition and operation of combined systems; extension beyond corporate limits; definitions.

(a) Any municipality may acquire, construct, establish and equip and thereafter repair, maintain and operate a combined waterworks, sewerage and stormwater system either wholly within or partly within and partly without the corporate limits thereof under the provisions of this article, and any municipality owning and operating a waterworks and sewerage system, but not a stormwater system, may acquire, construct, establish and equip the stormwater system which it does not then own and operate, and such municipality may provide by ordinance that when such stormwater system shall have been acquired, constructed, established and equipped, the same shall thereafter be owned, repaired, maintained and operated as a combined undertaking under the provisions of this article, and any municipality already owning and operating an existing waterworks system, sewerage system, and stormwater system, may by ordinance combine the same into a single undertaking under the provisions of this article. However, no municipality may acquire, construct, establish and equip or thereafter repair, maintain and operate a combined waterworks, sewerage and stormwater system which includes highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways without the express agreement of the commissioner of highways.

(b) Any municipality which has combined its waterworks, sewerage system and stormwater systems under the provisions of this article, or pursuant to the provisions of any other law, may hereafter construct extensions, additions, betterments and improvements to any of the systems, any combination

thereof, or all of the waterworks, sewerage and stormwater systems of said combined waterworks, sewerage and stormwater system, and may finance the acquisition, construction, establishment and equipment thereof, or the construction or extensions, additions, betterments and improvements thereof by the issuance of revenue bonds under the provisions of this article.

(c) Notwithstanding the provisions of any other law or charter to the contrary, any such municipality may serve and supply the area included within twenty miles outside its corporate limits with either the water, sewer or stormwater services, any combination of such services or all such services, of its combined waterworks, sewerage and stormwater system; provided that such water, sewer or stormwater services and facilities shall not be served or supplied within the corporate limits of any municipality without the consent of the governing body of such municipality: Provided, That for stormwater systems, within the twenty miles beyond the municipality's corporate limits the only areas the municipality may serve and supply shall be those areas from which stormwater affects or drains into the municipality.

(d) As used in this article, the following terms shall have the following meanings unless the text clearly indicates otherwise.

(1) "Stormwater system" means a stormwater system in its entirety or any integral part thereof used to collect and dispose of stormwater and an associated stormwater management program. It includes all facilities, structures and natural water courses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet, including, but not limited to, any and all of the following: Inlets, conduits, outlets, channels, ponds, drainage ways, easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, pipes, flood control systems, levies and pumping stations. The term "stormwater system" shall not include highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways.

(2) "Combined waterworks, sewerage and stormwater system" means a waterworks, sewerage and stormwater system which a municipality determines by ordinance to operate in combination.

(3) "Combined system" means either a combined waterworks, sewerage and stormwater system, or a combined waterworks and sewerage system.

(4) "Stormwater management program" means those activities associated with the management, operation and maintenance and control of stormwater and stormwater systems, and shall include and not be limited to public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforcement and any other activities required by state and federal law. The term "stormwater management program" shall not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways without the express agreement of the commissioner of highways. (1976, c. 83; 2001, c. 212.)

§ 8-20-1b. Cooperation with other governmental units.

In carrying out any lawful purpose prescribed by this article, any municipality may, in the exercise of its powers, duties and responsibilities, cooperate or join with the state of West Virginia or any political subdivision, agency, board, commission, office or department thereof, however designated, or with the United States of America or any agency or department thereof. (1986, c. 118; 2001, c. 212.)

§ 8-20-1c. Severance of combined system.

Any municipality which has combined its waterworks and sewerage systems or waterworks, sewerage and stormwater systems, under the provisions of this article, or pursuant to provisions of any other law, may hereafter sever said combined system if the following conditions are met:

(a) An ordinance is enacted by the governing body of the municipality severing the combined system into separate systems.

(b) If revenue bonds or notes or other obligations with a lien on or pledge of the revenues of said combined system, or any part thereof, are outstanding, then the municipality must provide in said ordinance that the severance of the combined system is not effective until all such outstanding revenue bonds or notes or other obligations with a lien on or pledge of the revenues of the system, or any part thereof, are paid and the method for paying said outstanding revenue bonds or notes or other obligations. For the purposes of this section, said municipality may provide for payment of said outstanding revenue bonds or notes or other obligations by:

(1) Depositing moneys and funds with the West Virginia municipal bond commission or in escrow with a corporate trustee, which may be a trust company or bank having powers of a trust company within or without the state of West Virginia selected by the issuer to pay interest when due and to pay principal when due, whether at maturity or earlier redemption;

(2) Depositing securities with the municipal bond commission or said escrow trustee, the principal of and earnings on which will provide moneys sufficient to pay interest when due and to pay principal when due, whether at maturity or earlier redemption; or

(3) Depositing with the municipal bond commission or said escrow trustee any combination of the foregoing sufficient to pay interest when due and to pay principal when due, whether at maturity or earlier redemption.

(c) If the combined system is under the supervision and control of a separate committee, board or commission, then the governing body of the municipality must provide for the dissolution of the committee, board or commission, and the creation of other committees, boards or commissions as may be required by law. (2001, c. 212.)

Part II. Right of Eminent Domain.

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

For the purpose of acquiring, constructing, establishing or extending any system within a combined system, or a combined system, or for the purpose of

constructing any additions, betterments or improvements to any system within a combined system, or a combined system, or for the purpose of acquiring any property necessary, appropriate, useful, convenient or incidental for or to any system within a combined system, or combined system, under the provisions of this article, the municipality shall have the right of eminent domain as provided in chapter fifty-four [§§ 54-1-1 et seq.] of this code: Provided, That such right of eminent domain for the acquisition of a complete privately owned waterworks system may not be exercised without prior approval of the public service commission, and in no event shall any municipality construct, establish or extend beyond the corporate limits of the municipality a municipal waterworks system or a combined system under the provisions of this article to supply service in competition with an existing privately or municipally owned waterworks system or combined system in the municipality or within the proposed extension of the system, unless, except in the case of a stormwater system, a certificate of public convenience and necessity therefor shall have been issued by the public service commission: Provided, however, that the power of eminent domain provided in this section shall not extend to highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways without the express agreement of the commissioner of highways. (1947, c. 112; 1969, c. 86; 2001, c. 212.)

Applied in Cincinnati Ins. Co. v. Mills, 208 W. Va. 723, 542 S.E.2d 886 (W. Va. 2000).

PART III. REVENUE BOND FINANCING.

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

The governing body of any municipality availing itself of the provisions of this article shall adopt an ordinance describing in a general way the contemplated project. If it is intended to include in the combined system any existing waterworks system or any existing sewerage system, or both, or if applicable, any existing stormwater system, or any of them, or all of them, the ordinance shall provide that it or they be so included in the combined system and shall describe in a general way such existing waterworks or sewerage system or both, or, if applicable, any existing stormwater system, or any of them, or all of them, to be included in the combined system. The ordinance shall state the means provided for refunding any obligations unpaid and outstanding payable solely from the revenues of any such waterworks or sewerage system, or both, or if applicable, any existing stormwater system, or any of them, or all of them. The ordinance shall determine the period of usefulness of the contemplated project.

If it is intended to acquire, construct, establish and equip a combined system or any part thereof, or to construct extensions, additions, betterments and improvements to either the waterworks system or the sewerage system of the combined system, or both, or if applicable, any existing stormwater system, or any of them, or all of them, the ordinance shall describe in a general way the

works or property or system to be acquired, constructed, established or equipped or the extensions, additions, betterments and improvements to be constructed.

The ordinance shall fix the amount of revenue bonds proposed to be issued, the interest rate or rates, and any other details in connection with the bonds considered advisable. The ordinance may state that the bonds, or such ones thereof as may be specified, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to principal and interest and the security thereof, to such other bonds as are designated in the ordinance. (1939, c. 98, § 4; 1947, c. 112; 1949, c. 91; 1969, c. 86; 2001, c. 212.)

§ 8-20-4. Publication of abstract of ordinance and notice; hearing.

After the ordinance for any project under the provisions of this article has been adopted, an abstract of the ordinance, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be such municipality. The notice to be published with said abstract of the ordinance shall state that said ordinance has been adopted, that the municipality contemplates the issuance of the bonds described in the ordinance, that any person interested may appear before the governing body upon a certain date, which shall not be less than ten days subsequent to the date of the first publication of such abstract and notice and which shall not be prior to the date of the last publication of such abstract and notice, and present protests and that a certified copy of the ordinance is on file with the governing body for review by interested parties during the office hours of the governing body. At such hearing all protests and suggestions shall be heard and the governing body shall take such action as it shall deem proper in the premises: Provided, That if at such hearing written protest is filed by thirty percent or more of the freeholders of the municipality, then the governing body of said municipality shall not take further action unless four fifths of the qualified members of said governing body assent thereto. (1939, c. 98, § 5; 1947, c. 112; 1967, c. 105; 1969, c. 86; 1971, c. 103; 1981, 1st Ex. Sess., c. 2.)

§ 8-20-5. Amount, negotiability and execution of bonds; refund of outstanding obligations or securities by sale or exchange of bonds.

For the purpose of defraying the cost of acquisition, construction, establishment or equipment of any system within a combined system, or a combined system, and for the purpose of paying the cost of constructing any extensions, additions, betterments or improvements to any of the systems of said combined system, or all of them, any such municipality may issue revenue bonds under the provisions of this article.

All such bonds may be authorized, issued and sold pursuant to ordinance in installments at different times or an entire issue or series may be sold at one time. Such bonds shall bear interest at a rate not to exceed twelve percent per annum, payable at such times, and shall mature within the period of usefulness of the project involved, to be determined by the governing body and in any event within a period of not more than forty years. The bonds may be in denomination or denominations, may be in such form, either coupon or registered, may carry registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be subject to terms of redemption, with or without a premium, may be declared to become due before the maturity date thereof, may provide for the replacement of mutilated, destroyed, stolen or lost bonds, may be authenticated in such manner and upon compliance with such conditions, and may contain other terms and covenants, as may be provided by ordinance of the governing body of the municipality. Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that the bond is nonnegotiable, all bonds shall at all times be, and shall be treated as, negotiable instruments for all purposes.

The bonds and the interest thereon, together with all properties and facilities of the municipality owned or used in connection with the combined system, and all the moneys, revenues and other income of such municipality derived from the combined system shall be exempt from all taxation by this state or any county, municipality, political subdivision or agency thereof. Bonds may be sold in such manner as the governing body shall determine. If any bonds shall be issued to bear interest at a rate of twelve percent per annum, the price at which they may be sold shall be such that the interest cost to the municipality of the proceeds of the bonds may not exceed thirteen percent per annum computed to maturity according to the standard table of bond values.

If the governing body of the municipality determines to sell any revenue bonds of such combined system for refunding purposes, the proceeds of the bonds shall be deposited at the place of payment of the bonds, obligations or securities being refunded thereby.

In case any officer whose signature appears on the bonds or coupons attached thereto shall cease to be such officer before the delivery of the bonds to the purchaser, such signature shall nevertheless be valid and sufficient for all purposes, with the same effect as if he or she had remained in office until the delivery of the bonds. All signatures on the bonds or coupons and the corporate seal may be mechanically reproduced if authorized in the ordinance authorizing the issuance of the bonds. The bonds shall have all the qualities of negotiable instruments under the laws of this state.

Whenever a waterworks and sewerage system or stormwater system, if applicable, is included in a combined system under the provisions of this article and there are unpaid and outstanding revenue bonds or any other obligations or securities previously issued which are payable solely from the revenues of the waterworks or the sewerage system or stormwater system, if applicable, or any part thereof, such outstanding bonds, obligations or securities may be refunded by the issuance and sale or exchange therefor of revenue bonds to be issued under the provisions of this article.

Whenever any outstanding bonds, obligations or securities previously issued which are payable solely from the revenues of any waterworks or sewerage system, or stormwater system, if applicable, included in a combined system under the provisions of this article are refunded and the refunding is to be accomplished by exchange, such outstanding bonds, obligations or securities shall be surrendered and exchanged for revenue bonds of such combined system of a total principal amount which shall not be more and may be less than the principal amount of the bonds, obligations or securities surrendered and exchanged plus the interest to accrue thereon to the date of surrender and exchange, and if the refunding is to be accomplished through the sale of revenue bonds of such combined system the total principal amount of such revenue bonds which may be sold for refunding purposes shall not exceed the principal amount of the bonds, obligations or securities being refunded plus the interest to accrue thereon to the retirement date or the next succeeding interest payment date, whichever date may be earlier.

Provision may be made that each bond to be exchanged for refunding bonds shall be kept intact and shall not be canceled or destroyed until the refunding bonds, and interest thereon, have been finally paid and discharged, but each bond shall be stamped with a legend to the effect that the same has been refunded pursuant to the provisions of this article. (1939, c. 98, § 3; 1947, c. 112; 1957, c. 123; 1969, c. 86; 1970, c. 7; 1980, c. 33; 1981, 1st Ex. Sess., c. 2; 2001, c. 212.)

§ 8-20-6. Bonds payable solely from revenues; not to constitute municipal indebtedness.

Bonds issued under the provisions of this article shall be payable solely from the revenues derived from the combined system, and the bonds may not in any event constitute an indebtedness of such municipality within the meaning of any constitutional or statutory provision or limitation and it shall be plainly stated on the face of each bond that the same has been issued under the provisions of this article, and that it does not constitute an indebtedness of the municipality within any constitutional or statutory provision or limitation. The ordinance authorizing the issuance of the bonds may contain such covenants and restrictions upon the issuance of additional revenue bonds thereafter as may be considered necessary or advisable for the assurance of payment of the bonds thereby authorized and as may thereafter be issued. (1939, c. 98, § 6; 1969, c. 86; 2001, c. 212.)

§ 8-20-7. Lien of bondholders.

There shall be and there is hereby created and granted a statutory mortgage lien upon such combined system which shall exist in favor of the holder of bonds hereby authorized to be issued, and each of them, and to and in favor of the holder of the coupons attached to said bonds, and such combined system shall remain subject to such statutory mortgage lien until payment in full of the principal of and interest upon said bonds. However, no lien may attach to

any portion of any highways, road or drainage easements or stormwater facilities constructed, owned or operated by the West Virginia division of highways.

Any municipality in acquiring an existing waterworks system may provide that payment therefor shall be made by issuing revenue bonds and delivering the same at such prices as may be agreed upon within the limitations prescribed in section five [§ 8-20-5] hereof. Any revenue bonds so issued in payment for an existing waterworks system shall for all purposes be regarded as partaking of the nature of and as being secured by a purchase money mortgage upon the property so acquired; and the holders thereof shall have, in addition to any other remedies and rights prescribed by this article, remedies and rights as may now or hereafter exist in law in the case of purchase money mortgages. (1939, c. 98, § 8; 1947, c. 112; 1969, c. 86; 2001, c. 212.)

§ 8-20-8. Covenants with bondholders.

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

(a) The purpose or purposes to which the proceeds of sale of bonds or the revenues derived from said combined system may be applied and the securing, use and disposition thereof, including, if considered desirable, the appointment of a trustee or depository for any of the funds;

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

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

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

(e) Limitations or restrictions upon the issuance of additional bonds or other obligations payable from the revenues of such combined system, and the rank

or priority, as to lien and source and security for payment from the revenues of such combined system, between bonds payable from the revenues;

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

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

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

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

Any ordinance or trust indenture may also contain other additional covenants as shall be considered necessary or desirable for the security of the holders of bonds issued under the provisions of this article, notwithstanding that other covenants are not expressly enumerated above, it being the intention hereof to grant to municipalities plenary power and authority to make any and all covenants or agreements necessary in order to secure greater marketability for bonds issued hereunder as fully and to the same extent as covenants or agreements could be made by a private corporation rendering similar services and facilities and to grant to municipalities full and complete power and authority to enter into any contracts, covenants or agreements with holders of bonds issued hereunder not inconsistent with the constitution of this state. (1955, c. 131; 1969, c. 86; 2001, c. 212.)

§ 8-20-9. Operating contract.

Any municipality may enter into contracts or agreements with any persons for: (1) The repair, maintenance and operation and management of the facilities and properties of the combined system, or any part thereof; or (2) the collection and disbursement of the income and revenues thereof, or for both (1) and (2), for the period of time and under terms and conditions as shall be agreed upon between the municipality and such persons. Any municipality shall have plenary power and authority to provide in the ordinance authorizing the issuance of bonds hereunder, or in any trust indenture securing the bonds, that the contracts or agreements shall be valid and binding upon the municipality as long as any of the bonds, or interest thereon, is outstanding and unpaid. (1955, c. 131; 1969, c. 86; 2001, c. 212.)

§ 8-20-10. Power and authority of municipality to enact ordinances and make rules and regulations and fix rates, fees or charges; change in rates, fees or charges; failure to cure delinquency; delinquent rates, fees or charges as liens; civil action for recovery thereof; deferral of filing fees and costs in magistrate court action; limitations with respect to foreclosure.

(a) The governing body of any municipality availing itself of the provisions of this article shall have plenary power and authority to make, enact and enforce all needful rules and regulations for the repair, maintenance and operation and management of the combined system of such municipality and for the use thereof, and shall also have plenary power and authority to make, enact and enforce all needful rules and regulations and ordinances for the care and protection of any such system, which may be conducive to the preservation of the public health, comfort and convenience and to rendering the water supply of such municipality pure, the sewerage harmless insofar as it is reasonably possible so to do, and if applicable properly collecting and controlling the stormwater as is reasonably possible so to do: Provided, That no municipality may make, enact or enforce any rule, regulation or ordinance regulating any highways, road or drainage easements or stormwater facilities constructed, owned or operated by the West Virginia Division of Highways except in accordance with chapter twenty-nine-a [§§ 29A-1-1 et seq.] of this code.

Any municipality shall have plenary power and authority to charge the users for the use and service of combined system and to establish rates, fees or charges for such purpose. Separate rates, fees or charges may be fixed for the water and sewer services respectively, and, if applicable, the stormwater services, or combined rates, fees or charges for the combined water and sewer services, and, if applicable, the stormwater services. Such rates, fees or charges, whether separate or combined, shall be sufficient at all times to pay the cost of repair, maintenance and operation of the combined system, provide an adequate reserve fund and adequate depreciation fund and pay the principal of and interest upon all revenue bonds issued under this article. Rates, fees or charges shall be established, revised and maintained by ordinance and become payable as the governing body may determine by ordinance, and such rates, fees or charges shall be changed from time to time as needful, consistent with the provisions of this article.

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

(c) All rates, fees or charges for water service, sewer service, and, if applicable, stormwater service, whenever delinquent, as provided by ordinance

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

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

(e) No municipality may foreclose upon the premises served by it for delinquent rates, fees or charges for which a lien is authorized by this section except through the bringing and maintenance of a civil action for the purpose brought in the circuit court of the county wherein the municipality lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the municipality had exhausted all other remedies for the collection of debts with respect to such delinquencies prior to the bringing of the action. In no event shall foreclosure procedures be instituted by any municipality or on its behalf unless the delinquency had been in existence or continued for a period of two years from the date of the first delinquency for which foreclosure is being sought. (1939, c. 98, § 7; 1947, c. 112; 1969, c. 86; 1989, c. 133; 1990, c. 140; 2001, c. 212.)

Municipalities not granted authority to limit, modify or eliminate tort liability. — A municipal ordinance that is enacted pursuant to the power granted municipalities in this section to operate and maintain sewer systems that purports to limit, modify or eliminate tort liabilities and immunities related to such a sewer system in a fashion that conflicts with the general law of the state, is unenforceable and void, to the extent of such conflict. Calabrese v. City of Charleston, 515 S.E.2d 814 (W. Va. 1999).

Municipality cannot compel landlord liability. — While a landlord may choose to contract directly with the municipality if he seeks to furnish utilities as an element of the rental package, W.Va. Code § 8-20-10 is not an instrument through which municipalities can compel a landlord to contract with the municipality and to assume responsibility for the tenant's delinquencies. State ex rel. Pub. Serv. Comm'n v. Town of Fayetteville, 212 W. Va.427, 573 S.E.2d 338 (2002), *this is a per curiam opinion*.

§ 8-20-11. Discontinuance of water service for nonpayment of rates or charges.

Any municipality shall also have plenary power and authority, and may covenant with the holders of any bonds issued hereunder, to shut off and discontinue the supplying of the water service of the combined system for the

nonpayment of the rates, fees or charges for said water service or sewer service, or both, or, if applicable, stormwater service, or any combination thereof, or all of them. (1955, c. 133; 1969, c. 86; 2001, c. 212.)

§ 8-20-11a. Governmental entities subject to established rates.

The municipality and any county government, state government and federal government served by the services of the combined system shall be subject to the same rates, fees or charges established in this article or to rates, fees or charges established in harmony therewith, for service rendered to the governmental entity, and shall pay such rates, fees or charges when due from corporate funds and the same shall be considered to be part of the revenue of the combined system as defined in this article, and be applied as provided in this article, for the application of such revenues. However, no rates, fees or charges for combined services or stormwater services may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways. (2001, c. 212.)

§ 8-20-12. Use of revenues; sinking fund.

All revenues derived from the operation of any combined system under the provisions of this article shall be set aside as collected and used only for the purpose of paying the cost of repairing, maintaining and operating such system, providing an adequate reserve fund, an adequate depreciation fund, and paying the principal of and interest upon the revenue bonds issued by the municipality under the provisions of this article. The ordinance pursuant to which any bonds are issued shall pledge the revenues derived from the combined system to the purposes aforesaid and shall definitely fix and determine the amount of revenues which shall be necessary and set apart in a special fund for the bond requirements. The amounts so set apart into said special fund for the bond requirements shall be remitted to the West Virginia municipal bond commission to be retained and paid out by said commission consistent with the provisions of this article and the ordinance pursuant to which the bonds have been issued: Provided, That payments of principal of and interest on any bonds owned by the United States of America or any agency or department thereof may be made by the municipality directly to the United States of America or said agency or department thereof. (1939, c. 98, § 9; 1969, c. 86; 1986, c. 118; 2001, c. 212.)

§ 8-20-13. System of accounts; audit.

Any municipality operating a combined system under the provisions of this article shall set up and maintain a proper system of accounts in accordance with the requirements of the public service commission, showing the amount of revenues received from the combined system and the application of the same. At least once each year the municipality shall cause the accounts to be

properly audited, and a report of the audit shall be open to the public for inspection at all reasonable times. (1939, c. 98, § 10; 1969, c. 86; 2001, c. 212.)

§ 8-20-14. Repair and maintenance of municipal sewerage system outside corporate limits.

Whenever a municipality collects rates or charges from users of any part of a sewerage system located outside the corporate limits of such municipality for sewerage service rendered to such users, pursuant to the provisions of this article or other act or law, such municipality shall be responsible for the repair and maintenance of such sewerage system and the county court [county commission] of the county or counties in which such sewerage system is located shall not be liable or responsible for the repair and maintenance of such sewerage system. (1957, c. 127; 1969, c. 86.)

Editor's notes. — For construction of the county court as county commission, see W.Va. Const. art. IX, § 9.

§ 8-20-15. Protection and enforcement of rights of bondholders, etc.; receivership.

Any holder of any bonds issued under the provisions of this article or of any coupons representing interest accrued thereon may by civil action, mandamus or other proper proceeding enforce the statutory mortgage lien created and granted in section seven [§ 8-20-7] of this article, protect and enforce any and all rights granted hereunder or under any such ordinance or trust indenture, and may enforce and compel performance of all duties required by the provisions of this article or by any ordinance or trust indenture to be performed by the municipality or by the governing body or any officer, including the making and collecting of reasonable and sufficient rates, fees or charges for services rendered by the combined system.

If there be default in the payment of the principal of or interest upon any of bonds, or of both principal and interest, any court having jurisdiction shall appoint a receiver to administer said combined system on behalf of the municipality, and the bondholders or trustee, or both, with power to charge and collect rates, fees or charges sufficient to provide for the retirement of the bonds and pay the interest thereon, and for the payment of the repair, maintenance and operation expenses, and the receiver shall apply the revenues in conformity with the provisions of this article and the ordinance pursuant to which the bonds have been issued or trust indenture, or both. (1939, c. 98, § 8; 1947, c. 112; 1969, c. 86; 2001, c. 212.)

Part IV. Grants, Loans and Advances; Cumulative Authority.

§ 8-20-16. Grants, loans and advances.

Any municipality is hereby empowered and authorized to accept loans or grants and procure loans or temporary advances evidenced by notes or other

negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of acquisition, construction, establishment, extension or equipment of combined systems and the construction of additions, betterments and improvements thereto, and for the other purposes herein authorized, from any authorized agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of bonds authorized to be issued under the provisions of this article, the revenues of the said combined system or grants to the municipality from any agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any agency of the state, the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article notwithstanding, interest on any loans or temporary advances may be paid from the proceeds thereof until the maturity of the notes or other negotiable instrument.

In no event shall any loan or temporary advance be a general obligation of the municipality and the loans or temporary advances, including the interest thereon, shall be paid solely from the sources specified in this section. (1961, c. 106; 1969, c. 86; 1981, lst Ex. Sess., c. 2; 1986, c. 118; 2001, c. 212.)

§ 8-20-17. Additional and alternative method for constructing, etc., and financing combined system; cumulative authority.

This article is, without reference to any other statute or charter provision, full authority for the acquisition, construction, establishment, extension, equipment, additions, betterment, improvement, repair, maintenance and operation of or to the combined system herein provided for and for the issuance and sale of the bonds by this article authorized, and is an additional and alternative method therefor and for the financing thereof, and no petition, referendum or election or other or further proceeding with respect to any undertaking or to the issuance or sale of bonds under this article and no publication of any resolution, ordinance, notice or proceeding relating to any undertaking or to the issuance or sale of such bonds is required, except as prescribed by this article, any provisions of other statutes of the state to the contrary notwithstanding: Provided, That all functions, powers and duties of the bureau of public health and the division of environmental protection remain unaffected by this article: Provided, however, that no municipality may acquire, construct, establish, extend, repair or equip or thereafter repair, maintain and operate a combined waterworks, sewerage or stormwater system which includes highways, road and drainage easements, and/or stormwater

facilities constructed, owned and/or operated by the West Virginia division of highways without the express agreement of the commissioner of highways.

This article is cumulative authority for any undertaking herein authorized, and does not repeal any existing laws with respect thereto. (1933, Ex. Sess., c. 26, § 13; 1969, c. 86; 1994, c. 61; 2001, c. 212.)

PART V. OPERATION BY BOARD; CONSTRUCTION.

§ 8-20-18. Alternative procedure for acquisition, construction, etc., of combined system.

(a) As an alternative to the procedure provided in this article, any municipality is hereby empowered and authorized to acquire, construct, establish, extend, equip, repair, maintain and operate a combined system or to construct, maintain and operate additions, betterments and improvements thereto, whether acquired, constructed, established, extended or equipped under the provisions of this article or not, and to collect the revenues therefrom for the services rendered thereby, through the supervision and control of a committee, by whatever name called, composed of all or of a portion of the governing body, or of a board or commission appointed by the governing body, as may be provided by the governing body, and if such alternative is followed, said committee, board or commission shall have and be limited to all the powers, authority and duties granted to and imposed upon a board as provided in article sixteen [§§ 8-16-1 et seq.] of this chapter.

However, no municipality may acquire, construct, establish, extend, repair or equip or thereafter repair, maintain and operate a combined waterworks, sewerage or stormwater system, which includes highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways.

(b) In the event that the waterworks or sewerage system or both, or if applicable, stormwater services, are in existence prior to the creation of the combined system, and the waterworks or sewerage system or both, and if applicable, stormwater services, are supervised and controlled by a committee, board or commission, and the alternative provided for in subsection (a) of this section is to be followed with respect to the supervision and control of the combined system, the governing body may by ordinance, after the creation of the combined system, provide:

(1) The manner of and procedure for transferring supervision and control from each separate committee, board or commission to the committee, board or commission which is supervising and controlling the combined system; or

(2) The manner of and procedure for combining each separate committee, board or commission into one committee, board or commission and transferring thereto supervision and control as aforesaid. (1961, c. 104; 1969, c. 86; 2001, c. 212.)

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

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

ARTICLE 20A.

NEIGHBORHOOD REHABILITATION.

Sec.
8-20A-1. Legislative findings and purpose.
8-20A-2. Definitions.
8-20A-3. Neighborhood rehabilitation fund.
8-20A-4. Inspection and technical assistance.
8-20A-5. Deferral of repayment.

§ 8-20A-1. Legislative findings and purpose.

(a) The legislature hereby finds and declares that the lack of safe, decent, sanitary and affordable owner-occupied and rental dwellings is one of the most serious problems facing this State and that a major contributing factor to this problem is the deterioration of the State's existing housing stock; that these deteriorating dwellings exist in both the urban and rural areas of the State; that a disproportionate number of owners of these deteriorating dwellings are older, less affluent and otherwise less able to afford the expense of the remodeling, repairing and rehabilitating of their residences necessary to maintain such residences in a sanitary, safe and decent condition; that because of the lack of acceptable loan collateral, the age of their residences and the location and age of the neighborhoods in which their residences are located, many of such owners have not been able to borrow funds necessary to effect such remodeling, repair and rehabilitation; and that some of such homeowners who have been able to obtain funds for such purposes have been able to do so only upon rates of interest and upon other terms and conditions which are particularly onerous and disadvantageous to such owners.

(b) The legislature further finds and declares that the assistance authorized in this article will provide, and will encourage private lenders to provide, to such owners, more readily and at rates of interest and upon other terms and conditions significantly more favorable to such owners, the loans necessary to finance the cost of such remodeling, repair and rehabilitation.

(c) The legislature further finds and declares that the powers granted to municipalities and counties in this article will enable them to maximize the use of federal programs for housing rehabilitation.

(d) The legislature further finds and declares that it is manifestly in the public interest to foster the pride, self-respect and esteem incident to home ownership and to encourage and assist in the maintenance of residences, both owner occupied and rental, in a safe, decent and sanitary condition; that without the assistance authorized in this article, there will be continued deterioration of housing with the resultant proliferation of slums, higher crime rates and general decline in civic pride, public spirit and the quality of life, with all of the public cost, direct and indirect, attendant thereon; and that

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

(d) No municipality may foreclose upon the premises served by it for delinquent rates or charges for which a lien is authorized by this section except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county wherein the municipality lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the municipality had exhausted all other remedies for the collection of debts with respect to such delinquencies prior to the bringing of such action. In no event shall foreclosure procedures be instituted by any municipality or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought. (1989, c. 133; 1990, cc. 140, 141; 2004, c. 185.)

Effect of amendment of 2004. — Acts 2004, c. 185, effective June 10, 2004, in the section heading, added "Deposit required for new customers" to the beginning, deleted "notice of delinquency" preceding "failure," and inserted "payment from deposit; reconnecting deposit; return of deposit; liens"; added (a)(2); in (a)(1), in the first sentence, substituted "twenty" for "thirty" and "property and the owner thereof, as well as the" for "owner" preceding the second occurrence of "user," and "and property" following the second occurrence of "user," and added the last two sentences; and deleted "as provided by ordinance of the municipality" following the first occurrence of "delinquent" in (b).

ARTICLE 20.

COMBINED WATERWORKS AND SEWERAGE SYSTEMS.

Part III. Revenue Bond Financing.

Sec.

8-20-10. Power and authority of municipality to enact ordinances and make rules and fix rates, fees or charges; deposit required for new customers; change in rates, fees or charges; failure to cure delinquency; delinquent rates, discontinuance of service; reconnecting deposit; return of deposit; fees or charges as liens; civil action for recovery thereof; deferral of filing fees and costs in magistrate court action; limitations with respect to foreclosure.

Effect of amendment of 2004. — Acts 2004, c. 185, effective June 10, 2004, inserted "Waterworks and Sewerage" in the article heading.

PART III. REVENUE BOND FINANCING.

§ 8-20-10. Power and authority of municipality to enact ordinances and make rules and fix rates, fees or charges; deposit required for new customers; change in rates, fees or charges; failure to cure delinquency; delinquent rates, discontinuance of service; reconnecting deposit; return of deposit; fees or charges as liens; civil action for recovery thereof; deferral of filing fees and costs in magistrate court action; limitations with respect to foreclosure.

(a)(1) The governing body of any municipality availing itself of the provisions of this article shall have plenary power and authority to make, enact and enforce all needful rules for the repair, maintenance and operation and management of the combined system of such municipality and for the use thereof, and shall also have plenary power and authority to make, enact and enforce all needful rules and ordinances for the care and protection of any such system, which may be conducive to the preservation of the public health, comfort and convenience and to rendering the water supply of such municipality pure, the sewerage harmless insofar as it is reasonably possible so to do, and if applicable properly collecting and controlling the stormwater as is reasonably possible so to do: Provided, That no municipality may make, enact or enforce any rule, regulation or ordinance regulating any highways, road or drainage easements or stormwater facilities constructed, owned or operated by the West Virginia division of highways except in accordance with chapter twenty-nine-a [§§ 29A-1-1 et seq.] of this code.

(2) Any municipality shall have plenary power and authority to charge the users for the use and service of combined system and to establish required deposits, rates, fees or charges for such purpose. Separate deposits, rates, fees or charges may be fixed for the water and sewer services respectively, and, if applicable, the stormwater services, or combined rates, fees or for the combined water and sewer services, and, if applicable, the stormwater services. Such deposits, rates, fees or charges, whether separate or combined, shall be sufficient at all times to pay the cost of repair, maintenance and operation of the combined system, provide an adequate reserve fund and adequate depreciation fund and pay the principal of and interest upon all revenue bonds issued under this article. Deposits, rates, fees or charges shall be established, revised and maintained by ordinance and become payable as the governing body may determine by ordinance, and such rates, fees or charges shall be changed from time to time as needful, consistent with the provisions of this article.

(3) All new applicants for service shall indicate to the municipality or governing body whether they are an owner or tenant with respect to the service location.

(4) The municipality or governing body, but only one of them, may collect from all new applicants for service a deposit of one hundred dollars or two twelfths of the average annual usage of the applicant's specific customer class, whichever is greater, to secure the payment of water and sewage service rates, fees and charges in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent and the user's service is disconnected or terminated, no reconnecting or reinstatement of service may be made by the municipality or governing body until another deposit equal to one hundred dollars or a sum equal to two twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the municipality or governing body. After twelve months of prompt payment history, the municipality or governing body shall return the deposit to the customer or credit the customer's account with interest at a rate as the public service commission may prescribe: Provided, That where the customer is a tenant, the municipality or governing body is not required to return the deposit until the time the tenant discontinues service with the municipality or governing body. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The municipality or governing body may, under reasonable rules promulgated by the public service commission, shut off and discontinue water services to a delinquent user of either water or sewage facilities, or both, ten days after the water or sewage services become delinquent regardless of whether the governing body utilizes the security deposit to satisfy any delinquent payments.

(b) Whenever any rates, fees or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided shall be delinquent and the municipality or governing body may apply any deposit against any delinquent fee and the user shall be held liable at law until such time as all rates, fees and charges are fully paid.

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

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

(e) No municipality may foreclose upon the premises served by it for delinquent rates, fees or charges for which a lien is authorized by this section except through the bringing and maintenance of a civil action for the purpose brought in the circuit court of the county wherein the municipality lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the municipality had exhausted all other remedies for the collection of debts with respect to such delinquencies prior to the bringing of the action. In no event shall foreclosure procedures be instituted by any municipality or on its behalf unless the delinquency had been in existence or continued for a period of two years from the date of the first delinquency for which foreclosure is being sought. (1939, c. 98, § 7; 1947, c. 112; 1969, c. 86; 1989, c. 133; 1990, c. 140; 2001, c. 212; 2004, c. 185.)

Effect of amendment of 2004. — Acts 2004, c. 185, effective June 10, 2004, in the section heading, deleted "regulations and" preceding "fix," inserted "deposit required for new customers," and "discontinuance of service; reconnecting deposit; return of deposit"; redesignated the former second paragraph of (a) as (a)(2) and added (a)(3) and (4); in (a)(1), deleted "and regulations" preceding "for the repair" and "regulations and" preceding "ordinances," substituted "storm water" for "stormwater" and "division of highways" for "Division of Highways"; in (a)(2), inserted "required deposits" in the first sentence, in the second sentence, inserted "deposits," deleted "charges" preceding "for the combined," and substituted "storm water" for "stormwater," inserted "deposits" in the third sentence, and added "Deposits" at the beginning of the last sentence; and, in (b), substituted "twenty" for "thirty" and inserted "and the municipality or governing body may apply any deposit against any delinquent fee."

ARTICLE 24.

PLANNING AND ZONING.

Sec.
8-24-1 through 8-24-85.

§§ 8-24-1 through 8-24-85.

Repealed by Acts 2004, c. 153.

Cross references. — Land use planning, § 8A-1-1 et seq.

Effective dates. — Former §§ 8-24-1 through 8-24-85 (enacted by Acts 1959, c. 118; amended by Acts 1961, c. 101; 1961, c. 102; 1962, c. 23; 1963, c. 124; 1965, c. 109; 1967, c. 105; 1969, c. 86; 1971, c. 105; 1973, c. 91; 1979, c. 80; 1983, c. 152; 1984, c. 130; 1985, c. 85; 1986, c. 121; 1988, c. 94; 1994, c. 61; 1995, c. 184; 2000, c. 3; 2002, c. 6; 2002, c. 325; 2003, c. 185; 2003, 2nd Ex. Sess., c. 14), concerning planning and zoning, were repealed by Acts 2004, c. 153, effective June 11, 2004.

State of West Virginia

Certificate

I, Betty Ireland, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 13, ARTICLE 2E OF THE WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS OFFICE.

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

July 29, 2005

Secretary of State

ARTICLE 2E.

REVENUE BOND REFUNDING ACT.

Sec.		Sec.	
13-2E-1.	How article cited.	13-2E-9.	Call of revenue bonds for redemption.
13-2E-2.	Definitions.	13-2E-10.	Security provisions.
13-2E-3.	Authority to refund.	13-2E-11.	Bonds payable solely from revenues of enterprise.
13-2E-4.	Terms, form and execution of refunding bonds.	13-2E-12.	Tax exemption; exceptions.
13-2E-5.	Issuance of refunding bonds; application of proceeds.	13-2E-13.	Validity of bonds.
13-2E-6.	Determination of governing body to be conclusive.	13-2E-14.	Article complete authority for refunding bonds; effect on other laws; liberal construction.
13-2E-7.	Authorization for issuance.		
13-2E-8.	Authority for escrow agreement.	13-2E-15.	Severability.

§ 13-2E-1. How article cited.

This article may be cited as "Revenue Bond Refunding Act." (1969, c. 12.)

§ 13-2E-2. Definitions.

The following terms or words, wherever used or referred to in this article, shall have the following meaning, unless a different meaning plainly appears from the context:

The term "public body" means any city, town, village, county, public service district, sanitary district, political subdivision or any other similar public entity now or hereafter created, and the state of West Virginia acting through any of its agencies, boards, commissions or departments, having power to issue revenue bonds.

The term "governing body" means a board, council or other body having power to borrow money on behalf of a public body.

The term "law" means any act or statutes, general, special or local, of this state, including, without being limited to, the charter of any public body.

The term "enterprise" means any work, undertaking, or project which the public body is or may hereafter be authorized to acquire or construct and from which the public body has heretofore derived or may hereafter derive revenues, for the refinancing of which enterprise refunding bonds are issued under this article, and such enterprise shall include all improvements, betterments, extensions and replacements thereto, and all appurtenances, facilities, lands, rights in land, water rights, franchises, and structures in connection therewith or incidental thereto; and for the purposes of this article "enterprise" includes the waterworks system or the sewerage system, or both said systems, resulting from the severance of a combined waterworks and sewerage system pursuant to section one-b [§ 8-20-1b] article twenty, chapter eight of this code, all as the governing body shall authorize in the ordinance authorizing said severance.

The term "revenues" means all fees, tolls, rates, rentals and charges to be levied and collected in connection with and all other income and receipts of whatever kind or character derived by the public body from the operation of any enterprise or arising from any enterprise, and including earnings derived from investments and bank deposits.

The term "revenue bonds" means notes, bonds, certificates or other obligations of a public body heretofore or hereafter issued and outstanding under any law and which by their terms are payable from the revenues derived by such public body from the operation of an enterprise.

The term "refunding bonds" means notes, bonds, certificates or other obligations of a public body issued pursuant to this article.

The term "holder of bonds" or "bondholder" or any similar term means any person who shall be the bearer of any outstanding refunding bond or refunding bonds registered to bearer or not registered, or the registered owner of any such outstanding refunding bond or refunding bonds which shall at the time be registered other than to bearer.

The words "net interest cost" when referring to an outstanding issue of revenue bonds to be refunded, means the total amount of interest which would accrue on such revenue bonds from the date of the refunding bonds to the respective maturity dates of the outstanding revenue bonds to be refunded, without regard to any retained options of redemption.

The words "net interest cost" when referring to a proposed issue of refunding bonds, means the total amount of interest to accrue on the refunding bonds from their date to their respective maturities, without regard to any retained options of redemption, plus the amount of any discount below par or less the amount of any premium above par at which the bonds may be sold.

The words "net effective interest rate" when referring to a proposed issue of refunding bonds, means the net interest cost of said refunding bonds divided by the product obtained by multiplying the aggregate principal amount of such refunding bonds maturing on each maturity date by the number of years from the date of the refunding bonds to their respective maturities, without regard to any retained options of redemption.

The term "certified public accountant" means an independent certified public accountant or firm of certified public accountants licensed to practice in this state.

Words importing the singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations. (1969, c. 12; 1986, c. 118.)

§ 13-2E-3. Authority to refund.

Any public body may issue refunding bonds for the purpose of refunding all or any part of its revenue bonds now or hereafter outstanding, whether or not such revenue bonds are at the time of the refunding due or optional for redemption, under the circumstances and restrictions set forth in this article. Refunding bonds shall be payable from revenues derived from the same enterprise as the revenue bonds to be refunded except where the public body has outstanding revenue bonds payable from the revenues of an enterprise and is authorized under any other law to combine and consolidate such enterprise with another enterprise and issue revenue bonds payable from the revenues of the combined and consolidated enterprises. An issue of refunding bonds may refund part or all of one or more issues of outstanding revenue bonds:

Provided, That part or all of two or more issues of outstanding revenue bonds may not be refunded under this article unless either (a) all of the issues of outstanding revenue bonds to be refunded are payable from revenues derived from the same enterprise, or (b) the public body is authorized under any other law to combine or consolidate the enterprises in question and issue revenue bonds payable from the revenues of the combined or consolidated enterprises.

Refunding bonds may be issued hereunder whenever the governing body of the public body deems it expedient and, notwithstanding any provision in this article to the contrary, may be issued as part of a series of revenue bonds issued for the purpose, in addition to such refunding, of financing the acquisition or construction of improvements, betterments, extensions or replacements to the particular enterprise, as provided by other articles of this Code. (1969, c. 12; 1981, 1st Ex. Sess., c. 2.)

§ 13-2E-4. Terms, form and execution of refunding bonds.

Refunding bonds authorized under this article may be issued in one or more series; may bear such date or dates; may mature at such time or times, not exceeding the period of usefulness of the enterprise, as determined by the governing body in its discretion, not exceeding forty years from their respective dates; may bear interest at such rate or rates; may be in such denomination or denominations; may be in such form either coupon or registered; may carry such registration and conversion privileges; may be executed in such manner; may be payable in such medium of payment, at such place or places; may be subject to such terms of redemption, with or without a premium; may be declared or become due before the maturity date; may provide for the replacement of mutilated, destroyed, stolen or lost bonds; may be authenticated in such manner and upon compliance with such conditions; and may contain such other terms and covenants, as may be determined by the governing body in the proceedings authorizing the refunding bonds. Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that the bond is nonnegotiable, all refunding bonds shall at all times be, and shall be treated as, negotiable instruments for all purposes. (1969, c. 12; 1981, 1st Ex. Sess., c. 2.)

§ 13-2E-5. Issuance of refunding bonds; application of proceeds.

Refunding bonds issued under this article may be exchanged for not less than a like principal amount of the revenue bonds to be refunded, or may be sold at public or private sale, or may be exchanged in part and sold in part, in such manner and upon such terms as may be determined by the governing body to be for the best interests of the public body: Provided, That such refunding bonds shall not be sold or exchanged at a price lower than a price which will show a net saving to the issuer after deducting all expenses of the refunding: Provided, however, That if the governing body determines that one of the purposes of issuing such refunding bonds is to effect the release, termination or modification of liens, restrictions, conditions or limitations

imposed in connection with the bonds which are to be refunded, then such refunding bonds may be issued without the necessity of showing a net saving to the issuer, in which event such refunding bonds shall bear interest at such rate or rates as the governing body may determine, but such rate or rates shall not exceed the maximum stated rate of interest which the revenue bonds to be refunded thereby could bear if they were being issued as of the date of issuance of such refunding bonds, and such refunding bonds may not be sold or exchanged at a price which would result in a net interest cost in excess of the maximum net interest cost which the revenue bonds to be refunded could be sold or exchanged for if they were being issued as of the date of issuance of such refunding bonds.

If any such refunding bonds are to be sold, they may be issued in such principal amount as may be determined advisable by the governing body including, without limitation, the aggregate principal amount of the revenue bonds to be refunded, interest accrued and to accrue to the date or dates on which the revenue bonds being refunded are scheduled to mature or to be redeemed prior to maturity, any redemption premiums which must be paid in order to refund such outstanding revenue bonds and any costs and expenses of issuing the refunding bonds and providing for retirement of revenue bonds to be refunded. If sold, the net proceeds shall either be immediately applied to the payment or redemption and retirement of the revenue bonds to be refunded, or the net proceeds of the refunding bonds may be invested at the discretion and under the supervision of the escrow agent in whole, or in part, (a) in direct obligations issued by the United States of America or one of its agencies, (b) in obligations unconditionally guaranteed by the United States of America as to principal and interest, or (c) in certificates of deposit of a banking corporation or association which is a member of the federal deposit insurance corporation, or successor; but any such certificates of deposit must be fully secured as to both principal and interest by pledged collateral consisting of direct obligations of or obligations guaranteed by the United States of America having a market value, excluding accrued interest, at all times at least equal to the amount of the principal of an accrued interest on such certificates of deposit. Any such investments must mature, or be payable in advance of maturity at the option of the holder, and must bear interest in such manner as to provide funds which, together with uninvested money placed in the hereinafter mentioned escrow, will be sufficient to pay when due or called for redemption the revenue bonds refunded, together with interest accrued and to accrue thereon and redemption premiums, if any, and such refunding bond proceeds or obligations so purchased therewith shall, and with other funds legally available to the public body for such purpose may, be deposited in escrow with the West Virginia municipal bond commission or a corporate trustee, which may be a trust company or bank having powers of a trust company within or without the state of West Virginia, to be selected by the issuer to be held in trust for the payment and redemption of the revenue bonds refunded, and such money and obligations and any reinvestment thereof shall be held in trust by such escrow agent for the payment of interest on the refunded bonds when due, and principal thereof and applicable redemption premiums, if any, when due, or upon the

date or dates for which they shall have been called for redemption, or upon an earlier voluntary surrender at the option of the escrow agent; provided if interest earned by any investment in such escrow is shown to be in excess of the amounts required from time to time for the payment of interest on and principal of the refunded revenue bonds, including applicable redemption premium, then such excess may be withdrawn from escrow and disbursed by the public body as are other revenues of the enterprise. Any moneys in the sinking or reserve funds or other funds maintained for the outstanding revenue bonds to be refunded may be applied in the same manner and for the same purpose as are the net proceeds of refunding bonds or may be deposited in the special fund or any reserve funds established for account of the refunding bonds. The term "net proceeds" as used above shall mean the gross proceeds of the refunding bonds after the deduction therefrom of all accrued interest, costs and expenses incurred in connection with the authorization and issuance of the refunding bonds and the retirement of the outstanding revenue bonds, and including all costs and expenses resulting from price variations to par or otherwise incurred in the purchase of obligations for escrow and in the disposition of the refunding bonds. (1969, c. 12; 1973, c. 115; 1986, c. 118.)

§ 13-2E-6. Determination of governing body to be conclusive.

The determination by the governing body of any public body issuing refunding bonds under this article that the limitations herein imposed upon the issuance of refunding bonds have been met, shall be conclusive: Provided, however, That such public body shall have obtained from an independent certified public accountant a certification that the amount of saving stated to be achieved by the refunding shall in fact be served, based upon his review, comparison and analysis of the net interest cost in dollars of the refunding bonds and the net interest cost in dollars of the bonds to be refunded. (1969, c. 12.)

§ 13-2E-7. Authorization for issuance.

Refunding bonds and all acts required to be authorized hereunder shall be authorized in the manner in which the bonds to be refunded were authorized and issued: Provided, That refunding bonds of a system resulting from the severance of a combined municipal waterworks and sewerage system shall to the extent applicable be authorized and issued under the terms and provisions of law, including, but not limited to, interest rates and net interest costs, under which revenue bonds of such resulting system would be authorized and issued. (1969, c. 12; 1986, c. 118.)

§ 13-2E-8. Authority for escrow agreement.

The governing body of any public body shall have power to enter into such escrow agreements and to insert therein such protective and other covenants and provisions as it may consider necessary to permit the carrying out of the provisions of this article and to insure the prompt payment of principal of and

interest and redemption premiums on the revenue bonds refunded. (1969, c. 12.)

§ 13-2E-9. Call of revenue bonds for redemption.

Where any revenue bonds to be refunded are not to be surrendered for exchange or payment and are not to be paid at maturity with escrowed obligations, but are to be paid from such source prior to maturity pursuant to call for redemption exercised under a right of redemption reserved in such revenue bonds, the governing body of the public body shall, prior to the issuance of the refunding bonds, determine which redemption date or dates shall be used, call such revenue bonds for redemption and provide for the giving of the notice of redemption required by the proceedings authorizing such revenue bonds. Where such notice is to be given at a time subsequent to the issuance of the refunding bonds, the necessary notices may be deposited with the state sinking fund commission or the bank acting as escrow agent of the refunding bond proceeds and the escrow agent appropriately instructed and authorized to give the required notices at the prescribed time or times. If any officer of the public body signing any such notice shall no longer be in office at the time of the utilization of the notice, the notice shall nevertheless be valid and effective for its intended purpose. (1969, c. 12.)

§ 13-2E-10. Security provisions.

Refunding bonds shall be special obligations of the public body and shall be payable solely from and secured by a lien upon the gross revenues or net revenues of the enterprise, as shall be more fully described in the ordinance or resolution authorizing the issuance of refunding bonds, and the ordinance or resolution authorizing such refunding bonds shall provide for a special fund into which there shall be pledged a fixed amount or a fixed proportion of such revenues which shall be sufficient to pay the principal of and interest on the refunding bonds as the same become due.

In order to assure payment of the principal and interest on any refunding bonds it shall be the duty of the governing body of the public body to establish, levy, maintain and collect such fees, tolls, rentals, rates and other charges for the services of such enterprise as shall be necessary to produce revenues sufficient, after making due and reasonable allowance for contingencies and for a margin of error in estimates, to pay at all times principal of and interest on the refunding bonds as the same become due, to pay current expenses of operation and maintenance, to provide for depreciation, to provide for reserves for any of the foregoing, to comply in all respects with any contract or agreement with bondholders set forth in the ordinance or resolution authorizing such refunding bonds, and to meet any other obligations of the public body which by their terms are charges, liens, or encumbrances upon the revenues of such enterprise.

The ordinance or resolution authorizing any refunding bonds may contain such covenants with the holders of the refunding bonds as to the efficient management and operation of the enterprise; the collection, keeping and

disposition of the revenues of the enterprise; the issuance of additional refunding bonds or revenue bonds; the carrying of insurance on such enterprise and the disposition of insurance proceeds; the keeping of books and records and the auditing thereof; the inspection by bondholders at reasonable times of the enterprise and the records, accounts and data of the public body relating thereto; limitations upon the sale or other disposition of integral parts of the enterprise; the discontinuance of the services and facilities of the enterprise upon failure to pay for such services and facilities; the appointment and duties of a trustee; the rights, liabilities, powers and duties arising upon the breach by the public body of any covenants, conditions or obligations contained in the ordinance or resolution authorizing the issuance of such refunding bonds; remedies of bondholders upon default in the payment of the principal of or interest on any refunding bonds, including the appointment by a court of competent jurisdiction of a receiver for the operation and management of the enterprise and the collection and disbursement of the revenues thereof, but such receiver or any court having jurisdiction in the matter shall not be permitted to sell, mortgage or otherwise dispose of any assets of the enterprise and useful in its operation or cause any of such assets to be sold, mortgaged or otherwise disposed of; and any other conditions, acts or pertinent matters as may be deemed necessary or proper by the governing body of the public body to assure efficient operation of the enterprise, payment of the refunding bonds and marketability of the refunding bonds upon favorable terms. Any agreement or covenant contained in the ordinance or resolution authorizing such refunding bonds shall constitute a contract with the holders of such refunding bonds.

All refunding bonds of the same issue shall be equally and ratably secured, without priority by reason of number, date or time of sale, execution or delivery, by a lien upon the revenues of the enterprise in accordance with the provisions of this section and the ordinance or resolution authorizing the issuance of such refunding bonds.

Nothing in this section or in any other section of this article shall be deemed in any way to alter the terms of any agreements made with the holders of any outstanding revenue bonds of the public body, or to authorize the public body to alter the terms of any such agreements, or to impair, or authorize the public body to impair, the rights and remedies of any creditors of the public body.

Nothing in this section or in any other section of this article shall be deemed in any way to authorize any public body to do anything in any manner or for any purpose which would result in the creation or incurring of a debt or indebtedness or the issuance of any instrument which would constitute a bond or debt within the meaning of any provision, limitation, or restriction of the Constitution relating to the creation or incurring of a debt or indebtedness or the issuance of an instrument constituting a bond or a debt. (1969, c. 12.)

§ 13-2E-11. Bonds payable solely from revenues of enterprise.

No recourse shall be had for the payment of the refunding bonds, or interest thereon, or any part thereof, against the general fund of any public body, nor

shall the credit or taxing power of any public body be deemed to be pledged thereto.

The refunding bonds, and interest thereon, shall not be a debt of the public body, nor a charge, lien or encumbrance, legal or equitable, upon any property of the public body, nor upon any income, receipts, or revenues of the public body other than such of the revenues of the enterprise as shall have been pledged to the payment thereof, and every refunding bond shall recite in substance that said bond, including interest thereon, is payable solely from the revenues pledged to the payment thereof and that the public body is under no obligation to pay the same, except from said revenues. (1969, c. 12.)

§ 13-2E-12. Tax exemption; exceptions.

The refunding bonds and the income therefrom shall be exempt from taxation, except inheritance, estate and transfer taxes. (1969, c. 12.)

§ 13-2E-13. Validity of bonds.

Refunding bonds bearing the signatures of officers of the public body in office on the date of the signing thereof shall be valid and binding obligations of the public body for all purposes, notwithstanding that before the delivery thereof any or all the persons whose signatures appear thereon shall have ceased to be officers of the public body, the same as if such persons had continued to be officers of the public body until after the delivery thereof. The ordinance or resolution authorizing any refunding bonds may provide that such refunding bond may contain a recital that such refunding bond is issued pursuant to this article, and any refunding bond containing such recital under authority of any such ordinance or resolution shall be conclusively deemed to be valid and to have been issued in conformity with the provisions of this article.

Where any refunding bonds have been heretofore authorized by any public body which would have been valid under and in compliance with the provisions of this article had this article been in existence at the time of the authorization of such refunding bonds, such refunding bonds if heretofore issued, and if not yet issued then such refunding bonds when they shall have been issued, and the proceedings authorizing their issuance, are hereby validated, ratified and confirmed and declared to be binding and enforceable obligations in accordance with their terms. (1969, c. 12.)

§ 13-2E-14. Article complete authority for refunding bonds; effect on other laws; liberal construction.

This article constitutes full and complete authority for the issuance of refunding bonds. No procedure or proceedings, publications, notices, consents, approvals, orders, acts or things by any governing body of any public body, or any board, officer, commission, department, agency, or instrumentality of the State or any public body shall be required to issue any refunding bonds or to do any act or perform anything under this article, except as may be prescribed

in this article. The powers conferred by this article shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this article shall not affect, the powers conferred by any other law. This article is remedial in nature and shall be liberally construed. (1969, c. 12.)

§ 13-2E-15. Severability.

If any one or more provisions of this article or the applicability thereof to any persons or circumstances are ever held by a final decision of a court of competent jurisdiction to be invalid, such invalidity shall not affect any other provision or provisions, application or applications of this article, and to this end, the provisions of this article are declared to be severable. (1969, c. 12.)

ARTICLE 2F.

PUBLIC OBLIGATIONS REGISTRATION ACT.

Sec.		Sec.	
13-2F-1.	How article cited.	13-2F-5.	Powers of official registrar; designee.
13-2F-2.	Purposes; article governs over charter provisions.	13-2F-6.	Confidentiality.
13-2F-3.	Definitions.	13-2F-7.	Application to public obligations approved by voters.
13-2F-4.	Authority to issue public obligations in registered and book entry forms.		

§ 13-2F-1. How article cited.

This article may be cited as "Public Obligations Registration Act." (1986, c. 118.)

§ 13-2F-2. Purposes; article governs over charter provisions.

The purpose of this article is to provide a mechanism for public bodies in the state to issue public obligations in compliance with section 310(b)(1) of the tax equity and fiscal responsibility act of one thousand nine hundred eighty-two, United States Internal Revenue Code section 103(j) [26 USCS § 103(j)], as amended.

To fulfill the purpose, this article shall govern notwithstanding any charter provisions. (1986, c. 118.)

Editor's notes. — The bracketed USCS reference was inserted by the editor.

§ 13-2F-3. Definitions.

The following terms wherever used or referred to in this article shall have the following meanings, unless a different meaning plainly appears from the context:

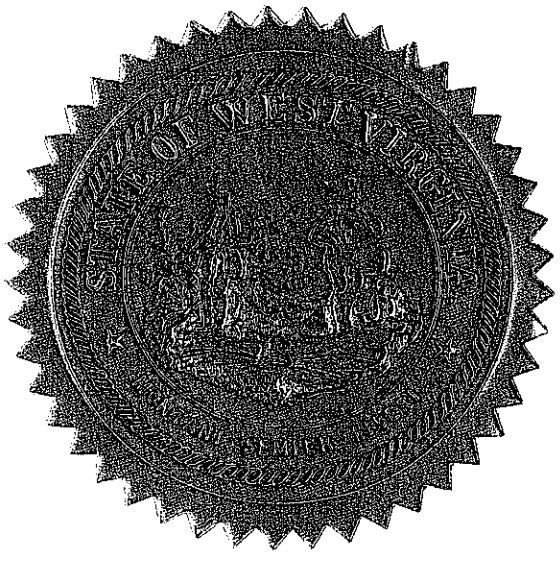
The term "public body" means any city, town, county commission, building commission, board of education, public service district, political subdivision or

State of West Virginia

Certificate

I, Betty Ireland, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13 OF THE WEST VIRGINIA CODE, AND CHAPTER 16, ARTICLE 13 OF THE 2004 SUPPLEMENT TO THE WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS OFFICE.



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

July 29, 2005

Secretary of State

If a majority of the votes cast at such election shall be in favor of disconnection, and if the trustees of such sanitary district shall, by ordinance, disconnect such territory, thereupon the county court of the county in which the original petition for the formation of such sanitary district was filed, shall enter an appropriate order in the records of the said county court and thereafter such territory shall henceforth be deemed disconnected from such sanitary district. (1933, Ex. Sess., c. 24, § 14.)

Editor's notes. — For construction of the county court as the county commission, see W.Va. Const. art. IX, § 9.

ARTICLE 13.

SEWAGE WORKS AND STORMWATER WORKS.

Sec.
16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.
16-13-2. Sanitary board to supervise and control construction, etc., of works; appointment of board; definitions.
16-13-3. Powers of sanitary board; contracts; employees; compensation thereof; extensions and improvements; replacement of damaged public works.
16-13-4. Payment of preliminary expenses of surveys, etc.
16-13-5. Ordinance necessary before acquisition or construction of works.
16-13-6. Publication and hearing upon ordinance.
16-13-7. Acquisition by condemnation or purchase.
16-13-8. Cost of works.
16-13-9. Contracts and obligations incurred to be paid for solely by revenue bonds.
16-13-10. Interest on and redemption of bonds; form; statement on face of bond; negotiability; exemption from taxation; registration; execution; sale; disposition of surplus proceeds; additional and temporary bonds.
16-13-11. Additional bonds to extend or improve works.
16-13-12. Additional bonds for extension, etc., of works to have equal priority with original bonds.
16-13-13. Application of revenue from bonds; lien.
16-13-14. Securing bonds by trust indenture.
16-13-15. Sinking fund; transfer of balance of net revenues.
Sec.
16-13-16. Rates for service; change or readjustment; hearing; lien and recovery; discontinuance of services.
16-13-17. Government units subject to established rates.
16-13-18. Supervision of works by sanitary board; organization of board; qualifications, terms and compensation of members.
16-13-18a. Publication of financial statement.
16-13-19. Contract with other municipalities for service of works; powers of lessee as to rates; intercepting sewers.
16-13-20. Discharge of lien on property acquired.
16-13-21. Action on certificates or attached coupons; receivers.
16-13-22. Powers conferred in addition to existing powers; jurisdiction outside corporate limits.
16-13-22a. Grants, loans and advances.
16-13-22b. Contracts for abatement of pollution.
16-13-22c. Refunding bonds.
16-13-22d. Subordination of bonds.
16-13-22e. Operating contract.
16-13-22f. Exemption of bonds from taxation.
16-13-22g. Covenants with bondholders.
16-13-23. Article deemed full authority for construction, etc., of works and issue of bonds; alternative method; powers of state department of health unaffected.
16-13-23a. Additional powers of municipality upon receipt of order to cease pollution.
16-13-24. Article to be construed liberally.

Constitutionality. — See Brewer v. City of Point Pleasant, 114 W. Va. 572, 172 S.E. 717 (1934); Stevenson v. City of Bluefield, 39 F. Supp. 462 (S.D.W. Va. 1941); West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

Obligations incurred by a city under the authority of this article permitting the issuance of revenue bonds for the construction of sewers are not to be deemed "debts" within the constitutional inhibition. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

In general. — The effect of the provisions of this article is to authorize and empower a municipal corporation in this State to own, construct, equip, operate and maintain sewer systems, to place the construction, operation and management of such systems under the supervision and control of a sanitary board appointed by the governing body, to authorize such board to operate, manage and control them and to order and complete any extensions or betterments that the board may deem expedient. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Conflict of laws. — There is no conflict between this article, authorizing a city to incur expenses which are to be payable solely from the proceeds of revenue bonds, and the general statutory limitations on the expenditure of money and incurring of obligations with respect to funds produced by tax levies. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

Legislative intent. — It appears clear that the legislature recognized the need for municipal utility systems; however, it did not wish the municipality to become generally obligated for the building or acquisition of the system. Financing is provided for primarily by revenue bonds, and bondholders are assured of a safe investment through the collection of sufficient user charges to service the bonds and maintain the assets of the system. Op. Att'y Gen., April 3, 1979.

Limitations. — Where a city made an agreement with the federal works administrator under the War Mobilization and Reconversion Act of 1944 with regard to advances of money to the city for the purpose of plan preparation for construction of a proposed sewage treatment and disposal system, the limitation imposed by this article would be read into the agreement, since the parties are presumed to know the extent of the city's authority to make a binding contract. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

Nonresidents. — Municipality may not compel nonresidents to connect with a municipal sewer extended without its corporate limits. 48 Op. Att'y Gen. 19 (1958).

Ordinance held valid. — An ordinance of a municipal corporation, creating a sanitary board and authorizing such sanitary board to enter into contracts for the construction of a sewage system, was within the police power of the State delegated to municipalities by this chapter. West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

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§ 16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.

(a) Any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to own, acquire, construct, equip, operate and maintain within and/or without the corporate limits of such municipal corporation:

(1) A sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil and industrial waste of such municipal corporation and/or sanitary district, including acquisition of the municipal sewerage system resulting from the severance of a combined system pursuant to section one-b [§ 8-20-1b], article twenty, chapter eight of this code; and

If a majority of the votes cast at such election shall be in favor of disconnection, and if the trustees of such sanitary district shall, by ordinance, disconnect such territory, thereupon the county court of the county in which the original petition for the formation of such sanitary district was filed, shall enter an appropriate order in the records of the said county court and thereafter such territory shall henceforth be deemed disconnected from such sanitary district. (1933, Ex. Sess., c. 24, § 14.)

Editor's notes. — For construction of the county court as the county commission, see W.Va. Const. art. IX, § 9.

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16-13-6. Publication and hearing upon ordinance.
16-13-7. Acquisition by condemnation or purchase.
16-13-8. Cost of works.
16-13-9. Contracts and obligations incurred to be paid for solely by revenue bonds.
16-13-10. Interest on and redemption of bonds; form; statement on face of bond; negotiability; exemption from taxation; registration; execution; sale; disposition of surplus proceeds; additional and temporary bonds.
16-13-11. Additional bonds to extend or improve works.
16-13-12. Additional bonds for extension, etc., of works to have equal priority with original bonds.
16-13-13. Application of revenue from bonds; lien.
16-13-14. Securing bonds by trust indenture.
16-13-15. Sinking fund; transfer of balance of net revenues.
Sec.
16-13-16. Rates for service; change or readjustment; hearing; lien and recovery; discontinuance of services.
16-13-17. Government units subject to established rates.
16-13-18. Supervision of works by sanitary board; organization of board; qualifications, terms and compensation of members.
16-13-18a. Publication of financial statement.
16-13-19. Contract with other municipalities for service of works; powers of lessee as to rates; intercepting sewers.
16-13-20. Discharge of lien on property acquired.
16-13-21. Action on certificates or attached coupons; receivers.
16-13-22. Powers conferred in addition to existing powers; jurisdiction outside corporate limits.
16-13-22a. Grants, loans and advances.
16-13-22b. Contracts for abatement of pollution.
16-13-22c. Refunding bonds.
16-13-22d. Subordination of bonds.
16-13-22e. Operating contract.
16-13-22f. Exemption of bonds from taxation.
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16-13-23a. Additional powers of municipality upon receipt of order to cease pollution.
16-13-24. Article to be construed liberally.

(2) A stormwater collection system and control system, including all lines, pumping stations and all other facilities and appurtenances necessary or useful and convenient for the collection and control of stormwater, and an associated stormwater management program.

(b) Any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to acquire by gift, grant, purchase, condemnation, or otherwise, all necessary lands, rights-of-way and property therefor, within and/or without the corporate limits of such municipal corporation and/or sanitary district, and to issue revenue bonds to pay the cost of such works and property.

(c) Any municipality may serve and supply the facilities of such sewerage system and a stormwater system and associated stormwater management program within the corporate limits of the municipality and within the area extending twenty miles beyond the corporate limits of such municipality: Provided, however, That the municipality may not serve or supply the facilities of such sewerage system or stormwater system within the corporate limits of any other municipality without the consent of the governing body thereof: Provided, That for stormwater systems, within the twenty miles beyond the municipality's corporate limits the only areas the municipality may serve and supply shall be those areas from which stormwater affects or drains into the municipality.

(d) No obligations shall be incurred by any municipality and/or sanitary district in construction or acquisition except such as is payable solely from the funds provided under the authority of this article.

(e) No municipal corporation or sanitary district may acquire, construct, establish, extend, repair or equip or thereafter repair, maintain and operate a combined waterworks, sewerage or stormwater system, which includes highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways. (1933, Ex. Sess., c. 25, § 1; 1955, c. 132; 1986, c. 118; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, added subsection designations, substituted "the" for "such" throughout; in (a)(1), deleted "waterworks and sewerage" preceding "system", deleted "shall have authority" from the end; added (a)(2); in (b), added "Any municipality... empowered", deleted "and any such" from the end; in (c), added "Any", inserted "and a stormwater system and associated stormwater management program", substituted "may not serve" for "shall not serve", inserted "or stormwater system", added the proviso; in (d), deleted "such" preceding "municipality" and "construction"; and added (e).

Use of territory in adjoining state authorized. — By this section and § 16-13-22 the legislature intended, insofar as it could, to confer upon such municipalities as might find its exercise convenient, the right to make necessary and appropriate arrangements for the disposal of their sewage, even where that course involved the use of territory in an adjoining state. Bernard v. City of Bluefield, 117 W. Va. 556, 186 S.E. 298 (1936).

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Cited in City of Beckley v. Craighead, 125 W. Va. 484, 24 S.E.2d 908 (1943); Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

§ 16-13-2. Sanitary board to supervise and control construction, etc., of works; appointment of board; definitions.

(a) The construction, acquisition, improvement, equipment, custody, operation and maintenance of any works for the collection, treatment or disposal of sewage and, in addition, for the collection and control of stormwater and the collection of revenues therefrom for the service rendered thereby, shall be under the supervision and control of a sanitary board appointed by the governing body as set forth in section eighteen [§ 16-13-18] of this article.

(b) As used in this article, the following terms shall have the following meanings unless the text clearly indicates otherwise.

(1) "Board" means the sanitary board as set up in section eighteen [§ 16-13-18] of this article.

(2) "Governing body" means the mayor and council or other legally constituted governing body of any municipality.

(3) "Municipality" means any municipal corporation, incorporated city, town, village or sanitary district in the state of West Virginia.

(4) "Sewage works" means a works for the collection and/or treatment, purification and disposal of sewage, in its entirety or any integral part thereof.

(5) "Stormwater system" or "stormwater works" means a stormwater system in its entirety or any integral part thereof used to collect and dispose of stormwater and an associated stormwater management program. It includes all facilities, structures and natural water courses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet, including, but not limited to, any and all of the following: Inlets, conduits, corals, outlets, channels, ponds, drainage easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, syphons, retention or detention basins, dams, floodwalls, levies, pipes, flood control systems and pumping stations, and associated stormwater management program. The term "stormwater system" and "stormwater works" shall not include highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways.

(6) "Stormwater management program" means those activities associated with the management, operation, maintenance and control of stormwater and stormwater works, including, but not limited to, public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforcement and any other activities required by state and federal law: Provided, That, as used in this article, "stormwater management program" shall not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways.

(7) "Works" means sewage works and stormwater works either separately or collectively. (1933, Ex. Sess., c. 25, § 2; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, added subsection designations; in present (a), deleted "such" preceding "works", inserted "and, in addition, for the collection and control of stormwater", deleted "The term 'works'" from the end; and rewrote (b) to include the definitions of "sewerage works", "stormwater system" or "stormwater works", "stormwater management program", and "works".

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Stated in Berkeley County Pub. Serv. Sewer Dist. v. West Va. Pub. Serv. Comm'n, 204 W. Va. 279, 512 S.E.2d 201 (1998).

Cited in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956); Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

§ 16-13-3. Powers of sanitary board; contracts; employees; compensation thereof; extensions and improvements; replacement of damaged public works.

The board shall have 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 and the execution of its powers under this article: Provided, That any contract relating to the financing of the acquisition or construction of any works, or any trust indenture as provided for, shall be approved by the governing body of the municipality before the same shall be effective.

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 the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any authority or power herein given it so as to bind said board of said municipality beyond the extent to which money shall have been or may be provided under the authority of this article.

No contract or agreement with any contractor or contractors for labor and/or material, exceeding in amount the sum of ten thousand dollars, shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power in the board to reject any or all bids.

After the construction, installation, and completion of the works, or the acquisition thereof, the board shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that the board may consider expedient, if funds therefor be available or are made available as provided in this article, 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 thereof, 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.

The sanitary board may declare an emergency situation in the event of collector line breaks or vital treatment plant equipment failure and shall be

exempted from competitive bidding requirements and enter into direct purchase agreements or contracts for the expenses. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article. (1933, Ex. Sess., c. 25, § 3; 1989, c. 133; 2001, cc. 143, 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, deleted "such" throughout the section; in the third undesignated paragraph, substituted "the sum of ten thousand dollars" for "the sum of five thousand dollars"; in the fourth undesignated paragraph, substituted "may consider expedient" for "may deem expedient", inserted "stormwater conduits" and added "including... improvement activities" at the end; and made other, minor changes.

Editor's notes. — Acts 2001, c. 143, effective July 10, 2001, also proposed to amend this section; however, the amendments therein have been deemed superceded by those found in Acts 2001, c. 212, which are set out above. The superceded amendment, set out below, would have substituted "the sum of ten thousand dollars" for "the sum of five thousand dollars".

Chapter 143 read:

"The board shall have 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 and the execution of its powers under this article: Provided, That any contract relating to the financing of the acquisition or construction of any such works, or any trust indenture as hereinafter provided for, shall be approved by the governing body of such municipality before the same shall be effective. The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and such 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 such work as the board shall direct. All such compensation and all expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any authority or power herein given it so as to bind said board of said municipality beyond the extent to which money shall have been or may be provided under the authority of this article. No contract or agreement with any contractor or contractors for labor and/or material, exceeding in amount the sum of ten thousand dollars, shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power in the board to reject any or all bids. After the construction, installation, and completion of the works, or the acquisition thereof, the board shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that the board may deem expedient, if funds therefor be available or are made available as provided in this article, and shall establish rules and regulations for the use and operation of the works, and of other sewers 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 thereof. The sanitary board may declare an emergency situation in the event of collector line breaks or vital treatment plant equipment failure and shall be exempted from competitive bidding requirements and enter into direct purchase agreements or contracts for such expenses. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article."

Immunity. — A contractor under contract with the sanitary board of a municipality for construction of a sewage treatment and disposal system is not entitled to the governmental immunities of the municipality incident to the construction project. West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

Third party. — Where a contract between a municipal sanitary board and a contractor, providing for the construction of a sanitary sewage system, provides inter alia that "existing surface, overhead or subsurface structures damaged or destroyed by reason of the contractor's operations shall be promptly repaired or replaced in a satisfactory manner at the cost and expense of the contractor," and the contractor by job order requests enters into a contract with an existing water company to remove certain of the latter's water pipes which interfere with the construction of the sewage system, the contractor, in a notice of motion for judgment proceeding instituted by the water company, is liable for the expense so incurred. West Vir-

ginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

Stated in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

§ 16-13-4. Payment of preliminary expenses of surveys, etc.

All necessary preliminary expenses actually incurred by the board of any municipality in the making of surveys, estimates of costs and of revenue, employment of engineers or other employees, the giving of notices, taking of options and all other expenses of whatsoever nature, necessary to be paid prior to the issue and delivery of the revenue bonds pursuant to the provisions of this article, may be met and paid in the following manner. Said board may from time to time certify such items of expense to the clerk or recorder of said municipality, directing him to pay the several amounts thereof, and thereupon said clerk or recorder shall at once draw a warrant or warrants upon the treasurer of said municipality, which warrant or warrants shall be paid out of the general funds of said municipality not otherwise appropriated, without a special appropriation being made therefor by the governing body; or, in case there are no general funds of such municipality not otherwise appropriated, the clerk or recorder shall recommend to the governing body the temporary transfer from other funds of such municipality of a sufficient amount to meet such items of expense, or the making of a temporary loan for such purpose, and such governing body shall thereupon at once make such transfer of funds, or authorize such temporary loan in the same manner that other temporary loans are made by such municipality: Provided, however, That the fund or funds of such municipality from which such payments are made shall be fully reimbursed and repaid by said board out of the first proceeds of the sale of revenue bonds hereinafter provided for, and before any other disbursements are made therefrom, and the amount so advanced to pay such preliminary expenses, shall be a first charge against the proceeds resulting from the sale of such revenue bonds until the same has been repaid as herein provided. (1933, Ex. Sess., c. 25, § 4.)

Advances. — Money used in preliminary engineering work prior to actually beginning construction of a sewage disposal system need not be handled by the sanitary board in accordance with the provisions of §§ 16-13-1, 16-13-18 and this section. The sanitary board is an agency of the city. This article merely requires that the construction and maintenance of the project be under the supervision and control of the sanitary board. A method is provided whereby the sanitary board may meet its own necessary preliminary expenses; but the city, in the early stages of the project, during that period in which the city has not even decided to go ahead with the work, and when there is no sanitary board in existence, is not prevented by any provision in the article from obtaining advances for plan preparation by any procedure which it may see fit to adopt. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

The United States was held entitled to recover from a city the amount of three advances of money made to the city by the federal works agency for the purpose of plan preparation for construction of a proposed sewage treatment and disposal system, and the city sanitary board was ordered to issue a requisition to the trustees, into whose hands proceeds of future bond issues came, to repay such advances out of any funds in its hands comprising proceeds of revenue bond issues. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

Repayment. — A municipality is authorized to incur obligations for the purpose of defraying preliminary expenses of sewer projects, provided repayment of such obligations is to be made solely from the proceeds of revenue

bonds, and not in any way from tax levies. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

§ 16-13-5. Ordinance necessary before acquisition or construction of works.

Before any municipality shall construct or acquire any works under this article, the governing body shall upon petition of the board, enact an ordinance or ordinances which shall: (a) Set forth a brief and general description of the works and, if the same are to be constructed, a reference to the preliminary report which shall heretofore have been prepared and filed by an engineer chosen by the board as aforesaid; (b) set forth the cost thereof estimated by the engineer chosen as aforesaid; (c) order the construction or acquisition of such works; (d) direct that revenue bonds of the municipality shall be issued pursuant to this article in such an amount as may be found necessary to pay the cost of the works; and (e) contain such other provisions as may be necessary in the premises. (1933, Ex. Sess., c. 25, § 5.)

Quoted in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956).

Stated in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

§ 16-13-6. Publication and hearing upon ordinance.

After such ordinance shall have been adopted, an abstract of the ordinance, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The notice shall state that said ordinance has been adopted, and that the municipality contemplates the issuance of the bonds described in the ordinance, and that any person interested may appear before the governing body upon a certain date, which shall not be less than ten days subsequent to the first date of publication of such abstract and notice which shall not be prior to the last date of publication of such abstract and notice, and present protests. 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: Provided, however, That if at such a hearing written protest is filed by thirty percent or more of the owners of real estate situate in said municipality, then the governing body of said municipality shall not take further action unless four fifths of the qualified members of the said governing body assent thereto. (1933, Ex. Sess., c. 25, § 6; 1967, c. 105; 1981, 1st Ex. Sess., c. 2.)

§ 16-13-7. Acquisition by condemnation or purchase.

Every such municipality shall have power to condemn any such works to be acquired and any land, rights, easements, franchises and other property, real or personal, deemed necessary or convenient for the construction of any such works, or for extensions, improvements, or additions thereto, and in connection

therewith may have and exercise all the rights, powers and privileges of eminent domain granted to municipal corporations under the laws relating thereto. Title to property condemned shall be taken in the name of the municipality. Proceedings for such appropriation of property shall be under and pursuant to the provisions of chapter fifty-four [§§ 54-1-1 et seq.], of the Code of West Virginia, one thousand nine hundred thirty-one, and acts amendatory and supplemental thereto: Provided, That the municipality shall be under no obligation to accept and pay for any property condemned, and shall in no event pay for any property condemned or purchased, except from the funds provided pursuant to this article; and in any proceedings to condemn, such orders may be made as may be just to the municipality and to the owners of the property to be condemned, and an undertaking or other security may be required securing such owners against any loss or damage to be sustained by reason of the failure of the municipality to accept and pay for the property, but such undertaking or security shall impose no liability upon the municipality except such as may be paid from the funds provided under the authority of this article. In event of the acquisition by purchase the board may obtain and exercise an option from the owner or owners of said property for the purchase thereof, or may enter into a contract for the purchase thereof, and such purchase may be made upon such terms and conditions, and in such manner as the board may deem proper. In event of the acquisition of any works already constructed by purchase or condemnation, the board at or before the time of the adoption of the ordinance described in section five [§ 16-13-5] hereof, shall cause to be determined what repairs, replacements, additions, and betterments will be necessary in order that such works may be effective for their purpose, and an estimate of the cost of such improvements shall be included in the estimate of the cost required by section five hereof, and such improvement shall be made upon the acquisition of the works and as a part of the cost thereof. (1933, Ex. Sess., c. 25, § 7.)

§ 16-13-8. Cost of works.

The cost of the works shall be deemed to include the cost of acquisition or construction thereof, the cost of all property, rights, easements, and franchises deemed necessary or convenient therefor and for the improvements determined upon as provided in this article; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvement last mentioned; engineering and legal expenses; expense for estimates of cost and of revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized and the construction or acquisition of the works and the placing of the works in operation and the performance of the things herein required or permitted in connection with any thereof. (1933, Ex. Sess., c. 25, § 8.)

Advances. — Advances from the United States to a city for the purpose of plan preparation for construction of a proposed sewage treatment and disposal system represent a part of the cost of the works which should have been repaid out of the first proceeds received from the sale of the first issue of revenue bonds. Such repayment would not in any way increase the cost of the works; it was the very first item of expense incurred in connection with the works. Under the agreement between the city and the United States, it was a liability from the moment construction of the sewage treatment and disposal plant was begun. No disadvantage would result to bondholders as a result of the payment of this just debt out of the proceeds of a future revenue bond issue. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

Preliminary expenses. — It is foreseen, as shown in this section, that a city may probably incur expenses in "determining the feasibility or practicability of the enterprise." Such determination would of course be made prior to the issuance of any revenue bonds, and probably before the creation of a sanitary board. It might often result in a rejection of the project altogether, in which event no revenue bonds would be issued, and any obligation incurred by the city might prove to be uncollectible. On the other hand, if the project be undertaken by the city, whatever loans may have been made on the faith of the revenue bonds would or should be included in the cost of the works and repaid out of the proceeds of the bonds. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

§ 16-13-9. Contracts and obligations incurred to be paid for solely by revenue bonds.

Nothing in this article contained shall be so construed as to authorize or permit any municipality to make any contract or to incur any obligation of any kind or nature except such as shall be payable solely from the funds provided under this article. Funds for the payment of the entire cost of any of the works referred to in this article, exclusive of any portions of the cost that may be defrayed out of any grant or contribution, shall be provided by the issuance of revenue bonds of the municipality, the principal and interest of which shall be payable solely from the fund herein provided for the payment, and the bonds may not, in any respect, be a corporate indebtedness of the municipality, within the meaning of any statutory or constitutional limitations thereon. All the details of the bonds shall be determined by ordinance or ordinances of the municipality. (1933, Ex. Sess., c. 25, § 9; 1949, c. 93; 2001, c. 212.)

Cross references. — See notes to § 16-13-8.

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, substituted "the" for "such" throughout, substituted "any of the works referred to in this article" for "the works", and substituted "the bonds may not" for "the bonds shall not".

Applicability. — The provisions of this article become a part of the contract between the municipality and the bondholders as effectually as if written verbatim in the bonds. The bondholders are bound by their contract in this instance just as firmly as in any other legal contract. Consequently, the bonds do not create a corporate indebtedness of the municipality. Brewer v. City of Point Pleasant, 114 W. Va. 572, 172 S.E. 717 (1934); United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

Contracts between municipalities. — Under the provisions of §§ 16-13-19 and 16-13-23a, a city and a town could enter into a contract whereby the city agreed to construct a sewage disposal facility and the town agreed to contribute to the cost of the construction of the facility in return for the right to use the facility, and the fact that the town was unable to sell revenue bonds because it was not allowed to have part ownership in the treatment plant or interceptor sewers did not relieve the town of its contractual obligation when the city offered to buy the revenue bonds issued by the town. Since the contracts were authorized by statute and were thus not ultra vires, even if the contracts were not formally approved by ordinance, the municipalities were estopped from asserting any invalidity of the contracts on such ground. City of Morgantown v. Town of Star City, 156 W. Va. 529, 195 S.E.2d 166 (1973).

§ 16-13-10. Interest on and redemption of bonds; form; statement on face of bond; negotiability; exemption from taxation; registration; execution; sale; disposition of surplus proceeds; additional and temporary bonds.

Such revenue bonds shall bear interest at not more than twelve percent per annum, payable at such times, and shall mature at such time or times as may be determined by ordinance. Such bonds may be made redeemable before maturity at the option of the municipality, to be exercised by said board, at not more than the par value thereof and a premium of five percent, under such terms and conditions as may be fixed by the ordinance authorizing the issuance of the bonds. The principal and interest of the bonds may be made payable in any lawful medium. Said ordinance shall determine the form of the bonds, either coupon or registered, shall set forth any registration and conversion privileges, and shall fix the denomination or denominations of such bonds and the place or places of payment of the principal and interest thereof, which may be at any bank or trust company within or without the State. The bonds shall contain a statement on their face that the municipality shall not be obligated to pay the same or the interest thereon except from the special fund provided from the net revenues of the works. All such bonds shall be, and shall have and are hereby declared to have all the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State. Said bonds shall be exempt from all taxation, state, county and municipal. Such bonds shall be executed by the proper legally constituted authorities of the municipality, and be sealed with the corporate seal of the municipality, and in case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers, before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Such bonds shall be sold at a price not lower than a price, which when computed upon standard tables of bond values, will show a net return of not more than thirteen per centum per annum to the purchaser upon the amount paid therefor, and the proceeds derived therefrom shall be used exclusively for the purposes for which said bonds are issued and same may be sold at one time or in parcels as funds are needed. Any surplus of bond proceeds over and above the cost of the works shall be paid into the sinking fund hereinafter provided. If the proceeds of the bonds, by error of calculation or otherwise, shall be less than the cost of the works, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in said ordinance authorizing the issuance of the bonds first issued or in the trust indenture hereinafter authorized, shall be deemed to be of the same issue and shall be entitled to payment without preference or priority of the bonds first issued. Prior to the preparation of the definitive bonds, temporary bonds may under like restrictions be issued with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. (1933, Ex. Sess., c. 25, § 10; 1970, c. 11; 1980, c. 33; 1981, 1st Ex. Sess., c. 2.)

§ 16-13-11. Additional bonds to extend or improve works.

The governing body may provide by said ordinance authorizing the issuance of the bonds or in the trust indenture hereinafter referred to, that additional bonds may thereafter be authorized and issued, at one time or from time to time under such limitations and restrictions as may be set forth in said ordinance and/or trust indenture, for the purpose of extending, improving or bettering the works when deemed necessary in the public interest, such additional bonds to be secured and be payable from the revenues of the works equally with all other bonds issued pursuant to said ordinance without preference or distinction between any one bond and any other definite bonds upon the issuance of the latter. (1933, Ex. Sess., c. 25, § 11.)

§ 16-13-12. Additional bonds for extension, etc., of works to have equal priority with original bonds.

The governing body may provide by said ordinance authorizing the issuance of the bonds or in the trust indenture hereinafter referred to, that additional bonds may thereafter be authorized and issued, at one time or from time to time, under such limitations and restrictions as may be set forth in said ordinance and/or trust indenture, for the purpose of extending, improving or bettering the works when deemed necessary in the public interest, such additional bonds to be secured and be payable from the revenues of the works equally with all other bonds issued pursuant to said ordinance without preference or distinction between any one bond and any other bond by reason of priority of issuance or otherwise. (1933, Ex. Sess., c. 25, § 12.)

§ 16-13-13. Application of revenue from bonds; lien.

All moneys received from any bonds issued pursuant to this article, after reimbursements and repayment to said municipality of all amounts advanced for preliminary expenses as provided in section four [§ 16-13-4] of this article, shall be applied solely to the payment of the cost of the work, extensions, improvements or betterments, or to the appurtenant sinking fund and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the holders of the bonds or the trustees hereinafter provided for. (1933, Ex. Sess., c. 25, § 13.)

Quoted in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956).

§ 16-13-14. Securing bonds by trust indenture.

In the discretion of the governing body such bonds may be secured by a trust indenture by and between the municipality and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the State of West Virginia but no such trust indenture shall convey or mortgage the works or any part thereof. The ordinance authorizing the revenue bonds and fixing the details thereof may provide that such trust indenture may

contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the municipality and the board in relation to the construction or acquisition of the works and the improvement, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that the works shall be contracted for, constructed and paid for under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, successors, assigns or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the works or other moneys pertaining thereto be satisfactory to such purchasers, successors, assigns or nominees. Such indenture may set forth the rights and remedies of the bondholders and/or such trustee, restricting the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. Except as in this article otherwise provided, the governing body may provide by ordinance or in such trust indenture for the payment of the proceeds of the sale of the bonds and the revenues of the works to such officer, board or depository as it may determine for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may det (1933, Ex. Sess., c. 25, § 14.)

§ 16-13-15. Sinking fund; transfer of balance of net revenues.

At or before the issuance of any such bonds the governing body shall by said ordinance create a sinking fund, to be remitted to and administered by the West Virginia municipal bond commission, for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to mean the revenues of the works remaining after the payment of the reasonable expense of operation, repair and maintenance, such amount to be paid by the board into said sinking fund at intervals to be determined by ordinance prior to issuance of the bonds, for: (a) The interest upon such bonds as such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the payment of the bonds as they fall due, or, if all bonds mature at one time, the proper maintenance of a sinking fund in such amounts as are necessary and sufficient for the payment thereof at such time; (d) a margin for safety and for the payment of premiums upon bonds retired by call or purchase as herein provided, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal ten percent of all other amounts so required to be paid into the sinking fund. Such required payments shall constitute a first charge upon all the net revenue of the works. Prior to the issuance of the bonds the board may by ordinance be given the right to use or direct the West Virginia municipal bond commission to use such sinking fund or any part thereof in the purchase of any of the

outstanding bonds payable therefrom at the market price thereof, but not exceeding the price, if any, at which the same shall in the same year be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. After the payments into such fund as herein required, the board may at any time in its discretion transfer all or any part of the balance of the net revenues, after reserving an amount deemed by the board sufficient for operation, repair and maintenance for an ensuing period of not less than twelve months and for depreciation, into the sinking fund or into a fund for extensions, betterments and additions to the works. The amounts of the balance of the net revenue as and when so set apart shall be remitted to the West Virginia municipal bond commission to be retained and paid out by said commission consistent with the provisions of this article and with the ordinance pursuant to which such bonds have been issued. The West Virginia municipal bond commission is hereby authorized to act as fiscal agent for the administration of such sinking fund, under any ordinance passed pursuant to the provisions of this article, and shall invest all such sinking funds as provided by general law. Notwithstanding the foregoing, payments of principal and interest on any bonds owned by the United States of America or any agency or department thereof may be made by the governing body directly thereto. (1933, Ex. Sess., c. 25, § 15; 1933, 2nd Ex. Sess., c. 48; 1986, c. 118.)

§ 16-13-16. Rates for service; change or readjustment; hearing; lien and recovery; discontinuance of services.

The governing body shall have power, and it shall be its duty, by ordinance, to establish and maintain just and equitable rates, fees or charges for the use of and the service rendered by:

(a) Sewerage works, 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 municipality, or that in any way uses or is served by such works; and

(b) Stormwater works, to be paid by the owner of each and every lot, parcel of real estate, or building that in any way uses or is served by such stormwater works or whose property is improved or protected by the stormwater works or any user of such stormwater works.

The governing body may change and readjust such rates, fees or charges from time to time. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways.

Such rates, fees or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of the works and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be considered the revenues of the works.

No such rates, fees or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or

to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates, fees or charges.

After introduction of the ordinance fixing such rates, fees or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates, fees or charges, shall be given by publication as a Class II-O legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed in such notice for the hearing.

After such hearing, which may be adjourned from time to time, the ordinance establishing rates, fees or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of such rates, fees and charges so established shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates, fees or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice.

Any change or readjustment of such rates, fees or charges may be made in the same manner as such rates, fees or charges were originally established as hereinbefore provided: Provided, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates, fees or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments.

All rates, fees or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate, fees or charge so established is not paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: Provided, That where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof.

Whenever any rates, rentals, fees or charges for services or facilities furnished shall remain unpaid for a period of thirty 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 rates, fees and charges are fully paid.

The board collecting such rates, fees or charges shall be obligated under reasonable rules and regulations, to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities, or both, and shall not restore either water facilities or sewer facilities, to any delinquent user of either until all delinquent rates, fees or charges for both water facilities, and sewer facilities, including reasonable

interest and penalty charges, have been paid in full. (1933, Ex. Sess., c. 25, § 16; 1933, 2nd Ex. Sess., c. 48; 1959, c. 125; 1967, c. 105; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, inserted "fees" preceding "charges" throughout; in the first paragraph, deleted "such" from the end; inserted (b); in the second paragraph of (b), added "The governing body" and the last sentence; in the third paragraph of (b), substituted "shall be considered" for "shall be deemed"; in the seventh paragraph of (b), deleted "however" following "Provided"; and made other, minor changes.

Rules of Civil Procedure. — As to abolition of procedural distinctions between law and equity, see R.C.P. 2.

Applicability. — Although the public service commission concluded that cities providing only sewer service are not covered by this section, which applies to municipalities that provide both water and sewer service, the district court implicitly rejected the commission's interpretation. City of Charleston v. Public Serv. Comm'n, 57 F.3d 385 (4th Cir. 1995), cert. denied, 516 U.S. 974, 116 S. Ct. 474, 133 L. Ed. 2d 404 (1995).

Discrimination not shown. — Charges made against the users of a city sewage system were based upon the amount of water used upon the premises as indicating the extent to which the sewers were used. The charges were subject to a deduction of the amount of water retained on the premises, such amount to be determined by a meter installed by the consumer and used to record gallonage of water that had come on the property but had not been disposed of through the sewers. It was held that the method under which the charges were assessed was neither capricious nor unfair although certain users had been unable to install meters used to measure their deductions. Houchins v. City of Beckley, 127 W. Va. 306, 32 S.E.2d 286 (1944).

Jurisdiction. — The fact that this section speaks of the enforcement of the lien in a "civil action" should not be construed as placing that jurisdiction in our courts of law simply because the word "action," strictly applied, does not usually refer to chancery practice. City of Beckley v. Craighead, 125 W. Va. 484, 24 S.E.2d 908 (1943).

Municipal sewer system is subject to jurisdiction of public service commission, so municipality is required to file its rates with the commission for approval in accordance with §§ 24-2-1 et seq. 45 Op. Att'y Gen. 642 (1954).

Applied in Brewer v. City of Point Pleasant, 114 W. Va. 572, 172 S.E. 717 (1934).

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Cited in Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

§ 16-13-17. Government units subject to established rates.

The municipality and any county government, state government and federal government served by the services of the works shall be subject to the same fees, charges and rates established as provided in this article, or to fees, charges and rates established in harmony therewith, for service rendered the municipality, county, state or federal government and shall pay such rates, fees or charges when due from corporate funds and the same shall be considered to be a part of the revenues of the works as herein defined, and be applied as herein provided for the application of the revenues. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways. (1933, Ex. Sess., c. 25, § 17; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, substituted "Government units" for "Municipality" in the section heading; inserted "fees" preceding "charges" throughout; inserted "and any county... works", substituted "as provided in this article" for "as hereinbefore provided", inserted "county, state or federal government", substituted "shall be considered" for "shall be deemed", substituted "the revenues" for "such revenues"; and added the last sentence.

Quoted in West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

§ 16-13-18. Supervision of works by sanitary board; organization of board; qualifications, terms and compensation of members.

The governing body shall provide by ordinance the organization of the board, and that the custody, administration, operation and maintenance of such works shall be under the supervision and control of a sanitary board, created as herein provided.

Such sanitary board shall be composed of either the mayor of the municipality, or the city manager thereof, if said municipality shall have a city manager form of government, and two persons appointed by the governing body: Provided, That, in the event of an acquisition or merger of an existing works, the governing body may increase the membership to a maximum of four members in addition to the mayor or city manager of the municipality served by the board.

During the construction period, one of the members must be a registered professional engineer. The engineer member of the board need not be a resident of said municipality. After the construction of the plant has been completed, the engineer member may be succeeded by a person not an engineer. No officer or employee of the municipality, whether holding a paid or unpaid office, shall be eligible to appointment on said 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 such bond, if any, as may be required by ordinance. The mayor or city manager shall act as chairman of the sanitary board, which shall elect a vice chairman from its members and shall designate a secretary and treasurer (but the secretary and the treasurer may be one and the same), who 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.

The members of the sanitary board shall receive compensation for their services, either as a salary or as payments for meetings attended, as the governing body may determine, and shall be entitled to payment for their reasonable expenses incurred in the performance of their duties. The governing body shall fix the 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 funds provided under the authority of this article. The sanitary board shall have power to establish bylaws, rules and regulations for its own government. (1933, Ex. Sess., c. 25, § 18; 1939, c. 96; 1953, c. 146; 1957, c. 137; 1992, c. 95; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, made the section gender neutral; in the second paragraph, deleted "sewage" preceding "works", in the third paragraph, substituted "The appointees" for "Said appointees", deleted "such" pre-

ceding "term", substituted "The mayor" for "Such mayor"; and in the last paragraph, deleted "such" preceding "compensation".

In general. — The effect of the provisions of this article is to authorize and empower a municipal corporation in this State to own, construct, equip, operate and maintain sewer systems, to place the construction, operation and management of such systems under the supervision and control of a sanitary board appointed by the governing body, to authorize such board to operate, manage and control them and to order and complete any extensions or betterments that the board may deem expedient. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Construction. — There is no repugnancy between the provisions of this article and §§ 24-1-1, 24-2-1 or 24-3-1, and for these reasons, the provisions of this article do not operate to repeal any of those sections. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Adjoining state. — Since the incorporation of its sanitary board and its domestication in the state of Virginia was the only plan by which the power intended to be granted by the legislature to a city to construct a sewage disposal plant outside the State of West Virginia could be legally effectuated, the power to so incorporate its sanitary board was a necessary and incidental right to the main power granted. Bernard v. City of Bluefield, 117 W. Va. 556, 186 S.E. 298 (1936).

Board membership. — When a municipal corporation has a city manager form of government, the municipality's governing board has the option of appointing either its mayor or its city manager (but not both) to the municipal sanitary board. 52 Op. Att'y Gen. 217 (1967).

City treasurer. — As to scope of duties and responsibilities of city treasurer as they relate to possession of funds of a sanitary board, see 52 Op. Att'y Gen. 497 (1967).

Consulting engineer. — Member of city council may not serve as consulting engineer to the sanitary board on city sewer project. 49 Op. Att'y Gen. 60 (1961).

Extension of service. — A public utility is under a duty to make reasonable extensions of its services in accordance with its franchise and charter obligations and the needs of the inhabitants within the territory covered by its franchise; and a public service commission may, where its action is not unlawful, arbitrary, or capricious, order an extension of service for the inhabitants of such territory. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Legislative intent. — The provisions of this article do not revise the subject matter of §§ 24-1-1, 24-2-1 or 24-3-1, and they were not intended as a substitute for any of the provisions of those sections. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

In conferring such power and authority upon a municipality by this article, the legislature did not create, or intend to create, any repugnancy or inconsistency between the provisions of this article and the pertinent provisions of chapter 24, or to repeal any of those provisions of that chapter. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Applied in Houchins v. City of Beckley, 127 W. Va. 306, 32 S.E.2d 286 (1944).

Cited in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956).

§ 16-13-18a. Publication of financial statement.

Every sanitary board shall prepare a financial statement and cause the same to be published as a Class I legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the sanitary district. Such statement shall contain an itemized account of the receipts and expenditures of the board during the previous fiscal year, showing the source from which all money was derived, and the name of the person to whom an order was issued, together with the amount of such order, and why such order was issued, arranging the same under distinct heads, and including all money received and expended from the sale of bonds, and also a specific statement of the debts of such board, showing the purpose for which any debt was contracted, the amount of money in all funds at the end of the preceding year, and the amount of uncollected service charges. Such statement shall be prepared and published by the board as soon as practicable after the close of the fiscal year: Provided, That such statement for the fiscal year ending June

thirtieth, one thousand nine hundred fifty-six, may be published any time during the year one thousand nine hundred fifty-seven. The statement shall be sworn to by the chairman and secretary and treasurer of the board. If a board fails or refuses to perform the duties hereinbefore named, every member of the board concurring in such failure or refusal shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars and the circuit court or criminal court and justices of the peace, of the county where the offense was committed, shall have concurrent jurisdiction to try such offense. (1957, c. 138; 1967, c. 105.)

Editor's notes. — For construction of the justice of the peace as magistrate, see § 50-1-17 and W.Va. Const., art. VIII, § 15.

§ 16-13-19. Contract with other municipalities for service of works; powers of lessee as to rates; intercepting sewers.

Any municipality operating a sewage collecting system and/or a sewage disposal plant or plants or stormwater works as defined in this article, or which as herein provided has ordered the construction or acquisition of such works (in this section called the owner), is hereby authorized to contract with one or more other municipal corporations or political subdivisions within the state (in this section called the lessee), and such lessees are hereby authorized to enter into contracts with the owners, for the service of such works to such lessees and their inhabitants, but only to the extent of the capacity of the works without impairing the usefulness thereof to the owners, upon such terms and conditions as may be fixed by the boards and approved by ordinances of the respective contracting parties: Provided, That no contract shall be made for a period of more than forty years or in violation of the provisions of said ordinance authorizing bonds hereunder or in violation of the provisions of said trust indenture.

The lessee shall by ordinance have power to establish, change and adjust rates, fees and charges for the service rendered therein by the works against the owners of the premises served, in the manner hereinbefore provided for establishing, changing and adjusting rates, fees and charges for the service rendered in the municipality where the works are owned and operated, and such rates, fees or charges shall be collectible and shall be a lien as herein provided for rates, fees and charges made by the owner.

The necessary intercepting sewers and appurtenant works for connecting the works of the owner with the sewerage system of the lessee shall be constructed by the owner and/or the lessee upon such terms and conditions as may be set forth in said contract, and the cost or that part of the cost thereof which is to be borne by the owner may be paid as a part of the cost of the works from the proceeds of bonds issued under this article unless otherwise provided by said ordinance or trust indenture prior to the issuance of the bonds. The income received by the owner under any contract shall, if so provided in said ordinance or trust indenture, be considered to be a part of the revenues of the

works as in this article defined and be applied as herein provided for the application of the revenues. (1933, Ex. Sess., c. 25, § 19; 1981, 1st Ex. Sess., c. 2; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, substituted "the" for "such" throughout, inserted "fees" following "rates" throughout; in the first paragraph, inserted "or stormwater works", substituted "state" for "State", deleted "such" preceding "contracts", deleted "such" following "Provided", deleted "such" preceding "contract" in the proviso; in the last paragraph, deleted "such" preceding "contract", and substituted "considered" for "deemed" in the last sentence.

Applied in City of Morgantown v. Town of Star City, 156 W. Va. 529, 195 S.E.2d 166 (1973).

§ 16-13-20. Discharge of lien on property acquired.

No property shall be acquired under this article upon which any lien or other encumbrance exists, unless at the time such property is acquired a sufficient sum of money be deposited in trust to pay and redeem such lien or encumbrance in full. (1933, Ex. Sess., c. 25, § 20.)

§ 16-13-21. Action on certificates or attached coupons; receivers.

Any holder of any such certificates or any of the coupons attached thereto, and the trustee, if any, except to the extent the rights herein given may be restricted by said ordinance authorizing issuance of the bonds or by the trust indenture, may either at law or in equity, by suit, action, mandamus or other proceeding protect and enforce any and all rights granted hereunder or under such ordinance or trust indenture, and may enforce and compel performance of all duties required by this article or by such ordinance or trust indenture to be performed by the municipality issuing the bonds or by the board or any officer, including the making and collecting of reasonable and sufficient charges and rates for service rendered by the works. If there be any failure to pay the principal or interest of any of the bonds on the date therein named for such payment, any court having jurisdiction of the action may appoint a receiver to administer the works on behalf of the municipality and the bondholders and/or trustee, except as so restricted, with power to charge and collect rates sufficient to provide for the payment of the expenses of operation, repair and maintenance and also to pay any bonds and interest outstanding and to apply the revenues in conformity with this article and the said ordinance and/or trust indenture. (1933, Ex. Sess., c. 25, § 21.)

Rules of Civil Procedure. — As to abolition of procedural distinctions between law and equity, see Rule 2.

As to receivers, see Rule 66.

As to application of rules to extraordinary remedies, see Rule 81(a)(5).

§ 16-13-22. Powers conferred in addition to existing powers; jurisdiction outside corporate limits.

The authority herein given shall be in addition to and not in derogation of any power existing in any municipality under any statutory or charter

provisions which it may now have or hereafter adopt. For all purposes of this article, all municipal corporations shall have jurisdiction for twenty miles outside the corporate limits thereof: Provided, That for stormwater systems, within the twenty miles beyond the municipality's corporate limits the only areas the municipality may serve and supply shall be those areas from which stormwater affects or drains into the municipality.

The jurisdiction and authority provided by this section does not extend to highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways. (1933, Ex. Sess., c. 25, § 22; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, in the first paragraph, substituted "twenty miles outside" for "ten miles outside", added the proviso; and added the last paragraph.

§ 16-13-22a. Grants, loans and advances.

Any municipality is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of acquisition or construction of said sewage works and the construction of betterments and improvements thereto, and for the other purposes herein authorized, from any authorized agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of bonds authorized to be issued under the provisions of this article, the revenues of the said sewage works or grants to the municipality from any agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any agency of the state, the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

In no event shall any such loan or temporary advance be a general obligation of the municipality and such loans or temporary advances, including the interest thereon, shall be paid solely from the sources specified in this section. (1949, c. 93; 1961, c. 107; 1980, c. 59; 1981, 1st Ex. Sess., c. 2; 1986, c. 118.)

Stated in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956).

§ 16-13-22b. Contracts for abatement of pollution.

When determined by its legislative body to be in the public interest and necessary for the protection of the public health, any municipality is authorized to enter into and perform contracts, whether long-term or short-term, with any industrial establishment for the provision and operation by the municipality of sewerage facilities to abate or reduce the pollution of waters caused by discharges of industrial wastes by the industrial establishment and the payment periodically by the industrial establishment to the municipality of amounts at least sufficient, in the determination of such legislative body, to compensate the municipality for the cost of providing (including payment of principal and interest charges, if any), and of operating and maintaining the sewerage facilities serving such industrial establishment. (1949, c. 93.)

§ 16-13-22c. Refunding bonds.

Any municipality is authorized to issue refunding revenue bonds to refund, pay or discharge all or any part of its outstanding revenue bonds, including interest thereon, if any, in arrears or about to become due. The relevant provisions in this article pertaining to revenue bonds shall be equally applicable in the authorization and issuance of refunding revenue bonds, including their terms and security, the ordinance, the trust indenture, rates, or other aspects of the bonds. (1949, c. 93.)

§ 16-13-22d. Subordination of bonds.

Notwithstanding any other provisions to the contrary in this article, any municipality authorizing the issuance of bonds under this article in an effort to aid in the abatement or reduction of the pollution of any waters or streams may provide in the ordinance authorizing the issuance of the bonds and in any trust indenture pertaining thereto that such bonds, or any additional bonds that may thereafter be issued to extend or improve the works, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to the payment of principal and interest and the security thereof, to such other bonds as are designated in the ordinance. (1949, c. 93.)

§ 16-13-22e. Operating contract.

Any such municipality may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the facilities and properties of said sewerage system, or any part thereof, for such period of time and under such terms and conditions as shall be agreed upon between such municipality and such persons, firms or corporations. Such municipality shall have power to provide in the resolution authorizing the issuance of bonds hereunder, or in any trust indenture, securing such bonds, that such contracts or agreements shall be valid and binding upon the municipality as long as any of said bonds, or interest thereon, are outstanding and unpaid. (1955, c. 132.)

§ 16-13-22f. Exemption of bonds from taxation.

Said bonds and the interest thereon, together with all properties and facilities of said municipality owned or used in connection with the works, and all the moneys, revenues and other income of such municipality derived from such works shall be exempt from all taxation by the state of West Virginia or any county, municipality, political subdivision or agency thereof. (1955, c. 132; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, substituted "works" for "sewerage system" twice, and substituted "state" for "State".

§ 16-13-22g. Covenants with bondholders.

Any resolution authorizing the issuance of bonds hereunder, or any trust indenture with any bank or trust company within or without the state, for the security of the bonds, may contain covenants with the holders of such bonds as to:

(a) The purpose or purposes to which the proceeds of sale of such bonds, or the revenues derived from the sewerage system or stormwater system, may be applied and the securing, use and disposition thereof, including, if considered desirable, the appointment of a trustee or depositary for any of such funds;

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

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

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

(e) Limitations or restrictions upon the issuance of additional bonds or other obligations payable from the revenue of such sewerage system or stormwater system, and the rank or priority, as to lien and source and security for payment from the revenues of the sewerage system or stormwater system, between bonds payable from the revenues;

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

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

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

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

(j) Such other additional covenants as shall be considered necessary or desirable for the security of the holders of bonds issued hereunder, notwithstanding that other covenants are not expressly enumerated hereunder, it being the intention hereof to grant to the municipalities the power to make any and all covenants or agreements necessary in order to secure greater marketability for bonds issued hereunder as fully and to the same extent as such covenants or agreements could be made by a private corporation rendering similar services and facilities and to grant such municipalities full and complete power to enter into any contracts, covenants or agreements with holder of bonds issued hereunder not inconsistent with the constitution of the state of West Virginia. (1955, c. 132; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, substituted "the" for "such" throughout, inserted "or stormwater system" following "sewerage system" throughout, substituted "considered" for "deemed" throughout; in the first paragraph, substituted "the bonds" for "said bonds"; in (f), deleted "such" preceding "defaults"; in (j), deleted "such" preceding "other covenants", and made other, minor changes.

§ 16-13-23. Article deemed full authority for construction, etc., of works and issue of bonds; alternative method; powers of state department of health unaffected.

This article, shall, without reference to any other statute, be deemed full authority for the construction, acquisition, improvement, equipment, maintenance, operation and repair of the works herein provided for and for the issuance and sale of the bonds by this article authorized, and shall be construed as an additional and alternative method therefor and for the financing thereof, and no petition or election or other or further proceeding in respect to the construction or acquisition of the works or to the issuance or sale

of bonds under this article and no publication of any resolution, ordinance, notice or proceeding relating to such construction or acquisition or to the issuance or sale of such bonds shall be required except such as are prescribed by this article, any provisions of other statutes of the State to the contrary notwithstanding: Provided, however, That all functions, powers and duties of the state department of health shall remain unaffected by this article. (1933, Ex. Sess., c. 25, § 23.)

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

§ 16-13-23a. Additional powers of municipality upon receipt of order to cease pollution.

Notwithstanding any other provision contained in this article, and in addition thereto, the governing body of any municipal corporation which has received or which hereafter receives an order issued by the director of the division of environmental protection or the environmental quality board requiring such municipal corporation to cease the pollution of any stream or waters, is hereby authorized and empowered to fix, establish and maintain, by ordinance, just and equitable rates, fees or charges for the use of the services and facilities of the existing sewer system and/or stormwater system of such municipal corporation, and/or for the use of the services and facilities to be rendered upon completion of any works and system necessary by virtue of said order, to be paid by the owner, tenant or occupant of each and every lot or parcel of real estate or building that is connected with and uses any part of such sewer system or stormwater system, or that in any way uses or is served thereby, and may change and readjust such rates, fees or charges from time to time.

Such rates, fees or charges shall be sufficient for the payment of all the proper and reasonable costs and expenses of the acquisition and construction of plants, machinery and works for the collection and/or treatment, purification and disposal of sewage or stormwater, and the repair, alteration and extension of existing sewer facilities or stormwater facilities, as may be necessary to comply with such order of the director of the division of environmental protection or the environmental quality board, and for the operation, maintenance and repair of the entire works and system.

The governing body shall create, by ordinance, a sinking fund to accumulate and hold any part or all of the proceeds derived from rates or charges until completion of the construction, to be remitted to and administered by the municipal bond commission by expending and paying the costs and expenses of construction and operation in the manner as provided by said ordinance.

After the completion of the construction such rates, fees or charges shall be sufficient in each year for the payment of the proper and reasonable costs and expenses of operation, maintenance, repair, replacement and extension from time to time, of the entire sewer and works or entire stormwater works.

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ɔriginally established as herein-
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powers given herein has authority
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jurisdiction and authority provided by this section does not extend to highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways and no rates, fees or charges for stormwater services or costs of compliance may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways. (1955, c. 135; 1967, c. 105; 1994, c. 61; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, substituted "the" for "such" throughout, substituted "the" for "said" throughout, inserted "fees" following "rates" throughout; in the first paragraph, inserted "and/or stormwater system" following "existing sewer system", inserted "or stormwater system" following "such sewer system"; in the second paragraph, inserted "or stormwater" following "sewage", inserted "or stormwater facilities" following "sewer facilities"; in the fourth paragraph, added "or entire stormwater works" to the end; in the sixth paragraph, deleted "such" following "fixing" and "publication of"; in the eighth paragraph, deleted "such" preceding "rates" twice; and in the last paragraph, added the proviso.

Applied in City of Morgantown v. Town of Star City, 156 W. Va. 529, 195 S.E.2d 166 (1973).

§ 16-13-24. Article to be construed liberally.

This article being necessary for the public health, safety and welfare, it shall be liberally construed to effectuate the purpose thereof. (1933, Ex. Sess., c. 25, § 24.)

Quoted in West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

Sec.

16-13A-1. Legislative findings.
16-13A-1a. Jurisdiction of the public service commission.
16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.
16-13A-1c. General purpose of districts.
16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the secretary of state.
16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.
16-13A-3a. Removal of members of public service board.
16-13A-4. Board chairman; members' compensation; procedure; district name.
16-13A-5. General manager of board.
16-13A-6. Employees of board.
16-13A-7. Acquisition and operation of district properties.
16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.
16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
16-13A-9a. Limitations with respect to foreclosure.

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VOLUME 5A

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2004 SUPPLEMENT

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16-9F-3. Penalties.

(a) Any person who knowingly violates the provisions of this article with a total quantity of less than two cartons of cigarettes shall, for the first offense, be punished by a civil penalty of no more than one thousand dollars, and for a second or subsequent offense involving a total quantity of less than two cartons of cigarettes shall be punished by a civil penalty of no more than five thousand dollars and the revocation for a period of six months of any business held by the person.

(b) Any person who knowingly violates the provisions of this article with a total quantity of two or more cartons of cigarettes shall, for the first offense, be punished by a civil penalty of no more than two thousand dollars, and for a second or subsequent offense involving a total quantity of two or more cartons of cigarettes shall be punished by a civil penalty of no more than fifty thousand dollars and the revocation for a period of one year of any business registration certificate held by the person. (2003, c. 246.)

16-9F-4. Enforcement.

The attorney general, the prosecuting attorney for the county in which contraband cigarettes are found or any person who holds a valid permit under 26 U.S.C. § 5712 may bring an action in the circuit court of that county to prevent or restrain violations of this article by any person, or any person acting for that person. (2003, c. 246.)

ARTICLE 13.

SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND SANITARY DISTRICTS.

16-13-16. Rates for service; deposit required for new customers; forfeiture of deposit; reconnecting deposit; tenant's deposit; change or readjustment; hearing; lien and recovery; discontinuance of services.

Effect of amendment of 2004. — Acts 2004, c. 185, effective June 10, 2004, substituted "Sewage Works of Municipal Corporations and Sanitary Districts" for "Sewage Works and Stormwater Works" in the article heading.

16-13-16. Rates for service; deposit required for new customers; forfeiture of deposit; reconnecting deposit; tenant's deposit; change or readjust-

ment; hearing; lien and recovery; discontinuance of services.

The governing body shall have power, and it shall be its duty, by ordinance, to establish and maintain just and equitable rates, fees or charges for the use of and the service rendered by:

(a) Sewerage works, 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 municipality, or that in any way uses or is served by such works; and

(b) Stormwater works, to be paid by the owner of each and every lot, parcel of real estate, or building that in any way uses or is served by such stormwater works or whose property is improved or protected by the stormwater works or any user of such stormwater works.

(c) The governing body may change and readjust such rates, fees or charges from time to time. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways.

(d) All new applicants for service shall indicate to the governing body whether they are an owner or tenant with respect to the service location.

(e) The governing body may collect from all new applicants for service a deposit of fifty dollars or two twelfths of the average annual usage of the applicant's specific customer class, whichever is greater, to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnecting or reinstatement of service may be made by the governing body until another deposit equal to fifty dollars or a sum equal to two twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the governing body. After twelve months of prompt payment history, the governing body shall return the deposit to the customer or credit the customer's account with interest at a rate as the public service commission may prescribe: Provided, That where the customer is a tenant, the governing body is not required to return the deposit until the time the tenant discontinues service with the governing body. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The governing body may, under reasonable rules promulgated by the public service commission, shut off and discontinue water services to a delinquent user of sewer facilities ten days after the sewer services become delinquent regardless of whether the governing body utilizes the security deposit to satisfy any delinquent payments.

(f) Such rates, fees or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replace-

ments and maintenance of the works and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be considered the revenues of the works.

(g) No such rates, fees or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates, fees or charges.

(h) After introduction of the ordinance fixing such rates, fees or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates, fees or charges, shall be given by publication as a Class II-0 legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed in such notice for the hearing.

(i) After such hearing, which may be adjourned from time to time, the ordinance establishing rates, fees or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of such rates, fees and charges so established shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates, fees or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice.

(j) Any change or readjustment of such rates, fees or charges may be made in the same manner as such rates, fees or charges were originally established as hereinbefore provided: Provided, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates, fees or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments.

(k) All rates, fees or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate, fees or charge so established is not paid within twenty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: Provided, That where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof.

(l) Whenever any rates, rentals, fees or charges for services or facilities furnished shall remain unpaid for a period of twenty 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 rates, fees and charges are fully paid. When any payment for rates, rentals, fees or charges becomes delinquent, the governing body may use the security deposit to satisfy the delinquent payment.

(m) The board collecting such rates, fees or charges shall be obligated under reasonable rules to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities or both, and shall not restore either water facilities or sewer facilities, to any delinquent user of either until all delinquent rates, fees or charges for both water facilities, and sewer facilities, including reasonable interest and penalty charges, have been paid in full. (1933, Ex. Sess., c. 25, § 16; 1933, 2nd Ex. Sess., c. 48; 1959, c. 125; 1967, c. 105; 2001, c. 212; 2004, c. 185.)

Effect of amendment of 2004. — Acts 2004, c. 185, effective June 10, 2004, inserted "deposit required for new customers; forfeiture of deposit; reconnecting deposit; tenant's deposit" in the introductory language; added the subsection designations for (c) through (m); added (d) and (e); substituted "Class II-0" for "Class II-O" in (h); substituted "within twenty days" for "within thirty days" in (k); in (l), substituted "twenty days" for "thirty days" and added the second sentence; and deleted "and regulations" following "reasonable rules" in (m).

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

Sec.
16-13A-1c. General purpose of districts.
16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the secretary of state.
16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.
16-13A-5. General manager of board.
16-13A-7. Acquisition and operation of district properties.
16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.
16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
16-13A-14. Items included in cost of properties.
16-13A-18a. Sale, lease or rental of water, sewer, stormwater or gas system by district; distribution of proceeds.
16-13A-24. Acceptance of loans, grants or temporary advances.
16-13A-25. Borrowing and bond issuance; procedure.

§ 16-13A-1. Legislative findings.

Code of State Rules References. — Government of public service districts, 150 CSR 17, effective September 1, 1990.

§ 16-13A-1c. General purpose of districts.

Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of properties supplying water, sewerage or stormwater services or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may

I, Gary R. Sutphin, certify that the attached is a true and accurate copy of the Charter of the City of Beckley.

Gary R. Sutphin - Recorder-Treasurer

PART I

THE CHARTER*

CHAPTER 18

(House Bill No. 598—Mr. Heaberlin.)

AN ACT creating the municipal corporation of the City of Beckley, in the County of Raleigh, and annulling the charter granted to the said City of Beckley by Chapter one, Acts of Legislature of West Virginia, extra session, one thousand nine hundred and eight, passed on the fourteenth day of February, one thousand nine hundred and eight.

(Passed April 26, 1927. In effect ninety days from passage. Became a law without the approval of the Governor.)

Sec. 1. City of Beckley to be body corporate.

That the inhabitants of that portion of Raleigh County, in the State of West Virginia, included within the boundary described in section two of this act, now a municipal corporation, existing and known as the "City of Beckley," shall continue to be a body politic and corporate under the same name, and as such shall have perpetual succession; may use a corporate seal; may sue and be sued; plead and be impleaded; contract and be contracted with; purchase, sell, lease and hold real estate and personal property, necessary to the purpose of said corporation.

Sec. 2. Corporate limits.

The corporate limits of the City of Beckley are bounded as follows: Beginning at a corner monument set in the northern right of way boundary line of the Piney River and Paint Creek Branch of The Chesapeake and Ohio Railway Company and in the southern boundary line of Central Avenue at or near the southern end of Wilkes Avenue, the said beginning point being a common corner of the City of Beckley and the Town of Mabscott; thence following the common boundary line between the City of Beckley and the Town of Mabscott as established by survey in 1951 by Paul W. Feigley, N. 24 degrees 23 minutes E. 320.00 feet to a corner monument; thence N. 58 degrees 37 minutes W. 1848 feet to a corner monument; thence N. 76 degrees 34 minutes W. 1813.65 feet to a steel rail in Wickham Avenue of the Town of Mabscott which is the road leading from Mabscott to Mt. Tabor; thence leaving the boundary line of the Town of Mabscott and following the said road leading from Mabscott to Mt. Tabor, for a distance of approximately 900 feet to the point where said road crosses Laurel Branch; thence leaving the said road and up said Lauren Branch following the meanderings thereof approximately 3900 feet to the point where said Branch crosses the southeastern boundary line of the McLean Addition; thence leaving the middle of said Laurel Branch and following the boundary lines of the McLean Addition, S. 52 degrees 13 minutes W. 2500 feet, more or less, to a stake in a chestnut stump, the southernwest corner of the McLean Addition; thence N. 47 degrees 28 minutes W. 449.75 feet to the westernmost corner of the McLean Addition; thence following the northeast boundary line of the McLean Addition and the boundary line between Otho Hall and the John W. Ball estate approximately S. 66 degrees 00 minutes E. 1800 feet to a property corner of said Otho Hall and the John W. Ball estate on the west side of West Virginia Highway No. 3; thence crossing said highway 90

*Editor's note—The charter here set out is as contained in the book of the 1971 Code of the city; except that the term "recorder" has been changed to "recorder-treasurer", the term "county court" has been changed to "county commission", and the term "justice of the peace", has been changed to "magistrate". This charter was enacted by the state legislature on April 26, 1927; amendments are indicated by historical citations following the amended sections. Some of the section catchlines had been changed by the editor for purposes of amplification or clarification.

State law reference—For state law as to effect of the Municipal Code of West Virginia (W. Va. Code, Ch. 8) on legislative charters, see W. Va. Code, § 8-1-6.

Annotation—For a case in which the state Supreme Court of Appeals took judicial notice of the Beckley City Charter, see State v. Mills, 150 S.E. 142.

feet to a set stone, a corner of the Ewart Heights Addition and the New River Company; thence with the boundary line between the Ewart Heights Addition and the New River Company 1800 feet to northeast corner of the Ewart Heights Addition; thence with C. & O. right of way line N. 60 degrees 27 minutes E. 489.46 feet to a C. & O. concrete marker; thence N. 49 degrees 56 minutes E. 97.14 feet; N. 53 degrees 33 minutes E. 99.37 feet; N. 59 degrees 26 minutes E. 146.74 feet; N. 71 degrees 36 minutes E. 25.15 feet to the intersection of said right of way line, west line of Sprague Road; thence with said road line S. 17 degrees 32 minutes E. 92.93 feet; S. 17 degrees 12 minutes E. 54.92 feet; S. 53 degrees 19 minutes E. 68.76 feet; S. 87 degrees 45 minutes E. 219.50 feet; S. 71 degrees 36 minutes E. 54.28 feet; S. 43 degrees 50 minutes E. 28.08 feet; thence crossing Sprague Road 30 feet; thence S. 63 degrees 04 minutes E. 151.94 feet; S. 23 degrees 39 minutes E. 200 feet; thence N. 80 degrees 00 minutes E. 1066.03 feet to a set stone in western right of way line of the Piney River and Paint Creek Branch of the C. & O. Railway Company marked "City of Beckley"; thence following the said western right of way boundary line of said railway in a northeasterly direction to the point where said right of way boundary line crosses Little Whitestick; thence leaving the said right of way boundary line and down the middle of Little Whitestick Creek following the meanderings thereof to the point where Little Whitestick Creek crosses the eastern right of way boundary line of U. S. Highway No. 19-21 By-Pass; thence with the said eastern right of way boundary line of said U. S. Highway No. 19-21 By-Pass, to the intersection with the southern right of way boundary line of South Kanawha Street (Business Route 19-21); thence leaving the said eastern right of way boundary line of U.S. Highway No. 19-21 By-Pass, and following the southern right of way boundary line of South Kanawha Street, Business Route No. 19-21, in a northwesterly direction to its intersection with the southwestern boundary line of MacArthur Street; thence with the southwestern right of way boundary line of said MacArthur Street along the golf course fence in a northwesterly direction to a point in the western boundary line of the Glen Morgan Addition of the Raleigh Coal and Coke Company about 75 feet south of South Kanawha Street; thence with the said western boundary line of Glen Morgan Addition, S. 27 degrees 19 minutes W. 1100 feet, more or less, to a point of the division line between Lots 17 and 18 of Section 10 of said Glen Morgan Addition; thence S. 18 degrees 54 minutes E. 1420 feet, more or less to a white oak, a corner of the Beckley Court Addition and a point in the southern boundary line of Terrill Street; thence with the southern boundary line of Terrill Street which is also the southern boundary line of The Beckley Court Addition, S. 14 degrees 26 minutes W. 494.00 feet to a maple; thence S. 73 degrees 46 minutes W. 1403.33 feet to a white oak; thence No. 76 degrees 32 minutes W. 1339.97 feet to a stake; thence N. 34 degrees 04 minutes W. 1281.56 feet to a corner of the Beckley Court Addition; thence N. 34 degrees 04 minutes W. 735.00 feet to a corner of the Lilly Land Company Addition No. 2; thence with the boundary line of said Lilly Land Company No. 2, S. 85 degrees 06 minutes W. 131.96 feet to a point in the south line of Thirteenth Street; thence S. 34 degrees 55 minutes E. 168.30 feet to a corner of the Phipps Addition; thence S. 9 degrees 21 minutes E. 547.85 feet to the southeast corner of the Phipps Addition; thence S. 80 degrees 45 minutes W. 125.00 feet to the point where the Happy Hollow Branch crosses the southern boundary line of the Phipps Addition; thence down said Happy Hollow Branch following the meanderings thereof 450.00 feet, more or less, to the mouth of said branch; thence continuing the same general direction 100.00 feet; more or less, to a point in the northern right of way boundary line of the Piney Creek Branch of the Chesapeake and Ohio Railway Company; thence following the northern right of way boundary line of said railway in a westerly direction for a distance of 5830.00 feet to a point opposite Beckley Junction near the intersection of Cova Street; thence crossing the right of way of Piney Creek Branch of said railway, in a southwesterly direction about 90.00 feet to a point in the southern right of way boundary line; thence following the said southern right of way boundary line of said Piney Creek Branch and the western and northern right of way boundary line of the Piney River and Paint Creek Branch

of the Chesapeake and Ohio Railway Company to the point of beginning.
(Election of 8-3-54)

Editor's note—See official city map in office of recorder-treasurer for subsequent additions to city by annexation election, minor boundary adjustment and annexation by petition upon order of the common council.

Sec. 3. City may be divided into wards.

Immediately upon the adoption of this provision as provided by law, the common council of said city shall appoint a nonpartisan committee whose duty it shall be to divide the city into at least five (5) but not more than nine (9) wards, the number to be determined by the said common council, having due regard to the precincts already established, the density of the population of the territory embraced in each ward and the equalization of the population of the several wards. The division into wards shall be completed not less than ninety (90) days before the first municipal primary election held hereafter.

The number of the wards within the above limits and the boundaries of the same may be changed from time to time by a similar committee appointed by the common council; provided, however, that no wards shall be created or changes made in the boundaries within sixty (60) days next preceding any municipal primary election.
(Election of 8-3-54)

Editor's note—For designation and boundaries of city wards, see official city map which is on file in the office of the recorder-treasurer.

Sec. 4. City officers.

The municipal authorities of said city shall be a mayor, recorder-treasurer, police judge, and five (5) councilmen until the city shall be divided into wards as provided by section 3 of this act. Then the municipal authorities of said city shall be a mayor, recorder-treasurer, police judge; and one (1) councilman from each ward who shall be nominated and elected by the qualified voters therein; and two (2) councilmen who shall be nominated and elected at large by all of the qualified voters of the city.
(Election of 8-3-54)

Sec. 5. Common council to exercise corporate powers.

All the corporate powers and functions pertaining to said city shall be exercised by its council, or under its authority, in the corporate name of said city, unless otherwise provided by state law or municipal ordinance.

Editor's note—The legislative body of the city is referred to in the 1927 charter and the 1954 amendments thereto as the "common council", the "city council", and simply as the "council". But see § 31 of the charter, which provides that the council of the city shall be officially known as and called the "Common Council of the City of Beckley".

Sec. 6. Elective and appointive officers; procedure for appointment.

The mayor and councilmen shall be elected by the qualified voters of the said city. All other officers except a city manager of said city shall be nominated by the mayor, and he shall, by and with advice of the council (a majority of all the councilmen elected concurring by yeas and nays), appoint all officers whose offices are established by this act. No persons, after being rejected by the council shall be nominated for the same office, unless at the request of council.
(Election of 8-3-54)

Sec. 7. List of appointive officers; salaries; term of office; removal of fire department members.

The mayor shall nominate a recorder-treasurer, a city engineer, a police judge, a city solicitor, a chief of police, a building inspector and all other officers except a city manager, whose offices may be established by ordinance of the city council or by this act, and such officers shall hold the respective offices to which they are appointed during the will and pleasure of council, except members of the fire department who may be removed at will by the mayor or any other officer so empowered by the council, or for incompetence, misfeasance or neglect of duty, or other good cause by the council, or until their successors are appointed and qualified. The several offices, or any two (2) or more may be held by the same person, provided the mayor and councilmen shall not be eligible to any of the appointive offices, and such officers shall receive such compensation as the

council may prescribe, by ordinance or order, unless said compensation be fixed by this act.
(Election of 8-3-54)

Sec. 7a. Authority to appoint city manager; effect of appointment.

The city council in its discretion may appoint a city manager to serve at the pleasure of the council. At the time of such appointment an ordinance shall be adopted by the council delegating to such officer such powers and duties as in the opinion of the council he shall exercise, and the council may from time to time make such amendments and changes in said ordinance as it may desire.

When such an appointment has been made and such an ordinance shall have been adopted, this shall constitute an election by the council to operate under a city manager form of government, and such action shall not be rescinded thereafter except a change in this charter.
(Election of 8-3-54)

Sec. 8. Qualifications of mayor and councilmen.

No person shall be eligible to the office of mayor or councilman unless at the time of his election he is legally entitled to vote in the city election for member of the common council; and he was for the preceding year assessed with taxes upon real or personal property within the said city of the assessed aggregate value of at least three hundred dollars ($300.00) and shall actually have paid the taxes so assessed; provided, that when the city shall have been laid off into wards, no person shall be elected a councilman from any ward unless he shall have been, for at least sixty (60) days next preceding the election a bona fide resident of the ward for which he is elected, and the removal of a councilman from the ward from which he is elected shall vacate his office.
(Election of 8-3-54)

Sec. 9. Who may vote in city elections.

Every male and female person residing in said city shall be entitled to vote for all officers elected under this Act, except any person who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason or bribery in an election, or who has not been a resident of this state for one year and of said city for six (6) months next preceding the election at which he desires to vote; provided, that when said city shall have been laid off into wards no person therein shall be entitled to vote for a councilman for his ward unless he shall have been a bona fide resident of such ward for at least sixty (60) days next preceding the municipal election.

Sec. 10. Conduct of primary and general elections; when held; filing fee; state laws applicable.

All nominations shall be made by primaries duly called, which shall be held not less than thirty (30) days before the general municipal election, and it shall be the duty of the said recorder-treasurer to certify and enter of record all persons nominated, and no person whose nomination has not been so certified is eligible to be voted upon for office in said city. The first general municipal election hereunder shall be held on the fourth Tuesday in May, 1955, and other elections hereunder shall be held on the fourth Tuesday in May every four (4) years thereafter and the term of office shall begin on the first day of July after each such election. Each election shall be conducted under and by the direction of the council of the said city. The mode of voting shall be by ballot, but the voters shall be left free to vote an open or secret ballot, as they may elect. The election in said city shall be held and conducted and the result thereof certified, returned and finally determined under the laws in force in this state relating to general elections, except that the persons conducting said election shall, on the day the election is held deliver the ballots, tally sheets and poll books to the recorder-treasurer for safe keeping, and thereafter the council of said city shall meet within five (5) days (Sunday excepted) after said election and canvass the returns of said election, and declare the results thereof, and in all respects comply with the requirements of the statutes of the state relating to elections. The corporate authorities of said city shall perform all duties in relation to such election as the corresponding county officers carrying out similar duties for the county and in general, except as herein

otherwise provided, shall be governed by the election laws prescribed in the Code of West Virginia.

(a) [The] common council of said city shall, not later than the fifteenth day of March next preceding the election to be held on the fourth Tuesday in May, call a primary election, which shall be conducted in accordance with the laws in force in this state.

(b) When the city shall have been laid off into wards, each ward shall contain such number of voting precincts as the council shall deem advisable to place therein, but no precinct or part thereof shall lie in more than one ward.

(c) The common council shall fix a filing fee not to exceed ten dollars ($10.00) for each elective office.

All of the provisions of Chapter Three of the Code of West Virginia, 1931, and the amendments thereof, relating to elections are hereby adopted, so far as applicable, subject to the modifications contained herein.
(Election of 8-3-54)

State law references—For state law as to conduct of general elections, see W. Va. Code, Ch. 3, Art. 6; as to conduct of primary elections, see W. Va. Code, Ch. 3, Art. 5; see also § 8-5-14.

Sec. 11. How tie vote decided.

Whenever two (2) or more persons receive an equal number of votes for mayor, recorder or councilman, such tie shall be decided by the council in existence at the time the election is held.

Editor's note—This section, which mentions the recorder, is as enacted by the legislature in 1927; § 6 of the charter, as enacted in 1927, provided that the recorder be elected, but § 6 as amended by the voters on Aug. 3, 1954, now provides that only the mayor and councilmen be elected, and § 11 (this section) was not amended to conform to § 6 as amended.

Sec. 12. Contested elections.

All contested elections shall be heard and determined by the council in existence at the time the election is held, and the contest shall be made and conducted in the manner as provided for in contests for county and district officers, and the council by their proceedings in such cases shall, as nearly as practicable, conform with like proceedings of the county commission in such cases.

State law references—See Art. 9, § 9, W. Va. Constitution; name changed November 5, 1974, to "county commission" for state law as to proceedings of county courts in election contests, see W. Va. Code, §§ 3-7-6, 3-7-7.

Sec. 13. Vacancies in appointive offices.

Whenever a vacancy from any cause shall occur in any appointive office, such vacancy shall be filled as provided by section six of this act; and, in case of vacancy in the office of councilman, recorder-treasurer or mayor, the remaining members of the council shall fill said vacancy.

Editor's note—This section is as enacted by the legislature in 1927; § 6, as amended by the electorate on Aug. 3, 1954, now provides that the recorder-treasurer be appointed. This section has not been amended to conform to § 6, as amended.

Sec. 14. Oath of office.

The mayor, recorder-treasurer and councilmen, and all other officers provided for in this act, shall each, before entering upon the duties of their offices, and within fifteen (15) days after being elected or appointed, take and subscribe an oath to support the constitution of the United States, the constitution of the State of West Virginia, and to faithfully and impartially discharge the duties of his office to the best of his skill and judgment, and to account for and pay over, as required by law, all moneys which may come into his hands by virtue of his office.

Sec. 15. Which officers to be bonded; terms, conditions, etc., of official bonds.

The recorder-treasurer of said city shall be required to give bond before entering upon the discharge of his duties in such sum as the council may require, but not less than ten thousand dollars ($10,000.00). The police judge shall, before entering upon the discharge of his duties, give bond in the sum of five thousand dollars ($5,000.00). All members of the police force shall give bond before entering upon the discharge of their duties in the sum of not less than three thousand five hundred dollars ($3,500.00). The council may, in its discretion, require bond of any other officer of the city in such amount as it may prescribe.

All bonds, obligations or other writings taken in pursuance of any provisions of this act or under the provisions of any order of said council, shall be made payable to the City of Beckley. Official bonds shall be conditioned to faithfully and impartially discharge the duties of such official's office and to account for and pay over, as required by law, all moneys coming into his hands by virtue of his office. All other bonds shall be conditioned as the council may prescribe.

The obligors in all bonds, their heirs, executors, administrators and assigns bound thereby, shall be subject to the same proceedings on such bonds, obligations or writings for enforcing the conditions or the terms thereof, by motion or otherwise, before any court of record having jurisdiction thereof, held or acting in or for said Raleigh County as the sheriff of said county, his deputies and their sureties.

Such officials as are herein required to give bonds shall give corporate surety bonds. The premium on the bond required of the recorder-treasurer and police judge shall be paid out of the city treasury.

Sec. 16. Term of office.

The mayor, recorder-treasurer and councilmen shall enter upon the duties of their offices upon the first day of July next after their election and their terms of office shall be for a period of four (4) years. All appointive officers shall enter upon their duties as soon as they have qualified, and shall remain in office during the will and pleasure of the council, or mayor, as hereinbefore provided.
(Election of 8-3-54)

Editor's note—The office of the recorder is no longer an elective office under the provisions of § 6, as amended by the electorate on Aug. 3, 1954. This section was also amended on that date, but was not made wholly to conform to § 6, as amended, by deletion of reference herein to the recorder.

Sec. 17. Powers and duties of mayor, and of city manager if and when appointed; who acts in absence of mayor.

The mayor shall be the chief executive officer of said city and shall have and exercise all the rights, powers and duties of mayor conferred by the terms of this Act and it shall be his duty to see that the laws and ordinances of the city and the resolutions and orders of the council are enforced; that peace and good order of the city are preserved, and that the person and property therein are protected. In vacation of the council, the mayor may appoint special police officers whenever he deems it necessary. He shall, from time to time, recommend to the council such measures as he may deem needful for the welfare of the city.

In the event the council shall appoint a city manager, the council may delegate to him each of the above powers as in the council's opinion it is advisable or necessary to do.

The mayor shall be the presiding officer of the council. In his absence, the council shall select one of their own number to preside in the mayor's stead, and such councilman so selected shall, during the absence of the mayor, be clothed with all the power and authority of the mayor, limited to the same restrictions, and charged with the performance of the same duties as are vested in and incumbent upon the mayor under this act. The mayor shall only vote in council meetings in case of a tie.
(Election of 8-3-54)

Sec. 18. Powers and duties of recorder-treasurer; entry of ayes and nays in journal; office space for and hours of recorder-treasurer.

It shall be the duty of the recorder-treasurer to attend all council meetings and record in a journal an accurate record of all its proceedings, acts, orders, resolutions and ordinances, which shall be indexed and kept open during all reasonable hours for the inspection of the citizens of the city. The proceedings of the last meeting shall be read to the council, corrected when necessary, and signed by the person presiding for the time being, and the recorder. Upon the request of any member, the ayes and nays on any question shall be recorded in the journal.

The recorder-treasurer shall also be the custodian of all city records, money, bonds, notes and certificates, together with all valuable papers of every kind and character which may come into his hands under and by virtue of his said office, and he shall be chargeable with and it shall be his duty to collect the city taxes, levies, assessments, fines and penalties under such regulations

as the council of said city may, by ordinance, prescribe; and such recorder-treasurer shall have the same powers and authority to distrain and sell property for delinquent taxes, levies, assessments, fines and penalties in like manner and to the same extent and effect as authorized and prescribed by the laws of the State of West Virginia for and respecting the collection of state and county taxes and levies.

The recorder-treasurer shall furnish the council upon its request with a statement showing all collections made since the last statement, and all disbursements during that time, as well as any other facts relating to the finances of the city as the council may require. He shall, in addition to the enumerated duties required of him under this act, do and perform such other matters and things as the council may, from time to time, prescribe or require of him.

All moneys coming into the hands of said recorder-treasurer shall be forthwith deposited by him in the name of the City of Beckley, in such of the local banks as the council shall designate as city depositories. The council may require indemnity bonds of such depositories if it deems it advisable so to do.

It is hereby made the duty of the council to provide the recorder-treasurer with suitable and proper office space in which to transact the main duties of his office, and if practical so to do, such office shall be located in the city hall for the convenience of the citizens of said city; and when such office is so provided, it is hereby made the duty of such recorder-treasurer to keep regular office hours each day, Sundays and legal holidays excepted.
(Election of 8-3-54)

State law reference—For state law as to distraint and sale of property for delinquent taxes, see W. Va. Code, §§ 8-13-15 and 11A-2-3 et seq.

Sec. 19. Police court and its jurisdiction.

The judicial power of the city shall be vested in a police court. Said court shall have exclusive jurisdiction of all criminal proceedings for the violation of any ordinance, and concurrent jurisdiction with magistrates and other courts of all civil actions and proceedings arising out of a violation of said ordinance, and for the collection of any license, assessment or tax imposed by ordinance; and of the following offenses committed within the city (except when prosecuted by indictment or information): Petty larceny, assault and battery, breaches of the peace, rioting, committing wilful injury to property, and all misdemeanors punishable by fine or imprisonment in the county jail, or both; proceeding respecting vagrancy, lewd or disorderly persons; and exclusive jurisdiction of all offenses not properly falling under the jurisdiction of other courts. No jury shall be summoned to try any case in said court.
(Election of 8-3-54)

Sec. 19a. City prosecutor.

When in the opinion of the mayor of the city it is necessary or advisable to do so, the mayor may nominate a city prosecutor, subject to the approval of the council as provided in section 6, who shall hold office during the will and pleasure of the council. The salary of such prosecutor shall be fixed by the council. The city prosecutor shall have the same qualifications as those set forth in section 22 for the city solicitor.

His duties shall be to represent the city in all criminal matters originating in the police court for the violation of any city ordinance and on appeal from said court to any other court from proceedings so originating. He also shall, upon request, advise members of the police department and other officials of the city on any criminal matters arising out of the violation of any city ordinance.
(Election of 8-3-54)

Sec. 20. Qualifications, powers and duties of police judge; commitment of prisoners; appeals from police court; recorder-treasurer to collect fines and costs.

The police court shall be presided over by a police judge who shall be a practicing attorney of the Raleigh County bar, in good standing, and a citizen of the City of Beckley. The police judge shall within the city have, possess, and exercise all the powers and perform all the duties vested by law in a magistrate, except that he shall have

no jurisdiction in civil cases or causes of action arising outside of the corporate limits of the city. He shall have the same power to issue attachments in civil suits as a magistrate of the county has, though the causes of action arose outside of the city, but if the cause of action arose outside of the city, said attachment shall be returnable to and be heard before some magistrate of the county. Any warrant or other process issued by him may be executed at any place in the county. He shall have the power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment he may commit the party in default to the jail of the county or the city until the fine or penalty and costs shall be paid, but the term of imprisonment in such cases shall not exceed thirty (30) days. The police judge shall also be vested with the same powers to issue capias pro fine, as are vested in courts of record with prosecuting attorney and circuit clerks, by virtue of the Code of West Virginia, but no bond shall be made payable more than ninety (90) days from the date thereof, and the city shall have all the rights to enforce the collection of such bonds as are authorized by said code. The common council of the city may authorize the acceptance by the police judge, city recorder-treasurer or his deputies, of cash appearance bonds in lieu of bonds secured by property. The expense of maintaining any person committed to the county jail by him, shall be borne by the city and taxed as costs, except it be to answer an indictment.

He shall not receive any money belonging to the state or individuals unless he gives such bond and security as is required of a magistrate, and all provisions of the said Code of West Virginia relating to moneys received by magistrates shall apply as to like moneys received by the police judge.

Appeals shall lie from the judgment of the police court to the Criminal Court or Circuit Court of Raleigh County, as the case may be, in accordance with law.

The police judge shall tax as costs in each case the same fees as are permitted to be taxed by magistrates in like cases. He shall keep an accurate record of all of his proceedings in a book to be called "Police Docket," and all fines and costs collected by him shall be promptly turned over to the recorder-treasurer, who shall thereupon receipt the same, and such docket together with an itemized statement of all fines and costs collected shall be kept as a permanent record by the city recorder-treasurer.

The police judge shall have the same powers to fine and imprison for contempt as are now vested in magistrates under the statutes.
(Election of 8-3-54)

State law reference—Power of magistrate court to issue attachments in civil cases, W. Va. Code, § 50-6-3.

Sec. 21. General powers of common council.

The council of said city shall have the general powers enumerated in the subdivisions of this section, as follows:

(1) To lay off, open, close, vacate or maintain public grounds, parks, public places, name and re-name the same, to have control and supervision thereover, to protect the same from damage or other injury by persons or property, to fix fines and punishments for any injury thereto in violation of any of the orders of said council, and to maintain good order and prevent violations of the ordinances of said city therein or thereon.

(2) To protect divine worship within the limits of said city, and to fix fines and punishment for disturbance of any assemblage of people, then and there, met for the worship of God, to prohibit any interference with or disturbance of divine worship or an assemblage or people met together for the worship of God by any person or persons loitering about the premises or places where such worship is being had or such assemblage is met, or from loitering in the public streets or public places adjacent thereto in such manner as to interrupt such worship.

(3) To acquire either by purchase, condemnation or any other modes provided by general law, ground within said city for such streets and alleys as the council may deem proper to locate, lay off, vacate, close, open, alter, grade, straighten, widen or narrow,

pave or repave, construct and keep in good repair, the roads, streets, alleys, pavements, sidewalks, crosswalks, drains, viaducts and gutters therein, for the use of the public or of any of the citizens thereof, and to improve and light the same and to keep the same clean and free from obstruction of every kind; that where said city shall be required to respond in damages by reason of injury to persons or property occasioned by the failure of any abutting owner to so provide or keep in repair any sidewalk along such property, after being notified by the council so to do, that such property owner shall be liable to the city for any sum of money, costs and counsel fees which it has been required to pay by reason thereof.

(4) To regulate the width of sidewalks and the streets and the width and the care of the public grounds or grass plots abutting thereon, and to order the sidewalks, footways, crossways, drains and gutters to be curbed, paved, or repaved and kept in good order, free and clean, and to provide for the removal of snow and ice therefrom, and for sprinkling the same by the owners or occupants of the real property next adjacent thereto, and to provide and enforce punishments for obstructing, injuring or preventing the free and proper use thereof, and to provide and enforce fines and penalties for throwing therein or thereon any paper, glass, rubbish, decaying substances or other things that would make said streets, sidewalks, grass plots, crosswalks, drains, or gutters unsightly or unhealthy.

(5) To regulate the use of the walks, highways, bridges, streets, alleys and gutters, and the rate of speed of travel thereon, and to prevent and punish for fast riding or driving thereon of any horse, bicycle, wheeled vehicle, wagon, steam or electric or traction engine, motor car or automobile, and to prevent injury to such streets, alleys, roads and highways from overloaded or improperly loaded vehicles where the council deems the public safety requires such regulation.

(6) To regulate the planting, trimming and preservation of shade trees, by persons and by corporations, in streets, alleys, roads, public grounds and places, and to require the owners of adjacent property to trim or remove any shade tree or ornamental shrubbery or other tree that in the opinion of the council is an obstruction to the streets, alleys or sidewalks, or a menace to public safety.

(7) The council shall have the right to require the owner or occupier of any property in the city to keep his premises clean and free from all matters that would endanger the health of the city, and may require the removal of any waste paper or waste material of any kind or character upon the private property of any citizen or property owner that would cause the spread of fire or when the council deems the same should be removed; and may require the removal or straightening of any fence, wire, palings, or other material enclosing any lot, when, in the opinion of the council, the same is dangerous or obstructs or encroaches upon the streets, alleys or sidewalks; provided, that in all such cases, if the owner or occupier of such property fails to do any of the things enumerated in this section required by the council, after notice by the council, the council may take such action as may be necessary to perform such acts and the expense thereof shall be charged to the property owner and collected as taxes are collected.

(8) To regulate the making of division fences of an unsightly nature and party walls by the owners of adjoining and adjacent premises and lots, in so far as the same shall not be in conflict with general law.

(9) To regulate or require drainage by the owner or occupier of any lot or other real estate, by proper drains, ditches, and sewers, and to require the owner or occupier of any lot to fill the same, at his own expense, so that water will not collect in a body thereon, or

so the same will not become a menace to public health.

(10) To regulate or prohibit street carnivals, or street fairs, or street parades, advertising exhibitions, or other exhibitions thereon, or the exhibition of goods, wares, merchandise, material or artificial curiosities upon any street, sidewalk, alley or public place of said city.

(11) To regulate or prohibit the ringing of bells, blowing of steam whistles, or use of hand-organs, or other instruments of any annoying character, or other music of itinerant performers in the streets, or public speaking and preaching in the streets, roads, parks, or public places of the municipality.

(12) To license, regulate or prohibit auctioneering.

(13) To license, regulate or prohibit the sale of goods, wares, merchandise, drugs or medicine on the streets or other public places.

(14) To prevent the illegal sale of tobacco, cigars, snuff, or cigarettes, within said municipality, and to prevent the smoking by any person under twenty-one (21) years of age, of any cigarette, in any public building, or upon any public grounds, street, alley, sidewalk or public place within the said city and to fix fines and punishments for violations thereof.

(15) To regulate control, or prohibit runners for hotels, boardinghouses and eating houses, and to regulate draymen or persons hauling or transporting for hire at and about the railroad depots and stations and other public places and in an assemblage of people within the said city.

(16) To regulate, assess and collect a license fee for the said city for the doing of anything or business on which a state license is required, under Chapter 8 of the Code of West Virginia, and as said chapter may be hereafter amended or added to, subject to the exceptions provided by general law.

(17) To establish, when the council may deem proper, locate and keep in repair market places and market houses, and regulate markets and prescribe the time for holding the same; to authorize the seizure thereat and destruction of any and all such foods and drink products as shall be found unwholesome, dangerous or offensive, and without recourse against the municipality for its cost or value.

(18) To regulate the sale of food and drink products, milk, fresh meats, fish and vegetables, and to provide penalties for the sale of any such that are unwholesome or unfit for use.

(19) To regulate and provide for the weighing of hay, coal and other articles for sale in the markets, or to residents of said city.

(20) To require the merchants and other persons selling goods, foods or materials that must be weighed, to keep correct scales, and to seize and destroy such as are found to be incorrect, and not corrected after due and proper notice to the owner or person using the same, without damage or expense to the municipality of the value thereof.

(21) To prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome.

(22) To regulate the keeping, handling and transportation of explosives and dangerous combustibles within the municipality; and to regulate or prohibit the use of firecrackers, sky rockets, toy pistols, air rifles or guns within the said municipality.

(23) For the purpose of promoting health, safety, morals or the general welfare of the city and community, the council is hereby empowered to establish building lines, regulate and restrict the location and use of buildings, structures and land for trade, industry, residence or other purposes.

(24) For any or all of said purposes the council may divide the city into districts of such number, shape and area as may be deemed best suited to carry out the purpose of this act, and within such districts it may regu-

late and restrict the erection, construction, alteration, repair or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

Annotation—For a 1949 case holding that subdivisions (23) and (24) of this section [21] authorized common council, subsequent to enactment of the Code of West Virginia, 1931, to adopt a zoning ordinance without holding a referendum as provided in W. Va. Code, § 8-24-48, see Baer v. City of Beckley, 133 W. Va. 459.

(25) Such regulations shall be made in accordance with a comprehensive plan, and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the over-crowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

(26) To regulate or prohibit the use of walls or walks for signs; to regulate or prevent the distribution or posting of any sign, bill or other paper that, in the opinion of the council or mayor, is indecent or immoral.

(27) To define by ordinance what shall constitute a nuisance, and to abate all nuisances whether defined or not, and to require the removal or abatement of any building, obnoxious business, sign board, bill board, signs, or other thing, which in the opinion of the council is a nuisance.

(28) To regulate or prohibit the distribution of hand bills, circulars and other advertisements of like kind, on the streets, roads, alleys, and public places, or the placing of same in private yards, buildings or other structures, without having first procured the consent of the owner or occupier of such property.

(29) To regulate or prohibit within the municipality or within one (1) mile of its corporate limits, the erection or maintenance of any slaughter house, soap factory, glue factory, lamp black factory, tannery or other house, shop or factory of like kind or character.

(30) To regulate or establish within said municipality public drinking fountains and water troughs; and to regulate the time and place and manner of bathing in pools, streams and public waters within the police jurisdiction of said municipal corporation.

(31) To prevent hogs, cattle, sheep, horses, and other animals and fowl of all kinds, from going at large in the municipality; and to establish and maintain places for their detention, make regulations respecting the same, appoint a pound master and define his duties and provide for the sale of such property impounded.

(32) To arrest, convict and punish any person for committing adultery or fornication, or for any lewd or lascivious cohabitation within said city, and for keeping an assignation house, house of ill fame, or for leasing or letting to any other person any house or other building to be kept or used as such, or for knowingly permitting any house, under the control of or owned by any person, to be used as an assignation house or house of ill fame; and to convict and punish for frequenting, entering or loitering in any assignation house or house of ill fame within said municipality.

(33) To arrest, convict and punish any person for importing, printing, publishing, selling, giving away, exhibiting, or distributing any book, picture or device, or other thing containing any obscene picture or language, or making any indecent representation.

(34) To restrain, convict and punish vagrants, mendicants, beggars, tramps, common prostitutes, and their associates, and drunken

or disorderly persons within the municipality, and to provide for their arrest and manner of punishment.

(35) To prevent and prohibit the use of indecent or profane language within the corporate limits, and to provide and fix punishment therefor.

(36) To prevent and prohibit any tumult, riot, quarrel, angry contention, or abusive language, and to prevent the use of insulting epithets, assaults, assault and battery, and fix fines and punishments therefor.

Annotation—For a case holding that § 21, subdivision (36) granted power to common council to enact ordinance making assault and battery an offense against the city, see State v. Mills, 150 S. E. 142.

(37) To prevent and prohibit trespass upon private property or the doing of anything which would annoy the owner or occupier of any premises, and to fix and provide fines and punishments therefor.

(38) To provide against danger or damages by fire, and to that end, to require, when the council may think necessary, an inspection of all the properties within the said city, and to require the owner or occupier of any property in which a defective or dangerous chimney or flue is found, to immediately repair the same, and to prevent the use thereof until repaired as required.

(39) To prohibit and prevent intoxication or drunkenness, and the drinking of intoxicants in any public place, store, streets, or alley, and to fix fines and penalties therefor.

(40) To prohibit, prevent and punish for anything that is against the good morals and common decency, or that would tend to corruption, vice or crime.

(41) To prohibit and punish for larceny where the amount stolen is less than twenty dollars ($20.00).

(42) To protect the public schools in said city, and to prohibit and prevent any disturbance thereof in and about the buildings or upon the grounds, and to prevent injury, destruction or defacement of any school property or building.

(43) To establish a board of health and vest it with the necessary power to maintain its object, and to fix fines and penalties for any violation of its lawful orders.

(44) To establish quarantine, and to erect and maintain pest houses and places of detention, and to make and enforce necessary orders for controlling or preventing the spread of infections and contagious diseases, and for abating pestilences.

(45) To prohibit the bringing into the corporate limits by railroads, carriers, persons or in any manner, persons who are paupers or persons who are afflicted with contagious diseases; to punish by fine or imprisonment, or both, any person who shall bring into the corporate limits any such pauper or person afflicted with contagious disease, knowing or having reason to believe, at the time that such person is a pauper or afflicted with such contagious disease, and to collect and recover from any such railroad company, carrier, or other person, the expense of keeping and maintaining such pauper or diseased person, until such person can be lawfully removed from the corporate limits.

(46) To provide for the poor of the municipality, and to that end, the municipality may contract with the county commission of Raleigh County for the keeping of such poor person, or any number of them, at the county poor house, at a price and on such terms as may be agreed upon between the county commission and the proper municipal authorities.

(47) To authorize the taking up and providing for the maintenance and safe keeping of (for such period as may be deemed expedient) all children within said city who are destitute of proper parental and other care.

(48) To arrest, convict and punish any person for cruelty, unnecessary or needless beating, torturing, mutilating, killing or over-

loading, or overdriving, or wilfully depriving of necessary sustenance, any horse or other domestic animal.

(49) To regulate the hitching of horses within the corporate limits, and the driving of cows and cattle through, upon and along the streets and alleys of the said city.

(50) To prohibit, prevent and punish for the pollution of any stream of water running into or through the said municipality; and to prohibit and prevent the throwing into any such stream of any trash, dirt, filth, offal, decayed substances or matters, or anything that would make said water unhealthy or unfit for domestic use.

(51) To prohibit, prevent and punish for any desecration of the Sabbath day; prohibit the playing of any game, exhibiting any show, theater, picture show, and the keeping open of business places except hotels, eating houses, boardinghouses and restaurants.

(52) To restrain, prevent and punish fraudulent practices of any kind or character within the municipality.

(53) To arrest, convict and punish any person for gambling or keeping any gaming table, commonly called "faro bank", or table and chips used in playing such game; crap, crap table, chips or dice used in playing such game; or roulette or the wheel, chips, or other equipment used in playing such game; or keno table or table of like kind or device used in playing the same; or table of like kind under any denomination, whether the game or games be played with cards, dice or otherwise on which anything is bet or wagered, whether the same be played in any public or private room or residence; and may convict and punish any person who shall be a partner or concerned in interest in the keeping of any such gambling devices heretofore enumerated, or in any game played, such as is prohibited hereby, or in keeping or maintaining any gambling house or place of gambling for money or anything of value; and shall have the right to destroy such gambling paraphernalia as may be found in use of any such premises; and any officer armed with a warrant for the arrest of any person engaged in any such unlawful game or for the search of any room in which gambling is suspected, or for the seizure of any gambling paraphernalia, shall have the right to break into any building, other than private dwelling house, without notice or demand, and into a private dwelling or room, after demand and refusal to open same, to execute any such warrant.

(54) To retain all felons and persons guilty of offenses against this state or the United States, and deliver them over to the authorities or court having jurisdiction of the offense whereof such persons are accused.

(55) To apprehend and punish any person who, without a state license therefor, is guilty of carrying about his person, within the municipality, any revolver or other pistol, dirk, bowie knife, sling shot, razor, billy, metallic or false knuckle, or any other dangerous or deadly weapons of like kind and character, as provided by Chapter 61 of the Code of West Virginia, or any amendment thereof, and the punishment therefor, whether for the first or other offenses, shall be that now or hereafter prescribed by said chapter for any such person guilty under the misdemeanor clause provided therein.

(56) To regulate the hanging of doors, the construction of stairways and elevators, and require fire escapes in theaters, churches, school buildings, factories and other places deemed necessary by the council.

(57) To establish fire limits and to regulate the construction of buildings, and designate materials to be used in the construction of buildings within such limits.

(58) To regulate the building of fire walls, fire places, chimneys, boilers, smokestacks, stove pipes, and the burning of waste paper, trash or other waste matter, in the corporate limits.

(59) To require any building that, in the opinion of the council, is dangerous, to be re-

paired, altered or removed by the owners thereof, or put in a safe condition, such as the council may approve, at the expense of such owner or occupier, and to provide punishments for failure to comply with any order of the council concerning same.

(60) To regulate the construction and inspection of all new buildings hereafter erected, the alteration and repair of any buildings now or hereafter erected, to require permits to be obtained of the council therefor, and the submission of plans and specifications to the council for its approval; to regulate the limits within which it shall be lawful to erect any steps, porticos, bay windows, awnings, signs, columns, piers, or other projection or structural ornaments of any kind for the houses or buildings on any street or alley.

(61) To provide for the prevention and extinguishing of fires, and for this purpose, the council may equip and govern fire companies, prescribe the powers and duties of such companies and departments, and of the several officers thereof, or may authorize volunteer fire companies, under such rules and regulations as the council may prescribe, and impose on those who fail to obey any lawful command of the officer in charge of any such company, or volunteer company, any penalty which the council is authorized to impose for violation of an ordinance, and to give authority to any such fire officer to direct the pulling down or destruction of any building, fence, wall or other thing, if such officers deem it necessary to prevent the spreading of any fire which is being extinguished under the direction of such officer, and without any liability on the municipality for damages therefor.

(62) To protect the persons and property within the corporate limits and preserve the peace and good order therein, and for this purpose, to appoint, when necessary, a police force and such other officers as may be deemed necessary; and to provide a lockup, jail or other suitable place to confine persons sentenced to imprisonment for violation of the ordinances of said city; provided, however, that the jail of Raleigh County may be used for that purpose, if authorized by the county commission of said county.

(63) To require any person violating any of the ordinances of said city, or any order for which a fine, imprisonment, or both is imposed, to work upon the streets of said city in case of nonpayment of said fine, until the same is paid by such labor, or in case imprisonment is imposed, to work upon the streets of said city during the term of such imprisonment in addition to the payment of such fine, under such regulations as the council may prescribe.

(64) To prescribe the powers, define the duties of the officers appointed under the corporate authority, fix their terms of service and compensation, if not otherwise prescribed by this act, and to require and take from them bonds, when deemed necessary, payable to the City of Beckley, with the sureties, and in such penalties as may be prescribed, conditioned for the faithful discharge of their respective duties.

(65) To make regulations with respect to, and have supervision and control over the erection, removal and relocation of all telephone, telegraph, electric light or other poles within said city, and the extension of wires, lines or poles by any individuals or corporations.

(66) To require the enlarging or extension of any electric light wire, telephone line, gas line, water system, or other public service within said corporate limits, to meet the needs of the inhabitants, when in the opinion of the council, such extension is necessary and justifiable.

(67) To grant and regulate all franchises in, upon, over and under the streets, alleys and public ways of said city, under such restrictions as shall be provided by ordinances and general law; but no exclusive franchise shall be granted by said city council to any individual or corporation; nor

shall any franchise be granted for a longer period than twenty (20) years.

(68) To acquire, erect or authorize or prohibit the erection of gas works, electric light works or water works within the city limits, to prevent injury to such works or the pollution of any gas or water used or intended to be used by the public or by individuals; and to do all things necessary to adequately supply said city and the inhabitants thereof with pure, healthful and wholesome water; and to require any company furnishing gas or electricity for sale or distribution in said city to furnish an adequate supply thereof; to require gas fixtures, electric light wires, telephone wires and all apparatuses used in connection with any of these to be kept in repair and suitable for use, and free from danger, so far as practicable; to use, generate, distribute, sell and control electricity and gas for heat, light and power, and to furnish light for the streets, highways, buildings, stores and other places in and about said city.

Editor's note—Word "and" before "adequate supply" was in original; probably a typographical error intended as "an".

(69) To require any gas company or person furnishing gas for said city or the inhabitants thereof, to put in standard meters for the measurement thereof, and may appoint a competent person to inspect the meters and remove the same if not standard and in good order; to prevent injury to any gas works, electric light works, water system or any gas meter or meters within said municipality.

(70) The council shall have the right to require of any water company or person furnishing water for the use of the inhabitants of said city, for hire, compensation or reward, to obey any order of the council with respect to keeping the reservoir or other source from which said water is furnished, free from filth and in good, clean condition, and may require said water company to properly filter the water distributed for use, and may require said company to put in such lines as may be necessary to pump the said water into the reservoir or other receptacle therefor, without pumping the same into the main distributing lines, or in any other way or manner effecting them; and may fix fines and penalties for any failure on the part of any corporation, company or other person distributing water, to obey any order of the council or any authorized officer of the city respecting the same, or any ordinance that may be enacted by the council relative thereto.

(71) The council shall have the right to provide a sewerage system for said city, and may require the owner of any property abutting upon any street or alley in which a sewer has been laid or placed, to connect a sewer leading from his or her property or lot into any public sewer which is located in such street or alley adjoining the same, and if the owner or occupier of said lot or property fails or refuses so to do, after having been given a reasonable notice, the council may enter upon such lot and construct such sewers, and may levy the actual cost thereof against the lot upon which the same is built and collect such costs from the owner of such lot in the same manner as city or state taxes are collected and as herein provided; in addition thereto, the council may punish by fine, or fine and imprisonment, any person who permits any drainage from his residence or lot to enter upon any street or upon any property after a sewer has been placed in a street or alley adjacent to his property to which he should connect, after notice has been given to him by the council to make such connection.

(72) The council shall have the right to impose fines and penalties for any interference with or destruction of the sewer system or any part thereof in said city, or for the destruction of or damage to any street, alley or sidewalk in said city, or any improper use thereof; it shall have the right to regulate or prevent the use of the sidewalks for bicycles, push carts, sleds, tricycles, roller skates and other things of like character, and to fix fines and penalties for violation of the ordinances respecting same.

(73) To grant by ordinance or resolution permits for the temporary use of such parts of its streets, roads, alleys and public places as the council may deem proper and right to be used in the construction, alteration or repair of buildings located thereon, or for such other purposes as the council may deem proper and right, and under such regulations and for such time as the council may prescribe.

(74) The council may buy, lease and operate either within or without the municipality, stone quarries, crushers and land for said purposes or for the purpose of furnishing a supply of stone or other material suitable for macadamizing or paving the streets, sidewalks and alleys, and improving public property.

(75) Whenever in the opinion of the council it is necessary that any sidewalk be built or repaired, it shall first have a competent engineer fix a grade line for such sidewalk and shall then, by order of the council, name the character of material out of which same is to be built, and fix the width thereof, and shall then give notice, in writing, to the owner or occupier of said lot, if he be found, and if he be not found, by posting a notice thereof upon the said lot and at the front door of the court house of Raleigh County for at least ten (10) days, requiring the construction of said sidewalk in accordance with the requirements of the council, and upon the grade fixed by the said engineer, and if such sidewalk be not built, altered or repaired within twenty (20) days after such notice is first given or posted, the council shall proceed to put in the same under its supervision and control, and shall charge the expense thereof against the property along which the same is being placed, altered or repaired, and shall cause an itemized account of the same to be made up and delivered to such property owner or occupier of such premises, if found, and if he be not found, have the same recorded in the county clerk's office of Raleigh County, and the same shall constitute a lien upon the said lot or property and shall be collected as other taxes are collected; provided, nothing herein contained shall prevent the council from requiring immediate repair of such sidewalks now or hereafter constructed that may become dangerous; and after notice to the property owner along which the same run, the council may make such immediate repairs, if the property owner fails to make same after such notice, and the expense thereof shall be a lien in the manner aforesaid.

(76) To authorize by ordinance such committees or boards, and delegate such authority thereto as may be deemed necessary or advisable by the council; except that the council cannot delegate the authority to impose a lien upon real estate; and to employ such legal counsel on behalf of the city, from time to time, as the city may deem necessary to protect the interests of the city.

(77) To provide for the annual assessment of the taxable property in said city, including dogs kept in said city, and to provide a revenue for the city for municipal purposes and appropriate such revenue to its expenses; provided, nothing herein contained shall require the council to keep in repair and maintain any bridge or bridges within said corporation, now or hereafter owned by the Chesapeake and Ohio Railway Company, but the officers of said city in the preservation of law and order shall have jurisdiction over any such bridges within such corporation; and provided further, that the police regulations as may be ordained by said city, and the right and power to enforce the same shall extend one mile into the State of West Virginia beyond the corporate limits of said city, but not into any other municipal corporation.

(78) The council may, within any prescribed area, prohibit the erection on any street or in any square, of any building, or of any addition to any building, unless the outer walls thereof be made of brick and mortar or other fire-proof material. And the common council may require the removal of any building or addition which shall be hereaf-

ter created contrary to this prohibition, at the expense of the owner or owners thereof.

(79) The council shall keep all roads, streets and alleys within its limits passable and in good repair, and may provide the expenses therefor by a direct taxation, as provided under this charter, or in any other manner authorized by law; and residents of said city who are taxed therein for the purpose of maintaining such streets and alleys shall be exempt from the payment of any county road tax.

(80) In the enforcement of the ordinances, orders, rules, regulations and by-laws of the said city, no fine shall be imposed exceeding one thousand dollars ($1,000.00), and no person shall be imprisoned as aforesaid, exceeding twelve (12) months; provided, that any violation of the liquor laws of this state shall be punished by the fines and penalties therein prescribed; and violations of the road law or automobile laws may be punished by the fines and penalties prescribed by general law, unless different fines and penalties are expressly prescribed by the ordinances of said city. And in all cases where a fine is imposed for an amount exceeding ten dollars ($10.00), or a person be imprisoned, an appeal may be taken from such decision upon the same terms and conditions that appeals are taken from the judgment of a magistrate of this state; and in no case shall a fine of less than ten dollars ($10.00) be imposed where the ordinance prescribes a fine if the defendant requests that such fine be made at least ten dollars ($10.00) for the purpose of appeal.

(81) The council shall have the right to enforce the attendance of its members at all regular meetings and at all special meetings of which such members have notice, and may cause the arrest and punishment by fine or fine and imprisonment, of any such member who refuses to attend and take part in its proceedings.

(82) It shall be the express duty of the council to present charges against any of its members, or any elective officer of the city, who fails to perform, or who does not promptly and diligently perform any duty prescribed by this act, or by any ordinance or resolution of the council, and upon hearing thereof before the council, after notice to such officer, he shall be removed from office by the council, if the charges be found correct.

(83) To carry into effect these enumerated powers and all others by this act or by general law conferred, or which may hereafter be conferred upon the said city or its council, or any of its officers, the said council shall have and possess full authority to make, pass and adopt all needful ordinances, by-laws, orders and resolutions, not repugnant to the constitution of the United States, constitution of West Virginia and laws of this state; and to enforce any and all of such ordinances, by-laws, orders or resolutions, by prescribing for a violation thereof fines and penalties, and imprisonment in either the county jail of Raleigh County, or the city prison, if there be one. Said fines and penalties shall be imposed and recovered, and such imprisonment inflicted and enforced by the judgment of the police judge of said city.

(Election of 8-3-54)

State law reference—General powers of cities, W. Va. Code, § 8-12-5.

Sec. 22. Qualifications, powers and duties of city solicitor.

The city solicitor shall be a member of the Raleigh County bar, in good standing, and a citizen of the City of Beckley; he shall be the legal adviser of and counsel for said city and for all officers thereof in matters relating to their official duties. He shall prepare all ordinances, contracts, bonds and other instruments in writing in which the city is concerned, and no written contract with the city, except bonds given to said city by officials or others, shall take effect until the legality thereof shall have been approved by such city solicitor. He shall attend the council meetings and perform such other duties, from time to time, as the council may require of him.

Sec. 23. Powers and duties of chief of police.

It shall be the duty of the chief of police to preserve order and quiet in said city, and to see that all subordinate police officers faithfully perform their official duties. He shall attend all regular council meetings and be present in the police court, whenever the same shall be in session, and see that all its orders and requirements are properly executed.

In case of the violation of any ordinance of said city in the presence of or within view of the chief of police, or other police officer, the offender may be forthwith apprehended and taken before the police judge, and a complaint under oath, stating such violation, there lodged and filed, and thereupon such offender may be tried and dealt with according to law without summons. The chief of police or any other police officer of said city shall execute within the County of Raleigh any proper process issued by the police judge in proceedings for the enforcement of ordinances; he shall collect, by a levy of execution or otherwise, and duly account for all fines assessed and costs imposed and collected by him in such proceedings. He shall also have the rights and powers within said city in regard to the arrest of persons, the collection of claims and the execution and return of process, that are or may be lawfully exercised by a deputy sheriff within said county; and he and his sureties shall be liable for all fines, penalties and forfeitures for which a constable is liable, and for dereliction of duty in office, to be recovered in the same manner and in the same courts that such fines, penalties and forfeitures are recovered against deputy sheriffs.

In addition to the above duties, the chief of police shall have such other duties as the council may by ordinance prescribe.
(Election of 8-3-54)

Annotation—For a case sustaining trial court's instruction that chief of police had right to arrest, without warrant, persons charged with violation of a speed limit ordinance in his presence, and to confine them in jail until they could be brought before police judge the next day, subject to their right to have a reasonable opportunity to give bond, see Moran v. City of Beckley, 67 F. (2d) 161. Such case also held that it is for the jury to determine whether or not person arrested for a bailable offense was given "reasonable opportunity" to give bail. Such case further held that it was arbitrary and unjust to jail over night persons charged with bailable offense and, next morning, to accept bail in an amount they could give, when the night before he had asked for bail in an amount they could not give.

Sec. 24. Chief of fire department.

The duties of chief of fire department shall be such as the council may, by ordinance, prescribe.

Sec. 25. Powers and duties of city assessor.

It shall be the duty of the city assessor to cooperate with the county assessor to the end that all property within the city, subject to taxation, may be charged upon the land and personal property books, respectively, and proper valuation thereon placed.

Sec. 26. City health officer.

The city health officer shall be a legally qualified physician. His duties shall be such as the council may by ordinances prescribe.
(Election of 8-3-54)

Sec. 27. Streets and roads; when residents exempt from county road tax.

The said city shall construct and maintain its own roads and streets and by reason thereof it shall not be required to pay any district or county road levies for the construction and maintenance of roads outside of the city limits, but this provision shall not be construed to relieve the city from any liability on existing or future county or district bond issues for road purposes.

Sec. 28. Effect of charter with respect to conditions existing in 1927.

All ordinances and resolutions of said city in force at the time of the passage of this act, which are not inconsistent therewith, shall be and remain in full force over the whole boundary of said city as established by this act until the same are amended or repealed by the council of said city, and the officers elected at the last election, in the City of Beckley, shall remain in office until their successors, under this act, are elected and qualified as hereinbefore provided, and after this act takes effect, the present officers of said city shall have jurisdiction over all the territory embraced in the boundary specified in this act, and such

present officers shall then be vested with full power and authority to pass any new ordinances or resolutions under this act that are not inconsistent therewith. Nothing in this act shall be construed or held to in any way affect or impair any of the bonds, obligations or indebtedness of the City of Beckley existing at the time of the passage of this act.

Editor's note—The charter act passed the legislature on April 26, 1927, and took effect ninety (90) days thereafter. This section speaks as of such time.

Sec. 29. Bond issues.

The City of Beckley, by and through its council, may issue and sell its bonds, in the manner, and subject to the limitations and conditions contained in Chapter 14, Acts of the Legislature, 1923.

State law reference—Ch. 14, Acts 1923, is now classified as W. Va. Code, §§ 13-1-1 to 13-1-32; 18-9-2.

Sec. 30. Licenses.

Whenever anything for which a license is required or permitted under the Code of West Virginia be done within said city, the council may require a license therefor, and may impose a reasonable tax thereon for the City of Beckley.
(Election of 8-3-54)

Sec. 31. Common council; designation; quorum.

The council of said city shall be officially known as and called the "Common Council of the City of Beckley." A majority of the council shall be necessary to form a quorum for the transaction of business.

Sec. 32. Salaries; officials interested in contracts.

The council may at any time by a two-thirds (⅔) majority of the members elected change the salaries of any appointive or elective officers; but any such changes that affect the salaries of the elective officers shall be effective only as to such officers as are thereafter nominated and elected; provided, however, that no changes shall reduce the compensation to be paid below the minimum fixed by this section. No officer, councilman, agent or employee of said city shall have a voice or be directly or indirectly pecuniarily interested in any contract, sale or purchase for or on behalf of the city, or in the proceeds of any improvement made by or on behalf of the city, nor shall he receive, directly or indirectly, any compensation for his services rendered on behalf of the city, other than herein provided to be paid, nor shall such councilman remain present while any such matters are being voted upon by the council. Salaries shall be paid by the city in monthly installments.
(Election of 8-3-54)

Editor's note—The first paragraph, containing specific salaries, has been omitted, except the second sentence thereof, which has been placed at the end of the section.

Code reference—Section 2-2 of the code for specific salary of elected officials.

Sec. 33. City not to incur debt exclusive of bond issues; liability of councilmen for violation.

The council of said city shall not for any purpose, exclusive of bond issues, create any indebtedness against the said city exceeding available revenues of the city for the current fiscal year, and any councilman who shall violate the provisions of this section shall be personally liable therefor and subject to all other penalties prescribed by any statute of this state for so doing; but nothing in this section shall be construed to prevent the council from lawfully issuing orders after the first day of July, to be paid out of the city treasury, provided, such orders do not exceed the available revenues for that fiscal year, based upon the assessments and levies made or to be made for said year, but such orders shall not draw interest.

Sec. 34. Meetings of common council.

The council shall fix the place and time of holding its regular meetings. It may provide for special and adjourned meetings and prescribe rules and regulations not inconsistent with this act for the transaction of business and for its own guidance and government.

Sec. 35. How funds disbursed.

No money shall be paid out of the city treasury unless authorized by an order entered of record in the council journal, signed by the mayor, or other

presiding officers, and the recorder-treasurer, and all warrants drawn upon the city treasury shall be signed by the mayor and recorder-treasurer before payment thereof shall be authorized by any city depository.

Sec. 36. City records as evidence.

A copy or transcript of any records of the police court, purporting to have been attested or certified by the police judge thereof, may be admitted as evidence in any court of this state without any proof of the signature, or of the official character of the person whose name is signed to it; and a copy or transcript of any records of any department of said city, purporting to have been attested or certified by the mayor or recorder-treasurer of said city, may be admitted as evidence in any court of this state without any proof of the signature or of the official character of the person whose name is signed to it, whether the seal of said city be attached thereto or not.

Sec. 37. Oaths and acknowledgments.

The mayor of said city shall have the same power within the city to administer oaths and affirmations as is now vested in a justice of the peace under the Code of West Virginia; and the recorder-treasurer of said city shall have the same power and authority to administer oaths or affirmations and take acknowledgments to deeds and other writings in said city as is now vested in a magistrate under and by virtue of said Code. (Election of 8-3-54)

State law reference—For state law as to authority of magistrate court to administer oaths and take acknowledgments, see W. Va. Code, § 50-2-1.

Sec. 38. Liens for street improvements; filing and indexing.

For the construction of all streets and sidewalks by this city, pursuant to section 8-18-2 of the Code of West Virginia, the lien for such improvements shall exist against the property so improved from the date the construction work actually begins, and the lien of the assessments provided for in section 8-18-10 of the Code of the West Virginia shall relate back to the beginning of such construction work; provided, no lien imposed by the said city on real estate therein except liens for municipal taxes shall continue to exist unless a notice thereof be filed for record in Raleigh County Court Clerk's office within ninety (90) days after the report of the completion of such improvements has been filed before the city council by the city engineer; such notice shall be recorded by said clerk in appropriate record book and indexed together with other liens against real estate; and releases of said liens shall, when discharged, be also recorded and indexed in said clerk's office as other releases.

Sec. 39. Mayor's power to punish for contempt.

The mayor of this city, while discharging his official duties, is hereby vested with the same power to punish for contempt committed in his presence, as is now vested in magistrates of this state.

State law reference—Power of magistrate court to punish for contempt, W. Va. Code, § 50-5-11.

Sec. 40. Prior charter repealed; what state statutes incorporated in this charter; other state laws applicable to city.

Chapter 8 of the Code of West Virginia, and all amendments thereto, in so far as they are not inconsistent with the several provisions of this act, are hereby adopted as a part of this act; and no act of the legislature or existing law of this state, in conflict with the several provisions of this act, shall be applicable to the City of Beckley; and the charter of the City of Beckley passed by the legislature of West Virginia on the fourteenth day of February, 1908, is hereby repealed. Nothing in this act shall be construed to modify, diminish or in anywise change or deprive the public service commission of the State of West Virginia of any of the rights, duties and responsibilities placed upon it under existing public service statutes, all of which are to remain in full force and effect insofar as this charter is concerned, notwithstanding any provisions herein contained.

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CHARTER COMPARATIVE TABLE

This original charter, an Act of the Legislature passed on April 26, 1927, is included herein. The following table shows amendments to the charter.

Election Date	Section this Charter
8- 3-54	1—3
	6, 7, 7a
	8
	10
	16—19
	19a
	20, 21
	26
	30, 32
	37

[The next page is 81]

CITY OF BECKLEY

REFUNDING BOND ORDINANCE

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN $2,800,000.00 IN AGGREGATE PRINCIPAL AMOUNT OF CITY OF BECKLEY SEWER SYSTEM REVENUE REFUNDING BONDS, SERIES 2005, FOR THE PURPOSE OF DEFEASING CERTAIN OUTSTANDING OBLIGATIONS OF THE CITY OF BECKLEY DESIGNATED AS CITY OF BECKLEY SEWER SYSTEM REVENUE REFUNDING BONDS, SERIES 1995A; AUTHORIZING THE DEFEASANCE OF CERTAIN OUTSTANDING SEWER SYSTEM REVENUE REFUNDING BONDS OF THE CITY OF BECKLEY; AUTHORIZING THE ISSUANCE OF A SERIES OF SEWER SYSTEM REVENUE REFUNDING BONDS OF SAID CITY OF BECKLEY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $2,800,000.00, WHICH, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE CITY OF BECKLEY WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSE, TO MAKE PROVISION FOR SUCH REFUNDING; AUTHORIZING AN ESCROW AGREEMENT IN CONNECTION WITH THE DEFEASANCE OF SAID REVENUE REFUNDING BONDS; FUND A RESERVE ACCOUNT FOR THE SERIES 2005 REFUNDING BONDS AND PAY COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH SERIES 2005 REFUNDING BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

Be It Ordained by the Common Council of Beckley, West Virginia:

ARTICLE I
STATUTORY AUTHORITY FINDINGS AND DEFINITIONS

Section 1.01. Authority of this Ordinance. This Ordinance is enacted pursuant to the provisions of Chapter 8, Article 20, and Chapter 13, Article 2E, of the Code of West Virginia, 1931, as amended (the "Act"), and other applicable provisions of law.

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

A. The City of Beckley, West Virginia (the "City"), now owns a sewerage system (the "System"), both within and without the corporate limits of the City, consisting of pumps, storage tanks, sewage treatment plant or plants and its collecting, intercepting and outlet sewers, lateral sewers, drains, force mains, conduits, pumping stations and ejector stations and all other appurtenances, extensions, improvements and betterments necessary, appropriate, useful, convenient or incidental for the treatment, and the collection, treatment and disposal in a sanitary manner of sanitary sewage and industrial wastes.

B. In accordance with Section 18 of the Act, the System is under the supervision and control of the Sanitary Board of the City (the "Sanitary Board").

C. The acquisition and construction of the System were financed in part by the proceeds of prior bond and note issues of the City, including $3,095,000 in original principal amount of Sewer Revenue Bonds, Series 1995A (the "1995 Series Bonds"), which are secured by a first lien on the net revenues of the System.

D. The 1995 Series Bonds are currently outstanding in the aggregate principal amount of $2,655,000.

E. The City derives revenues from the System, and, except for the pledges thereof to secure and pay the 1995 Series Bonds and said revenues are not pledged or encumbered in any manner.

F. The City may now refund the 1995 Series Bonds at a savings to the City and, therefore, such refunding is in the best interests of the City.

G. The 1995A Series Bonds will be refunded with the proceeds of the Series 2005 Bonds, as hereinafter defined, together with funds of the City made available by the refunding of the 1995A Series Bonds.

H. The Series 2005 Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The City has met the parity and coverage requirements of the Prior Bonds and the Prior Ordinances. Prior to the issuance of the Series 2005 Bonds, the City will obtain (i) a certificate of an Independent Certified Public Accountant stated that the parity and coverage tests of the Prior Bonds have been met and (ii) the written consent of the Registered Owners of the Prior Bonds to the issuance of the Series 2005 Bonds on a parity with the Prior Bonds. The Series 2005 Bonds shall be issued senior and prior to the Notes with respect to liens, pledge and source of and security for payment and in all other respects. Other than the Prior Bonds and certain notes, as hereinafter defined, there are no outstanding bonds or obligations of the City with are secured by revenues or assets of the System.

I. The estimated revenues to be derived in each year after the enactment of this Ordinance from the operation of said System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of, interest on, and any other charges required to be paid in connection with the 1995 Bonds and the principal of and interest on the Bonds authorized to be issued pursuant to this Ordinance and all sinking fund, reserve account and other payments as may be provided for in this Ordinance.

J. The Series 2005 Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the form set forth herein with necessary and appropriate variations, omissions and insertions as permitted or required by this Ordinance or a Supplemental Resolution or as deemed necessary by the Registrar or the City.

K. All things necessary to make the Series 2005 Bonds, when authenticated by the Registrar and issued as in this Ordinance provided, the valid, binding and legal special obligations of the City according to the import thereof, and to validly pledge and assign those funds pledged hereby to the payment of the principal of and interest on the Series 2005 Bonds, will be timely done and duly performed

L. The enactment of this Ordinance, and the execution and issuance of the Series 2005 Bonds, subject to the terms thereof, will not result in any breach of, nor constitute a default under, any instrument to which the City is a party or by which it may be bound or affected.

M. The City is a governmental unit with general taxing powers.

N. The Series 2005 Bonds are not private activity bonds as defined in the Code.

O. Ninety-five percent (95%) or more of the net proceeds (as defined with respect to the Code) of the Series 2005 Bonds will be issued for local governmental activities of the City.

P. The City shall not permit at any time any of the proceeds of the Bonds or other funds of the City to be used directly or indirectly in any manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code.

Q. The City will file all statements, instruments and returns necessary to assure the tax-exempt status of the Bonds.

R. The Bonds will not be federally guaranteed within the meaning of Section 149(b) of the Code.

S. It is deemed necessary for the City to issue its Series 2005 Bonds to refund the 1995 Series Bonds.

Section 1.03. Ordinance Constitutes a Contract. In consideration of the acceptance of the Bonds authorized to be issued hereunder by those who shall hold the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the City and such Bondholders, and the covenants and agreement herein set forth to be performed by said City shall be for the equal benefit, protection and security of the legal holders of any and all of such Bonds issued hereunder, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bond 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 in this Ordinance unless the context expressly required otherwise:

"Act" shall mean Chapter 8, Article 20, and Chapter 13, Article 2E, of the Code of West Virginia, 1931, as amended and in effect on the date of enactment of this Ordinance.

"Authorized Newspaper" shall mean a financial journal or newspaper of general circulation in the City of Beckley, West Virginia, printed in the English language and customarily published on each business day of the Registrar, whether or not published on Saturdays, Sundays or legal holidays, and so long as so published.

"Authorized Officer" shall mean the Mayor of the City or any other office of the City specifically designated by resolution of the City Council.

"Bondholder" or "Holder of the Bonds," or "Owner of the Bonds" or "Registered Owner" or any similar term shall mean any person who shall be the Registered Owner of any outstanding fully registered Bond.

"Bond Register" shall mean the books of the City maintained by the Registrar for the registration and transfer of the Bonds.

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

"Certificate of Authentication and Registration" shall mean the Certificate of Authentication and Registration on the Series 2005 Bonds, substantially in the form set forth herein.

"City" shall mean The City of Beckley, a municipal corporation of the State of West Virginia, and, where appropriate, the City Council and/or Sanitary Board of the City.

"City Clerk" shall mean the Clerk or Recorder of the City.

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

"Closing Date" shall mean the date or dates upon which there is an exchange of the Bonds for the proceeds representing the original purchase price thereof.

"Code" shall mean the Internal Revenue Code of 1986, as amended and supplemented from time to time, and Regulations issued pursuant thereto.

"Commission" shall mean the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia which succeeds to the functions of the Commission.

"Consulting Engineers" shall mean a firm of registered professional engineers selected by the Board to provide consulting services with respect to the acquisition and construction of additions, improvements and betterments to the System.

"Costs of Issuance" shall mean those costs of issuing Bonds, including, but not limited to, legal, accounting, fiscal agent fees and expenses and other fees and expenses in connection therewith.

"Costs of Issuance Account" shall mean the account of that name created pursuant to Section 5.03 hereof.

"Depository Bank" shall mean the bank or banks to , if any, be designated as such in the Supplemental Resolution.

"Escrow Agreement" shall mean a separate agreement between the City and the Commission as escrow trustee, if such is requested to effectuate the refunding of the Series 1995 Bonds.

"Escrow Fund" shall mean the fund created by the Escrow Agreement.

"Event of Default" shall mean any occurrence or events specified in Section 7.01 hereof.

"FDIC" shall mean the Federal Deposit Insurance Corporation or any successor to the function of the FDIC.

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

"Governmental 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, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity City of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

"Independent Accountants" shall mean any certified public accountant or firm of certified public accountants which shall be retained by the City as independent accountants for the System.

"Mayor" means the Mayor of the City.

"Net Proceeds" shall mean the face amount of the Bonds, plus accrued interest or premium, if any, less Original Issue Discount, if any, and less proceeds deposited in the Reserve Account, if any.

"Net Revenues" shall mean Revenues less Operating Expenses.

"Notes" shall mean the Subordinate Sewer Revenue Notes Series 2002, of the City, dated September 12, 2002, issued in the original principal amount of $500,000.

"Operating Expenses," unless qualified, shall mean the current expenses, paid or accrued, of repair, operation and maintenance of the System (excluding depreciation) and includes, without limiting the generality of the foregoing, insurance premiums, supplies, labor, wages, the cost of materials and supplies used for current operations, administrative expenses of the City or the Sanitary Board relating and chargeable to the System and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles.

"Original Purchaser" shall mean that investment banking firm or other entity designated as such in a Supplemental Resolution.

"Outstanding" when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being issued and delivered except (a) any Bond canceled by the Registrar for such Bond at or prior to said date; (b) any Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity, shall be held in trust under this Ordinance and set aside for such payment (whether upon or prior to maturity); (c) any Bond deemed to have been paid as provided by Section 9.05; and (d) with respect to determining the number or percentage of Bondholders or Bonds for the purpose of consents notices and the like, any Bond registered to the City.

"Paying Agent" shall mean a Paying Agent for the Bonds appointed by a resolution supplemental hereto.

"Prior Bonds" shall mean the City Series 1998A Bonds and the Series 2004A Bonds.

"Prior Ordinances" means collectively, the ordinances enacted by the Council of the City on June 14, 1994, effective June 28, 1994, as amended and supplemented by a Supplemental Resolution adopted April 3, 1995, pursuant to which the Series 1995 A Bonds were issued, the ordinance enacted November 25, 1997, effective December 9, 1997, as amended and supplemented by a Supplemental Resolution adopted February 28, 1998, pursuant to which the Series 1998 A Bonds were issued and the ordinance enacted and effective July 27, 2004, as amended and supplemented by a Supplemental Resolution adopted September 14, 2004, pursuant to which the Series 2004A Bonds were issued.

"1995 Ordinances" shall mean the Ordinance enacted by the City Council on June 28, 1994, as amended and supplemented, authorizing the issuance of the 1995 Series Bonds.

"Private Business Use" shall mean use directly or indirectly in any trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and use as a member of the general public.

"Qualified Investments" shall mean and include any of the following:

(a) Government Obligations;

(b) obligations of any of the following federal agencies which obligations represent full faith and credit of the United States of America, including:

Export - Import Bank
Farmers Home Administration
General Services Administration
U. S. Maritime Administration
Small Business Administration
Government National Mortgage Association (GNMA)
U. S. Department of Housing & Urban Development (PHA's)
Federal Housing Administration;

(c) bonds, notes or other evidences of indebtedness rated "AAA" by Standard & Poor's Corporation and "Aaa" by Moody's Investor Services, Inc., issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding three years;

(d) U. S. dollar denominated deposit accounts, federal funds and banker's acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of "A-1" or "A-1+" by Standard & Poor's Corporation and "P-1" by Moody's Investor Services, Inc. and maturing no more than 360 days after the date of purchase. (Ratings on holding companies are not considered as the rating of the bank);

(e) commercial paper which is rated at the time of purchase in the single highest classification, "A-1+" by Standard & Poor's Corporation and "P-1" by Moody's Investor Services, Inc. and which matures not more than 270 days after the date of purchase;

(f) investments in a money market fund rated "AAAm" or "AAAm-G" or better by Standard & Poor's Corporation; and

(g) pre-refunded municipal obligations defined as follows:

Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on the escrow in the highest rating category of Standard & Poor's Corporation and Moody's Investor Services, Inc. or any successors thereto; or (B)(i) which are fully secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or obligations described in paragraph (a) above, which fund may be applied only the payment of such principal of and interest and redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which fund is insufficient as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates

thereof of on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate.

"Record Date" shall mean the day of the month which shall be so stated in the Bonds, regardless of whether such day is a Saturday, Sunday or other legal holiday.

"Redemption Price" shall mean such amount as is established in a Resolution supplemental hereto.

"Registrar" means the bank to be designated in the Supplemental Resolution as the registrar for the Bonds, and any successor thereto.

"Regulations" shall mean temporary and permanent regulations promulgated under the Code, and includes applicable regulations promulgated under the Internal Revenue Code of August, as amended.

"Renewal and Replacement Fund" shall mean the fund created by Section 4.01 hereof.

"Representation Letter" shall mean the Letter Agreement among the City, DTC and the Paying Agent.

"1995 Series Bonds Redemption Date" shall mean the date or dates established by a Supplemental Resolution for the redemption of the Prior Bonds.

"Series 2005 Bonds" shall mean the Sewer Refunding Revenue Bonds, Series 2005, of the City originally authorized to be issued pursuant to this Ordinance.

"1995 Series Bonds" or "Series 1995 Bonds" shall mean the City's Sewer Revenue Refunding Bonds, Series 1995A, dated April 1, 1995, issued in the original principal amount of $3,095,000 and currently outstanding in the principal amount of $2,655,000.

"2005 Series Bonds Reserve Account" shall mean the account in the Sinking Fund, as hereinafter defined, created by Section 4.01 hereof, if a reserve account is required by the Original Purchaser.

"Reserve Account Requirement" shall mean the maximum amount of principal and interest which will mature and come due on the Bonds in the then current or any succeeding Fiscal Year, if a reserve account is required by the Original Purchaser.

"Revenue Fund" shall mean the fund created by Section 4.01 hereof.

"Revenues" shall mean all rates, rents, fees, charges or other income received by or accrued to the Sanitary Board from the operation of the System, as calculated in accordance with generally accepted accounting practices.

"Sinking Fund" shall mean the fund created by Section 4.02 hereof.

"Supplemental Resolution" shall mean any ordinance or resolution amendatory hereof or supplemental hereto and, when preceded by the article "the," refers specifically to the Supplemental Resolution authorizing the sale of the Series 2005 Bonds to the Original Purchaser; provided, that any provision intended to be included in the Supplemental Resolution and not so included may be contained in any other Supplemental Resolution.

"System" shall mean the complete existing sewerage system now owned by the City, both within and without the corporate limits of the City, consisting of pumps, sewage treatment plant or plants collecting, intercepting and outlet sewers, lateral sewers, drains, force mains, conduits, pumping stations and ejector stations and all other appurtenances, extensions, additions and improvements necessary, appropriate, useful, convenient or incidental to the collection, treatment and disposal in a sanitary manner of sewage and industrial wastes, and shall include any extensions, improvements and betterments thereto hereafter acquired or constructed for said sewerage system from any sources whatsoever.

"Sanitary Board" shall mean the Sanitary Board of the City as now or hereafter constituted or any other agency, department or instrumentality of the City which shall at any time have jurisdiction, possession or control of the System or the management and operation thereof.

"Value," which shall be determined as of the end of each month means that the value of any investments shall be calculated as follows:

(a) as to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if not there, then in The New York Times); the average of the bid and asked prices for such investment so published on or most recently prior to such time of determination;

(b) as to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or The New York Times: the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service; and

(c) as to certificates of deposit and bankers acceptances; the face amount thereof, plus accrued interest.

Words importing singular number shall include the plural number in each case and vice versa and words importing persons shall include firms and corporations and vice versa; and words importing the masculine gender shall include the feminine and neuter genders and vice versa.

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

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

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

ARTICLE II
AUTHORIZATION FOR REFUNDING PRIOR BONDS

Section 2.01. Authorization for Refunding Prior Bonds. The Series 1995 Bonds outstanding as of the date of issuance of the Series 2005 Bonds are hereby ordered to be refunded pursuant the terms of the Escrow Agreement and the lien of the 1995 Series Bonds imposed by the 1995 Ordinance on the revenue of the System is hereby ordered terminated, discharged and released upon the payment into the Escrow Fund from the proceeds of the Series 2005 Bonds, together with other moneys available therefore, including those moneys transferred as provided below, of the following:

(a) An amount equal to the fiscal and paying agent charges, and

(b) an amount which will be simultaneously invested in United States Treasury obligations bearing interest and having maturities sufficient to provide

(i) for the payment of the principal of the Series 1995 Bonds as the same mature on each principal payment date established with respect thereto prior to the Series 1995 Bonds Redemption Date established for such Series 1995 Bonds,

(ii) for the payment of the redemption price of the Series 1995 Bonds outstanding on the Series 1995 Bonds Redemption Date, established for the Series 1995 Bonds and

(iii) for the payment of the interest on the Prior Bonds as the same becomes due. Contemporaneously with the deposit of the proceeds of the Series 2005 Bonds into the Escrow Fund, and as prescribed by the Escrow Agreement, the amounts on deposit in the sinking fund created and maintained on behalf of the Series 1995 Bonds shall be deposited into the Escrow Fund and simultaneously invested as provided in the Escrow Agreement.

Upon the refunding of the Series 1995 Bonds, the amounts, if any, on deposit in the renewal and replacement fund created and maintained under the 1995 Ordinance, with respect to the 1995 Ordinance, shall be transferred to the Renewal and Replacement Fund authorized under this Ordinance.

ARTICLE III
AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

Section 3.01. Authorization and Terms of Series 2005 Bonds. For the purpose of refunding all of the outstanding 1995 Series Bonds, there shall be issued the Sewerage System Revenue Refunding Bonds, Series 2005 of the City. The Series 2005 Bonds shall be in such aggregate principal amount, not to exceed $2,800,000.00; shall be dated such date; shall be interest payable monthly at such dates and at such rate or rates not exceeding the rate permitted by the Act; shall mature at such time or times, not exceeding forty (40) years after the date of issuance; and shall contain such other terms, provisions, conditions and limitations, all a provided by this Ordinance and as the City Council shall prescribe by Supplemental Resolution adopted in connection with the sale of such Series 2005 Bonds.

The Bonds shall be payable as to principal at the office of the Paying Agent in any coin or currency which on the respective date of payment of principal and interest, is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 1995 Bonds shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address that appears on the books of the Registrar.

The Series 2005 Bonds shall, at the option of the City, be redeemable in whole or in Part, at the times, in the manner, and upon payment of the redemption prices, as provided in the Supplemental Resolutions.

The Series 2005 Bonds shall be sold as soon as practical and in the best interests of the City, as may be authorized and permitted by applicable law, and delivered to the Original purchaser thereof; provided, that such Original Purchaser and the City shall have agreed to the terms of the purchase thereof

Section 3.02. Execution of Series 2005 Bonds. Series 2005 Bonds shall be executed in the name of the City by the manual or facsimile of the Mayor, and the seal of the City shall be affixed thereto or imprinted thereon and attested by the manual or facsimile of the City Clerk. In case any one or more of the officers who shall have signed or sealed any of the Series 2005 Bonds shall cease to be such officer of the City before the Series 2005 Bonds so signed and sealed have been actually sold and delivered, such Series 2005 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 2005 Bonds may be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Series 2005 Bonds shall hold the proper office in the City, although at the date of such Series 2005 Bonds such person may not have held such office or may not have been so authorized.

Section 3.03. Authentication and Registration. No Series 2005 Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until the Certificate of Authentication and Registration on such Series 2005 Bond, substantially in the form set forth in Section 3.07, shall have been manually executed by the Registrar. Any such executed Certificate of Authentication and Registration upon any such Series 2005 Bond shall be conclusive evidence that such Series 2005 Bond has been authenticated, registered, and delivered under this Ordinance. The Certificate of Authentication and Registration on any Series 2005 Bond shall be deemed to have been executed by the Registrar if manually signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Series 2005 Bonds issued hereunder.

Section 3.04. Negotiability, Transfer and Registration. Subject to the provisions for transfer or registration set forth below, the Series 2005 Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner, in accepting any of said Series 2005 Bonds, shall be conclusively deemed to have agreed that such Series 2005 Bonds shall be, and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner shall further be conclusively deemed to have agreed that said Series 2005 Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Series 2005 Bonds remain Outstanding, the Registrar shall keep and maintain books for the registration and transfer of the Series 2005 Bonds.

The Series 2005 Bonds shall be transferable only upon the Bond Register by the Registered Owner thereof in person or by its attorney or legal representative duly authorized in writing, upon surrender thereto, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or such duly authorized attorney or legal representative.

In all cases in which the privilege of exchanging Series 2005 Bonds or transferring the Series 2005 Bonds is exercised, Series 2005 Bonds shall be delivered in accordance with the provisions of this Ordinance. All Series 2005 Bonds surrendered in any such exchanges or transfer shall forthwith be canceled by the Registrar. For every such exchange or transfer of Series 2005 Bonds, the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Series 2005 Bond upon each exchange or transfer, and any other expenses of said Registrar incurred in connection therewith, which changes and expenses shall be paid by the Registered Owner requesting such transfer or exchange. The Registrar shall not be obligated to make any such change or transfer of Series 2005 Bonds during the period beginning with the Record Date and ending on the date or, in a case of any partial redemption of Series 2005 Bonds during the fifteen days next preceding the date of the selection of Series 2005 Bonds to be redeemed.

Section 3.05. Series 2005 Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2005 Bonds shall become mutilated or be destroyed, stolen or lost, the City may in its discretion issue and deliver a new Series 2005 Bond in exchange and substitution for such Series 2005 Bonds so mutilated, destroyed, stolen or lost, upon surrender and cancellation of such mutilated Series 2005 Bond or in lieu of and substitution for the Series 2005 Bond, if any, destroyed, stolen or lost, and upon the holder's furnishing the City proof of his or her ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the City may prescribe and paying such expenses as the City may incur. All Series 2005 Bonds so surrendered shall be canceled by the Registrar and held for the account of the City. If such Series 2005 Bond shall have matured or be about to mature, instead of issuing a substitute Series 2005 Bond, the City may pay the same, upon being indemnified as aforesaid, and, if such Series 2005 Bond be lost, stolen, or destroyed, without surrender therefore.

Any such duplicate Series 2005 Bonds issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the City, whether or not the lost, stolen or destroyed Series 2005 Bonds be at any time found by any one, and such duplicate Series 2005 Bonds shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment from the revenues pledged herein with all other Series 2005 Bonds issued hereunder.

Section 3.06. Bonds Secured by Pledge of Revenues: Not to be Indebtedness of the City. The payment of the debt service of all of the Series 2005 Bonds shall be secured by a first lien on the Revenues derived from the System on a parity on the lien on the Revenues in favor of the holders of the Prior Bonds. Such Revenues, in the amount sufficient to pay the principal of and interest on the Series 2005 Bonds and to make the payments required into the Sinking Funds and, if required, the Reserve Account therefore, and, if required, the Renewal and Replacement Fund as hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 2005 Bonds as the same become due. The City has issued Subordinate Revenue Notes, Series 2002 and the Notes are hereby declared to be expressly subordinate to the Prior Bonds and to the Series 2005 Bonds. The Series 2005 Bonds shall not, in any event, be or constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from Revenues and otherwise as provided herein. No Registered Owner or Owners of any of the Series Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay the Series 2005 Bonds or the interest thereon.

Section 3.07. Notice of Redemption.

(a) The Registrar or the Bond Commission or the City shall cause notice of any redemption of Series 2005 Bonds to be mailed by first class mail to the Owners of all Series 2005 Bonds to be redeemed at the addresses thereof appearing in the Registration Books. Each such notice shall (i) be mailed not more than 60 days nor less than 30 days Prior to the redemption date, (ii) identify the Series 2005 Bonds to be redeemed (specifying the CUSIP numbers, if any, assigned to the Series 2005 Bonds), (iii) specify the redemption date and the Redemption price, and (iv) state that on the redemption date the Series 2005 Bonds called for redemption win be payable at the principal corporate trust office of the Paying Agent, that from that date the Series 2005 Bonds called for redemption will be deemed to be paid, and interest will cease to accrue, and that no representation is made as to the accuracy or correctness of the CUSIP numbers printed therein or notice of redemption or mailing thereof (including any failure to mail such notice), shall affect the validity of the redemption proceedings for any other Series 2005 Bonds for which notice was properly given.

(b) If at the time of mailing of any notice of redemption the City shall not have deposited with the Paying Agent moneys sufficient to redeem all the Series 2005 Bonds called for redemption, such notice shall state that it is subject to the deposit of such moneys with the Paying Agent not later than the opening of business on the redemption date and shall be of no effect unless such moneys are so deposited. If such moneys are not deposited by such date and time, the Registrar promptly shall notify the Owners of all Series 2005 Bonds called for redemption of such fact.

(c) Notwithstanding any other provisions herein to the contrary, the Registrar shall cause copies of any notices delivered pursuant to this Section 3.08 to be delivered to such other organizations or entities to which like notices are then delivered in accordance with industry standards.

Section 3.08. Form of Bonds. The text of the Series 2005 Bonds, and the form of the Certificate of Authentication and Registration thereon, shall be of substantially the following tenor, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Ordinance or any subsequent resolution or ordinance adopted or enacted prior to the issuance thereof.

No. R-___ $_____

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF RALEIGH
THE CITY OF BECKLEY
SEWER SYSTEM
REFUNDING REVENUE BOND
SERIES 2005

INTEREST RATE BOND DATE MATURITY DATE
CUSIP

REGISTERED OWNER:

[TAX IDENTIFICATION NUMBER]

PRINCIPAL AMOUNT: $_____

KNOW ALL MEN BY THESE PRESENTS: That the City of Beckley, a municipal corporation organized and existing under the laws of the State of West Virginia (hereinafter referred to as the "City"), for value received, hereby promises to pay, solely from the special funds provided therefore, as hereinafter set forth, to the Registered Owner set forth above, on the Maturity Date set forth above, the Principal Amount set forth above and solely from such special funds also to pay interest on said sum from the Bond Date, set forth above, at the Interest Rate set forth above monthly, on the first day of each month commencing on _____ 1, 2005, and the first day in each month thereafter, both principal of and interest on this Bond being payable in any coin or currency which, on the respective dates of payment of principal and interest, is legal tender for the payment of public and private debts under the laws of the United States of America. 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 _____, West Virginia, as registrar (the "Registrar") on the 1st day of the month preceding an Interest Payment Date (the "Record Date").

This Bond is one of a series of bonds (the "Bonds"), in the aggregate principal amount of $_____, of like date and of like tenor and effect, except as to number, date of maturity and interest rate, issued to refund certain sewerage system revenue bonds of the City outstanding on the date of issuance hereof in the aggregate principal amount of $_____ (the "1995A Bonds"), all 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, of the Code of West Virginia, 1931, as amended (the "Act"), and an ordinance duly passed by the City Council on the ____ day of _____, 2005, as supplemented by resolution adopted on the _____ day of _____, 2005, (hereinafter referred to collectively as the "Ordinance"), and is subject to all the terms and conditions of said Ordinance. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance.

The Bonds are not subject to optional redemption prior to July, 1, _____. At the Option of the City, the Bonds will be subject to redemption prior to maturity on or after _____1, _____, as a whole or at any time and in part on any interest payment date, in inverse order of maturity and by random selection within maturities if less than all of any maturity, at a redemption price (expressed as a percentage of the principal amount) set forth below, plus interest accrued to the date fixed for redemption:

Period During Which Redeemed	Redemption Price
July 1, ____ through June, 30	102%
July 1, ____ through June, 30	101%
July 1, ____ and thereafter	100%

The Bonds maturing on _____, and _____, respectively ("Term Bonds"), are subject to annual mandatory redemption prior to maturity by random selection in accordance with the requirements of the Ordinance at the principal amount thereof plus interest accrued to the date fixed for redemption, on _____ 1 of each of the years and in the principal amounts set forth below:

TERM BONDS		TERM BONDS	
Year	Principal Amount	Year	Principal Amount

THIS BOND IS ISSUED ON A PARITY WITH THE SEWERAGE SYSTEM REVENUE BONDS, SERIES 1998 A, OF THE CITY (THE "SERIES 1998 A BONDS"), ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF $11,000,000, AND THE SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A, OF THE CITY (THE "SERIES 2005 A BONDS"), ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF $9,039,000, WITH RESPECT TO LIENS, PLEDGE AND SOURCES OF AND SECURITY FOR PAYMENT (COLLECTIVELY, THE "PRIOR BONDS").

The Bonds are payable only from and are secured by a first lien on the revenues to be derived from the operation of the sewerage system of the City (the "System"),which first lien is shared with the holders of the Prior Bonds, and which is under the Supervision and control of the Sanitary Board of the City, and the sinking fund held by the West Virginia Municipal Bond Commission, including any reserve account therein. Said revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the City within any constitutional or statutory provision or limitation, nor shall the City be obligated to pay the same or the interest hereon except from said special fund provided from the revenues from the operation of the System or said reserve account. By the Ordinance, the City has covenanted and agreed to fix, establish and collect just ad equitable rates or charges for the use of the services and facilities of the System so as to always provide revenues at least sufficient to provide for all reasonable expenses of repair, maintenance and operation of the System and leave a balance each year equal to at least one hundred twenty

percent (120%) of the maximum annual amount required to pay the interest on and principal of the Bonds and all other obligations secured by or payable from the revenues of the System prior to or on a parity with the Bonds, as the same become due and accomplish retirement of the Bonds and all bonds prior to or on a parity therewith for the payment of which such revenues have or shall have been pledged, charged or otherwise encumbered. The City has entered into certain further covenants with the holders of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided the holders of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This Bond is transferable, only upon the books of the Registrar which shall be kept for that purpose at the office of the Registrar, by the Registered Owner or by its attorney or legal representative duly authorized in writing, upon surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or its duly authorized attorney or legal representative duly authorized in writing.

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

All moneys received from the sale of the Bonds shall be applied solely to refund the 1995 Series Bonds, and to pay other costs in connection therewith, and there shall be, and hereby is, created and granted a lien upon such moneys, until so applied, in favor of the holder or holders of said Bonds.

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

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

This Bond shall not be valid or obligatory for any purpose or entitled to any security or benefit under the Ordinance unless and until the Certificate of Authentication and Registration attached hereto shall have been manually executed by the Bond Registrar.

IN WITNESS WHEREOF, the City has caused this Bond to be signed by its Mayor, attested by its City Recorder and its corporate seal to be imprinted hereon, all as of the Bond Date.

THE CITY OF BECKLEY, WEST VIRGINIA

_____

Mayor

[SEAL]
ATTEST:

_____

City Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the City of Beckley Sewerage System Refunding Revenue Bonds, Series 2005 described in the within-mentioned Ordinance and has been duly registered in the name of the Registered Owner set forth above on the date set forth below.

Date:_____

_____
as Registrar

By_____
Its Authorized Officer

[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 said Bond on the books kept for registration of the within Bond of said City with full power of substitution in the premises.

Dated:_____, _____.

_____

In the presence of:

_____

ARTICLE IV
SYSTEM REVENUES AND APPLICATION THEREOF

Section 4.01 Continuation or Establishment of Funds and Accounts with Depository Bank.

The following special funds or accounts, to the extent required, are hereby continued or created 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;

(2) Renewal and Replacement Fund;

(3) Bond Construction Trust Fund; and

(4) Rebate Fund.

Section 4.02 Continuation or Establishment of Funds and Accounts with Commission.

The following special funds or accounts are hereby continued or established with the Commission:

(1) Series 1998 A Bonds Sinking Fund.

(2) Series 1998 A Bonds Reserve Account.

(3) Series 2004 A Bonds Sinking Fund.

(4) Series 2004 A Bonds Reserve Account.

(5) Series 2005 Bonds Sinking Fund.

(6) Series 2005 Bonds Reserve Account.

Section 4.03 Application of System Revenues. So long as any of the Bonds shall be outstanding and unpaid, the City covenants with the holders of the Bonds as follows:

A. The entire Revenues derived from the operation of the System and all parts thereof shall be deposited by the City in a special fund in the Depository Bank, which fund, to be designated the "Sewer System Revenue Fund" (the "Revenue Fund"), is hereby established. The Revenue Fund shall constitute a trust fund for the purposes provided in this Ordinance and shall be kept separate and distinct from all other funds of the City and used only for the purposes and in the manner herein provided.

(1) The City shall first each month, from the moneys in the Revenue Fund, pay all reasonable Operating Expenses of the System.

(2) The City shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for the deposit in the Series 1998 A Bonds Sinking Fund, the amount required by the Prior Ordinances to pay the interest on the Series 1998 A Bonds; (ii) for deposit in the Series 2004 A Bonds Sinking Fund, the amount required by the Prior Ordinances to pay the interest on the Series 2004 A Bonds; and (iii) commencing August 1, 2005-five months prior to the first date of payment of interest on the Series 2005 Bonds, for which interest has not been capitalized for deposit in the Series 2005 Bonds Sinking Fund, an amount equal to $1/6^{th}$ of the amount of interest which will become due on the Series 2005 Bonds on the next ensuing interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2005 Bonds Sinking Fund and the next interest payment date is less than 6 months, then such monthly payment shall be increased proportionately to provide, prior to the next interest payment date, the required amount of interest coming due on such date.

(3) The City shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Series 1998 A Bonds Sinking Fund, the amount required by the Prior Ordinances to pay the principal of the Series 1998 A Bonds Sinking Fund, the amount required by the Prior Ordinances to pay the principal of the Series 1998 A Bonds; (ii) for deposit in the Series 2004 A Bonds Sinking Fund, the amount required by the Prior Ordinances to pay the principal of the Series 2004 A Bonds; and (iii) commencing August 1, 2005-eleven months prior to the first date of payment of principal of the Series 2005 Bonds, for deposit in the Series 2005 Bonds Sinking Fund, an amount equal to $1/12^{th}$ of the amount of principal which will mature and become due on the Series 2005 Bonds on the next ensuing annual principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2005 Bonds Sinking Fund and the next annual principal payment date is less than 12 months, then such monthly payment shall be increased proportionately to provide, prior to the next principal payment date, the required amount of principal coming due on such date.

(4) The City shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Series 1998 A Bonds Reserve Account, the amount required by the Prior Ordinances; (ii) for deposit in the Series 2004 A Bonds Reserve Account, the amount required by the Prior Ordinances; and (iii) commencing August 1, 2005-eleven months prior the first date of payment of principal of the Series 2005 Bonds, if not fully funded upon issuance of the Series 2005 Bonds, for deposit in the Series 2005 Bonds Reserve Account, an amount equal to $1/120^{th}$ of the Series 2005 Bonds Reserve Requirement; provide that, no further payments shall be made into the Series 2005 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 2005 Bonds Reserve Requirement.

The City shall also, from the Revenue Fund, remit to the Commission on such dates or at such other times, as the Commission shall require, remit such additional sums as shall be necessary to pay the fiscal agency charges due for paying the 2005 Series Bonds and the interest thereon.

Moneys in the Sinking Fund shall be used only for the purposes of paying principal of and interest on the 2005 Series Bonds as the same shall become due.

The City shall not be required to make any further payments into the 2005 Series Bonds Sinking Fund on account of the Series 2005 Bonds when the aggregate amount of funds in the 2005 Series Bonds Sinking Fund, including the Reserve Account therein, is at least equal to the aggregate principal amount of Bonds issued pursuant to this Ordinance then outstanding, plus the amount of interest due or thereafter to become due on said Bonds then outstanding.

As and when additional Bonds ranking on a parity with the Series 2005 Bonds herein authorized are issued, provision shall be made for additional payments into said Sinking Fund sufficient to pay the principal of and interest on such additional parity Bonds and accomplish retirement thereof at or before maturity.

The payments into the Sinking Fund shall be made on the first day of each month, except that, when the first day of any month shall be a Sunday or legal holiday, then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Ordinance.

(5) Then from the moneys remaining in the Revenue Fund, the City shall next, each month pay into the 2005 Series Bonds Reserve Account, if a reserve account has been required by the Original Purchaser, an amount necessary to make up any deficiency in the 2005 Series Bonds Reserve Account Requirement, resulting from (i) the valuation of investments in the 2005 Series Bonds Reserve Account which results in a determination that the amount of moneys and the Value of the Qualified Investments deposited to the credit of the 2005 Series Bonds Reserve Account is less than the 2005 Series Bonds Reserve Account Requirement, or (ii) withdrawals from the 2005 Series Bonds Reserve Account, for deposit into the Sinking Fund, beginning with the first full calendar month following the event described in either clause (i) or (ii) above. Provided, that in no event shall the amount deposited into the 2005 Series Bonds Reserve Account in any month be less than, in the event the deficiency in the 2005 Series Bonds Reserve Account Requirement is due to a decrease in the value of the Qualified Investments therein in excess of 10% of such amount, an amount equal to 1/4th of the amount of such deficiency, and otherwise, an amount equal to 1/12th of the amount of the deficiency in the 2005 Series Bonds Reserve Account determined as set forth in clause (ii) above and the amount then withdrawn from the 2005 Series Bonds Reserve Account, as described in clause (ii) above (it being understood that any such 1/12th payment shall be made in such amount for 12 consecutive months unless the amount in the 2005 Series Bonds Reserve Account shall have been made equal to the 2005 Series Bonds Reserve Account Requirement prior to such twelfth consecutive month); and provided further, that no payments shall be required to be made into the 2005 Series Bonds Reserve Account whenever and as long as the amount deposited therein shall be equal to the 2005 Series Bonds Reserve Account Requirement.

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(6) Thereafter, from the moneys remaining in said Revenue Fund, the City shall next, on the first day of each month commencing with the first month in which interest shall be payable from the Revenue Fund, if the Original Purchaser has required a Renewal and Replacement Fund, remit to the Depository Bank or the Commission for deposit in a special depreciation account, if a depreciation account has been required by the Original Purchaser, to be designated the "Renewal and Replacement Fund," which account is hereby established and created, a sum equal to two and one-half percent (2 1/2%) of the Revenues each month,

exclusive of any payments for the account of the 2005 Series Bonds Reserve Account in the Sinking Fund. All funds in said Renewal and Replacement Fund shall be kept apart from all other municipal funds and shall be invested and reinvested, at the direction of the City, in Qualified Investments to the fullest extent possible under applicable laws, this Ordinance and the need for such moneys for the purposes set forth below.

Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, enlargements, emergency repairs, improvements and extensions to the System; provided, that any deficiency occurring in the Reserve Accounts shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

(7) Whenever all of the required and provided transfers and payments from said Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid for operating expenses and into the Sinking Fund and the Renewal and Replacement Fund during the next succeeding three (3) months, such excess shall be considered as surplus Revenues. Said surplus revenues shall be first used for the acquisition and construction of extensions, improvements and betterments to the System, and, thereafter, to the extent not needed for such purposes, may be used to purchase Series 2005 Bonds upon the open market at not exceeding the then applicable redemption price or to call and redeem the Bonds on the next succeeding interest payment date or for any lawful purpose of the System.

(8) If on any monthly payment date the revenues of the System are insufficient to make the required deposits in any of the funds as hereinabove provided, the deficiency shall be made up on the next ensuing payment dates by payments in addition to the payments which are otherwise required to be made into the funds on such ensuing payment dates.

B. The Commission is hereby designated as the fiscal agent for the administration of the Sinking Fund created hereunder, and all amounts required for said Sinking Fund shall be remitted to the Commission from said Revenue Fund and from the proceeds of the sale of the Bonds, as provided in Article V hereof, by the City at the times provided herein. All remittances made by the City to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

C. The moneys on deposit in the Revenue Fund and the Renewal and Replacement Fund (unless remitted to the Commission) in excess of the sum insured by the maximum amounts insured by the FDIC shall at all times be secured, to the full extent thereof in excess of such insured sum, by Government Obligations or such other obligations as shall be eligible as security for deposits of State and municipal funds under the laws of the State of West Virginia.

D. The Commission shall invest the funds, if any, which it holds pursuant to this Ordinance, including the 2005 Series Bonds Reserve Account and the Renewal and Replacement Fund in the Sinking Fund, to the fullest possible extent so that all moneys shall be invested for the maximum possible period consistent with the tenor hereof.

E. Anything to the contrary herein notwithstanding, when the aggregate sum in the Sinking Fund, including the 2005 Series Bonds Reserve Account therein, is sufficient to pay and redeem all the Bonds Outstanding and all interest accrued and to accrue thereon and any applicable redemption premiums, the City shall cause all the Bonds to be paid or called and redeemed at the earliest practicable date permitted, pursuant to the provisions hereof as to redemption of Bonds.

ARTICLE V
APPLICATION OF SERIES 2005 BOND PROCEEDS

Section 5.01. Application of the Series 2005 Bond Proceeds; Other Funds of the City.

A. All accrued interest received from the Original Purchaser of the Series 2005 Bonds shall be deposited in the Sinking Fund and used to pay the next maturing interest on the Series 2005 Bonds.

B. The amount of the Series 2005 Bond proceeds necessary, together with such funds of the City as are made available by the defeasance of the 1995A Bonds, to refund the Series 1995A Bonds, which amount shall be set forth in the Supplemental Resolution, shall be applied by the City pursuant to the provisions of the Escrow Agreement.

C. The remaining moneys derived from the sales of the Series 2005 Bonds shall be deposited by the City in the Costs of Issuance Account.

Section 5.02. Reserve Account. From the moneys made available to the City as a result of the defeasance of the 1995A Bonds, the City shall remit to the Commission such funds as are necessary to fund the Reserve Account to the Reserve Account Requirement.

Section 5.03. Costs of Issuance Account. There is hereby created and established at the Depository Bank a special fund to be known as the "The City of Beckley Series 2005 Bonds Costs of Issuance Account," which account shall be kept separate and apart from all other funds of the City, and disbursed upon requisition by the City to pay Costs of Issuance approved by the Sanitary board. The moneys in said account shall be secured at all times by the deposit in such bank, as security, of Government Obligations having fair market value at least equal to the balance in said fund in excess of the amount insured by the FDIC. If for any reason such proceeds, or any part thereof, are not necessary for, or are not applied to, such purposes, then such unapplied proceeds shall be deposited by the City in the Sinking Fund.

ARTICLE VI
ADDITIONAL COVENANTS OF THE CITY

Section 6.02. Section 6.01. General Covenants of the City. All the covenants, agreements and provisions of this Ordinance shall be and constitute valid and legally binding covenants of the City and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Bonds. In addition to the other covenants, agreements and provisions of this Ordinance, the City hereby covenants and agrees with the Holders of the Bonds as hereinafter provided in this Article VI. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Bonds, or the interest thereon, is outstanding and unpaid.

Section 6.02. Bonds Not To Be Indebtedness of the City. The Bonds shall not constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter limitation of indebtedness but shall be payable solely from the revenues of the System, or from the Reserve Account, as herein provided. No holder or holders of any Bonds issued hereunder shall ever have the right to compel the exercise of the taxing power of the City to pay said Bonds or the interest thereon.

Section 6.03. Rates. Prior to the issuance of the Series 2005 Bonds, just and equitable 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 copies of such rates and charges so fixed and established shall at all times be kept on file in the office of the Sanitary Board and in the office of the City Clerk, each of which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce gross revenues from said System sufficient to pay operating expenses and to make the prescribed payments into the funds and accounts created hereunder. Such schedule 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 City hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be at least sufficient to provide for all reasonable operating expenses of the System and leave a balance each year equal to at least one hundred twenty percent (120%) of the maximum annual amount required to pay the interest on and principal of the Series 2005 Bonds and all other obligations secured by or payable from the revenues of the System prior to or on a parity with the Series 2005 Bonds as the same become due and accomplish retirement of all Series 2005 Bonds for the payment of which such revenues have or shall have been pledged, charged or otherwise encumbered. To the extent permitted by law, all such rates and charges, if not paid when due, shall constitute a lien upon the premises served by the System.

Section 6.04. Operation and Maintenance. The City will maintain the System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof from the revenues of said System in the manner provided in this Ordinance.

Section 6.05. Sale of the System. The System may be sold, mortgaged, leased, or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient fully to pay or redeem at or prior to maturity all the Bonds outstanding. The proceeds from such sale, mortgage, lease or other disposition of the System shall immediately be remitted to the Commission for deposit in the Sinking Fund, and the City shall direct the Commission to apply such proceeds to the payment of principal and interest at the maturity of Series 2005 Bonds about to mature and to the redemption prior to maturity, at the earliest date permitted hereby and at the redemption price, of all other outstanding Series 2005 Bonds. Any balance remaining after the redemption or payment of all the Series 2005 Bonds and interest thereon shall be remitted to the City by the Commission unless necessary for the payment of other obligations of the City payable out of the revenues of the System.

The foregoing provision notwithstanding, the City 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 therefore is not in excess of ten thousand dollars ($10,000), the Sanitary Board shall, in writing, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the City

Council 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 ten thousand dollars ($10,000) but not in excess of one hundred thousand dollars ($100,000), the Sanitary Board shall first, in writing, determine with the written approval of a consulting engineer that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the City Council may then, if it be so advised, by resolution duty adopted, approve and concur in such finding and authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, in excess of ten thousand dollars ($10,000) and not in excess of one hundred thousand dollars ($100,000), shall be remitted by the City to the Commission for deposit in the Sinking Fund and shall be applied only to the redemption of Series 2005 Bonds of the last maturities then Outstanding or to the purchase of Series 2005 Bonds of the last maturities then Outstanding at prices not greater than the redemption price of such Series 2005 Bonds. Such payments of such proceeds into the Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Ordinance.

No sale, lease or other disposition of the properties of the System shall be made by the City if the proceeds to be derived therefrom shall be in excess of one hundred thousand dollars ($100,000) and insufficient to pay or redeem prior to maturity all the Series 2005 Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of sixty-six and two-thirds percent (66-2/3%) in amount of Series 2005 Bonds then Outstanding. The City shall prepare the form of such approval and consent for execution by the then Holders of the Series 2005 Bonds, for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 6.06. Issuance of Other Obligations payable out of Revenue and General Covenant Against Encumbrances. The City shall not issue any other obligations whatsoever, except pari passu additional Bonds provided for in Section 6.07 hereof, payable from the Revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such Revenues with the Series 2005 Bonds; and all obligations hereafter issued by the City payable from the Revenues of the System, except such additional 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 and in all other respects to the Bonds.

The City shall not create, or cause or permit to be created any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or, except with respect to said pari passu additional Series 2005 Bonds, being on a parity with the lien of the Series 2005 Bonds, and the interest thereon. upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Ordinance or upon the System or any part thereof.

Section 6.07. Additional Parity Bonds. No additional parity Bonds, as in this Section defined, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Ordinance, except under the conditions and in the manner herein provided.

All parity bonds issued hereunder shall be on a parity with the 2005 Series Bonds.

No such additional parity Bonds shall be issued except for the purpose of financing the costs of the acquisition or construction of extensions, improvements and betterments to the System or refunding the entirety of one or more series of Bonds issued pursuant hereto, or both such purposes.

No such additional parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the City Clerk a written statement by Independent Accountants, based upon the necessary investigation and certification by a consulting engineer, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided, from the System during any twelve (12) consecutive months within the eighteen (18) months immediately preceding the date of the actual issuance of such additional parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the three (3) succeeding years after the completion of the improvements to be financed by such additional parity Bonds, shall not be less than one hundred twenty percent (120%) of the maximum annual amount which will mature and become due for principal of and interest in any succeeding year on the following:

(1) The Series 2005 Bonds then Outstanding;

(2) Any additional parity Bonds theretofore issued pursuant to the provisions contained in this Ordinance then Outstanding; and

(3) The additional parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the three (3) succeeding years", as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from any increase in rates enacted by the City, the time for appeal of which shall have expired prior to the date of delivery of such additional parity Bonds, and shall not exceed the amount to be stated in a certificate of a consulting engineer, which shall be filed in the office of the City Clerk prior to the issuance of such additional parity Bonds, adjusted as provided in the following paragraph.

The Net Revenues actually derived from the System during the twelve (12) consecutive month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of a consulting engineer and the Independent Accountants as stated in a certificate jointly made and signed by a consulting engineer and the Independent Accountants, on account of increased rates, rentals, fees and charges for the System enacted by the City, the time for appeal of which shall have expired prior to issuance of such additional parity Bonds.

Not later than simultaneously with the delivery of such additional parity Bonds, the City shall have entered into written contracts for the immediate acquisition or construction of such extensions, improvements and betterments to the System which are to be financed by such additional parity Bonds.

The term "additional parity Bonds," as used in this Section, shall be deemed to mean additional Bonds issued under the provisions and within the limitations of this Section, payable from the Revenues of the System on a parity with the Series 2005 Bonds, and all the covenants and other provisions of this Ordinance (except as to details of such additional parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 2005 Bonds and the Holders of any additional parity Bonds subsequently issued from time to time within the limitations of and in compliance with this Section. All the Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Revenues of the System, and their source of and security for payment from said Revenues, without preference of any Bond over any other. The City shall comply fully with all the increased payments into the various funds created in this Ordinance required for and on account of such additional Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Ordinance.

The term "additional parity Bonds," as used in this Section, shall not be deemed to include any bonds, notes, certificates or other obligations subsequently issued, the lien of which on the Revenues of the System is subject to the prior and superior lien of the Bonds on such revenues. The City 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 Bonds except in the manner and under the conditions provided in this Section.

No additional parity Bonds, as in this Section defined, shall be issued at any time, however, unless all the payments into the respective funds and accounts provided for in this Ordinance on account of the Bonds then Outstanding, and any other payments provided for in this Ordinance shall have been made in full as required to the date of delivery of the additional parity Bonds.

The City may issue additional parity Bonds without compliance with any other conditions for the purpose of refunding prior to maturity any series of the Bonds, provided that the annual debt service required on account of the refunding Bonds and the Bonds which are not refunded shall not be greater in any year in which the Bonds not refunded and the refunding Bonds are to be Outstanding than the annual debt service required in such year if the Bonds to be refunded were not so refunded.

Section 6.08. Insurance. The City will carry such insurance and in such amounts as is customarily carried with respect to works and properties similar to the System, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazard and risks. The City will require that each of its contractors and all subcontractors maintain, during the life of any construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance. In time of war, the City shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as provided in this Ordinance and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund- The City will also carry liability insurance for damage or injury to persons or

property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System.

Section 6.9. Mandatory Connections. To the extent authorized by the laws of the State and the rules and regulations of the PSC, prospective users of the System shall be required to connect thereto.

Section 6.10. Consulting Engineer. The City will retain a recognized, qualified independent consulting engineer on a biannual basis to supervise generally the operation, maintenance and repair of the System and to report biannually to the City in writing their recommendations and comments as to the System. Such biannual report of a consulting engineer, or a summary thereof, shall be made available at reasonable times to any Bondholder requesting the same.

Section 6.11. Services Rendered to the City. The City will not render or cause to be rendered any free services of any nature by its System; and, in the event the City or any department, agency, instrumentality, officer or employee of the City shall avail itself or himself or herself of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the City and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the City shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 6.12. Enforcement of Collections. The City will diligently enforce and collect all fees, rates, rentals or other charges for the services and facilities of the System and take all steps, actions and proceedings for the enforcement and collection of such fees, rates, rentals or other charges that shall become delinquent to the full extent permitted or authorized by the laws of the State of West Virginia. To the extent permitted by law, all such rates and charges, if not paid when due, shall become a lien on the premises served by the System.

Whenever any rates, rentals or charges for the services or facilities of the System, or a Part thereof, shall remain unpaid for a period of thirty (30) days after the same shall become due and payable, the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. The City further covenants and agrees that it will, to the full extent permitted by law, and any rules and regulations Promulgated by the Public Service Commission of West Virginia applicable thereto, discontinue and shut off the sewerage services and facilities of the System and in the event the City owns a water facility (the "Water System"), the Water System to all delinquent users of the services and facilities of the System, and will not restore either water or sewerage services of the System or the Water System until all delinquent charges for the service and facilities of the System, plus reasonable interest penalty charges for the restoration of service, have been fully paid.

Section 6.13. No Competing Franchise. To the extent allowed by law, the City will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation or body or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 6.14. Books and Records. The City will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the City, 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 Ordinance shall have the right at all reasonable times to inspect the System, and all parts thereof, and all records, accounts and data of the City relating thereto.

The accounting system for the System shall follow currently accepted accounting practices in accordance with the rules and regulations of the Public Service Commission of West Virginia and the Act. Separate control accounting records shall be maintained by the City. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books, and along with other bookkeeping records as prescribed by the City. The City 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 City shall be reported to the City.

The City shall file with a consulting engineer and the Original Purchaser within 120 days following the end of each Fiscal Year, and shall mail in each year to any Bondholder requesting the same, an annual report containing the following:

A. A statement of Revenues and Operating Expenses from the System.

B. A balance sheet statement showing all deposits in all the funds and accounts provided for in this Ordinance, and the status of all said funds.

The City shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Accountants, shall mail upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any Bondholder, and shall file said report with the Original Purchaser.

Section 6.15. Initial Schedule of Rates. The rates, fees and other charges for the use of the services and facilities of the System established under an ordinance of the City enacted on or before the date of the adoption or enactment of a resolution or ordinance adopted or enacted in connection with the sale of the Series 2005 Bonds as provided herein shall constitute the initial schedule of rates for the System for purposes of this Ordinance.

Section 6.16. Operating Budget. The Sanitary Board shall annually, at least forty-five (45) days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefore in such budget without a written finding and recommendation by a consulting 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 Sanitary Board shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of ten percent (10%) of the amount of such budget shall be made except upon the further certificate of a consulting engineer that such increased expenditures are necessary for the continued operation of the System. The City shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to any Bondholder who shall file his or her address with the City and request in writing that copies of any 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 any Bondholder or anyone acting for and in behalf of such Bondholder.

Section 6.17. Existence of Sanitary Board. The management, operation and control of the System will be vested in the Sanitary Board, or some other separate successor agency of the City, during the period in which any Series 2005 Bonds issued hereunder are Outstanding.

Section 6.18. Public Purpose Series 2005 Bonds. The System will be solely operated for a public purpose and as a local governmental activity of the City.

Section 6.19. Private Activity Bonds. The City shall not permit at any time or times any of the proceeds of the Series 2005 Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the Series 2005 Bonds from the treatment afforded by Section 103(a) of the Code by reason of the classification of the Series 2005 Bonds as "private activity bonds" within the meaning of the Code. The City will take all actions necessary to comply with the Code in order to assure the tax-exempt status of the Series 2005 Bonds.

Section 6.20. Filings. The City will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 2005 Bonds, including, without limitation, the information return required under Section 149(e) of the Code.

Section 6.21. Right to Amend. The City retains the right to make any amendments, insertions or deletions by Supplemental Resolutions of this Ordinance as the City deems desirable or necessary prior to the issuance of the Series 2005 Bonds, including but not limited to amendments, insertions or deletions to comply with the Code. Notwithstanding the provisions of Section 9.01 hereof, the City through City Council shall without consent of the Registered Owners of the Series 2005 Bonds amend or supplement this Ordinance by resolutions supplemental hereto or any amendatory ordinance to comply with the Code if such amendment or supplement is necessary to preserve the tax exempt status of the Bonds. In making their determination to amend or supplement this Ordinance, the City Council may rely on the opinion of a nationally recognized bond counsel.

The City also retains the right to make any amendments, insertions or deletions by Supplemental Resolution of this Ordinance as the City deems necessary prior to the issuance of the Series 2005 Bonds to meet the requirements of the Original Purchaser.

Section 6.22. Parties Interested Herein. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, the Paying Agent and the Registered Owners of the Series 2005 Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Paying Agent and the Registered Owners of the Series 2005 Bonds.

Section 6.23. Designation of Bank Eligibility. The Series 2005 Bonds are hereby designated as a "qualified tax-exempt obligations" for the purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended. The City hereby represents that it and all subordinate entities do not reasonably anticipate to issue, during the calendar year 2005, qualified tax-exempt obligations in excess of $10,000,000.

Section 6.24. Continuing Disclosures. This Section constitutes the written undertaking for the benefit of the owners of the Bonds required by the Securities and Exchange Commission Rule 15c2-12 (the "Rule").

The City as an "obligated person" within the meaning of the Rule, undertakes to provide the information as required by the Rule. The City covenants to provide, as long as the Bonds remain Outstanding the following information:

(1) "Annual Financial Information" means the financial information (which shall be based on financial statements prepared in accordance with generally accepted accounting principles ("GAAP") or operating data with respect to the type included in those sections of the final official statement with respect to the Series 2005 Bonds upon request by any person or at least annually to a state information depository ("SID"), if any.

(2) "Material Event" means the following events: (a) principal and interest payment delinquencies; (b) non payment related defaults; (c) unscheduled draws on debt service reserves, if any, reflecting financial difficulties; (d) scheduled draws on credit enhancements, if any, or their failure to perform; (e) substitution of credit or liquidity providers, if any, or their failure to perform; (f) adverse tax opinions or events affecting the tax-exempt status of the Bonds; (g) modifications to rights of Bondholders; (h) bond calls; (i) defeasances; (j) releases, substitution or sale of property security payment of the Bonds; or (k) rating changes.

The City covenants to file with each Nationally Recognized Municipal Securities Information Repository ("NRMSIR") or to the Municipal Securities Rulemaking Board ("MSRB") and each SID, if any, in a timely manner a notice of occurrence of any of the above mentioned events with respect to the Bonds, if the Issuer has knowledge of such event. If a Material event occurs while any Bonds are Outstanding, the Issuer shall provide a Material Event Notice which states the material event and shall prominently state the date, title and CUSIP numbers of the Bonds.

Termination of Reporting Obligation. The City's obligations under the continuing disclosure requirements of this Section 6.24 shall terminate upon (a) the legal defeasance, prior redemption or payment in full of all of the Bonds or (b) the assumption by a successor obligated person of all of the obligations of the prior obligated person both hereunder and under the Bonds.

Amendments. Notwithstanding any other provision of this Ordinance, the City may modify or amend this Section 6.24 if the following preconditions are satisfied: (a) the amendment is being made in connection with a change of circumstances that arises form a change in legal requirements, change in law, change in the identity, nature or status of the City; (b) this Ordinance, as amended, would have complied with the requirements of the Rule as of the date of issuance of the relevant Bonds, after taking into account any amendment or interpretations of the Rule, as well as any change in circumstances; and (c) the amendment does not materially adversely affect the interests of Holders of Series 2005 Bonds. A written opinion of Bond Counsel to the effect that these requirements have been satisfied shall conclusively evidence compliance with the above preconditions. The City shall disclose in the next Annual Report the amendment and its impact on the information being provided.

Defaults. In the event of a failure of the City to Comply with any provision of this Section 6.24, the Original Purchaser or any Bondholder may take such actions as may be necessary and appropriate, including seeking a writ of mandamus or specific performance by court order to cause the City to comply with its obligations under this Section 6.24 shall not be deemed an Event of Default, and the sole remedy under this Ordinance in the event of any failure of the City to comply with this Section 6.24 shall be an action to compel performance, provided, however, that nothing in this Ordinance shall limit any Holder's rights under applicable federal securities law.

ARTICLE VII

DEFAULTS AND REMEDIES

Section 7.01. Events of Default. A. Each of the following events shall constitute an "Event of Default" with respect to the Series 2005 Bonds.

(A) If default occurs in the due and punctual payment of the principal of or interest on any Series 2005 Bonds;

(B) If default occurs in the City's observance of any of the covenants, agreements or conditions on its part relating to the Series 2005 Bonds set forth in this Ordinance, the Supplemental Resolution or in the Bonds and such default shall have continued for a period of 30 days after the City shall have been given written notice of such default by the Depository Bank holding any fund or account hereunder or a Registered Owner of a Bond; or

(C) If the City files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

Section 7.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Series 2005 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 City to perform its duties under the Act and this Ordinance relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System (iii) bring suit upon the Bonds, (iv) by action at law or bill in equity require the City 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 Ordinance with respect to the Series 2005 Bonds, or the rights of such Registered Owners.

Upon the occurrence of an Event of Default, the Commission may, and shall, at the direction of 51% of the Bondholders, by written notice to the City, declare the principal of the Bonds to be immediately due and payable, whereupon that portion of the principal of the Series 2005 Bonds thereby coming due and the interest thereon accrued to the date of payment shall, without further action, become and be immediately due and payable, anything in this Ordinance or in the Bonds to the contrary notwithstanding.

Section 7.03. Appointment of Receiver. Any Registered Owner of a Series 2005 Bond may, by proper legal action, compel the performance of the duties of the City under this Ordinance and the Act, including the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof and performing any construction necessary for the System. If there be any default in the payment of interest on any Series 2005 Bonds when the same shall become due, or in the payment of the principal of any Series 2005 Bond or Series 2005 Bonds either at the specified date of maturity thereof or at a date set for redemption thereof, or otherwise in the performance of any covenant contained in this Ordinance other than as to such payment and such default shall

continue for a period of thirty (30) days after written notice of the City of such default, any Registered Owner shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the City with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the Bonds and any interest thereon, the deposits into the funds and accounts herein provided and the payment of operating expenses of the System and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Ordinance 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 City exercise all the rights and powers of the City with respect to said facilities as the City itself might do.

Whenever all that is due upon the Series 2005 Bonds issued and authorized pursuant to this Ordinance and interest thereon and under any covenants of this Ordinance for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System, shall have been paid and made good, and all defaults under the provisions of this Ordinance shall have been cured and made good, possession of the System shall be surrendered to the City upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of Series 2005 Bonds issued pursuant to this Ordinance shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her 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 City and for the joint protection and benefit of the City and Registered Owners of Series 2005 Bonds issued pursuant to this Ordinance. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System, for the sole purpose of the protection of both the City and Registered Owners, and the curing and making good of any default under the provisions of this Ordinance, and the title to and ownership of said System shall remain in the City, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage, or otherwise dispose of any assets of the Systems.

ARTICLE VIII

INVESTMENT OF FUNDS; NON-ARBITRAGE

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Ordinance, other than the Revenue Fund, shall be invested and reinvested by the Commission or the Depository Bank, as the case may be, at the direction of the City in any Qualified Investments to the fullest extent possible under applicable laws, this Ordinance, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section.

Except as otherwise provided, any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and used for the purpose of such fund or account. The interest accruing thereof and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The determination of the Value of the investments shall be made once a month. The Commission or the Depository Bank, 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 Commission or the Depository Bank, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any account is insufficient to make the payments required from such fund or account, regardless of the loss of such liquidation. The Commission or the Depository Bank, as the case may be, may make any and all investments permitted by this Section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

Section 8.02. Arbitrage. The City covenants that (i) it will restrict the use of the proceeds of the Series 2005 Bonds in such manner and to such extent as may be necessary, in view of the City s reasonable expectations at the time of issuance of the Series 2005 Bonds, so that the Series 2005 Bonds will not constitute "arbitrage bonds" under Section 148 of the Code and the Regulations, 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 2005 Bonds) so that the interest on the Series 2005 Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Modification or Amendment. No material modification or amendment of this Ordinance or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Series 2005 Bondholders shall be made without the consent in writing of the holders of two-thirds (2/3) or more in principal amount of the Series 2005 Bonds then outstanding; provided, however, that no change shall be made in the maturity of any Series 2005 Bond or Series 2005 Bonds or the rate

of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the City to pay such principal and interest out of the revenues of the System without the consent of the Holder thereof. No amendment or modification shall be made which would reduce the percentage or modification of the principal amount of Series 2005 Bonds required for consent to the above permitted amendments or modifications.

Section 9.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 9.03. Covenant of Due Procedure. The City covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Ordinance do exist, have happen, 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 City Clerk and members of City Council were at all times when any actions in connection with this Ordinance occurred, and are, duty in office and duly qualified for such office.

Section 9.04. Defeasance. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the holders of all Series 2005 Bonds the principal thereof, and redemption premium, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Ordinance then the pledge of net revenues and any other moneys and securities pledged under this Ordinance and all covenants, agreements and other obligations of the City to the Series 2005 Bondholders shall thereupon cease, terminate and become void and be discharged and satisfied.

Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay, as and when due, the principal of and interest on such Series 2005 Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section. All Series 2005 Bonds shall, prior to the maturity or redemption thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section if (a) in case any of said Series 2005 Bonds are to be redeemed on any date prior to their maturity, the City shall have given the Commission, in form satisfactory to it, irrevocable instructions to publish as provided herein notice of redemption of such Series 2005 Bonds on said date, (b) there shall have been deposited with the Commission either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Commission at the same or earlier time, shall be sufficient, to pay when due the principal of and redemption premium, if applicable, and interest due and to become due on said Series 2005 Bonds on and prior to the redemption date of maturity date thereof, as the case may be, and an opinion of nationally recognized bond counsel to the effect that such action will not adversely effect the exclusion of the interest on the Bonds from gross income for federal income tax purposes and a verification from an Independent Accountant of the sufficiency of the amounts described in clause (b) for their intended purpose, and (c) in the event said Series 2005

Bonds are not by their terms subject to redemption, or are otherwise not to be redeemed by the City, within the next succeeding sixty (60) days, the City shall have given the Commission in form satisfactory to it irrevocable instructions to publish, as soon as practicable, a notice to the Holders of such Series 2005 Bonds that the deposit required by (b) above has been made with the Commission and that said Series 2005 Bonds are deemed to have been paid in accordance with this Section and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal of, interest on, and redemption premium, if applicable, on said Series 2005 Bonds. Neither securities nor moneys deposited with the Commission pursuant to this Section nor principal or interest payments on any such securities shall be held in trust for, the payment of the principal of and redemption premium, if applicable, on and interest on said Series 2005 Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and redemption premium, if applicable, on and interest to become due on said Series 2005 Bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the City, as received by the Commission, free and clear of any trust, lien or pledge. For the purpose of this Section, securities shall mean and include only Government Obligations.

Section 9.05. Effective Date. This Ordinance shall take effect after passage, public hearing and otherwise in the manner prescribed by law.

Section 9.06. 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 Register Herald, which is a qualified newspaper of general education circulation in the City of Beckley, together with a notice stating that this Ordinance has been adopted and that the City contemplates the issuance of the Bonds, and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the first publication of the abstract and notice, and present protests, and that a certified cop of the 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 – March 8, 2005

Passed on Second Reading - March 22, 2005

Passed on Final Reading Following Public Hearing - April 12, 2005

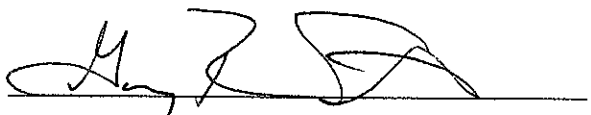
Mayor

City Recorder

CERTIFICATION

The undersigned, Gary Sutphin, CITY RECORDER for the City of Beckley, West Virginia, does hereby certify that the foregoing is a true and correct copy of the Refunding Bond Ordinance passed on First Reading at a regular meeting of Council on March 8, 2005; passed on Second Reading at meeting of Council on March 22, 2005; and passed on Final Reading following Public Hearing held on April 12, 2005.

DATED this 21 day of July, 2005.



[Recorder]

(Seal)

PETITION

The Sanitary Board of the City of Beckley, West Virginia, respectfully petitions the Council of the City of Beckley to enact an ordinance directing that sewerage system refunding revenue bonds of the City of Beckley be issued pursuant to the provisions of Chapter 16, Article 13 of the West Virginia Code, in an amount not to exceed Two Million Eight Hundred Thousand Dollars ($2,800,000.00) for the purpose of currently refunding the Sewer Refunding Revenue Bonds, Series 1995A, of the City of Beckley for the purpose of effectuating a savings in aggregate debt service.

All as required by Chapter 16, Article 13 of the West Virginia Code.

Directed as of this 9th day of February, 2005.

SANITARY BOARD OF THE CITY OF BECKLEY

BY: _____

ITS: Chairman

I certify that the foregoing is a true and accurate copy of a Petition duly passed by the Common Council of the City of Beckley at its regular meeting held on February 22, 2005.

2-27-05
Date

_____
Emmett S. Pugh III - Mayor

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS INC.

BECKLEY, WEST VIRGINIA 25801

April 07, 2005

STATE OF WEST VIRGINIA
COUNTY OF RALEIGH, to wit:

I, Tara Meyer, being duly sworn upon my oath, do depose and say that I am Legal Clerk for Beckley Newspapers, Inc., a corporation, publisher of the newspaper entitled The Register-Herald, an Independent newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily for at least fifty weeks during the calendar year, in the municipality of Beckley, Raleigh County, West Virginia; that such newspaper is a newspaper of "general circulation" as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices; that the annexed notice

of ORDINANCE AND PUBLIC HEARING
(Description of notice)

s duly published in said newspaper once a week for two successive weeks (Class 2), commencing with the issue of the 31st day of March, 2005, and ending with the issue of the 7th day of April, 2005, (and was posted at the Raleigh County Courthouse on the 7th day of April, 2005); that said annexed notice was published on the following dates:

03/31/05,04/07/05 and that the cost of publishing said annexed notice as aforesaid was $ 230.35

Signed Tara Meyer
Tara Meyer
Legal Clerk
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
7th day of April, 2005

My commission expires March 27, 2011

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
DIANA L. SLONE
BECKLEY NEWSPAPERS
P. O. BOX 2358
BECKLEY, WV 25802
My commission expires March 27, 2011

Notary Public of Raleigh County, West Virginia

COPY OF PUBLICATION

ABSTRACT OF ORDINANCE AND NOTICE OF PUBLIC HEARING

Notice is hereby given to any person interested that on March 22, 2005, the Common Council (the "Council") of the City of Beckley, West Virginia (the "City"), adopted an Ordinance (the "Ordinance") that:

1. Determined that the City now owns and operates a public sewer collection, transportation and treatment system (the "System").

2. Determined that it is necessary for the City to issue its Sewer System Revenue Refunding Bonds, Series 2005 in the amount not to exceed $2,800,000 (the "Series 2005 Bonds"), in order to provide funds to pay the costs to defease certain outstanding obligations of the City.

3. Provided for the sale of the Series 200 Bonds to Scott & Stringfellow, Inc. pursuant to the terms and provisions as established by the Ordinance and in a supplemental resolution thereto of Council (collectively the "Ordinance").

4. Directed that the Series 2005 Bonds be dated their date of issuance and shall contain such other terms, provisions, conditions and limitations as provided by the Ordinance and prescribed by supplemental resolution of Council; that the Bonds be executed in the name of the City by the Mayor and the seal of the City be affixed thereto and attested to by the City Recorder; and that said Bonds be duly authenticated by the registrar.

5. Provided for the monthly payment of principal and interest on the Series 2005 Bonds; provided for the creation of a sinking fund for the Series 2005 Bonds.

6. Provided for the disposition of bond proceeds; created a construction fund a revenue fund and a reserve fund for the Series 2005 Bonds.

7. Provided that the Series 2005 Bonds shall not be or constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the revenues of the System.

8. Provided that the Series 2005 Bonds will be se-

...ty or charter limitation of indebtedness, but shall be payable solely from the revenues of the System.

8. Provided that the Series 2005 Bonds will be secured by a first lien on the net revenues of the System, on a parity with the lien on the net revenues in favor of the holders of the Prior Bonds as defined in the Ordinance.

9. Provided that the rates and charges for the System shall always be sufficient to produce gross revenues to pay operating expenses and make payments into the funds and accounts created in the Ordinance and leave a balance each year equal to at least 120% of the maximum amount required in any rear for principal of and interest on this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond including Prior Bonds; provided however, that so long as there exists in the Series 2005 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on this bond in the then current or any succeeding year.

10. Provided that the System may be sold, transferred, mortgaged or leased only under certain terms and conditions; provided that the issuance of additional bonds on a parity with the Bonds may be authorized under certain terms and conditions.

11. Provided for insurance coverage on the System; provided that the City will render no free service; provided or the enforcement of collection of fees, rates, rentals or other charges for service; provided for mandatory connections under certain circumstances; and provided for the discontinuance of service for nonpayment of the fees, rates, rentals and other charges of the System.

12. Established that the terms for defaults and the remedies of the owners of the Series 2005 Bonds; provided for the security for and the rights and remedies of the owners of the Series 2005 Bonds including the appointment of a receiver.

13. Provided that the City will take all actions that may be required of it so that the interest on the Series 2005 Bonds will be and remain excluded from gross income for federal income tax purposes.

The City of Beckley contemplates the issuance of the Series 2005 Bonds described in, and under the conditions set forth in, the Ordinance abstracted above. Any person interested may appear before the Council of the City of Beckley at meeting thereof at 7:30 o'clock p.m. EDT, on Tuesday, April 12, 2005, in the City Hall, 409 South Kanawha Street, in the City of Beckley, West Virginia, and present protests and be heard as whether the Ordinance shall be put into effect. At said hearing all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

A certified copy of the Ordinance as adopted by the Council of the City on March 22, 2005, is on file in the office of the City Recorder and at the office of the Sanitary Board for review by interested person during the regular office hours of such offices.

Gary Sutphin,
Recorder,
City of Beckley,
West Virginia

4-7-THU-2-RH; LG 8437

A REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF BECKLEY CONVENED AT 7:30 P.M. APRIL 12, 2005, IN COUNCIL CHAMBERS OF BECKLEY CITY HALL.

THOSE PRESENT: Mayor Emmett S. Pugh III; Council Members A. K. Minter, Jr., Ann Worley, Steve Nickell, Tim Berry, Lee Leftwich, Robert Rappold, and Howard Mollohan; Recorder-Treasurer Gary Sutphin; City Attorney William H. File III; Secretary Linda Carr.

ALSO PRESENT: Police Chief Bill Cole, Fire Chief Kevin Taylor, Director of Human Rights Commission Elmer Day, Director of Housing and Community Development Manuel Cartelle, Chief of Code Enforcement Bob Cannon, Director of Beckley Renaissance Jill Moorefield, Director of Youth Museum Sandi Parker, and Street Commissioner Robert Robinson.

The Mayor called the meeting to order followed by the Pledge of Allegiance to the Flag.

Council dispensed with reading of the minutes of the previous meeting, copies of which had been distributed to each member, and adopted the minutes as written on a motion by Councilman Berry and seconded by Councilman Nickell.

The Mayor announced this as the date advertised for receipt of bids for the purchase of an asphalt roller for the Board of Public Works. Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS INC.

BECKLEY, WEST VIRGINIA 25801

April 07, 2005

STATE OF WEST VIRGINIA
COUNTY OF RALEIGH, to wit:

I, Tara Meyer, being duly sworn upon my oath, do depose and say that I am Legal Clerk for Beckley Newspapers, Inc., a corporation, publisher of the newspaper entitled The Register-Herald, an Independent newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily for at least fifty weeks during the calendar year, in the municipality of Beckley, Raleigh County, West Virginia; that such newspaper is a newspaper of "general circulation" as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices; that the annexed notice

of NOTICE TO BIDDERS
(Description of notice)

was duly published in said newspaper once a week for two successive weeks (Class 2), commencing with the issue of the 31st day of March, 2005, and ending with the issue of the 7th day of April, 2005, (and was posted at the Raleigh County Courthouse on the 7th day of April, 2005); that said annexed notice was published on the following dates:

03/31/05,04/07/05

and that the cost of publishing said annexed notice as aforesaid was $ 46.08

Signed Tara Meyer
Tara Meyer
Legal Clerk
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
7th day of April, 2005

My commission expires March 27, 2011

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
DIANA L. SKEENS
BECKLEY NEWSPAPERS INC.
P. O. BOX 2514
BECKLEY, WEST VIRGINIA
My commission expires March 27, 2011

Diana L. Skeens
Notary Public of Raleigh County, West Virginia

COPY OF PUBLICATION

NOTICE TO BIDDERS

The Common Council of the City of Beckley is accepting bids from qualified firms for the purchase of one asphalt roller to be used by the Public Works Department.

Detailed specifications and bid information may be obtained from the Board of Public Works Department, 401 Adair Street, Beckley or by calling (304) 256-1741.

Bids will be received until 7:30 p.m., Tuesday, April 12, 2005 at which time they will be publicly opened and read aloud during a meeting of Common Council. Bids must be submitted to the Recorder - Treasurer in sealed envelopes clearly marked to indicate contents. Bids may be hand delivered to 409 South Kanawha Street or mailed to P.O. Box 2514, Beckley, WV 25802-2514.

The City of Beckley reserves the right to accept or reject any or all bids or any part of any bid without cause.

City of Beckley
Gary R. Sutphin
Recorder - Treasurer
4-7-THU-2-RH; LG 8438

The Mayor opened and read the following bids:

04/12/2005 14:53 3849497272 WALKER SALES PAGE 05

Walker

Cecil I. Walker Machinery Co.

Quotation # 134-05

April 12, 2005

City of Beckley

409 South Kanawha Street

Beckley, WV 25801

Terms: Net Due Ten (10) Days from Date of Invoice

Delivery: 24 Weeks after receipt of order.

(Delivery is based on current manufacturer's schedule, but can not be guaranteed)

Your Inquiry

We are pleased to quote you on the following material, F.O.B. point Jobsite

One (1) New Caterpillar CB-334 Vibratory Compactor, Series E, arrangement number 238-8425, equipped with the following standard equipment:

DRUM- two smooth drums: 1300mm / 51.2 inch wide x 800mm / 31.5 inch diameter, front both or rear drum vibratory control, pressurized drum watering system continuous or intermittent modes, and with 300L / 79.2 gallon water tank

ELECTRICAL - backup alarm, 55 ampere alternator, 12 volt electric starting

OPERATOR ENVIRONMENT - warning light package and fuel gauge, sliding Seat with seat belt, vandalism protection

POWERTRAIN - Caterpillar 3024C 4 cylinder diesel engine, 37.3 kW / 50 HP, gross power, hydrostatic transmission, service and parking brake

ANTIFREEZE - extended life coolant -37C (-35F)

Equipped with the following options:

1S-300	SOS Kit
252-6737	Film, Warning
OG0-6021	Certificate of Origin

Total Net Price, F.O.B. Jobsite $ 37,811.00

NOTICE: All equipment and/or contracts shall be subject to be increased, without notice, by the amount of any Sales or Excise Tax levied or charged, either by the Federal, State or any governmental agency, and are subject to manufacturer's price in effect at time of shipment.

Trusting to be of service,

Very truly yours,

CECIL I. WALKER MACHINERY CO.

Jim Argabrite

Jim Argabrite, Sales Representative

04/12/2005 14:53 3049497272 WALKER SALES PAGE 02

Walker

Cecil I. Walker Machinery Co.

Quotation # 135-05

April 12, 2005

City of Beckley

409 South Kanawha Street

Beckley, WV 25801

Terms: Net Due Ten (10) Days from Date of Invoice

Delivery: 22 Weeks after receipt of order:

(Delivery is based on current manufacturer's schedule, but can not be guaranteed)

Your Inquiry

We are pleased to quote you on the following material, F.O.B. cars Jobsite

One (1) New Caterpillar CB-224 Vibratory Compactor, Series E, arrangement number 243-0314, equipped with the following standard equipment:

DRUM - two smooth drums: 1200mm/47.3 inch wide X 700mm/27.6 inch diameter, front or both drum vibrating control, pressurized drum watering system with continuous or intermittent modes and with 150 l/39.7 gallon water tank

ELECTRICAL - 55 ampere alternator, 12 volt electric starting

OPERATOR ENVIRONMENT- warning light package, vibratory indicator, seat with seat belt and armrests, vandalism protection, steering wheel spinner

POWERTRAIN - Caterpillar 3013C 3 cylinder engine, 24.4 kW/32.7 HP gross power hydrostatic transmission, service and parking brakes

ANTIFREEZE - extended life coolant -37C (-35F)

Equipped with the following options:

231-3334	Alarm, Back-up
244-8343	Seat-Non-Suspension
229-0653	Tank, Water 220L/58.2 Gallon
228-7817	Muffler, Standard
245-2718	ROPS
156-3568	Canopy
1S-300	SOS Kit
252-0310	Film, Warning
0G-6021	Certificate of Origin

Total Net Price, F.O.B. Jobsite $ 31,380.00

This unit will be covered by the following warranty:
Standard Machine - 6 months unlimited hours

NOTICE: All equipment and/or contracts shall be subject to be increased, without notice, by the amount of any Sales or Excise Tax levied or charged, either by the Federal, State or any governmental agency, and are subject to manufacturer's price in effect at time of shipment.

Trusting to be of service,

Very truly yours,

CECIL I. WALKER MACHINERY CO.

Jim Agabrite

Jim Agabrite, Sales Representative

WEST VIRGINIA TRACTOR COMPANY
CONSTRUCTION, MINING, MUNICIPAL & INDUSTRIAL EQUIPMENT
P.O. BOX 473, 214 VIRGINIA ST. W., CHARLESTON, WV 25322/25302 • (304) 346-5301

April 7, 2005

City of Beckley
409 South Kanawha Street
P.O. Box 2514
Beckley, WV 25802
Attn: Recorder-Treasurer

Subj: Sealed Bid - Asphalt Roller - Due April 12, 2005 at 7:30 PM

Ladies and Gentlemen:

We are pleased to offer the following described equipment for your consideration:

VIBROMAX Model 355 tandem vibratory roller complete with the following standard equipment:
Kubota V2203-E water cooled 46.6 HP diesel engine with 20 gal. fuel tank
Tandem 51.2" wide X 31.5" diameter drums with dual scrapers
Dual drum hydrostatic drive with variable displacement pump
Two speed ranges with infinitely variable speeds up to 6.8 MPH
Hydrostatic service brake with SAHR parking brake
Automatic park brakes with switch or engine shut down
Vibration and drive in both drums
Hydraulic, articulated steering system with drum oscillation
Vibration on each drum, 10,878 lbs. of centrifugal force and 3,300 VPM
Auto/manual vibration mode selector
Horn and back-up alarm
Adjustable, cushioned bench seat with arm rests
Horn and back-up alarm
Engine hour meter
Full instrumentation package
Variable flow intermittent water spray system
79 gallon rust proof water tank
Water spray bars and nozzles
SAE ROPS bar and seat belt
Operator and parts manuals
Two-year factory warranty

PRICE: F.O.B. Beckley.....$40,300

OPTIONAL

Light package, including dual halogen front and rear.....	$ 390
Sun screen mounted on ROPS structure.....	$ 610
Strobe light.....	$ 80
55.1" wide drums (Model 365).....	$ 2,000

WEST VIRGINIA TRACTOR COMPANY
CONSTRUCTION, MINING, MUNICIPAL & INDUSTRIAL EQUIPMENT
P.O. BOX 473, 214 VIRGINIA ST. W., CHARLESTON, WV 25322/25302 • (304) 346-5301

April 7, 2005

City of Beckley
409 South Kanawha Street
P.O. Box 2514
Beckley, WV 25802
Attn: Recorder-Treasurer

Subj: Sealed Bid - Asphalt Roller - Due April 12, 2005 at 7:30 PM

Ladies and Gentlemen:

We are pleased to offer the following described equipment for your consideration:

VIBROMAX Model 455 tandem vibratory roller complete with the following standard equipment:
Kubota V2203-E water cooled 46.6 HP diesel engine with 20 gal. fuel tank
Tandem 51.2" wide X 31.5" diameter drums with dual scrapers
Dual drum hydrostatic drive with variable displacement pump
Two speed ranges with infinitely variable speeds up to 6.8 MPH
Hydrostatic service brake with SAHR parking brake
Automatic park brakes with switch or engine shut down
Vibration and drive in both drums
Hydraulic, articulated steering system with drum oscillation
Vibration on each drum, 10,878 lbs. of centrifugal force and 3,300 VPM
Auto/manual vibration mode selector
Horn and back-up alarm
Adjustable, cushioned bench seat with arm rests
Horn and back-up alarm
Engine hour meter
Full instrumentation package
Variable flow intermittent water spray system
79 gallon rust proof water tank
Water spray bars and nozzles
SAE ROPS bar and seat belt
Operator and parts manuals
Two-year factory warranty

PRICE: F.O.B. Beckley.....$43,000

OPTIONAL

Working lights, including dual halogen front and rear	$ 390
Sun screen mounted on ROPS structure	$ 610
Strobe light	$ 80
55.1" wide drums (Model 465)	$ 2,000

LOGAN CORPORATION
VALLEY AIR, INC.

VALLEY AIR
3000 EDENS FORK ROAD
P. O. BOX 6516
CHARLESTON, WV 25362-0516
PHONE: (304) 345-2851
1-800-435-9959
FAX: (304) 345-2856
www.logancorp.com

QUOTATION

DATE: April 7, 2005

TO: City of Beckley
Board of Public Works
P.O. Box 2514
Beckley, WV 25802

QUOTATION # 22-720-A

ATTN: George Wood

In response to your inquiry, we are pleased to submit the following quotation:

ITEM	QTY	DESCRIPTION	PRICE EACH
1	1	**TV1400 Terex Tandem Asphalt Roller**	**$ 37,672.00**

TERMS: NET 30	FOB: Delivered	ESTIMATED SHIPPING DATE: 4 – 6 Weeks ARO

NOTE: Prices quoted are firm for thirty (30) days from date of quotation.

SIGNED Mike Skeens

Mike Skeens, Sales Representative
Phone (800) 435-9959
Fax (304) 345-2856

OVER A CENTURY OF SERVICE TO OUR CUSTOMERS

The bids will be reviewed by Councilmen-at-Large Rappold and Mollohan as well as Mr. Sutphin and Mr. Robinson for possibie award at a future meeting.

Councilman Mollohan made a motion that the bid for carpeting for the Youth Museum be awarded to Floor Show, Inc. in the amount of $8,152.00. This motion was seconded by Councilman Rappold and unanimously approved by Council.

Mr. File presented for Council approval the third reading and public hearing of an Ordinance authorizing the issuance of not more than $2,800,000.00 in aggregate principal amount of City of Beckley Sewer System Revenue Refunding Bonds. Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS INC.

BECKLEY, WEST VIRGINIA 25801

April 07, 2005

STATE OF WEST VIRGINIA
COUNTY OF RALEIGH, to wit:

I, Tara Meyer, being duly sworn upon my oath, do depose and say that I am Legal Clerk for Beckley Newspapers, Inc., a corporation, publisher of the newspaper entitled The Register-Herald, an Independent newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily for at least fifty weeks during the calendar year, in the municipality of Beckley, Raleigh County, West Virginia; that such newspaper is a newspaper of "general circulation" as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices; that the annexed notice

of ORDINANCE AND PUBLIC HEARING
(Description of notice)

was duly published in said newspaper once a week for two successive weeks (Class 2), commencing with the issue of the 31st day of March, 2005, and ending with the issue of the 7th day of April, 2005, (and was posted at the Raleigh County Courthouse on the 7th day of April, 2005); that said annexed notice was published on the following dates:

03/31/05,04/07/05

and that the cost of publishing said annexed notice as aforesaid was $ 230.35

Signed Tara Meyer
Tara Meyer
Legal Clerk
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
7th day of April, 2005

My commission expires December 27, 2011

NOTARY PUBLIC
STATE OF WEST VIRGINIA
DIANA L. SLOVE
BECKLEY NEWSPAPERS
P. O. Box 2549
Beckley, West Virginia
My commission expires March 27, 2011

Notary Public of Raleigh County, West Virginia

COPY OF PUBLICATION

ABSTRACT OF ORDINANCE AND NOTICE OF PUBLIC HEARING

Notice is hereby given to any person interested that on March 22, 2005, the Common Council (the "Council") of the City of Beckley, West Virginia (the "City"), adopted an Ordinance (the "Ordinance") that:

1. Determined that the City now owns and operates a public sewer collection, transportation and treatment system (the "System").

2. Determined that it is necessary for the City to issue its Sewer System Revenue Refunding Bonds, Series 2005 in the amount not to exceed $2,800,000 (the "Series 2005 Bonds"), in order to provide funds to pay the costs to defease certain outstanding obligations of the City.

3. Provided for the sale of the Series 200 Bonds to Scott & Stringfellow, Inc. pursuant to the terms and provisions as established by the Ordinance and in a supplemental resolution thereto of Council (collectively the "Ordinance").

4. Directed that the Series 2005 Bonds be dated their date of issuance and shall contain such other terms, provisions, conditions and limitations as provided by the Ordinance and prescribed by supplemental resolution of Council; that the Bonds be executed in the name of the City by the Mayor and the seal of the City be affixed thereto and attested to by the City Recorder; and that said Bonds be duly authenticated by the registrar.

6. Provided for the monthly payments of principal and interest on the Series 2005 Bonds; provided for the creation of a sinking fund for the Series 2005 Bonds.

6. Provided for the disposition of bond proceeds; created a construction fund a revenue fund and a reserve fund for the Series 2005 Bonds.

7. Provided that the Series 2005 Bonds shall not be or constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the revenues of the System.

APR. 22. 2005 4:35PM NO. 6381 P. 2

Mr. File opened the public hearing for comments. There was no one to speak in opposition to passage of this Ordinance, and Mr. Jim Zeller of 202 Bibb Avenue spoke in favor of passage of the Ordinance. With no further comments to be made, the public hearing was closed. On a motion by Councilman Rappold and seconded by Councilman Mollohan, the following Ordinance was unanimously approved by Council:

FIRST READING

March 8, 2005

SECOND READING

3-22-05

THIRD READING

4-12-05

CITY OF BECKLEY

REFUNDING BOND ORDINANCE

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN $2,800,000.00 IN AGGREGATE PRINCIPAL AMOUNT OF CITY OF BECKLEY SEWER SYSTEM REVENUE REFUNDING BONDS, SERIES 2005, FOR THE PURPOSE OF DEFEASING CERTAIN OUTSTANDING OBLIGATIONS OF THE CITY OF BECKLEY DESIGNATED AS CITY OF BECKLEY SEWER SYSTEM REVENUE REFUNDING BONDS, SERIES 1995A; AUTHORIZING THE DEFEASANCE OF CERTAIN OUTSTANDING SEWER SYSTEM REVENUE REFUNDING BONDS OF THE CITY OF BECKLEY; AUTHORIZING THE ISSUANCE OF A SERIES OF SEWER SYSTEM REVENUE REFUNDING BONDS OF SAID CITY OF BECKLEY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $2,800,000.00, WHICH, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE CITY OF BECKLEY WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSE, TO MAKE PROVISION FOR SUCH REFUNDING; AUTHORIZING AN ESCROW AGREEMENT IN CONNECTION WITH THE DEFEASANCE OF SAID REVENUE REFUNDING BONDS; FUND A RESERVE ACCOUNT FOR THE SERIES 2005 REFUNDING BONDS AND PAY COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH SERIES 2005 REFUNDING BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

Be It Ordained by the Common Council of Beckley, West Virginia:

ARTICLE I
STATUTORY AUTHORITY FINDINGS AND DEFINITIONS

Section 1.01. Authority of this Ordinance. This Ordinance is enacted pursuant to the provisions of Chapter 8, Article 20, and Chapter 13, Article 2E, of the Code of West Virginia, 1931, as amended (the "Act"), and other applicable provisions of law.

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

The Mayor stated that this is the date advertised for a public meeting to seek comments and input from the public relative to activities the City should include in an application for funding through the Housing and Urban Development's Fiscal Year 2005 Small Cities Community Development Block Grant Program. The public meeting was opened for comments from the public. The only person to speak in favor of this application was Jim Zeller of 202 Bibb Avenue. With no further comments to be heard, the public meeting was closed.

Mr. Sutphin presented for Council approval an amendment to the Rules and Regulations of the Beckley Firemen's Civil Service Commission. The only area that this amendment changes is the requirements for the physical agility test for those individuals on the probationary list. On a motion by Councilman Mollohan and seconded by Councilman Nickell, this amendment was unanimously approved by Council.

The Mayor read the following proclamation for Fair Housing Month:

PROCLAMATION

WHEREAS, equal opportunity in housing is a right guaranteed to all Americans under Title VIII of the Civil Rights Acts of 1968; fair housing being a right for America and its citizens; to ensures that every person, regardless of race, color, religion, national origin sex, disability, or familial status (the presence of children under 18) can obtain the housing of their choice; and,

WHEREAS, the thirty-seventh anniversary of the National Fair Housing Act; during the month of April, promotes the establishment of safe, secure and diverse communities where every-one, regardless of nationality, can live free from discrimination; and can reacquaint themselves with the rights and responsibilities that are theirs under the law; and,

WHEREAS, fair housing is the policy of this city. Implementation of that policy requires the positive commitment, involvement and support of each and everyone of our citizens; and,

WHEREAS, it is the policy of the City of Beckley to provide for fair housing throughout the City, to all our citizens; and to prohibit discriminatory practices with respect to residential housing by any person or group of persons, in order that the peace, health, safety, prosperity and general welfare of all inhabitants of the City may be protected and insured.

NOW, THEREFORE, I, Emmett S. Pugh III, Mayor of the City of Beckley, do hereby proclaim the month of April, 2005, as

FAIR HOUSING MONTH

in Beckley and in so doing I urge all our citizens to join with others throughout the Nation in reaffirming these high principals to which we commit ourselves.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Beckley to be affixed this 12th day of April, 2005.

Emmett S. Pugh III

MAYOR
CITY OF BECKLEY

Under old business, Councilman Mollohan asked Mr. Cannon how the project of abandoned vehicle removal was progressing. Mr. Cannon stated that one-third of the City has been surveyed, and eight-eight vehicles that need to be removed have been located.

Under new business, Councilman Berry asked about the lifeguard situation for the City pools for this summer. The help wanted ad for lifeguards will be in the newspaper this week. The New River Park Pool opens on Memorial Day weekend.

The Mayor presented Council with a traffic count report on Forest Avenue which showed there is no significant speeding problem on this street. A "Slow - Children Playing" sign is being considered for this street.

The Mayor presented Council with a letter from ABCC concerning the private club which has applied to open at 113 South Heber Street.

Under new business, Councilman Minter asked about the possibility of a left turn signal being installed at the intersection of Industrial Drive onto Rt. 16.

Chief Cole presented Council members with a report of the annual acitivites of the Police Department.

The Mayor presented the animal control report from the Sheriff's Department for March, 2005. The Mayor also presented Council with an invitation from the 4-C Economic Development Authority to a dinner on April 21, 2005 at Pipestem Resort.

The Mayor also informed Council there will be a special meeting of Common Council to lay the levy rates for Fiscal Year 2006 on April 19, 2005 beginning at 8:00 a.m. in Council Chambers.

With no further business to be addressed, the meeting adjourned at 7:59 p.m. on a motion by Councilman Mollohan and seconded by Councilman Rappold.

I certify that the foregoing is a true and accurate copy of the minutes of the April 12, 2005 Council meeting.

6-27-05
Date

Emmett S. Pugh III, Mayor
City of Beckley

A REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF BECKLEY CONVENED AT 7:30 P.M. MARCH 22, 2005, IN COUNCIL CHAMBERS OF BECKLEY CITY HALL.

THOSE PRESENT: Mayor Emmett S. Pugh III; Council Members Ann Worley, Tim Berry, Lee Leftwich, Robert Rappold, and Howard Mollohan; Recorder-Treasurer Gary Sutphin; City Attorney William H. File III; Secretary Linda Carr.

THOSE ABSENT: Council Members A. K. Minter, Jr. and Steve Nickell.

ALSO PRESENT: Police Chief Bill Cole, Fire Chief Kevin Taylor, Director of Human Rights Commission Elmer Day, Director of Housing and Community Development Manuel Cartelle, Director of Exhibition Mine Renda Morris, Chief of Code Enforcement Bob Cannon, and Street Commissioner Robert Robinson.

The Mayor called the meeting to order followed by the Pledge of Allegiance to the Flag.

Council dispensed with reading of the minutes of the previous meeting, copies of which had been distributed to each member, and adopted the minutes as written on a motion by Councilman Rappold and seconded by Councilman Worley.

The Mayor announced this as the date advertised for receipt of bids for the purchase of carpeting for the Main Gallery of the Youth Museum. Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS INC.

BECKLEY, WEST VIRGINIA 25801

March 21, 2005

STATE OF WEST VIRGINIA
COUNTY OF RALEIGH, to wit:

I, Tara Meyer, being duly sworn upon my oath, do depose and say that I am Legal Clerk for Beckley Newspapers, Inc., a corporation, publisher of the newspaper entitled The Register-Herald, an Independent newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily for at least fifty weeks during the calendar year, in the municipality of Beckley, Raleigh County, West Virginia; that such newspaper is a newspaper of "general circulation" as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices; that the annexed notice

of NOTICE TO BIDDERS
(Description of notice)

was duly published in said newspaper once a week for two successive weeks (Class 2), commencing with the issue of the 14th day of March, 2005, and ending with the issue of the 21st day of March, 2005, (and was posted at the Raleigh County Courthouse on the 21st day of March, 2005); that said annexed notice was published on the following dates: 03/14/05,03/21/05 and that the cost of publishing said annexed notice as aforesaid was $ 46.08

Signed Tara Meyer
Tara Meyer
Legal Clerk
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
21st day of March, 2005

My commission expires OCTOBER 27, 2011

NOTARY PUBLIC
STATE OF WEST VIRGINIA
DIANA L. SIMONE
BECKLEY NEWSPAPERS
P. O. BOX 2514
BECKLEY, WV 25802
My commission expires March 27, 2011

Notary Public of Raleigh County, West Virginia

COPY OF PUBLICATION

NOTICE TO BIDDERS

The City of Beckley is accepting bids to replace the modular carpeting in the Main Gallery of the Youth Museum. The area to be re-carpeted is approximately 220 square feet.

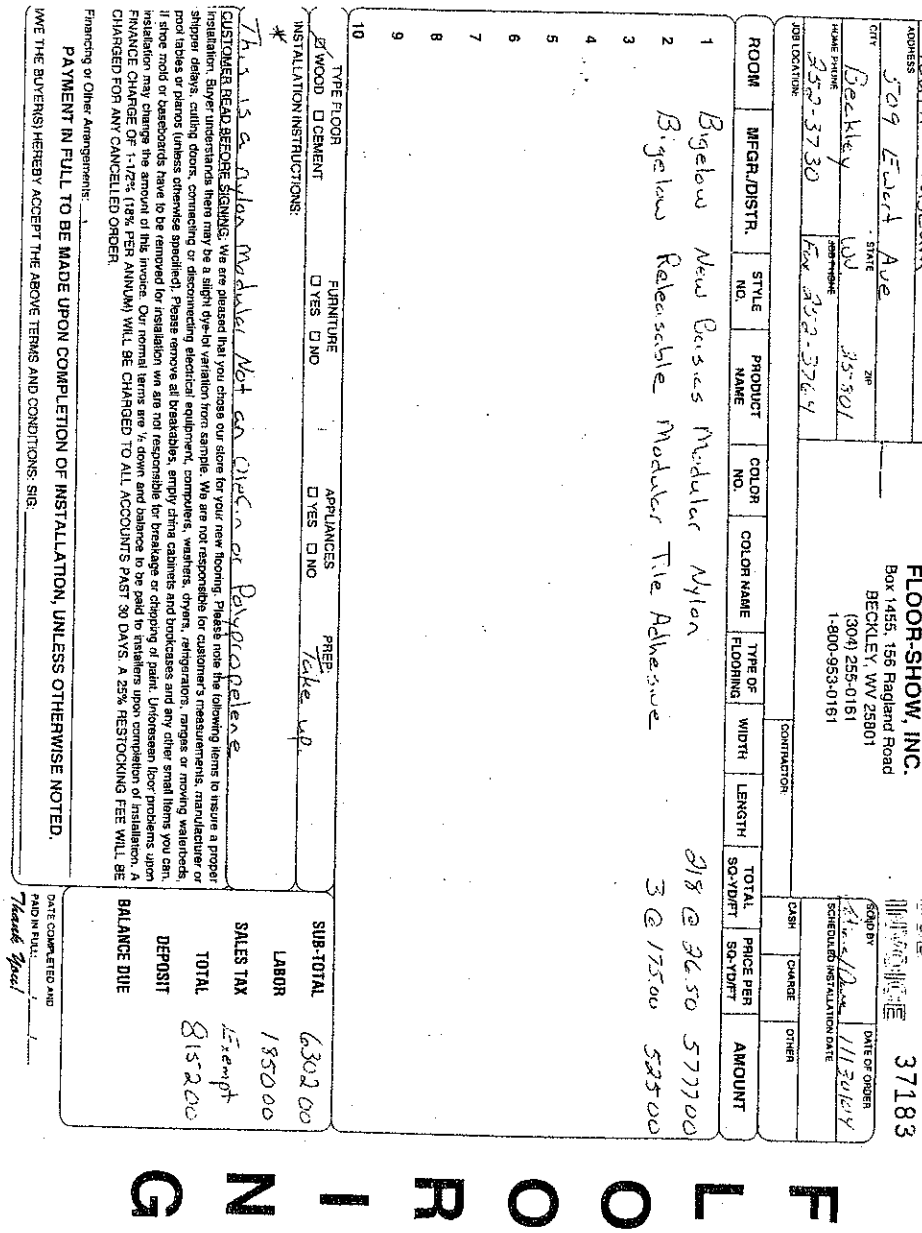
Detailed specifications and bid information may be obtained from the Youth Museum, located at the New River Park beside the Exhibition Coal Mine, Beckley or by calling (304) 256-1796.

Bids will be received until 7:30 p.m., Tuesday, March 22, 2005 at which time they will be publicly opened and read aloud during a meeting of Common Council. Bids must be submitted to the Recorder - Treasurer in sealed envelopes clearly marked to indicate contents. Bids may be hand delivered to 409 South Kanawha Street or mailed to P.O. Box 2514, Beckley, WV 25802-2514.

The City of Beckley reserves the right to accept or reject any or all bids or any part of any bid without cause.

City of Beckley
Gary R. Sutphin
Recorder - Treasurer
3-21-MON-2-RH; LG 8446

The Mayor opened and read the following bid:



SOLD TO: South Museum
ADDRESS: 509 Ewart Ave
CITY: Beckley STATE: WV ZIP: 25801
HOME PHONE: 252-3730 JOB PHONE: Fax 252-3764
JOB LOCATION:

FLOOR-SHOW, INC.
Box 1455, 156 Ragland Road
BECKLEY, WV 25801
(304) 255-0161
1-800-953-0161

JOB INVOICE 37183

SOLD BY: [illegible] DATE OF ORDER: 11/30/04
SCHEDULED INSTALLATION DATE:
CASH | CHARGE | OTHER

CONTRACTOR:

ROOM	MFGR./DISTR.	STYLE NO.	PRODUCT NAME	COLOR NO.	COLOR NAME	TYPE OF FLOORING	WIDTH	LENGTH	TOTAL SQ-YD/FT	PRICE PER SQ-YD/FT	AMOUNT
1	Bigelow New Basics Modular Nylon								218 @ 26.50		577700
2	Bigelow Releasable Modular Tile Adhesive								3 @ 175.00		52500
3											
4											
5											
6											
7											
8											
9											
10											

TYPE FLOOR: ☑ WOOD ☐ CEMENT
FURNITURE: ☐ YES ☐ NO
APPLIANCES: ☐ YES ☐ NO
PREP: Take up

INSTALLATION INSTRUCTIONS:
* This is a Nylon Modular Not an Olefin or Polypropelene

CUSTOMER READ BEFORE SIGNING: We are pleased that you chose our store for your new flooring. Please note the following items to insure a proper installation. Buyer understands there may be a slight dye-lot variation from sample. We are not responsible for customer's measurements, manufacturer or shipper delays, cutting doors, connecting or disconnecting electrical equipment, computers, washers, dryers, refrigerators, ranges or moving waterbeds, pool tables or pianos (unless otherwise specified). Please remove all breakables, empty china cabinets and bookcases and any other small items you can. If shoe mold or baseboards have to be removed for installation we are not responsible for breakage or chipping of paint. Unforeseen floor problems upon installation may change the amount of this invoice. Our normal terms are ½ down and balance to be paid to installers upon completion of installation. A FINANCE CHARGE OF 1-1/2% (18% PER ANNUM) WILL BE CHARGED TO ALL ACCOUNTS PAST 30 DAYS. A 25% RESTOCKING FEE WILL BE CHARGED FOR ANY CANCELLED ORDER.

Financing or Other Arrangements: ____

PAYMENT IN FULL TO BE MADE UPON COMPLETION OF INSTALLATION, UNLESS OTHERWISE NOTED.

I/WE THE BUYER(S) HEREBY ACCEPT THE ABOVE TERMS AND CONDITIONS: SIG: ____

SUB-TOTAL	630200
LABOR	185000
SALES TAX	Exempt
TOTAL	815200
DEPOSIT	
BALANCE DUE	

DATE COMPLETED AND PAID IN FULL: ____ / ____ / ____
Thank You!

FLOOR-N-G

The bid will be reviewed by Councilmen-at-Large Rappold and Mollohan as well as Mr. Sutphin and Ms. Parker for possible award at a future meeting.

The Mayor presented a plaque and a check for $300 to Jim Smith, an employee of the Board of Public Works, for his suggestion that saved the City hundreds of dollars with the operation of snow plows. Mr. Smith is the first recipient of this award under the newly adopted Better Beckley Idea Program.

Councilman Mollohan announced that the bid for the construction of a gazebo for the City will be awarded to Porter Corp. in the amount of $94,460. On a motion by Councilman Mollohan and seconded by Councilman Rappold, this bid award was unanimously approved by Council.

Councilman Mollohan also announced the results of the bid awards for the purchase of drainage pipe, asphalt, concrete, stone/abrasives, and reinforcement rods as follows:

Item	Vendor	Motion	Second
Asphalt	Southern W. Va. Asphalt	Mollohan	Rappold
Concrete	David Hill Concrete	Mollohan	Rappold
Crusher Run Stone	Boxley	Mollohan	Rappold
Rebar	Steelcon	Mollohan	Rappold
14-gauge Aluminum Pipe	Steelcon	Mollohan	Rappold
Corrugated Polyethylene Pipe	Lee Supply	Mollohan	Rappold

Mr. File presented for Council approval the second reading of an Ordinance authorizing the issuance of not more than $2,800,000.00 in aggregate principal amount of City of Beckley Sewer System Revenue Refunding Bonds. On a motion by Councilman Rappold and seconded by Councilman Mollohan, the second reading of this proposed Ordinance was unanimously approved by Council.

The Mayor presented for Council approval a Resolution regarding removal of the old Vocational School Building located on Second Street. On a motion by Councilman Berry and seconded by Councilman Rappold, the following Resolution and Agreement were unanimously approved by Council:

RESOLUTION

WHEREAS, the City of Beckley and the Raleigh County Board of Education have entered into discussions concerning the demolition and removal of the Vocational School Building located on the corner of Woodlawn Avenue and Second Street; and

WHEREAS, the attached Agreement sets forth the terms and conditions regarding the removal of said building as agreed upon between the City and the Board of Education.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Beckley approves the attached Agreement and authorizes the Mayor of the City of Beckley to enter into this Agreement on behalf of the City.

This Resolution is duly passed by the Common Council of the City of Beckley at its regular meeting held on the 22nd day of March, 2005 on a motion by Councilman Tim Berry and seconded by Councilman Robert Rappold.

Gary R. Sutphin - Recorder-Treasurer

Mr. Cannon presented for Council information a Notice of Application to Operate a private club, private wine restaurant, or tavern for Purple Haze located at 113 South Heber Street. He stated that this proposed location is situated in an area properly zoned for this type of establishment and designated for the use of community development block grant funds, and the planned use is consistent with the comprehensive plan and the urban renewal plan adopted by the governing body for revitalization of the area. The Mayor plans to write a letter to the Alcohol Beverage Control Commission expressing the City's concerns about this establishment.

Next, Mr. Cannon presented a Notice of Application to Operate for West Virginia Sports Promotions, Inc. located at 200 Armory Drive for the Toughman Contest. The Armory and its events are a legal, non-conforming use in an "M" zone and a tavern license is permitted. The Armory is not in an area designated for the use of Community Development Block Grant Funds.

Lastly, Mr. Cannon presented for Council information a Notice of Application to Operate for Club Julians located at 1320 South Eisenhower Drive. This proposed establishment is in an area properly zoned for this use and is not in an area designated for the use of Community Development Block Grant Funds.

Under old business, the Mayor provided Council with information concerning a job analysis for firefighters in the Beckley Fire Department.

Councilman Mollohan asked about the status of his request for the towing of abandoned, non-operating vehicles in the City. A press release has been prepared stipulating that the month of April is designated as the time for these vehicles to be removed.

Under new business, Councilman Mollohan asked about repairs that need to be done to the old Murphy Building. The Mayor informed Council that the County Commission cannot find a contractor who will do the repairs. The Mayor stated he will check with the County to learn the status of this project.

The Mayor provided Council with newspaper articles concerning city fee increases and B&O taxes.

Ms. Mary Beth McMillion of 137 Forrest Avenue came before Council requesting that a 15 M.P.H. speed limit sign be erected on this street as well as a Children Playing sign. The Mayor informed Ms. McMillion that a traffic survey will be conducted by the Police Department for speeding and traffic flow. After this survey is completed, the City will then decide about the Children Playing sign. He did inform Ms. McMillion that the City no longer places the 15 M.P.H. signs on streets.

With no further business to be addressed, the meeting adjourned at 8:05 p.m. on a motion by Councilman Mollohan and seconded by Councilman Berry.

I certify that the foregoing is a true and accurate copy of the minutes of the March 22, 2005 Council meeting.

6-27-05
Date

Emmett S. Pugh III, Mayor
City of Beckley

A REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF BECKLEY CONVENED AT 7:30 P.M. MARCH 8, 2005, IN COUNCIL CHAMBERS OF BECKLEY CITY HALL.

THOSE PRESENT: Mayor Emmett S. Pugh III; Council Members Ann Worley, Steve Nickell, Tim Berry, Lee Leftwich, Robert Rappold, and Howard Mollohan; Recorder-Treasurer Gary Sutphin; City Attorney William H. File III; Secretary Linda Carr.

THOSE ABSENT: Council Member A. K. Minter, Jr.

ALSO PRESENT: Police Chief Bill Cole, Fire Chief Kevin Taylor, Director of Human Rights Commission Elmer Day, Director of Housing and Community Development Manuel Cartelle, and Street Commissioner Robert Robinson.

The Mayor called the meeting to order followed by the Pledge of Allegiance to the Flag.

Council dispensed with reading of the minutes of the previous meeting, copies of which had been distributed to each member, and adopted the minutes as written on a motion by Councilman Rappold and seconded by Councilman Berry.

The Mayor announced this as the date advertised for receipt of bids for the purchase of a gazebo for the Board of Public Works. Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS INC.

BECKLEY, WEST VIRGINIA 25801

March 04, 2005

STATE OF WEST VIRGINIA
COUNTY OF RALEIGH, to wit:

I, Tara Meyer, being duly sworn upon my oath, do depose and say that I am Legal Clerk for Beckley Newspapers, Inc., a corporation, publisher of the newspaper entitled The Register-Herald, an Independent newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily for at least fifty weeks during the calendar year, in the municipality of Beckley, Raleigh County, West Virginia; that such newspaper is a newspaper of "general circulation" as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices; that the annexed notice

of NOTICE TO BIDDERS
(Description of notice)

was duly published in said newspaper once a week for two successive weeks (Class 2), commencing with the issue of the 25th day of February, 2005, and ending with the issue of the 4th day of March, 2005, (and was posted at the Raleigh County Courthouse on the 4th day of March, 2005); that said annexed notice was published on the following dates:

02/25/05,03/04/05 and that the cost of publishing said annexed notice as aforesaid was $ 40.95

Signed Tara Meyer
Tara Meyer
Legal Clerk
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
4th day of March, 2005

My commission expires

NOTARY PUBLIC
STATE OF WEST VIRGINIA
DIANA L. SLONE
BECKLEY NEWSPAPERS
P.O. BOX 2233
BECKLEY, WV 25802
My commission expires August 27, 2011

Notary Public of Raleigh County, West Virginia

COPY OF PUBLICATION

NOTICE TO BIDDERS

The Common Council of the City of Beckley is accepting bids form qualified firms for one steel pre-fabricated octagonal gazebo with diameter of 44 feet at columns.

A complete list of specifications may be obtained form the Board of Public Works Department, 401 Adair Street or by calling (304) 258-1741.

Bids will be received until 7:30 p.m., Tuesday, March 8, 2005 at which time they will be publicly opened and read aloud. Bids must be submitted to the Recorder - Treasurer in sealed envelopes clearly marked to indicate contents. Bids may be hand delivered to 403 South Kanawha Street or mailed to P.O. Box 2514, Beckley, WV 25802-2514.

The City of Beckley reserves the right to accept or reject any or all bids or any part of any bid without cause.

City of Beckley
Gary R. Sutphin
Recorder - Treasurer
3-4-FRI-2-RH; LG 8357

The Mayor opened and read the following bids:

poligon ARK ARCHITECTURE

PORTERCORP

Adam Hernandez
PorterCorp
4240 N, 136th Ave
Holland, MI 49424
Phone: 800-354-7721
Fax: 616-399-9123
Email: adam@poligon.com

CUSTOMER INFORMATION		PROJECT INFORMATION	
Name	City of Beckley	Project Name	City of Beckley
Address 1	401 Adair St.		
Address 2	Attn: Jim Perry	Job Location	Beckley, WV 25801
City, State Zip	Beckley, WV 25802		
Country	US		
Phone	304-256-1740	Quote Number	27314
Fax		Revision	3
		Freight Miles	635 miles
		Date Quoted	March 04, 2005
DESIGN CRITERIA		60 Day Quote Expires	May 03, 2005
Building Code	International Building Code	Calc Books	0
Snow Load	30	Drawings	6
Wind Speed	100	Submittal Approval Required	NO
		Sealed Drawings Required	NO
		Upper Roof Slope	5/12

BUILDING DESCRIPTION			
Frame And Primary Roof	GOC44TG		39,000.00
Secondary Roof	Standing Seam		12,815.00
Anchor Bolts			305.00
Cupola	O3324M18		1,110.00
ORNAMENTATION			
Upper		Carmel 8 Sides	2,040.00
Overhead		Carmel 8 Sides	6,600.00
Handrail		Carmel 6 Sides	7,400.00
Intermediate		Carmel 6 Sides	3,540.00
Electrical Access			840.00
Electrical Cutouts	1 required		50.00
FINISHES			
Frame	E-coat/Powder Coat: Color Not Determined		14,840.00
Ornamentation	E-coat/Powder Coat: Color Not Determined		4,370.00
BUILDING TOTALS			
Estimated Shipping Weight	32125 lbs	Building Price Each	92,910.00

QUOTE TOTALS			
Building Quantity	1	Total Price	92,910.00
		Total Engineering Price	0.00
		State Sales Tax	
		Additional Sales Tax	
Total Shipping Weight	32125 lbs	Freight Charge	1,550.00
		QUOTE TOTAL	94,460.00
		GRAND TOTAL	94,460.00

NOTES:

Cutout required for lighting

PROJECT STATUS:Providing bid pricing to owner,BID DATE: 03/08/05

Bid as Alternate

~~(like Huntington, WV shelter in catalog)~~

GOC 44 TG/MR

8-sided
3 tiers
8 columns
5:12 roof pitch

poligon ARK ARCHITECTURE

PORTERCORP

Adam Hernandez
PorterCorp
4240 N. 136th Ave
Holland, MI 49424
Phone: 800-354-7721
Fax: 616-399-9123
Email: adam@poligon.com

CUSTOMER INFORMATION		PROJECT INFORMATION	
Name	City of Beckley	Project Name	City of Beckley
Address 1	401 Adair St.		
Address 2		Job Location	Beckley, WV 27314
City, State Zip	Beckley, WV 25802		
Country	US	Quote Number	27953
Phone	304-256-1740	Revision	1
Fax		Freight Miles	635 miles
		Date Quoted	March 07, 2005
DESIGN CRITERIA		60 Day Quote Expires	May 06, 2005
Building Code	International Building Code	Calc Books	0
Snow Load	30	Drawings	0
Wind Speed	100	Submittal Approval Required	NO
		Sealed Drawings Required	NO
		Upper Roof Slope	8/12

BUILDING DESCRIPTION

Frame And Primary Roof	GOX44TG		27,970.00
Secondary Roof	Standing Seam		10,660.00
Anchor Bolts			470.00
Cupola	H3119M19		820.00
ORNAMENTATION			
Upper		Carmel 6 Sides	2,420.00
Overhead		Carmel 6 Sides	4,940.00
Handrail		Carmel 4 Sides	4,960.00
Electrical Access			630.00
Electrical Cutouts	1 required		50.00
FINISHES			
Frame	E-coat/Powder Coat: Color Not Determined		9,290.00
Ornamentation	E-coat/Powder Coat: Color Not Determined		2,970.00

BUILDING TOTALS

Estimated Shipping Weight	26481 lbs	Building Price Each	65,180.00

QUOTE TOTALS

Building Quantity	1	Total Price	65,180.00
		Total Engineering Price	0.00
		State Sales Tax	
		Additional Sales Tax	
Total Shipping Weight	26481 lbs	Freight Charge	1,350.00
		QUOTE TOTAL	66,530.00
		GRAND TOTAL	66,530.00

NOTES:

Cut out for lighting

The Mayor also announced this as the date advertised for receipt of bids for the purchase of drainage pipe, asphalt, concrete, stone/abrasives, and reinforcement rods. Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS INC.

BECKLEY, WEST VIRGINIA 25801

February 28, 2005

STATE OF WEST VIRGINIA
COUNTY OF RALEIGH, to wit:

I, Tara Meyer, being duly sworn upon my oath, do depose and say that I am Legal Clerk for Beckley Newspapers, Inc., a corporation, publisher of the newspaper entitled The Register-Herald, an independent newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily for at least fifty weeks during the calendar year, in the municipality of Beckley, Raleigh County, West Virginia; that such newspaper is a newspaper of "general circulation" as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices; that the annexed notice

of NOTICE TO BIDDERS
(Description of notice)

was duly published in said newspaper once a week for two successive weeks (Class 2), commencing with the issue of the 21st day of February, 2005, and ending with the issue of the 28th day of February, 2005, (and was posted at the Raleigh County Courthouse on the 28th day of February, 2005); that said annexed notice was published on the following dates:

02/21/05,02/28/05 and that the cost of publishing said annexed notice as aforesaid was $ 163.80

Signed Tara Meyer
Tara Meyer
Legal Clerk
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
28th day of February, 2005

My commission expires March 27, 2011

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
DIANA NICHOLS
BECKLEY NEWSPAPERS
P.O. BOX 2369
BECKLEY, WV 25802
My commission expires March 27, 2011

Notary Public of Raleigh County, West Virginia

COPY OF PUBLICATION

NOTICE TO BIDDERS

The Common Council of the City of Beckley will accept sealed bids for the following materials to be used by the Department of Public Works.

1. DRAINAGE PIPE

12" Corrugated Metal Pipe, Armco Aluminized
15" Corrugated Metal Pipe, Armco Aluminized
18" Corrugated Metal Pipe, Armco Aluminized
24" Corrugated Metal Pipe, Armco Aluminized
30" Corrugated Metal Pipe, Armco Aluminized
36" Corrugated Metal Pipe, Armco Aluminized
4 Foot Corrugated Metal Pipe, Armco Aluminized
5 Foot Corrugated Metal Pipe, Armco Aluminized
12" Armco Aluminized Bands
15" Armco Aluminized Bands
18" Armco Aluminized Bands
24" Armco Aluminized Bands
30" Armco Aluminized Bands
36" Armco Aluminized Bands
4 Foot Armco Aluminized Bands
5 Foot Armco Aluminized Bands

* * All pipe should be 14 gauge and all bids for (20) twenty-foot length joints.

12 Inch Smooth Interior Corrugated Polyethylene Pipe
15 Inch Smooth Interior Corrugated Polyethylene Pipe
18 Inch Smooth Interior Corrugated Polyethylene Pipe
24 Inch Smooth Interior Corrugated Polyethylene Pipe
30 Inch Smooth Interior Corrugated Polyethylene Pipe
36 Inch Smooth Interior Corrugated Polyethylene Pipe
48 Inch Smooth Interior Corrugated Polyethylene Pipe
60 Inch Smooth Interior Corrugated Polyethylene Pipe

* * Specifications available upon request at Board of Public Works Department.

For City of Beckley Stockyard.

2. ASPHALT

Base 2 or Patching Leveling I (Asphalt)
Wearing I (Asphalt)
Curb Mix (Asphalt)
Tennis Mix

* * As per West Virginia Department of Highways standard specifications, we desire the price per ton for the above material. Asphalt must be supplied day or night with

The Mayor opened and read the following bids:

BOSLEY RENTAL & SUPPLY, Inc.
581 RAGLAND Rd.
Beckley WV. 25801
(304) 252-9045 (304) 252-2694

March 8, 2005

Price Quote
City of Beckley
(Pipe-2005)

Prices guaranteed for a period of 90 days from date of opening due to the rising fuel, steel, prices.

12" Aluminized Corrugated Metal Pipe 14 gauge	$ 9.24 p/ft.
15" Aluminized Corrugated Metal Pipe 14 gauge	$11.41 p/ft.
18" Aluminized Corrugated Metal Pipe 14 gauge	$13.69 p/ft.
24" Aluminized Corrugated Metal Pipe 14 gauge	$18.23 p/ft.
30" Aluminized Corrugated Metal Pipe 14 gauge	$22.82 p/ft.
36" Aluminized Corrugated Metal Pipe 14 gauge	$27.39 p/ft.
48" Aluminized Corrugated Metal Pipe 14 gauge	$36.55 p/ft.
60" Aluminized Corrugated Metal Pipe 12 gauge	$61.45 p/ft.

12" Aluminized Band (standard-$ 9.24 each) (wide- $13.86-each)
15" Aluminized Band (standard-$11.41each) (wide- $17.12-each)
18" Aluminized Band (standard-$13.69each) (wide- $20.54-each)
24" Aluminized Band (standard-$18.23each) (wide- $27.35-each)
30" Aluminized Band (standard-$22.82each) (wide- $34.23-each)
36" Aluminized Band (standard-$27.39each) (wide- $41.10-each)
48" Aluminized Band (standard-$36.55each) (wide- $54.83-each)
60" Aluminized Band (wide- $92.18-each)

12" Smooth Interior Corrugated Polyethylene Pipe	($ 4.44p/ft.)
15" Smooth Interior Corrugated Polyethylene Pipe	($ 5.75p/ft.)
18" Smooth Interior Corrugated Polyethylene Pipe	($ 8.56p/ft.)
24" Smooth Interior Corrugated Polyethylene Pipe	($13.25p/ft.)
30" Smooth Interior Corrugated Polyethylene Pipe	($21.06p/ft.)
36" Smooth Interior Corrugated Polyethylene Pipe	($27.13p/ft.)
48" Smooth Interior Corrugated Polyethylene Pipe	($45.31p/ft.)
60" Smooth Interior Corrugated Polyethylene Pipe	($79.38p/ft.)

Below is pricing on DW series pipe which is 20% recycled resin. This product is (not) WV DOT approved .

12" DW Smooth Interior Corrugated Polyethylene Pipe	($ 3.94p/ft)
15" DW Smooth Interior Corrugated Polyethylene Pipe	($ 5.31p/ft)
18" DW Smooth Interior Corrugated Polyethylene Pipe	($ 7.94p/ft)
24" DW Smooth Interior Corrugated Polyethylene Pipe	($12.18p/ft)
30" DW Smooth Interior Corrugated Polyethylene Pipe	($19.81p/ft)
36" DW Smooth Interior Corrugated Polyethylene Pipe	($25.69p/ft)

All the above Polyethylene pipe comes with Bell & Spigot ends so bands are not required.

SteelCON Supply Company
265 Industrial Drive
Beckley, WV 25801
Phone (304) 255-1416
Fax (304) 255-6799

QUOTE

Quote Date	Expires	Authorization	Salesperson	Customer #	Quote #
3/08/05		HU	MICHAEL COOK	142101	03/018541

Sold To HEATH
CITY OF BECKLEY
BOARD OF PUBLIC WORKS
P O BOX DRAWER AJ
BECKLEY, WV 25801

Ship To CITY OF BECKLEY

Quantity	Stock #	Description	Unit Price	UM	Extended Price
	91-018541001	PIPE CULVERT 14 GA ALUM 12" X 20'	8.5000	FT	0.00
	91-018541003	PIPE CULVERT 14 GA ALUM 15" X 20'	10.5000	FT	0.00
	91-018541004	PIPE CULVERT 14 GA ALUM 18" X 20'	12.6000	FT	0.00
	91-018541005	PIPE CULVERT 14 GA ALUM 24" X 20'	16.7500	FT	0.00
	91-018541006	PIPE CULVERT 14 GA ALUM 30" X 20'	20.9500	FT	0.00
	91-018541007	PIPE CULVERT 14 GA ALUM 36" X 20'	25.1500	FT	0.00
	91-018541008	PIPE CULVERT 14 GA ALUM 42" X 20'	29.3500	FT	0.00
	91-018541009	PIPE CULVERT 14 GA ALUM 48" X 20'	33.6000	FT	0.00
	91-018541010	PIPE CULVERT 14 GA ALUM 54" X 20'	37.9000	FT	0.00
	91-018541011	PIPE CULVERT 14 GA ALUM 60" X 20'	49.3500	FT	0.00
	2000-066000	REBAR - GRADE 60 3/8"-#3X20' -10MM	.4890	LB	0.00
	2000-066100	REBAR - GRADE 60 1/2"-#4X20' 13MM	.3375	LB	0.00
	2000-066200	REBAR - GRADE 60 5/8"-#5X20'-16MM	.3375	LB	0.00
	2000-066300	REBAR - GRADE 60 3/4"-#6X20'-19MM	.4000	LB	0.00
	2000-066400	REBAR - GRADE 60 7/8"-#7X20'-22MM	.4335	LB	0.00
	2000-066500	REBAR - GRADE 60 1"-#8X20'- 25MM	.0000	LB	0.00
	91-018542001	PIPE PLASTIC SURE-LOK 12" X 20'	4.5000	FT	0.00
	91-018542002	PIPE PLASTIC SURE-LOK 15" X 20'	5.8500	FT	0.00
	91-018542003	PIPE PLASTIC SURE-LOK 18" X 20'	8.8000	FT	0.00
	91-018542004	PIPE PLASTIC SURE-LOK 24" X 20'	13.5500	FT	0.00
	91-018542005	PIPE PLASTIC SURE-LOK 30" X 20'	19.9000	FT	0.00
	91-018542006	PIPE PLASTIC SURE-LOK 36" X 20'	26.3500	FT	0.00
	91-018542007	PIPE PLASTIC SURE-LOK 42" X 20'	36.5000	FT	0.00
	91-018542008	PIPE PLASTIC SURE-LOK 48" X 20'	43.3500	FT	0.00
	91-018542009	PIPE PLASTIC SURE-LOK 54" X 20'	66.7500	FT	0.00
	91-018542010	PIPE PLASTIC SURE-LOK 60" X 20'	82.8000	FT	0.00

****
PRICES FIRM FOR 30 DAYS
****

TERMS: Net 30 Days
FOB: See Above
TAXES: If Applicable
Prices are valid for 30 days

This acceptance is in accordance with the terms and conditions of Raleigh Mine & Industrial Supply, Inc.

By _____ Date _____

Freight	
Sales Tax	
Quoted Total	

L.L.L. SUPPLY CO., INC.
• DIVERSIFIED PIPE & PUMP SYSTEMS
• INDUSTRIAL • MINING • ENVIRONMENTAL PRODUCTS
Mailing Address: P. O. Box 1250, Beaver, WV 25813 Shipping Address: 2795 Piper
• Phone: 304-763-0215 • Fax: 304-763-0214

CUSTOMER City of Beckley

ADDRESS 409 S. Kanawha Street

Beckley, WV 25802

ATTENTION

REFERENCE NO.

DATE March 8, 2005

F.O.B. Delivered - See Below

TERMS Net 30 days

DELIVERY Stock - depending on size larger dia. would have to get from factory

WE ARE PLEASED TO QUOTE ON THE FOLLOWING:

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
			12" DIA 14GA, 2 2/3" x 1/2"	9.08'	
			15" " "	11.29'	
			18" " "	13.44'	
			24" " "	17.79'	
			30" " "	22.14'	
			36" " "	25.59'	
			42" " "	29.78'	
			48" " "	33.98'	
			60" " "	52.32'	
			12" N12 IB Plastic, Bell x spigot	4.03'	
			15" " " "	5.28'	
			18" " " "	7.84'	
			24" " " "	12.22'	
			30" " " "	19.87'	
			36" " " "	25.68'	
			42" " " "	33.52'	
			48" " " "	40.28'	
			60" " " "	66.84'	
			Prices for galv. are good for shipments delivered by March 31, 2006.		
			Prices for plastic are good for shipments delivered May 6, 2005		

Thank you, Myria Massie

AUTHORIZED SIGNATURE

BOXLEY
MATERIALS COMPANY

Quotation

Quote # TTJSQ1016
Date 3/2/2005
Plant Beckley WV

Quote To:
Gary Sutphin
City of Beckley
P. O. Box 2514
Beckley, WV 25802

From:
Sammy Geso
Tel: 276-326-2691
Fax: 276-322-2966

Project: City of Beckley Public Works
Location: Beckley WV

Units	Description	Price Per Unit
1	2500 PSI	$70.50
1	3000 PSI	$72.50
1	3500 PSI	$74.50
1	4000 PSI	$76.50
1	Flowable Fill	$64.50
1	3 Yard Minimum Load (Flat Rate Fee)	$50.00
Fuel Surcharge		0.75
Accelerator 1%		3.00
Accelerator 2%		6.00
Fiber		6.50
#8 Stone		2.50
Hot Water		4.00
Ice (8# bag)		1.70
Non-chloride accelerator 1%		6.00
Non-chloride accelerator 2%		9.00
Retarder		5.00
Super plasticizer		5.50
After 4pm charges		5.00

TERMS: Net amount due 30 days from invoice date.
Prices quoted are for standard plant mixes. Any changes may result in additional costs.
Pump mixes will be quoted separately.
3 yard minimum load.
Additional products quoted upon request.
Applicable sales & local taxes will be added.

QUOTE VALID FOR 30 DAYS.

Tons	Stone Grade / Description	Price Per Ton	Freight	Total
0	Class I crusher run	$6.85	$2.80	$9.65
0	#9 limestone	$7.50	$5.35	$12.85

TERMS: $.10 / ton discount if paid within 15 days of invoice date.
Finance Charge of 1-1/2% per month, 18% per annum will be added to unpaid balances.
West Virginia or Virginia sales tax will be added to the stone price if applicable.

QUOTE VALID FOR 30 DAYS.

Doug Cumbo

Southern West Virginia Asphalt, Inc.
P.O. Box 7305
Beckley, West Virginia 25802-7305

WV 020470 AN EQUAL OPPORTUNITY EMPLOYER

(304) 252-6528 Telephone **(877) 252-6528 Toll Free** **(304) 252-8402 FAX**

March 8, 2005

The Common Council & Mayor
CITY OF BECKLEY
P.O. Box 2514
Beckley, WV 25802-2514

RE: Sealed Bid

Dear Council Members & Mayor:

As per your newspaper advertisement for 2005 pricing of materials to be used by the Department of Public Works, we respectfully submit the following bid:

Item 2:	WVDOH Spec Asphalt;	Base 2 or P&L 1 @	$ 35.00 per ton
		Wearing 1 @	$ 36.00 per ton
		Curb Mix @	$ 42.00 per ton
		Tennis Mix @	$ 42.00 per ton

The materials can be picked up at our Sprague or Beaver (Airport Road) asphalt plant sites.

Thank you,

David R. Fox

David R. Fox
Estimator

David Hill Concrete, Inc.
P. O. Box 453
MABSCOTT, WEST VIRGINIA 25871
(304) 252-0691
FAX: (304) 252-0693

March 8, 2005

City of Beckley
Attn: Gary Sutphin

RE: 2005 Concrete Bid

Dear Mr. Sutphin

We are pleased to quote you the following prices for concrete deliveries to the City of Beckley for the upcoming year with pricing guaranteed thru March 31, 2006:

2500 PSI	69.00/cy
3000 PSI	70.75/cy
3500 PSI	72.25/cy
4000 PSI	74.25/cy
Hot Water	3.00/cy

All concrete is designed to meet the City of Beckley specifications for ready-mix concrete.

Sales terms are net 30 days.

$30.00 per load shall apply for loads delivered between 3:30 PM and 6:00 PM Monday thru Friday and on Saturdays. $150.00 per load premium for night deliveries (after 6:00 PM) and on Sundays. A three day advance notice is respectfully requested for Saturday, Sunday, and night deliveries to guarantee service though we will make every effort to make accommodations for emergency pours.

Overtime charge of $60.00 per hour for unloading time in excess of ten minutes per yard shall be applied. Less than six yards per load shall be pro-rated except for finish-up loads on larger pours. Minimum delivery size is two yards.

As always, we look forward to working with the City of Beckley in 2005.

Sincerely,

Steve Hill

Steve Hill
Vice President

The bids will be reviewed by Councilmen-at-Large Rappold and Mollohan as well as Mr. Sutphin and Mr. Robinson for award at a future meeting.

The Mayor presented the name of Steve George for reappointment to the Firemen's Civil Service Commission. Mr. George's term will expire June 30, 2008. On a motion by Councilman Berry and seconded by Councilman Rappold, the appointment of Mr. George to the Firemen's Civil Service Commission was unanimously approved by Council.

Next, the Mayor presented the name of Al Smith for reappointment to the Planning Commission. Mr. Smith's term will expire January 1, 2008. On a motion by Councilman Rappold and seconded by Councilman Nickell, the appointment of Mr. Smith to the Planning Commission was unanimously approved by Council.

The Mayor then presented for Council approval the name of Robert Wilson, Jr. for reappointment to the Planning Commission. Mr. Wilson's term will expire January 1, 2008. On a motion by Councilman Mollohan and seconded by Councilman Rappold, the reappointment of Mr. Wilson to the Planning Commission was unanimously approved by Council.

Lastly, the Mayor presented the name of Robert File for appointment to the Board of Zoning Appeals. Mr. File will fulfill the unexpired term of Jane Harkins who has moved outside City limits, and his term will expire January 1, 2006. On a motion by Councilman Mollohan and seconded by Councilman Rappold, the appointment of Mr. File to the Board of Zoning Appeals was unanimously approved by Council.

Mr. File presented for Council approval the first reading of an Ordinance authorizing the issuance of not more than $2,800,000.00 in aggregate principal amount of City of Beckley Sewer System Revenue Refunding Bonds. On a motion by Councilman Nickell and seconded by Councilman Mollohan, the first reading of this proposed Ordinance was unanimously approved by Council.

Next, Mr. File presented for Council approval a Resolution authorizing the Chief of the City of Beckley Fire Department to execute a Mutual Aid Agreement with Jan-Care Ambulance Service, Inc. On a motion by Councilman Nickell and seconded by Councilman Berry, the following Resolution and Agreement were unanimously approved by Council:

RESOLUTION

BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the City of Beckley hereby authorizes the Chief of the City of Beckley Fire Department to execute the Mutual Aid Agreement with Jan-Care Ambulance Service, Inc., a copy of which is attached hereto.

This Resolution is duly passed by the Common Council of the City of Beckley at its regular meeting held on the 8th day of March, 2005 on a motion by Councilman Steve Nickell and seconded by Councilman Tim Berry.

Gary R. Sutphin
Recorder-Treasurer

The Mayor presented for Council approval a Resolution establishing the dates for open burning in City limits. On a motion by Councilman Berry and seconded by Councilman Rappold, the following Resolution was unanimously approved by Council:

RESOLUTION OF THE COMMON COUNCIL OF THE
CITY OF BECKLEY TO PERMIT THE OPEN
BURNING OF VEGETATION

WHEREAS, Chapter 7, Article I, Section 7-6(3) prohibits the open burning of vegetation unless permitted by the Common Council; and

WHEREAS, the Common Council is desirous of allowing the safe burning of vegetation.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY THAT:

1. The open burning of vegetation will be allowed in the corporate limits of the City of Beckley between the hours of 4:00 p.m. and 7:00 a.m. from the 8th day of March until the 31st day of May, 2005.

2. Prior to the open burning of vegetation, the owner of the property upon which burning will take place must notify the City of Beckley Fire Department.

3. The open burning shall be in such a manner as to not affect the health, safety, comfort, and property of any person. If the open burning is determined to not meet this criteria, then the Fire Department is authorized to order the open burning to cease. At no time shall the open burning of vegetation be left unattended.

This Resolution is duly adopted this 8th day of March, 2005 by the Common Council of the City of Beckley on a motion by Councilman Tim Berry and seconded by Councilman Robert Rappold.

Gary R. Sutphin - Recorder-Treasurer

Mr. File presented for Council approval a Resolution ratifying the action of the Raleigh County Armory Board and further ratifying the incorporation of an entity to succeed the current Armory Board. Mr. Bill Roop, Attorney for the Raleigh County Commission, spoke to Council indicating this action will form a legal entity named the Beckley-Raleigh County Convention Center, Inc. which will be a West Virginia corporation. The operation of the Armory will continue as in the past. On a motion by Councilman Mollohan and seconded by Councilwoman Worley, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, the City of Beckley, County Commission of Raleigh County, and Raleigh County Board of Education currently oversee the operation of the Raleigh County Armory through an Intergovernmental Agreement; and

WHEREAS, the City, County, and Board agree the Armory Board is essential for the perpetual operation and maintenance of the Armory; and

WHEREAS, the City, County, and Board believe a perpetual entity is necessary for the Armory.

NOW, THEREFORE, BE IT RESOLVED that the City of Beckley hereby ratifies the action of the Raleigh County Armory Board and further ratifies the incorporation of an entity to succeed the current Armory Board.

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on March 8, 2005 on a motion by Councilman Howard Mollohan and seconded by Councilwoman Ann Worley.

Gary R. Sutphin - Recorder-Treasurer

Mr. Bill Baker of the Jobs Foundation gave Council an update on the Neville Street Project and the Beckley Intermodal Gateway Project.

Mr. Sutphin presented for Council approval the General Fund Budget for Fiscal Year 2006. On a motion by Councilman Mollohan and seconded by Councilman Rappold, the following General Fund Budget was unanimously approved by Council:

LGSD
12:20
Revised
2004

FISCAL YEAR JULY 1, 2005 - JUNE 30, 2006

Beckley — II
Municipality — Class

Raleigh
County

LEVY ESTIMATE
OFFICIAL BUDGET DOCUMENT

Prescribed and furnished by
West Virginia State Auditor
Glen B. Gainer III

The Levy Estimate shall be made on this form between March 7 and March 28. ONE (1) certified copy is forwarded to:

West Virginia State Auditor's Office
Local Government Services Division
1900 Kanawah Boulevard East
Building 1, Room W 414-416
Charleston, West Virginia 25305

Mr. Sutphin also presented for Council approval the Coal Severance Tax Fund Budget for Fiscal Year 2006. On a motion by Councilman Rappold and seconded by Councilman Mollohan, the following Coal Severance Tax Fund Budget was unanimously approved by Council:

COAL SEVERANCE TAX FUND

02 COAL SEVERANCE FUND REVENUE SUMMARY		Budgeted Revenues 2005-2006	Approved Revisions
280	Reserve for Encumbrances		
299	Unencumbered Fund Balance (July 1)		
310	Coal Severance Tax	25,000	
380	Interest Earned on Investments		
381	Reimbursements		
382	Refunds		
	Grand Total 02 Coal Fund Revenues	25,000	

Under new business, the Mayor provided Council with a February Animal Control Report from the Sheriff's Department. The Mayor also informed Council that a Parking Study discussion meeting was held on March 7, 2005 with Parsons Brinckerhoff, and the Mayor was very pleased with the results of this meeting. It was felt, however, that an additional 160 parking spaces are needed in the Courthouse/Federal Building area.

The Mayor informed Council that next year's General Fund Budget will probably not allow employee pay raises as the cost for benefits is very high as well as daily expenses for the running of the City. He felt that financial assistance from the State may be requested as well as fees and levies considered.

The Mayor also provided Council with a memo from Mr. Cannon concerning inoperable vehicles in the City of Beckley. This new program will commence during the month of April with extensive public relations announcements.

With no further business to be addressed by Council, the meeting was adjourned at 8:15 p.m. on a motion by Councilman Rappold and seconded by Councilman Mollohan.

I certify that the foregoing is a true and accurate copy of the minutes of the March 8, 2005 Council meeting.

6-27-05
Date

Emmett S. Pugh III, Mayor
City of Beckley

A REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF BECKLEY CONVENED AT 7:30 P.M. JULY 12, 2005, IN COUNCIL CHAMBERS OF BECKLEY CITY HALL.

THOSE PRESENT: Mayor Emmett S. Pugh III; Council Members A. K. Minter, Jr., Steve Nickell, Tim Berry, Lee Leftwich, Howard Mollohan, and Robert Rappold; and Secretary Linda Carr.

THOSE ABSENT: Council Member Ann Worley; Recorder-Treasurer Gary Sutphin; and City Attorney William File.

ALSO PRESENT: Police Chief Bill Cole, Captain Billie Trump on behalf of Fire Chief Kevin Taylor, Director of Exhibition Mine Renda Morris, Director of Human Rights Commission Elmer Day, Director of Housing and Community Development Manuel Cartelle, and Chief of Code Enforcement Bob Cannon.

The Mayor called the meeting to order followed by the Pledge of Allegiance to the Flag.

Council dispensed with reading of the minutes of the previous meeting, copies of which had been distributed to each member, and adopted the minutes as written on a motion by Councilman Rappold and seconded by Councilman Mollohan.

The Mayor presented the following names for re-appointment to various Boards and Commissions with unanimous Council approval:

Name	Board or Commission	Motion	Second
Dr. Charles Cappellari	Building Commission	Rappold	Nickell
Renda Morris	Convention and Visitor's Bureau	Rappold	Leftwich
Al Smith	Human Rights Commission	Rapplld	Leftwich
Jerry L. Smales	Human Rights Commission	Mollohan	Rappold
Newassa Rhodes	Human Rights Commission	Mollohan	Rappold
John Sadowski	Sanitary Board	Nickell	Berry
George Mollohan	Urban Renewal Authority	Rappold	Nickell

The Mayor presented for second reading reading and public hearing an Ordinance prohibiting horses, ponies, or other types of animals (with the exception of dogs and cats) on the "Rails to Trails". Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS INC.

BECKLEY, WEST VIRGINIA 25801

July 07, 2005

STATE OF WEST VIRGINIA
COUNTY OF RALEIGH, to wit:

I, Tara Meyer, being duly sworn upon my oath, do depose and say that I am Legal Clerk for Beckley Newspapers, Inc., a corporation, publisher of the newspaper entitled The Register-Herald, an Independent newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily for at least fifty weeks during the calendar year, in the municipality of Beckley, Raleigh County, West Virginia; that such newspaper is a newspaper of "general circulation" as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices; that the annexed notice

of PUBLIC HEARING
(Description of notice)

was duly published in said newspaper once a week for one successive weeks (Class 1), commencing with the issue of the 7th day of July, 2005, and ending with the issue of the 7th day of July, 2005, (and was posted at the Raleigh County Courthouse on the 7th day of July, 2005); that said annexed notice was published on the following dates:

07/07/05

and that the cost of publishing said annexed notice as aforesaid was $ 88.35

COPY OF PUBLICATION

Public hearing for the following Ordinance will be held during the regular meeting of the Common Council on Tuesday, July 12, 2005 in Council Chambers of Beckley City Hall. All interested parties are urged to attend.

AN ORDINANCE AMENDING CITY CODE SECTION 14-1100 - PROHIBITION OF MOTORIZED VEHICLES ON "RAILS TO TRAILS" BY ADDING SECTION 14-1100(c) - PROHIBITING HORSES, PONIES, OR OTHER TYPES OF ANIMALS (WITH THE EXCEPTION OF DOGS AND CATS) FROM BEING ON THE "RAILS TO TRAILS"

(c) It shall be unlawful for any person to have horses, ponies, or other types of animals (with the exception of dogs and cats) on the "Rails to Trails" for any purpose. Every person convicted of a violation of this Section of the Ordinance shall be punished by a fine of not more than Five Hundred Dollars ($500.00).

This Ordinance shall become effective upon passage.

7-7-THU-1-RH; LG 8981

The public hearing was opened for comments. There being none, either for or against passage of the Ordinance, the public hearing was closed. On a motion by Councilman Mollohan and seconded by Councilman Rappold, the following Ordinance was unanimously approved by Council:

FIRST READING
6-28-05

SECOND READING
7-12-05

AN ORDINANCE AMENDING CITY CODE SECTION 14-1100 - PROHIBITION OF MOTORIZED VEHICLES ON "RAILS TO TRAILS" BY ADDING SECTION 14-1100(c) - PROHIBITING HORSES, PONIES, OR OTHER TYPES OF ANIMALS (WITH THE EXCEPTION OF DOGS AND CATS) FROM BEING ON THE "RAILS TO TRAILS"

(c) It shall be unlawful for any person to have horses, ponies, or other types of animals (with the exception of dogs and cats) on the "Rails to Trails" for any purpose. Every person convicted of a violation of this Section of the Ordinance shall be punished by a fine of not more than Five Hundred Dollars ($500.00).

This Ordinance shall become effective upon passage.

Next, the Mayor presented for Council approval the second reading and public hearing of an Ordinance prohibiting parking on both sides of the street in the 100 block of Hillcrest Drive. Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS INC.

BECKLEY, WEST VIRGINIA 25801

July 07, 2005

STATE OF WEST VIRGINIA
COUNTY OF RALEIGH, to wit:

I, Tara Meyer, being duly sworn upon my oath, do depose and say that I am Legal Clerk for Beckley Newspapers, Inc., a corporation, publisher of the newspaper entitled The Register-Herald, an Independent newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily for at least fifty weeks during the calendar year, in the municipality of Beckley, Raleigh County, West Virginia; that such newspaper is a newspaper of "general circulation" as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices; that the annexed notice

of PUBLIC HEARING
(Description of notice)

was duly published in said newspaper once a week for one successive weeks (Class 1), commencing with the issue of the 7th day of July, 2005, and ending with the issue of the 7th day of July, 2005, (and was posted at the Raleigh County Courthouse on the 7th day of July, 2005); that said annexed notice was published on the following dates:

07/07/05

and that the cost of publishing said annexed notice as aforesaid was $ 114.25

Signed Tara Meyer
Tara Meyer
Legal Clerk
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
7th day of July, 2005

My commission expires March 2nd, 2011

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
DIANA L. SLONE
BECKLEY NEWSPAPERS
P. O. BOX 2369
BECKLEY, WV 25802
My commission expires March 2nd, 2011

Notary Public of Raleigh County, West Virginia

COPY OF PUBLICATION

Public hearing for the following Ordinance will be held during the regular meeting of the Common Council on Tuesday, July 12, 2005 in Council Chambers of Beckley City Hall. All interested parties are urged to attend.

AN ORDINANCE TO PROVIDE FOR AN AMENDMENT TO THE TRAFFIC CONTROL MAP - PARKING AREAS AND TRAFFIC CONTROL FILE OF THE CITY OF BECKLEY TO PROHIBIT PARKING ON BOTH SIDES OF THE 100 BLOCK OF HILLCREST DRIVE, BECKLEY, WEST VIRGINIA

WHEREAS, Chapter 14, Article III, of the Code of the City of Beckley, West Virginia, provides for the establishment of a Traffic Control Map and Traffic Control File; and

WHEREAS, it is now deemed necessary for the Common Council of the City of Beckley to amend the Traffic Control Map and Traffic Control File in the manner provided by 14-302 of the Code of the City of Beckley.

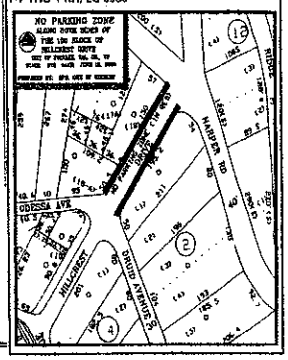
NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY, WEST VIRGINIA:

That the Traffic Control Map - Parking Areas and Traffic Control File of the City of Beckley, be and the same are hereby amended to provide for the establishment of a "no-parking zone" along both sides of the 100 Block of Hillcrest Drive beginning at the intersection of the western right-of-way line of Harper Road and the western right-of-way line of Hillcrest Drive and running in a southwestern direction with the western right-of-way line of Hillcrest Drive for a distance of approximately 209.5 feet to the intersection of the western right-of-way line of Hillcrest Drive and the northern right-of-way line of Odessa Avenue; and also beginning at the intersection of the western right-of-way line of Harper Road and the eastern right-of-way line of Hillcrest Drive and running a southwest direction with the eastern right-of-way line of Hillcrest Drive for approximately 195.2 feet to the intersection of the eastern right-of-way line of Druid Avenue and the eastern right-of-way line of Hillcrest Drive as shown in red on the attached map entitled "NO PARKING ZONE ALONG BOTH SIDES OF THE 100 BLOCK OF HILLCREST DRIVE."

It is further ordained that the erection of proper signs and markings giving notice thereof are hereby authorized and any Ordinance in conflict is hereby repealed.

This Ordinance shall become effective upon passage.

7-7-THU-1-RH; LG 8980



The public hearing was opened for comments. Attorney Ed Bibb spoke on behalf of several residents in this area in support of passage of the Ordinance. The public hearing was closed. On a motion by Councilman Rappold and seconded by Councilman Mollohan, the following Ordinance was unanimously approved by Council:

FIRST READING

6-28-05

SECOND READING

7-12-05

AN ORDINANCE TO PROVIDE FOR AN AMENDMENT TO THE TRAFFIC CONTROL MAP - PARKING AREAS AND TRAFFIC CONTROL FILE OF THE CITY OF BECKLEY TO PROHIBIT PARKING ON BOTH SIDES OF THE 100 BLOCK OF HILLCREST DRIVE, BECKLEY, WEST VIRGINIA

WHEREAS, Chapter 14, Article III, of the Code of the City of Beckley, West Virginia, provides for the establishment of a Traffic Control Map and Traffic Control File; and

WHEREAS, it is now deemed necessary for the Common Council of the City of Beckley to amend the Traffic Control Map and Traffic Control File in the manner provided by 14-302 of the Code of the City of Beckley.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY, WEST VIRGINIA:

That the Traffic Control Map - Parking Areas and Traffic Control File of the City of Beckley be, and the same are hereby amended to provide for the establishment of a "no parking zone" along both sides of the 100 Block of Hillcrest Drive beginning at the intersection of the western right-of-way line of Harper Road and the western right-of-way line of Hillcrest Drive and running in a southwestern direction with the western right-of-way line of Hillcrest Drive for a distance of approximately 200.5 feet to the intersection of the western right-of-way line of Hillcrest Drive and the northern right-of-way line of Odessa Avenue; and also beginning at the intersection of the western right-of-way line of Harper Road and the eastern right-of-way line of Hillcrest Drive and running in a southwestern direction with the eastern right-of-way line of Hillcrest Drive for approximately 195.2 feet to the intersection of the eastern right-of-way line of

The Mayor presented for Council approval the first reading of an Ordinance to sell the old fire station located beside the Beckley Presbyterian Church on South Kanawha Street. On a motion by Councilman Rappold and seconded by Councilman Berry, the first reading of this proposed Ordinance was unanimously approved by Council.

Next, the Mayor presented for Council approval the first reading of an Ordinance prohibiting parking on the western right-of-way of Jarrell Street. On a motion by Councilman Rappold and seconded by Councilman Berry, the first reading of this proposed Ordinance was unanimously approved by Council.

The Mayor presented for Council approval a Resolution approving financing terms for the Series 1995-A Sewer Revenue Bonds. On a motion by Councilman Mollohan and seconded by Councilman Rappold, the following Resolution was unanimously approved by Council:

Resolution Approving Financing Terms

WHEREAS: The City of Beckley (City") has previously determined to undertake a project for the refunding of Series 1995-A Sewer Revenue Bonds, and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The City hereby determines to finance the Project through Branch Banking and Trust Company ("BB&T"), in accordance with the proposal dated June 6, 2005. The amount financed shall not exceed $2,405,000.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 3.91%, and the financing term shall not exceed fifteen (15) years from closing.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financial Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and a Project Fund Agreement as BB&T may request.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Document previously signed by city officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The City shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The city hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. All prior actions of City officers in furtherance of the purpose of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this 12th day of July, 2005.

_____ (Clerk)

_____ (Commission Chairman)

SEAL

Next, the Mayor presented for Council approval a Supplemental Resolution providing for the dates, maturities, interest rate, and principal payment schedules, sales prices, and other terms of the Sewerage System Revenue Refunding Bonds, Series 2005. On a motion by Councilman Rappold and seconded by Councilman Nickell, the following Resolution was unanimously approved by Council:

Exhibit A – Maturity Schedule
Exhibit B – Escrow Agreement

THE CITY OF BECKLEY SEWERAGE SYSTEM
REVENUE REFUNDING BONDS

SUPPLEMENTAL RESOLUTION

Supplemental Resolution providing for the dates, maturities, interest rate and principal payment schedules, sale prices and other terms of the City of Beckley Sewerage System Revenue Refunding Bonds, Series 2005 (the "Bonds"), designating a depository bank, registrar and paying agent, approving the sale of the Bonds, Series 2005, approving an Escrow Agreement for the defeasance of the Series 1995 A Bonds and providing for the disposition of the proceeds of the Series 2005 Bonds and making other provisions as to such Bonds.

WHEREAS, the Governing Body of The City of Beckley (the "Issuer"), on April 12, 2005, enacted an Ordinance, all as more fully set out therein; (said Ordinance is hereinafter referred to as the "Ordinance"); and

WHEREAS, the Ordinance provides for the issuance of Bonds, of the Issuer in aggregate principal amounts not to exceed $2,800,000, all in accordance with Chapter 8, Article 20, Chapter 13, Article 2E, and Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (collectively herein the "Act"), and further provides that the dates, interest rates, maturities, sale prices and other terms of and matters relating to the Bonds should be established by supplemental resolution; and

WHEREAS, the Bonds are proposed to be sold to Branch Banking and Trust ("BB&T"), Charleston, West Virginia; and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Ordinance; and

WHEREAS, the Governing Body of the Issuer deems it essential and desirable that this resolution (the "Supplemental Resolution"), be adopted as provided for in the Ordinance and it and the Ordinance are collectively referred to hereafter as the ("Ordinance") and that the prices, the maturity dates, the redemption provisions, the interest rate, and the interest and principal payment dates of the Bonds be fixed hereby in the manner stated herein, that the Escrow Agreement be approved, and that other matters relating to the Bonds be herein provided for.

NOW THEREFORE, be it resolved by the Governing Body of The City of Beckley as follows:

The Mayor presented for Council approval a Resolution designating the lending institutions that the City utilizes for City monies. On a motion by Councilman Rappold and seconded by Councilman Berry, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, Section 18 of the Charter of the City of Beckley provides, in pertinent part, "...All monies coming into the hands of the said Recorder-Treasurer shall be forthwith deposited in the name of the City of Beckley, in such of the local banks as the Council shall designate as City depositories; and

WHEREAS, Chapter 8, Article 13, Section 22a of the West Virginia Code, 1931, as amended, provides for the investment of municipal funds by the municipal treasurer; and

WHEREAS, on December 27, 1988, the Common Council adopted a Resolution designating approved depositories, which required the Common Council to approve depositories every Fiscal Year.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Common Council of the City of Beckley hereby designates the following financial institutions as approved depositories for the deposit and investment of municipal funds by the Recorder-Treasurer of the City of Beckley:

Bank One West Virginia NA

United Bank

BB&T

Bank of Mount Hope

City National Bank

The Mayor presented for Council approval a Resolution for a $7,500 grant for Appalachian Bible College. On a motion by Councilman Rappold and seconded by Councilman Leftwich, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, Appalachian Bible College has received $7,500 in a local Economic Development Assistance Grant through the efforts of our local legislative delegation; and

WHEREAS, these funds will be used to renovate the Alpine Office at Appalachian Bible College; and

WHEREAS, these funds must be administered by a local unit of government.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the Mayor is authorized to enter into an Agreement with the West Virginia Development Office to receive these grant monies.

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on July 12, 2005 on a motion by Councilman Robert Rappold and seconded by Councilman Lee Leftwich.

Gary R. Surphin - Recorder-Treasurer

Lastly, the Mayor presented for Council approval a Coal Severance Tax Fund Budget Revision. On a motion by Councilman Rappold and seconded by Councilman Mollohan, the following Coal Severance Tax Fund Budget Revision was unanimously approved by Council:

CITY OF BECKLEY

P.O. BOX 2514 • BECKLEY, WEST VIRGINIA 25802-2514

GARY R. SUTPHIN
Recorder - Treasurer

Phone: (304) 256-1768

TO: Mayor Emmett S. Pugh III
Members of Common Council

FROM: Gary R. Sutphin

RE: COAL SEVERANCE BUDGET REVISION

DATE: July 8, 2005

In accordance with the State Code, the Council meeting of July 12, 2005 is the meeting where we bring forward the unencumbered balance for the Coal Severance Tax budget. The amount this year to be budgeted is $66,323 and I propose to once again budget the money in supplies for Public works. We sometimes use this money to pay for street paving supplies.

If anyone has any questions, please let me know.

GRS/ajr
Enc

Under old business, Councilman Rappold stated that the new park on Neville Street is outstanding as well as the asphalt street print.

Councilman Leftwich asked about the status of the Eisenhower Drive project for replacement of the culvert in this area to prevent flooding. The Mayor stated that this project is to begin in late summer or early fall.

Under new business, the Mayor informed those present that the Code Enforcement Department is now located on Eisenhower Drive, and Mr. Cannon reported that things are going well with the transition. The Mayor also provided Council with a report from the Sheriff's Department concerning animal control for the month of June.

The Mayor also informed Council that the West Virginia Municipal League will hold its annual conference in Beckley on August 11, 12, and 13, 2005.

Councilman Berry commended Sharon Dempsey with the fact that the pool looks great, and attendance is great. He also mentioned problems in Ward IV with barking dogs in the Berkley Street area as well as speeding and loud boom boxes in the Sheridan Avenue area. Ms. Patsy Clyburn of 216 Berkley Street and Shirley Minshew of 214 Berkley Street came before Council complaining about these matters as well. Chief Cole will check into this matter.

Charlene Pryor asked again about the opening of the East Park Pool. The Mayor informed those present that the East Park Pool will not open this summer as there is a shortage of lifeguards.

With no further business to be addressed, the meeting adjourned at 8:05 p.m. on a motion by Councilman Mollohan and seconded by Councilman Nickell.

I certify that the foregoing is a true and accurate copy of the minutes of the Common Council meeting held on July 12, 2005.

7-27-05
Date

Emmett S. Pugh III - Mayor

MAYOR

Exhibit A – Maturity Schedule
Exhibit B – Escrow Agreement

THE CITY OF BECKLEY SEWERAGE SYSTEM
REVENUE REFUNDING BONDS

SUPPLEMENTAL RESOLUTION

Supplemental Resolution providing for the dates, maturities, interest rate and principal payment schedules, sale prices and other terms of the City of Beckley Sewerage System Revenue Refunding Bonds, Series 2005 (the "Bonds"), designating a depository bank, registrar and paying agent, approving the sale of the Bonds, Series 2005, approving an Escrow Agreement for the defeasance of the Series 1995 A Bonds and providing for the disposition of the proceeds of the Series 2005 Bonds and making other provisions as to such Bonds.

WHEREAS, the Governing Body of The City of Beckley (the "Issuer"), on April 12, 2005, enacted an Ordinance, all as more fully set out therein; (said Ordinance is hereinafter referred to as the "Ordinance"); and

WHEREAS, the Ordinance provides for the issuance of Bonds, of the Issuer in aggregate principal amounts not to exceed $2,800,000, all in accordance with Chapter 8, Article 20, Chapter 13, Article 2E, and Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (collectively herein the "Act"), and further provides that the dates, interest rates, maturities, sale prices and other terms of and matters relating to the Bonds should be established by supplemental resolution; and

WHEREAS, the Bonds are proposed to be sold to Branch Banking and Trust ("BB&T"), Charleston, West Virginia; and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Ordinance; and

WHEREAS, the Governing Body of the Issuer deems it essential and desirable that this resolution (the "Supplemental Resolution"), be adopted as provided for in the Ordinance and it and the Ordinance are collectively referred to hereafter as the ("Ordinance") and that the prices, the maturity dates, the redemption provisions, the interest rate, and the interest and principal payment dates of the Bonds be fixed hereby in the manner stated herein, that the Escrow Agreement be approved, and that other matters relating to the Bonds be herein provided for.

NOW THEREFORE, be it resolved by the Governing Body of The City of Beckley as follows:

Section 1. Pursuant to the Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Bonds, in the aggregate principal amount of $2,405,000.00 and sold unto BB&T, as Original Purchaser of the Bonds:

(A) The Series 2005 Bonds of the Issuer shall be originally issued in registered entry form of a single bond numbered R-1, shall be in the aggregate principal amount of $2,405,000.00. The Bonds shall be dated as of July 20, 2005, and shall mature on July 1, 2020 and bear interest at the tax exempt rate of 3.91% per annum. The Series 2005 Bonds may be paid in whole but not in part on any scheduled payment date by payment of the entire principal balance outstanding plus a prepayment premium of one percent (1%).

(B) The Series 2005 Bonds will be issued as a fully registered bond without coupons in the denomination of $2,405,000. Principal and Interest on the Bonds is payable by check or draft made payable to BB&T, Charleston, West Virginia, as of the first (1st) day of the month beginning on August 1, 2005 in such amounts as set forth and shown on the maturity schedule attached hereto and made a part hereof marked as Exhibit A, or, in the event of a default in the payment of the Bonds, that special record date to be fixed by the Owner by notice given to the owners not less than 10 days prior to said special record date (the "Record Date"), Principal of and premium, if any, on the Bonds is payable to the Owner or Holder thereof upon surrender thereof.

(C) The proceeds of the Bonds shall be deposited as follows:

(1) the proceeds of the Series 2005 Bonds along with the balance in the Series 1995 A Debt Service Revenue Fund and Series 1995 A Bond Fund shall be deposited in the Revenue Fund established under the Ordinance, and used for the acquisition and purchase of the SLGs in the par amount of $2,778,331.38 which shall be deposited in the Escrow Account for the purchase of escrow securities.

(2) $103,451.30 shall be deposited to the Cost of Issuance Account.

(D) The Issuer further authorizes and approves the execution and delivery of the Escrow Agreement dated July 20, 2005, in the form attached hereto made by and between The City of Beckley and West Virginia Municipal Bond Commission, Charleston, West Virginia, as Escrow Agent as Exhibit B, and hereby authorizes and directs the Mayor to execute the same.

Section 3. Except as herein provided, all other provisions relating to the Bonds shall be as provided in the Ordinance and the Bonds shall be in substantially the form provided in the Ordinance with such changes, insertions and omissions as may be approved by the Mayor of the Issuer.

Section 4. The Issuer hereby appoints and designates BB&T, Charleston, West Virginia, as Depository Bank, Registrar and Paying Agent for the Bonds.

Section 5. The Issuer does hereby find and determine that the amount of bonds, other than private activity bonds which it anticipates issuing during calendar year 2005 shall not exceed $10,000,000 and therefore the Issuer hereby designates the Bonds as "qualified-tax-exempt obligations" for purposes of Section 265(b) of the Internal Revenue Service Code of 1986 (the "Code").

Section 6. The Mayor and the Recorder of the Issuer are hereby authorized and directed to execute and deliver such other documents and certificates, in respect to the defeasance of the Series 1995 A Bonds, required or desirable in connection with the Bonds in order for the Bonds to be delivered to the Original Purchaser of the Bonds.

Section 7. 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 Code, by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. It will take all actions necessary to comply with the Code, including the Treasury Regulations to be promulgated thereunder.

Section 8. The prior acquisition and construction of the sewerage system and the issuance of the Bonds and the Refunding of the Series 1995 A Bonds and the savings therefrom, all as described in the Ordinance, are hereby found and determined to be in the public interest, serve a public purpose of the Issuer and Sanitary Board of The City of Beckley and promote the health, welfare and safety of the residents of The City of Beckley.

Section 9. This Supplemental Resolution shall be effective immediately upon adoption.

Adopted this 12th day of July 2005.

Mayor

City Recorder

EXHIBIT A

AMOUNTS, MATURITY SCHEDULE AND INTEREST RATE

Principal and interest on the Bonds shall be paid on a monthly basis with interest at a rate of 3.91% percent per annum on the unpaid balance until paid; said principal and interest shall be paid in 180 consecutive monthly installments as set forth on the maturity schedule attached hereto and made a part hereof; the first said installment shall be paid on the 1st day of August, 2005 and subsequent installments on the 1st day of each and every month during the life of the Bonds. The last installment shall be in the amount necessary to repay in full the unpaid principal and interest then due hereunder.

The Bonds may be paid in whole but not in part on any scheduled payment date by payment of the entire principal balance outstanding plus a prepayment premium of one percent (1%).

(Maturity Schedule to be attached)

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Payment	Interest	Principal	Balance
Loan	07/20/2005				2,405,000.00
1	08/01/2005	6,499.95	2,873.31	3,626.64	2,401,373.36
2	09/01/2005	17,727.12	7,824.47	9,902.65	2,391,470.71
3	10/01/2005	17,727.13	7,792.21	9,934.92	2,381,535.79
4	11/01/2005	17,727.13	7,759.84	9,967.29	2,371,568.50
5	12/01/2005	17,727.12	7,727.36	9,999.76	2,361,568.74
2005 Totals		77,408.45	33,977.19	43,431.26	
6	01/01/2006	17,727.13	7,694.78	10,032.35	2,351,536.39
7	02/01/2006	17,727.13	7,662.09	10,065.04	2,341,471.35
8	03/01/2006	17,727.12	7,629.29	10,097.83	2,331,373.52
9	04/01/2006	17,727.12	7,596.39	10,130.73	2,321,242.79
10	05/01/2006	17,727.12	7,563.38	10,163.74	2,311,079.05
11	06/01/2006	17,727.13	7,530.27	10,196.86	2,300,882.19
12	07/01/2006	17,727.12	7,497.04	10,230.08	2,290,652.11
13	08/01/2006	17,727.13	7,463.71	10,263.42	2,280,388.69
14	09/01/2006	17,727.13	7,430.27	10,296.86	2,270,091.83
15	10/01/2006	17,727.13	7,396.72	10,330.41	2,259,761.42
16	11/01/2006	17,727.13	7,363.06	10,364.07	2,249,397.35
17	12/01/2006	17,727.13	7,329.29	10,397.84	2,238,999.51
2006 Totals		212,725.52	90,156.29	122,569.23	
18	01/01/2007	17,727.13	7,295.41	10,431.72	2,228,567.79
19	02/01/2007	17,727.13	7,261.42	10,465.71	2,218,102.08
20	03/01/2007	17,727.13	7,227.32	10,499.81	2,207,602.27
21	04/01/2007	17,727.12	7,193.10	10,534.02	2,197,068.25
22	05/01/2007	17,727.12	7,158.78	10,568.34	2,186,499.91
23	06/01/2007	17,727.13	7,124.35	10,602.78	2,175,897.13
24	07/01/2007	17,727.13	7,089.80	10,637.33	2,165,259.80
25	08/01/2007	17,727.13	7,055.14	10,671.99	2,154,587.81
26	09/01/2007	17,727.13	7,020.37	10,706.76	2,143,881.05
27	10/01/2007	17,727.13	6,985.48	10,741.65	2,133,139.40
28	11/01/2007	17,727.13	6,950.48	10,776.65	2,122,362.75
29	12/01/2007	17,727.13	6,915.37	10,811.76	2,111,550.99
2007 Totals		212,725.54	85,277.02	127,448.52	
30	01/01/2008	17,727.13	6,880.14	10,846.99	2,100,704.00
31	02/01/2008	17,727.12	6,844.79	10,882.33	2,089,821.67
32	03/01/2008	17,727.13	6,809.34	10,917.79	2,078,903.88
33	04/01/2008	17,727.12	6,773.76	10,953.36	2,067,950.52
34	05/01/2008	17,727.12	6,738.07	10,989.05	2,056,961.47
35	06/01/2008	17,727.13	6,702.27	11,024.86	2,045,936.61
36	07/01/2008	17,727.12	6,666.34	11,060.78	2,034,875.83
37	08/01/2008	17,727.12	6,630.30	11,096.82	2,023,779.01
38	09/01/2008	17,727.13	6,594.15	11,132.98	2,012,646.03
39	10/01/2008	17,727.12	6,557.87	11,169.25	2,001,476.78

40	11/01/2008	17,727.13	6,521.48	11,205.65	1,990,271.13
41	12/01/2008	17,727.13	6,484.97	11,242.16	1,979,028.97
2008 Totals		212,725.50	80,203.48	132,522.02	
42	01/01/2009	17,727.13	6,448.34	11,278.79	1,967,750.18
43	02/01/2009	17,727.13	6,411.59	11,315.54	1,956,434.64
44	03/01/2009	17,727.13	6,374.72	11,352.41	1,945,082.23
45	04/01/2009	17,727.13	6,337.73	11,389.40	1,933,692.83
46	05/01/2009	17,727.13	6,300.62	11,426.51	1,922,266.32
47	06/01/2009	17,727.12	6,263.38	11,463.74	1,910,802.58
48	07/01/2009	17,727.12	6,226.03	11,501.09	1,899,301.49
49	08/01/2009	17,727.13	6,188.56	11,538.57	1,887,762.92
50	09/01/2009	17,727.12	6,150.96	11,576.16	1,876,186.76
51	10/01/2009	17,727.12	6,113.24	11,613.88	1,864,572.88
52	11/01/2009	17,727.13	6,075.40	11,651.73	1,852,921.15
53	12/01/2009	17,727.12	6,037.43	11,689.69	1,841,231.46
2009 Totals		212,725.51	74,928.00	137,797.51	
54	01/01/2010	17,727.13	5,999.35	11,727.78	1,829,503.68
55	02/01/2010	17,727.12	5,961.13	11,765.99	1,817,737.69
56	03/01/2010	17,727.13	5,922.80	11,804.33	1,805,933.36
57	04/01/2010	17,727.12	5,884.33	11,842.79	1,794,090.57
58	05/01/2010	17,727.13	5,845.75	11,881.38	1,782,209.19
59	06/01/2010	17,727.12	5,807.03	11,920.09	1,770,289.10
60	07/01/2010	17,727.12	5,768.19	11,958.93	1,758,330.17
61	08/01/2010	17,727.13	5,729.23	11,997.90	1,746,332.27
62	09/01/2010	17,727.12	5,690.13	12,036.99	1,734,295.28
63	10/01/2010	17,727.12	5,650.91	12,076.21	1,722,219.07
64	11/01/2010	17,727.12	5,611.56	12,115.56	1,710,103.51
65	12/01/2010	17,727.13	5,572.09	12,155.04	1,697,948.47
2010 Totals		212,725.49	69,442.50	143,282.99	
66	01/01/2011	17,727.12	5,532.48	12,194.64	1,685,753.83
67	02/01/2011	17,727.13	5,492.75	12,234.38	1,673,519.45
68	03/01/2011	17,727.12	5,452.88	12,274.24	1,661,245.21
69	04/01/2011	17,727.12	5,412.89	12,314.23	1,648,930.98
70	05/01/2011	17,727.13	5,372.77	12,354.36	1,636,576.62
71	06/01/2011	17,727.12	5,332.51	12,394.61	1,624,182.01
72	07/01/2011	17,727.13	5,292.13	12,435.00	1,611,747.01
73	08/01/2011	17,727.13	5,251.61	12,475.52	1,599,271.49
74	09/01/2011	17,727.13	5,210.96	12,516.17	1,586,755.32
75	10/01/2011	17,727.13	5,170.18	12,556.95	1,574,198.37
76	11/01/2011	17,727.12	5,129.26	12,597.86	1,561,600.51
77	12/01/2011	17,727.12	5,088.21	12,638.91	1,548,961.60
2011 Totals		212,725.50	63,738.63	148,986.87	
78	01/01/2012	17,727.12	5,047.03	12,680.09	1,536,281.51
79	02/01/2012	17,727.13	5,005.72	12,721.41	1,523,560.10
80	03/01/2012	17,727.13	4,964.27	12,762.86	1,510,797.24
81	04/01/2012	17,727.12	4,922.68	12,804.44	1,497,992.80

82	05/01/2012	17,727.13	4,880.96	12,846.17	1,485,146.63
83	06/01/2012	17,727.12	4,839.10	12,888.02	1,472,258.61
84	07/01/2012	17,727.13	4,797.11	12,930.02	1,459,328.59
85	08/01/2012	17,727.13	4,754.98	12,972.15	1,446,356.44
86	09/01/2012	17,727.12	4,712.71	13,014.41	1,433,342.03
87	10/01/2012	17,727.13	4,670.31	13,056.82	1,420,285.21
88	11/01/2012	17,727.12	4,627.76	13,099.36	1,407,185.85
89	12/01/2012	17,727.12	4,585.08	13,142.04	1,394,043.81
2012 Totals		212,725.50	57,807.71	154,917.79	
90	01/01/2013	17,727.13	4,542.26	13,184.87	1,380,858.94
91	02/01/2013	17,727.13	4,499.30	13,227.83	1,367,631.11
92	03/01/2013	17,727.13	4,456.20	13,270.93	1,354,360.18
93	04/01/2013	17,727.13	4,412.96	13,314.17	1,341,046.01
94	05/01/2013	17,727.12	4,369.57	13,357.55	1,327,688.46
95	06/01/2013	17,727.12	4,326.05	13,401.07	1,314,287.39
96	07/01/2013	17,727.13	4,282.39	13,444.74	1,300,842.65
97	08/01/2013	17,727.13	4,238.58	13,488.55	1,287,354.10
98	09/01/2013	17,727.13	4,194.63	13,532.50	1,273,821.60
99	10/01/2013	17,727.13	4,150.54	13,576.59	1,260,245.01
100	11/01/2013	17,727.13	4,106.30	13,620.83	1,246,624.18
101	12/01/2013	17,727.13	4,061.92	13,665.21	1,232,958.97
2013 Totals		212,725.54	51,640.70	161,084.84	
102	01/01/2014	17,727.12	4,017.39	13,709.73	1,219,249.24
103	02/01/2014	17,727.12	3,972.72	13,754.40	1,205,494.84
104	03/01/2014	17,727.12	3,927.90	13,799.22	1,191,695.62
105	04/01/2014	17,727.12	3,882.94	13,844.18	1,177,851.44
106	05/01/2014	17,727.12	3,837.83	13,889.29	1,163,962.15
107	06/01/2014	17,727.13	3,792.58	13,934.55	1,150,027.60
108	07/01/2014	17,727.12	3,747.17	13,979.95	1,136,047.65
109	08/01/2014	17,727.12	3,701.62	14,025.50	1,122,022.15
110	09/01/2014	17,727.12	3,655.92	14,071.20	1,107,950.95
111	10/01/2014	17,727.12	3,610.07	14,117.05	1,093,833.90
112	11/01/2014	17,727.13	3,564.08	14,163.05	1,079,670.85
113	12/01/2014	17,727.13	3,517.93	14,209.20	1,065,461.65
2014 Totals		212,725.47	45,228.15	167,497.32	
114	01/01/2015	17,727.13	3,471.63	14,255.50	1,051,206.15
115	02/01/2015	17,727.13	3,425.18	14,301.95	1,036,904.20
116	03/01/2015	17,727.13	3,378.58	14,348.55	1,022,555.65
117	04/01/2015	17,727.13	3,331.83	14,395.30	1,008,160.35
118	05/01/2015	17,727.12	3,284.92	14,442.20	993,718.15
119	06/01/2015	17,727.12	3,237.86	14,489.26	979,228.89
120	07/01/2015	17,727.12	3,190.65	14,536.47	964,692.42
121	08/01/2015	17,727.13	3,143.29	14,583.84	950,108.58
122	09/01/2015	17,727.12	3,095.77	14,631.35	935,477.23
123	10/01/2015	17,727.13	3,048.10	14,679.03	920,798.20
124	11/01/2015	17,727.13	3,000.27	14,726.86	906,071.34
125	12/01/2015	17,727.12	2,952.28	14,774.84	891,296.50

2015 Totals		212,725.51	38,560.36	174,165.15	
126	01/01/2016	17,727.12	2,904.14	14,822.98	876,473.52
127	02/01/2016	17,727.12	2,855.84	14,871.28	861,602.24
128	03/01/2016	17,727.13	2,807.39	14,919.74	846,682.50
129	04/01/2016	17,727.12	2,758.77	14,968.35	831,714.15
130	05/01/2016	17,727.12	2,710.00	15,017.12	816,697.03
131	06/01/2016	17,727.12	2,661.07	15,066.05	801,630.98
132	07/01/2016	17,727.12	2,611.98	15,115.14	786,515.84
133	08/01/2016	17,727.12	2,562.73	15,164.39	771,351.45
134	09/01/2016	17,727.13	2,513.32	15,213.81	756,137.64
135	10/01/2016	17,727.13	2,463.75	15,263.38	740,874.26
136	11/01/2016	17,727.13	2,414.02	15,313.11	725,561.15
137	12/01/2016	17,727.13	2,364.12	15,363.01	710,198.14
2016 Totals		212,725.49	31,627.13	181,098.36	
138	01/01/2017	17,727.12	2,314.06	15,413.06	694,785.08
139	02/01/2017	17,727.12	2,263.84	15,463.28	679,321.80
140	03/01/2017	17,727.13	2,213.46	15,513.67	663,808.13
141	04/01/2017	17,727.13	2,162.91	15,564.22	648,243.91
142	05/01/2017	17,727.12	2,112.19	15,614.93	632,628.98
143	06/01/2017	17,727.13	2,061.32	15,665.81	616,963.17
144	07/01/2017	17,727.12	2,010.27	15,716.85	601,246.32
145	08/01/2017	17,727.12	1,959.06	15,768.06	585,478.26
146	09/01/2017	17,727.12	1,907.68	15,819.44	569,658.82
147	10/01/2017	17,727.13	1,856.14	15,870.99	553,787.83
148	11/01/2017	17,727.13	1,804.43	15,922.70	537,865.13
149	12/01/2017	17,727.12	1,752.54	15,974.58	521,890.55
2017 Totals		212,725.49	24,417.90	188,307.59	
150	01/01/2018	17,727.12	1,700.49	16,026.63	505,863.92
151	02/01/2018	17,727.12	1,648.27	16,078.85	489,785.07
152	03/01/2018	17,727.12	1,595.88	16,131.24	473,653.83
153	04/01/2018	17,727.12	1,543.32	16,183.80	457,470.03
154	05/01/2018	17,727.13	1,490.59	16,236.54	441,233.49
155	06/01/2018	17,727.13	1,437.69	16,289.44	424,944.05
156	07/01/2018	17,727.13	1,384.61	16,342.52	408,601.53
157	08/01/2018	17,727.13	1,331.36	16,395.77	392,205.76
158	09/01/2018	17,727.13	1,277.94	16,449.19	375,756.57
159	10/01/2018	17,727.13	1,224.34	16,502.79	359,253.78
160	11/01/2018	17,727.13	1,170.57	16,556.56	342,697.22
161	12/01/2018	17,727.12	1,116.62	16,610.50	326,086.72
2018 Totals		212,725.51	16,921.68	195,803.83	
162	01/01/2019	17,727.13	1,062.50	16,664.63	309,422.09
163	02/01/2019	17,727.13	1,008.20	16,718.93	292,703.16
164	03/01/2019	17,727.12	953.72	16,773.40	275,929.76
165	04/01/2019	17,727.12	899.07	16,828.05	259,101.71
166	05/01/2019	17,727.13	844.24	16,882.89	242,218.82
167	06/01/2019	17,727.13	789.23	16,937.90	225,280.92

168	07/01/2019	17,727.13	734.04	16,993.09	208,287.83
169	08/01/2019	17,727.12	678.67	17,048.45	191,239.38
170	09/01/2019	17,727.12	623.12	17,104.00	174,135.38
171	10/01/2019	17,727.12	567.39	17,159.73	156,975.65
172	11/01/2019	17,727.13	511.48	17,215.65	139,760.00
173	12/01/2019	17,727.12	455.38	17,271.74	122,488.26
2019 Totals		212,725.50	9,127.04	203,598.46	
174	01/01/2020	17,727.13	399.11	17,328.02	105,160.24
175	02/01/2020	17,727.13	342.65	17,384.48	87,775.76
176	03/01/2020	17,727.12	286.00	17,441.12	70,334.64
177	04/01/2020	17,727.12	229.17	17,497.95	52,836.69
178	05/01/2020	17,727.13	172.16	17,554.97	35,281.72
179	06/01/2020	17,727.13	114.96	17,612.17	17,669.55
180	07/01/2020	17,727.12	57.57	17,669.55	0.00
2020 Totals		124,089.88	1,601.62	122,488.26	
Grand Totals		3,179,655.40	774,655.40	2,405,000.00	

Resolution Approving Financing Terms

WHEREAS: The City of Beckley (City") has previously determined to undertake a project for the refunding of Series 1995-A Sewer Revenue Bonds, and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The City hereby determines to finance the Project through Branch Banking and Trust Company ("BB&T"), in accordance with the proposal dated June 6, 2005. The amount financed shall not exceed $2,405,000.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 3.91%, and the financing term shall not exceed fifteen (15) years from closing.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financial Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and a Project Fund Agreement as BB&T may request.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Document previously signed by city officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The City shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The city hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. All prior actions of City officers in furtherance of the purpose of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this 12th day of July, 2005.

(Clerk)

(Commission Chairman)

SEAL

I certify that the foregoing is a true and accurate copy of the Resolution duly adopted by the Common Council of the City of Beckley at its regular meeting held on July 12, 2005.

7-19-05
Date

Emmett S. Pugh III - Mayor
City of Beckley

BB&T

Branch Banking & Trust Co.

Governmental Finance
501 Tennessee Avenue
Charleston, WV 25302
(304) 353-1635
Fax (304) 340-4702

June 6, 2005

Emmett S. Pugh, III
Mayor
City of Beckley
P.O. Box 2514
Beckley, WV 25802

Dear Mayor Pugh:

Branch Banking and Trust Company ("BB&T") is pleased to offer this proposal for the financing requested by the City of Beckley, West Virginia ("City").

(1) **Project:** Refunding Series 1995-A Sewer Revenue Bonds

(2) **Amount To Be Financed:** $2,405,000.00

(3) **Interest Rates, Financing Terms and Corresponding Payments:**

Term	Rate
15 years	3.91%

Payments shall be monthly in arrears, as requested. See the attached amortization schedule(s) for information on payments.

The interest rates stated above are valid for a closing not later than 45 days after today. Closing of the financing is contingent upon completing documentation acceptable to BB&T and upon the condition of the property being acceptable to BB&T. We shall review your most recent financial statements before funding this transaction.

Remuneration for our legal expenses, preparation of documentation and for providing the financing services for this financing transaction shall be ½%. All applicable taxes, permits, costs of lawyers for the City and any other costs shall be the City's responsibility and separately payable by the City. The financing documents shall allow prepayment of the principal balance in whole on a scheduled payment date with a 1% prepayment premium.

The stated interest rates assume that the City expects to borrow less than $10,000,000 in calendar year 2005 and that the financing shall qualify as qualified tax-exempt financing under the Internal Revenue Code. BB&T reserves the right to terminate its interest in this bid or to negotiate a mutually acceptable rate if the financing is not qualified tax-exempt financing.

(4) Financing Documents:

It shall be the responsibility of the City to retain and compensate counsel to appropriately structure the bond according to West Virginia Statutes. BB&T shall also require the City's Bond Counsel to provide an unqualified legal opinion. BB&T reserves the right to review the document and it must be mutually accepted by BB&T and the City.

* * * * * *

BB&T appreciates the opportunity to make this financing proposal and requests to be notified within five days of this proposal should BB&T be the successful proposer.

BB&T shall have the right to cancel this offer by notifying the City of its election to do so (whether or not this offer has previously been accepted by the City) if at any time prior to the closing there is a material adverse change in the City's financial condition, if we discover adverse circumstances of which we are currently unaware, if we are unable to agree on acceptable documentation with the City or if there is a change in law (or proposed change in law) that changes the economic effect of this financing to BB&T. We reserve the right to negotiate and/or terminate our interest in this transaction should we be the successful proposer.

Should we become the successful proposer, we have attached the form of a resolution that your governing board can use to award the financing to BB&T. If your board adopts this resolution, then BB&T shall not require any further board action prior to closing the transaction.

Please call me at (304) 353-1635 with your questions and comments. We look forward to hearing from you.

Sincerely,

BRANCH BANKING AND TRUST COMPANY

Russell R. Akers, II
Assistant Vice President

Enclosure

Resolution Approving Financing Terms

WHEREAS: The City of Beckley ("City") has previously determined to undertake a project for the refunding of Series 1995-A Sewer Revenue Bonds, and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The City hereby determines to finance the Project through Branch Banking and Trust Company ("BB&T"), in accordance with the proposal dated June 6, 2005. The amount financed shall not exceed $2,405,000.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 3.91%, and the financing term shall not exceed fifteen (15) years from closing.

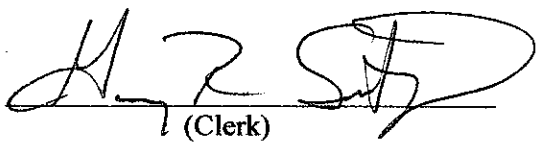
2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and a Project Fund Agreement as BB&T may request.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by City officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

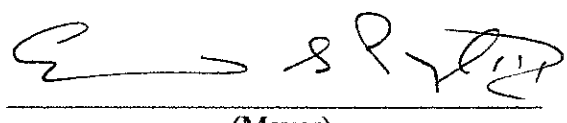
4. The City shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The City hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. All prior actions of City officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this _____ day of _____, 2005



(Clerk)



(Mayor)

SEAL

Beckely, WV - Sewer Refunding

Compound Period: Monthly

Nominal Annual Rate: 3.910 %

CASH FLOW DATA

	Event	Date	Amount	Number	Period	End Date
1	Loan	07/20/2005	2,405,000.00	1		
	Points	0.000%	0.00			
	Prepaid Days	1 days @ 261.21	261.21			
	Other Charges		0.00			
2	Payment	08/01/2005	6,499.95	1		
3	Payment	09/01/2005	17,727.12	1		
4	Payment	10/01/2005	17,727.13	1		
5	Payment	11/01/2005	17,727.13	1		
6	Payment	12/01/2005	17,727.12	1		
7	Payment	01/01/2006	17,727.13	1		
8	Payment	02/01/2006	17,727.13	1		
9	Payment	03/01/2006	17,727.12	1		
10	Payment	04/01/2006	17,727.12	1		
11	Payment	05/01/2006	17,727.12	1		
12	Payment	06/01/2006	17,727.13	1		
13	Payment	07/01/2006	17,727.12	1		
14	Payment	08/01/2006	17,727.13	1		
15	Payment	09/01/2006	17,727.13	1		
16	Payment	10/01/2006	17,727.13	1		
17	Payment	11/01/2006	17,727.13	1		
18	Payment	12/01/2006	17,727.13	1		
19	Payment	01/01/2007	17,727.13	1		
20	Payment	02/01/2007	17,727.13	1		
21	Payment	03/01/2007	17,727.13	1		
22	Payment	04/01/2007	17,727.12	1		
23	Payment	05/01/2007	17,727.12	1		
24	Payment	06/01/2007	17,727.13	1		
25	Payment	07/01/2007	17,727.13	1		
26	Payment	08/01/2007	17,727.13	1		
27	Payment	09/01/2007	17,727.13	1		
28	Payment	10/01/2007	17,727.13	1		
29	Payment	11/01/2007	17,727.13	1		
30	Payment	12/01/2007	17,727.13	1		
31	Payment	01/01/2008	17,727.13	1		
32	Payment	02/01/2008	17,727.12	1		
33	Payment	03/01/2008	17,727.13	1		
34	Payment	04/01/2008	17,727.12	1		
35	Payment	05/01/2008	17,727.12	1		
36	Payment	06/01/2008	17,727.13	1		
37	Payment	07/01/2008	17,727.12	1		

38	Payment	08/01/2008	17,727.12	1
39	Payment	09/01/2008	17,727.13	1
40	Payment	10/01/2008	17,727.12	1
41	Payment	11/01/2008	17,727.13	1
42	Payment	12/01/2008	17,727.13	1
43	Payment	01/01/2009	17,727.13	1
44	Payment	02/01/2009	17,727.13	1
45	Payment	03/01/2009	17,727.13	1
46	Payment	04/01/2009	17,727.13	1
47	Payment	05/01/2009	17,727.13	1
48	Payment	06/01/2009	17,727.12	1
49	Payment	07/01/2009	17,727.12	1
50	Payment	08/01/2009	17,727.13	1
51	Payment	09/01/2009	17,727.12	1
52	Payment	10/01/2009	17,727.12	1
53	Payment	11/01/2009	17,727.13	1
54	Payment	12/01/2009	17,727.12	1
55	Payment	01/01/2010	17,727.13	1
56	Payment	02/01/2010	17,727.12	1
57	Payment	03/01/2010	17,727.13	1
58	Payment	04/01/2010	17,727.12	1
59	Payment	05/01/2010	17,727.13	1
60	Payment	06/01/2010	17,727.12	1
61	Payment	07/01/2010	17,727.12	1
62	Payment	08/01/2010	17,727.13	1
63	Payment	09/01/2010	17,727.12	1
64	Payment	10/01/2010	17,727.12	1
65	Payment	11/01/2010	17,727.12	1
66	Payment	12/01/2010	17,727.13	1
67	Payment	01/01/2011	17,727.12	1
68	Payment	02/01/2011	17,727.13	1
69	Payment	03/01/2011	17,727.12	1
70	Payment	04/01/2011	17,727.12	1
71	Payment	05/01/2011	17,727.13	1
72	Payment	06/01/2011	17,727.12	1
73	Payment	07/01/2011	17,727.13	1
74	Payment	08/01/2011	17,727.13	1
75	Payment	09/01/2011	17,727.13	1
76	Payment	10/01/2011	17,727.13	1
77	Payment	11/01/2011	17,727.12	1
78	Payment	12/01/2011	17,727.12	1
79	Payment	01/01/2012	17,727.12	1
80	Payment	02/01/2012	17,727.13	1
81	Payment	03/01/2012	17,727.13	1
82	Payment	04/01/2012	17,727.12	1
83	Payment	05/01/2012	17,727.13	1
84	Payment	06/01/2012	17,727.12	1
85	Payment	07/01/2012	17,727.13	1
86	Payment	08/01/2012	17,727.13	1
87	Payment	09/01/2012	17,727.12	1

88	Payment	10/01/2012	17,727.13	1
89	Payment	11/01/2012	17,727.12	1
90	Payment	12/01/2012	17,727.12	1
91	Payment	01/01/2013	17,727.13	1
92	Payment	02/01/2013	17,727.13	1
93	Payment	03/01/2013	17,727.13	1
94	Payment	04/01/2013	17,727.13	1
95	Payment	05/01/2013	17,727.12	1
96	Payment	06/01/2013	17,727.12	1
97	Payment	07/01/2013	17,727.13	1
98	Payment	08/01/2013	17,727.13	1
99	Payment	09/01/2013	17,727.13	1
100	Payment	10/01/2013	17,727.13	1
101	Payment	11/01/2013	17,727.13	1
102	Payment	12/01/2013	17,727.13	1
103	Payment	01/01/2014	17,727.12	1
104	Payment	02/01/2014	17,727.12	1
105	Payment	03/01/2014	17,727.12	1
106	Payment	04/01/2014	17,727.12	1
107	Payment	05/01/2014	17,727.12	1
108	Payment	06/01/2014	17,727.13	1
109	Payment	07/01/2014	17,727.12	1
110	Payment	08/01/2014	17,727.12	1
111	Payment	09/01/2014	17,727.12	1
112	Payment	10/01/2014	17,727.12	1
113	Payment	11/01/2014	17,727.13	1
114	Payment	12/01/2014	17,727.13	1
115	Payment	01/01/2015	17,727.13	1
116	Payment	02/01/2015	17,727.13	1
117	Payment	03/01/2015	17,727.13	1
118	Payment	04/01/2015	17,727.13	1
119	Payment	05/01/2015	17,727.12	1
120	Payment	06/01/2015	17,727.12	1
121	Payment	07/01/2015	17,727.12	1
122	Payment	08/01/2015	17,727.13	1
123	Payment	09/01/2015	17,727.12	1
124	Payment	10/01/2015	17,727.13	1
125	Payment	11/01/2015	17,727.13	1
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127	Payment	01/01/2016	17,727.12	1
128	Payment	02/01/2016	17,727.12	1
129	Payment	03/01/2016	17,727.13	1
130	Payment	04/01/2016	17,727.12	1
131	Payment	05/01/2016	17,727.12	1
132	Payment	06/01/2016	17,727.12	1
133	Payment	07/01/2016	17,727.12	1
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135	Payment	09/01/2016	17,727.13	1
136	Payment	10/01/2016	17,727.13	1
137	Payment	11/01/2016	17,727.13	1

138	Payment	12/01/2016	17,727.13	1
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151	Payment	01/01/2018	17,727.12	1
152	Payment	02/01/2018	17,727.12	1
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154	Payment	04/01/2018	17,727.12	1
155	Payment	05/01/2018	17,727.13	1
156	Payment	06/01/2018	17,727.13	1
157	Payment	07/01/2018	17,727.13	1
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164	Payment	02/01/2019	17,727.13	1
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176	Payment	02/01/2020	17,727.13	1
177	Payment	03/01/2020	17,727.12	1
178	Payment	04/01/2020	17,727.12	1
179	Payment	05/01/2020	17,727.13	1
180	Payment	06/01/2020	17,727.13	1
181	Payment	07/01/2020	17,727.12	1

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

Date	Payment	Interest	Principal	Balance

Loan	07/20/2005				2,405,000.00
1	08/01/2005	6,499.95	2,873.31	3,626.64	2,401,373.36
2	09/01/2005	17,727.12	7,824.47	9,902.65	2,391,470.71
3	10/01/2005	17,727.13	7,792.21	9,934.92	2,381,535.79
4	11/01/2005	17,727.13	7,759.84	9,967.29	2,371,568.50
5	12/01/2005	17,727.12	7,727.36	9,999.76	2,361,568.74
2005 Totals		77,408.45	33,977.19	43,431.26	
6	01/01/2006	17,727.13	7,694.78	10,032.35	2,351,536.39
7	02/01/2006	17,727.13	7,662.09	10,065.04	2,341,471.35
8	03/01/2006	17,727.12	7,629.29	10,097.83	2,331,373.52
9	04/01/2006	17,727.12	7,596.39	10,130.73	2,321,242.79
10	05/01/2006	17,727.12	7,563.38	10,163.74	2,311,079.05
11	06/01/2006	17,727.13	7,530.27	10,196.86	2,300,882.19
12	07/01/2006	17,727.12	7,497.04	10,230.08	2,290,652.11
13	08/01/2006	17,727.13	7,463.71	10,263.42	2,280,388.69
14	09/01/2006	17,727.13	7,430.27	10,296.86	2,270,091.83
15	10/01/2006	17,727.13	7,396.72	10,330.41	2,259,761.42
16	11/01/2006	17,727.13	7,363.06	10,364.07	2,249,397.35
17	12/01/2006	17,727.13	7,329.29	10,397.84	2,238,999.51
2006 Totals		212,725.52	90,156.29	122,569.23	
18	01/01/2007	17,727.13	7,295.41	10,431.72	2,228,567.79
19	02/01/2007	17,727.13	7,261.42	10,465.71	2,218,102.08
20	03/01/2007	17,727.13	7,227.32	10,499.81	2,207,602.27
21	04/01/2007	17,727.12	7,193.10	10,534.02	2,197,068.25
22	05/01/2007	17,727.12	7,158.78	10,568.34	2,186,499.91
23	06/01/2007	17,727.13	7,124.35	10,602.78	2,175,897.13
24	07/01/2007	17,727.13	7,089.80	10,637.33	2,165,259.80
25	08/01/2007	17,727.13	7,055.14	10,671.99	2,154,587.81
26	09/01/2007	17,727.13	7,020.37	10,706.76	2,143,881.05
27	10/01/2007	17,727.13	6,985.48	10,741.65	2,133,139.40
28	11/01/2007	17,727.13	6,950.48	10,776.65	2,122,362.75
29	12/01/2007	17,727.13	6,915.37	10,811.76	2,111,550.99
2007 Totals		212,725.54	85,277.02	127,448.52	
30	01/01/2008	17,727.13	6,880.14	10,846.99	2,100,704.00
31	02/01/2008	17,727.12	6,844.79	10,882.33	2,089,821.67
32	03/01/2008	17,727.13	6,809.34	10,917.79	2,078,903.88
33	04/01/2008	17,727.12	6,773.76	10,953.36	2,067,950.52
34	05/01/2008	17,727.12	6,738.07	10,989.05	2,056,961.47
35	06/01/2008	17,727.13	6,702.27	11,024.86	2,045,936.61
36	07/01/2008	17,727.12	6,666.34	11,060.78	2,034,875.83
37	08/01/2008	17,727.12	6,630.30	11,096.82	2,023,779.01
38	09/01/2008	17,727.13	6,594.15	11,132.98	2,012,646.03
39	10/01/2008	17,727.12	6,557.87	11,169.25	2,001,476.78
40	11/01/2008	17,727.13	6,521.48	11,205.65	1,990,271.13
41	12/01/2008	17,727.13	6,484.97	11,242.16	1,979,028.97
2008 Totals		212,725.50	80,203.48	132,522.02	

42	01/01/2009	17,727.13	6,448.34	11,278.79	1,967,750.18
43	02/01/2009	17,727.13	6,411.59	11,315.54	1,956,434.64
44	03/01/2009	17,727.13	6,374.72	11,352.41	1,945,082.23
45	04/01/2009	17,727.13	6,337.73	11,389.40	1,933,692.83
46	05/01/2009	17,727.13	6,300.62	11,426.51	1,922,266.32
47	06/01/2009	17,727.12	6,263.38	11,463.74	1,910,802.58
48	07/01/2009	17,727.12	6,226.03	11,501.09	1,899,301.49
49	08/01/2009	17,727.13	6,188.56	11,538.57	1,887,762.92
50	09/01/2009	17,727.12	6,150.96	11,576.16	1,876,186.76
51	10/01/2009	17,727.12	6,113.24	11,613.88	1,864,572.88
52	11/01/2009	17,727.13	6,075.40	11,651.73	1,852,921.15
53	12/01/2009	17,727.12	6,037.43	11,689.69	1,841,231.46
2009 Totals		212,725.51	74,928.00	137,797.51	
54	01/01/2010	17,727.13	5,999.35	11,727.78	1,829,503.68
55	02/01/2010	17,727.12	5,961.13	11,765.99	1,817,737.69
56	03/01/2010	17,727.13	5,922.80	11,804.33	1,805,933.36
57	04/01/2010	17,727.12	5,884.33	11,842.79	1,794,090.57
58	05/01/2010	17,727.13	5,845.75	11,881.38	1,782,209.19
59	06/01/2010	17,727.12	5,807.03	11,920.09	1,770,289.10
60	07/01/2010	17,727.12	5,768.19	11,958.93	1,758,330.17
61	08/01/2010	17,727.13	5,729.23	11,997.90	1,746,332.27
62	09/01/2010	17,727.12	5,690.13	12,036.99	1,734,295.28
63	10/01/2010	17,727.12	5,650.91	12,076.21	1,722,219.07
64	11/01/2010	17,727.12	5,611.56	12,115.56	1,710,103.51
65	12/01/2010	17,727.13	5,572.09	12,155.04	1,697,948.47
2010 Totals		212,725.49	69,442.50	143,282.99	
66	01/01/2011	17,727.12	5,532.48	12,194.64	1,685,753.83
67	02/01/2011	17,727.13	5,492.75	12,234.38	1,673,519.45
68	03/01/2011	17,727.12	5,452.88	12,274.24	1,661,245.21
69	04/01/2011	17,727.12	5,412.89	12,314.23	1,648,930.98
70	05/01/2011	17,727.13	5,372.77	12,354.36	1,636,576.62
71	06/01/2011	17,727.12	5,332.51	12,394.61	1,624,182.01
72	07/01/2011	17,727.13	5,292.13	12,435.00	1,611,747.01
73	08/01/2011	17,727.13	5,251.61	12,475.52	1,599,271.49
74	09/01/2011	17,727.13	5,210.96	12,516.17	1,586,755.32
75	10/01/2011	17,727.13	5,170.18	12,556.95	1,574,198.37
76	11/01/2011	17,727.12	5,129.26	12,597.86	1,561,600.51
77	12/01/2011	17,727.12	5,088.21	12,638.91	1,548,961.60
2011 Totals		212,725.50	63,738.63	148,986.87	
78	01/01/2012	17,727.12	5,047.03	12,680.09	1,536,281.51
79	02/01/2012	17,727.13	5,005.72	12,721.41	1,523,560.10
80	03/01/2012	17,727.13	4,964.27	12,762.86	1,510,797.24
81	04/01/2012	17,727.12	4,922.68	12,804.44	1,497,992.80
82	05/01/2012	17,727.13	4,880.96	12,846.17	1,485,146.63
83	06/01/2012	17,727.12	4,839.10	12,888.02	1,472,258.61
84	07/01/2012	17,727.13	4,797.11	12,930.02	1,459,328.59
85	08/01/2012	17,727.13	4,754.98	12,972.15	1,446,356.44

86	09/01/2012	17,727.12	4,712.71	13,014.41	1,433,342.03
87	10/01/2012	17,727.13	4,670.31	13,056.82	1,420,285.21
88	11/01/2012	17,727.12	4,627.76	13,099.36	1,407,185.85
89	12/01/2012	17,727.12	4,585.08	13,142.04	1,394,043.81
2012 Totals		212,725.50	57,807.71	154,917.79	
90	01/01/2013	17,727.13	4,542.26	13,184.87	1,380,858.94
91	02/01/2013	17,727.13	4,499.30	13,227.83	1,367,631.11
92	03/01/2013	17,727.13	4,456.20	13,270.93	1,354,360.18
93	04/01/2013	17,727.13	4,412.96	13,314.17	1,341,046.01
94	05/01/2013	17,727.12	4,369.57	13,357.55	1,327,688.46
95	06/01/2013	17,727.12	4,326.05	13,401.07	1,314,287.39
96	07/01/2013	17,727.13	4,282.39	13,444.74	1,300,842.65
97	08/01/2013	17,727.13	4,238.58	13,488.55	1,287,354.10
98	09/01/2013	17,727.13	4,194.63	13,532.50	1,273,821.60
99	10/01/2013	17,727.13	4,150.54	13,576.59	1,260,245.01
100	11/01/2013	17,727.13	4,106.30	13,620.83	1,246,624.18
101	12/01/2013	17,727.13	4,061.92	13,665.21	1,232,958.97
2013 Totals		212,725.54	51,640.70	161,084.84	
102	01/01/2014	17,727.12	4,017.39	13,709.73	1,219,249.24
103	02/01/2014	17,727.12	3,972.72	13,754.40	1,205,494.84
104	03/01/2014	17,727.12	3,927.90	13,799.22	1,191,695.62
105	04/01/2014	17,727.12	3,882.94	13,844.18	1,177,851.44
106	05/01/2014	17,727.12	3,837.83	13,889.29	1,163,962.15
107	06/01/2014	17,727.13	3,792.58	13,934.55	1,150,027.60
108	07/01/2014	17,727.12	3,747.17	13,979.95	1,136,047.65
109	08/01/2014	17,727.12	3,701.62	14,025.50	1,122,022.15
110	09/01/2014	17,727.12	3,655.92	14,071.20	1,107,950.95
111	10/01/2014	17,727.12	3,610.07	14,117.05	1,093,833.90
112	11/01/2014	17,727.13	3,564.08	14,163.05	1,079,670.85
113	12/01/2014	17,727.13	3,517.93	14,209.20	1,065,461.65
2014 Totals		212,725.47	45,228.15	167,497.32	
114	01/01/2015	17,727.13	3,471.63	14,255.50	1,051,206.15
115	02/01/2015	17,727.13	3,425.18	14,301.95	1,036,904.20
116	03/01/2015	17,727.13	3,378.58	14,348.55	1,022,555.65
117	04/01/2015	17,727.13	3,331.83	14,395.30	1,008,160.35
118	05/01/2015	17,727.12	3,284.92	14,442.20	993,718.15
119	06/01/2015	17,727.12	3,237.86	14,489.26	979,228.89
120	07/01/2015	17,727.12	3,190.65	14,536.47	964,692.42
121	08/01/2015	17,727.13	3,143.29	14,583.84	950,108.58
122	09/01/2015	17,727.12	3,095.77	14,631.35	935,477.23
123	10/01/2015	17,727.13	3,048.10	14,679.03	920,798.20
124	11/01/2015	17,727.13	3,000.27	14,726.86	906,071.34
125	12/01/2015	17,727.12	2,952.28	14,774.84	891,296.50
2015 Totals		212,725.51	38,560.36	174,165.15	
126	01/01/2016	17,727.12	2,904.14	14,822.98	876,473.52
127	02/01/2016	17,727.12	2,855.84	14,871.28	861,602.24

128	03/01/2016	17,727.13	2,807.39	14,919.74	846,682.50
129	04/01/2016	17,727.12	2,758.77	14,968.35	831,714.15
130	05/01/2016	17,727.12	2,710.00	15,017.12	816,697.03
131	06/01/2016	17,727.12	2,661.07	15,066.05	801,630.98
132	07/01/2016	17,727.12	2,611.98	15,115.14	786,515.84
133	08/01/2016	17,727.12	2,562.73	15,164.39	771,351.45
134	09/01/2016	17,727.13	2,513.32	15,213.81	756,137.64
135	10/01/2016	17,727.13	2,463.75	15,263.38	740,874.26
136	11/01/2016	17,727.13	2,414.02	15,313.11	725,561.15
137	12/01/2016	17,727.13	2,364.12	15,363.01	710,198.14
2016 Totals		212,725.49	31,627.13	181,098.36	
138	01/01/2017	17,727.12	2,314.06	15,413.06	694,785.08
139	02/01/2017	17,727.12	2,263.84	15,463.28	679,321.80
140	03/01/2017	17,727.13	2,213.46	15,513.67	663,808.13
141	04/01/2017	17,727.13	2,162.91	15,564.22	648,243.91
142	05/01/2017	17,727.12	2,112.19	15,614.93	632,628.98
143	06/01/2017	17,727.13	2,061.32	15,665.81	616,963.17
144	07/01/2017	17,727.12	2,010.27	15,716.85	601,246.32
145	08/01/2017	17,727.12	1,959.06	15,768.06	585,478.26
146	09/01/2017	17,727.12	1,907.68	15,819.44	569,658.82
147	10/01/2017	17,727.13	1,856.14	15,870.99	553,787.83
148	11/01/2017	17,727.13	1,804.43	15,922.70	537,865.13
149	12/01/2017	17,727.12	1,752.54	15,974.58	521,890.55
2017 Totals		212,725.49	24,417.90	188,307.59	
150	01/01/2018	17,727.12	1,700.49	16,026.63	505,863.92
151	02/01/2018	17,727.12	1,648.27	16,078.85	489,785.07
152	03/01/2018	17,727.12	1,595.88	16,131.24	473,653.83
153	04/01/2018	17,727.12	1,543.32	16,183.80	457,470.03
154	05/01/2018	17,727.13	1,490.59	16,236.54	441,233.49
155	06/01/2018	17,727.13	1,437.69	16,289.44	424,944.05
156	07/01/2018	17,727.13	1,384.61	16,342.52	408,601.53
157	08/01/2018	17,727.13	1,331.36	16,395.77	392,205.76
158	09/01/2018	17,727.13	1,277.94	16,449.19	375,756.57
159	10/01/2018	17,727.13	1,224.34	16,502.79	359,253.78
160	11/01/2018	17,727.13	1,170.57	16,556.56	342,697.22
161	12/01/2018	17,727.12	1,116.62	16,610.50	326,086.72
2018 Totals		212,725.51	16,921.68	195,803.83	
162	01/01/2019	17,727.13	1,062.50	16,664.63	309,422.09
163	02/01/2019	17,727.13	1,008.20	16,718.93	292,703.16
164	03/01/2019	17,727.12	953.72	16,773.40	275,929.76
165	04/01/2019	17,727.12	899.07	16,828.05	259,101.71
166	05/01/2019	17,727.13	844.24	16,882.89	242,218.82
167	06/01/2019	17,727.13	789.23	16,937.90	225,280.92
168	07/01/2019	17,727.13	734.04	16,993.09	208,287.83
169	08/01/2019	17,727.12	678.67	17,048.45	191,239.38
170	09/01/2019	17,727.12	623.12	17,104.00	174,135.38
171	10/01/2019	17,727.12	567.39	17,159.73	156,975.65

172	11/01/2019	17,727.13	511.48	17,215.65	139,760.00
173	12/01/2019	17,727.12	455.38	17,271.74	122,488.26
2019 Totals		212,725.50	9,127.04	203,598.46	
174	01/01/2020	17,727.13	399.11	17,328.02	105,160.24
175	02/01/2020	17,727.13	342.65	17,384.48	87,775.76
176	03/01/2020	17,727.12	286.00	17,441.12	70,334.64
177	04/01/2020	17,727.12	229.17	17,497.95	52,836.69
178	05/01/2020	17,727.13	172.16	17,554.97	35,281.72
179	06/01/2020	17,727.13	114.96	17,612.17	17,669.55
180	07/01/2020	17,727.12	57.57	17,669.55	0.00
2020 Totals		124,089.88	1,601.62	122,488.26	
Grand Totals		3,179,655.40	774,655.40	2,405,000.00	

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments
The cost of your credit as a yearly rate.	The dollar amount the credit will cost you.	The amount of credit provided to you or on your behalf.	The amount you will have paid after you have made all payments as scheduled.
3.910 %	$ 774,916.61	$ 2,404,738.79	$ 3,179,655.40

ESCROW AGREEMENT

This ESCROW AGREEMENT made and entered into as of July 20, 2005, by and between THE CITY OF BECKLEY (the "Issuer") and WEST VIRGINIA MUNICIPAL BOND COMMISSION as Escrow Agent (the "Escrow Agent"), and BRANCH BANKING AND TRUST COMPANY ("BB&T"), as Purchaser.

WITNESETH THAT:

WHEREAS, on April 13, 1995 the Issuer issued The City of Beckley, West Virginia Sewerage System Refunding Revenue Bonds, Series 1995 A, in the original aggregate principal amount of $3,095,000, of which $2,405,000 is presently outstanding (the "Prior Bonds");

WHEREAS, the Issuer has determined to issue its City of Beckley Sewer System Revenue Refunding Bonds, Series 2005 (the "Refunding Bonds"), pursuant to an Ordinance and Supplemental Resolution adopted and entered on April 12, 2005 and July 12, 2005, respectively (collectively the "Ordinance"), and contemporaneously therewith, legally defease the Prior Bonds by applying proceeds of the Refunding Bonds, together with certain moneys currently on deposit with the Escrow Agent from lease payments made in connection with the Prior Bonds ("Issuer's Funds") to the purchase of direct obligations of the United States government to be deposited, together with certain cash amounts, in the Escrow Fund herein described;

WHEREAS, the Escrow Agent will cause to be purchased on behalf of the Issuer, with such Refunding Bonds proceeds and Issuer's Funds, certain direct obligation of the United States Treasury Obligations (the "Government Securities");

WHEREAS, the Government Securities, plus residual cash amounts in the Escrow Fund, shall be in such principal amount and mature and bear interest at such rates and shall be payable at such times and in such amounts as to insure the payment, when due, of the remaining principal of, premium, if any and interest on the Prior Bonds, through the first call date thereof, being October 1, 2005;

WHEREAS; the Issuer has found it desirable to appoint West Virginia Municipal Bond Commission, as Escrow Agent and West Virginia Municipal Bond Commission has agreed to such appointment for the purposes of holding title, as agent for the Issuer, to the Government Securities, receiving payments of the principal thereof and interest thereon when due, transferring to the [Debt Service Fund] established for the payment of the Prior Bonds and held by J. P. Morgan Trust Company, National Association in its capacity as paying agent for the Prior Bonds, on the appropriate dates, the amounts necessary to pay the principal of, premium, if any, and interest on the Prior Bonds as the same become due, and holding cash balances which may at any time not be needed for immediate disbursement; and

WHEREAS, all capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Resolution;

NOW THEREFORE, in consideration of the mutual agreements contained herein, and in order further to secure payment of the Prior Bonds, as heretofore provided, the parties hereto mutually undertake, promise and agree for themselves, their respective representatives, successors and assigns, as follows:

1. Creation of Escrow Fund. There is hereby created and established with the Escrow Agent, to be maintained in a separate and discrete deposit account, an irrevocable trust fund to be known as the Escrow Fund, to be held in the custody of the Escrow Agent, separate and apart from all other funds of the Issuer and the Escrow

Agent. The deposit of securities or moneys in the Escrow Fund shall constitute an irrevocable deposit of said securities or moneys in trust for, and such moneys and securities, together with any income or interest earned thereon, shall be applied, except as otherwise provided herein, solely to the payment of the principal of and interest on the Prior Bonds, all in accordance with paragraph 3 hereof.

2. Deposits to Escrow Fund: Concurrently with the delivery of the Refunding Bonds, the Issuer shall direct or cause Refunding Bonds proceeds in the amount of $2,301,548.70 and Issuer's Funds in the amount of $476,782.68 (total of $2,778,331.38) to be deposited in the Escrow Fund, and thereupon $2,778,331.00 to be applied to the purchase of **the Government Securities and to hold any remaining $0.38 cash, uninvested, in the Escrow Fund. Maturing principal and interest of the Government Securities**, together with the uninvested cash in the Escrow Fund, if any, shall be applied solely to the payment, when due, of the principal of and interest on the Prior Bonds. The purchaser of the Refunding Bonds acknowledges that the **Government Securities**, together with the income to be derived therefrom and the uninvested cash, if any, in the Escrow Fund, will be sufficient to pay, when due, the principal of and interest on the Prior Bonds. The Issuer hereby authorizes and directs the Escrow Agent to purchase the **Government Securities**. The purchaser of the Refunding Bonds joins in this Agreement to the extent of its responsibilities set forth in this paragraph.

3. Application of Escrow Fund. The Escrow Agent, without further authorization from the Issuer, shall transfer from the Escrow Fund and deposit directly with the paying agent for the Prior Bonds, in immediately available funds on October 1, 2005, amounts sufficient to pay the principal of and interest on the Prior Bonds then becoming due, to and including the first call date thereof, being October 1, 2005. Not less than thirty (30) nor more than sixty (60) days prior to October 1, 2005 the Escrow Agent shall call, and is hereby irrevocably instructed to call, for optional redemption, at the appropriate redemption prices, in the name of the Issuer, the then outstanding Prior Bonds maturing after October 1, 2006, and shall provide regular and due notice of such redemption according to the directions for optional redemption contained in the ordinance authorizing the issuance of the Prior Bonds.

Moneys in the Escrow Fund shall, and the Escrow Agent agrees such moneys will, be used solely for the purpose as above described and the deposit of such moneys into the Escrow Fund shall be irrevocable, and the Escrow Agent agrees it will not surrender or otherwise attempt to redeem or otherwise negotiate the investments in the Escrow Fund, except as they shall come due unless such redemption or negotiation shall be in connection with the purchase of other securities permitted by the laws of the State of West Virginia, and the Escrow Agent shall have received (a) the written request of the Issuer for such purchase and setting forth the procedures to be followed, (b) an opinion by an independent certified public accountant (the "Accountant") that after such reinvestment the principal amount of the substituted securities, together with the earnings thereon and any beginning cash balance that is being held uninvested, will be sufficient to make the payments described in the first paragraph of this Section 4, and (c) an unqualified opinion of nationally recognized bond counsel (acceptable to the Issuer) familiar with the transactions contemplated by this Escrow Agreement to the effect that (i) such reinvestment will not cause the Prior Bonds or the Refunding Bonds to be "arbitrage bonds" within the meaning of Section 103(c) of the Internal Revenue Code of 1954, as amended, or, Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") or the regulations in effect thereunder and applicable to the Prior Bonds or the Refunding Bonds, and (ii) such reinvestment complies with the Constitution and laws of the State of West Virginia and the provisions of all relevant documents relating to the issuance of the Prior Bonds. Subject to the foregoing requirements for the use of the Escrow Fund and the moneys and investments therein, the Issuer covenants and agrees that the Escrow Agent shall have full and complete control and authority over and with respect to the Escrow Fund and moneys and investment therein and that the Issuer shall not exercise any control or authority over and with respect to the Escrow Fund and the moneys and investments therein.

4. Lien of Prior Bonds. The holders of the Prior Bonds shall have an express lien on all moneys and securities in the Escrow Fund until paid out, used and applied in accordance with this Agreement.

5. Timing Inefficiencies. If, at any time, the Government Securities then held as an investment in the Escrow Fund mature or payments are made thereon to the Escrow Agent or the Escrow Agent otherwise holds or receives cash in advance of the time such cash is needed to make payment on the Prior Bonds, such amounts shall, at the written direction of the Issuer, be reinvested as provided in this Section hereof; provided that:

(a) such moneys shall be invested only in Obligations of the United States of America which mature not later than the date on which the funds invested therein will be needed to make payments on the Prior Bonds;

(b) such moneys shall be invested only in Obligations of the United States of America which mature in an amount, together with interest thereon, not less than the full amount paid by the Escrow Agent to acquire such investments; and

(c) the composite yield on such Obligations of the United States of America may not exceed the yield on the Refunding Bonds.

6. Termination of This Escrow Agreement. Except as provided in Section 7 hereto, this Escrow Agreement shall terminate when all payments and transfers required to be made by the Escrow Agent under the provisions hereof have been made. Any money or Government securities held in the Escrow Fund at termination and not required for the payment of the principal of and interest on any of the Prior Bonds shall be paid or transferred to the Issuer, or to a third party at the Issuer's written direction, pursuant to the terms hereof.

7. Provisions Regarding the Escrow Agent. The Issuer agrees to pay the Escrow Agent's reasonable and customary administrative fees and to reimburse the Escrow Agent for its reasonable and customary out-of-pocket expenses and reasonable fees of counsel incurred in connection with the discharge by the Escrow Agent of its duties and responsibilities under this Escrow Agreement. The Escrow Agent expressly waives any lien upon or claim against the moneys and investments in the Escrow Fund. Under no circumstances shall the Escrow Agent have a lien on the Escrow Fund for any charges, fees or expenses, and under no circumstances shall the Escrow Agent make any claim against the Escrow Fund for any charges, fees or expenses. Earnings from reinvestment proceeds described in Section 5 above may be used to pay Escrow Agent fees and fees for the paying agent for the Prior Bonds. To the extent such earnings are insufficient for such purposes, the Issuer will pay all Escrow Agent fees and fees of the paying agent for the Prior Bonds. The Escrow Agent shall not be liable for any action taken or omitted by it in good faith unless a court of competent jurisdiction determines that Escrow Agent's gross negligence or willful misconduct was the primary cause of a loss to the Issuer. The Issuer agrees to indemnify and hold Escrow Agent and its directors, officers, agents and employees (collectively, the "Indemnitees") harmless from and against any and all claims, liabilities, losses, damages, fines, penalties, and expenses, including out-of-pocket, incidental expense, legal fees and expenses, the allocated costs and expenses of in-house counsel and legal staff and the costs and expenses of defending or preparing to defend against any claim ("Losses") that may be imposed on, incurred by, or asserted against, the Indemnitees or any of them for following any instruction or other direction upon which Escrow Agent is authorized to rely pursuant to the terms of this Agreement. In addition to and not in limitation of the immediately preceding sentence, the Issuer also covenants and agrees to indemnify and hold the Indemnitees and each of them harmless from and against any and all losses that may be imposed on, incurred by, or asserted against the Indemnitees or any of them in connection with or arising out of the Escrow Agent's performance under this Agreement, provided the Escrow Agent has not acted with gross negligence or engaged in willful misconduct. The provisions of this Section 7 shall survive the termination of this Agreement and the resignation or removal of Escrow Agent for any reason.

8. Beneficiaries of This Escrow Agreement. This Escrow Agreement shall inure to the benefit of and shall be binding upon the Issuer and the Escrow Agent and their respective successors and assigns, subject to the provisions of this Escrow Agreement. In addition, this Escrow Agreement shall constitute a third party

beneficiary contract for the benefit of the registered owners of the Prior Bonds. Said third party beneficiaries shall be entitled to enforce performance and observance by the Issuer and the Escrow Agent of the respective agreements and covenants herein contained as fully and completely as if such third party beneficiaries were parties hereto. The Escrow Agent may resign and be discharged of its duties and obligations hereunder by giving notice in writing of such resignation specifying a date when such resignation shall take effect. In the event the Escrow Agent is unwilling or unable to continue to serve as Escrow Agent, a successor Escrow Agent may be appointed by the Issuer which shall be any national banking association or any state bank within the State of West Virginia which is an institution insured by the Federal Deposit Insurance Corporation and which has trust powers. In the event the Issuer disapproves of the successor Escrow Agent resulting from any of the events described above, the Issuer shall immediately appoint any state bank or national banking association within the State of West Virginia which is an institution insured by the Federal Deposit Insurance Corporation and which has trust powers to be the successor Escrow Agent, whereupon such successor Escrow Agent shall immediately succeed to the respective agreements and covenants hereunder. Any bank into which such successor Escrow Agent may be merged or with which it may be consolidated or any bank resulting from any merger or consolidation to which it shall be a party or any bank to which it may sell or transfer all or substantially all of its corporate trust business shall, unless the Issuer disapproves in writing, be the successor Escrow Agent without the execution of any document or the performance of any further act.

9. Insufficient Moneys or Investments in the Escrow Fund. The Escrow Agent shall immediately notify the Issuer by registered, first-class mail, postage prepaid, whenever for any reason the Escrow Fund created pursuant to this Escrow Agreement plus the cash, securities and investments therein and interest on said securities and investments, as the same accrues, will be insufficient to pay the principal of and interest on the Prior Bonds as required by the first paragraph of Section 3 hereof. The Issuer shall promptly remit from legally available funds the amount of such insufficiency to the Escrow Agent.

10. Examination of Records; Obligations and Responsibilities of Escrow Agent.

(a) The Issuer shall have the right, at any time, to examine all of the Escrow Agent's records regarding the status of the funds or accounts created pursuant to this Escrow Agreement, and the details of all income, investments, redemptions and withdrawals therefrom with respect to the funds or accounts created pursuant to this Escrow Agreement. After the Prior Bonds have been paid in full, the Issuer shall obtain all records and files relating to this Escrow Agreement from the Escrow Agent. The Issuer shall keep all of such records and files available for inspection for six years from such date the Prior Bonds have been paid in full.

(b) The Escrow Agent shall be under no obligation to inquire into or be in any way responsible for the performance or nonperformance by the Issuer of any obligation, or to protect any of the Issuer's rights under any bond resolution or any of said Issuer's other contracts with or franchises or privileges from any state, county, municipality or other governmental agency or with any corporation or individual. The Escrow Agent shall not be responsible in any manner whatsoever for the recitals or statements contained herein, or in the Prior Bonds or any proceedings taken in connection therewith, as they are made solely by the Issuer. The Escrow Agent undertakes to perform only such duties as are expressly set forth herein. The duties and responsibilities of the Escrow Agent hereunder shall be determined solely by the express provisions of this Agreement, and no further duties or responsibilities shall be implied. The Escrow Agent shall not have any liability under, nor duty to inquire into the terms and provisions of any agreement or instructions, other than outlined in this Agreement. The Escrow Agent may rely and shall be protected in acting or refraining from acting upon any written notice, instruction or request furnished to it hereunder and believed by it to be genuine and to have been signed or presented by the proper party or parties. The Escrow Agent shall be under no duty to inquire into or investigate the validity, accuracy or content of any such document. The Escrow Agent shall not be liable for any action

taken or omitted by it in good faith unless a court of competent jurisdiction determines that the Escrow Agent's grossly negligent or willful misconduct was the primary cause of any loss to the Issuer. The Escrow Agent shall not incur any liability for following the instructions herein contained or expressly provided for, or written instructions given by the parties hereto. In the administration of the Agreement and the funds and accounts established hereunder, the Escrow Agent may execute any of its powers and perform its duties hereunder directly or through agents or attorneys and may consult with counsel, accountants and other skilled persons to be selected and retained by it. The Escrow Agent shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel, accountants or other skilled persons. Anything in this Agreement to the contrary notwithstanding, in no event shall the Escrow Agent be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Escrow Agent has been advised of such loss or damage and regardless of the form of action.

11. Severability. If any one or more of the covenants or agreements provided in this Escrow Agreement on the part of the Issuer or the Escrow Agent to be performed should be determined by a court of competent jurisdiction to be contrary to law , such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Escrow Agreement.

12. Successors and Assigns. All of the covenants, promises and agreements in this Escrow Agreement contained by or on behalf of the Issuer or the Escrow Agent shall bind and inure to the benefit of their respective successors and assigns, whether or not so expressed.

13. Governing Law. This Escrow Agreement shall be governed by the applicable law of the State of West Virginia.

14. Headings. Any headings preceding the text of the several Sections hereof shall be solely for convenience of reference and shall not constitute a part of this Escrow Agreement, nor shall they affect its meaning, construction or effect.

15. Counterparts. This Escrow Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

16. Notices. Unless otherwise required herein, any notices, requests, complaints, demands, communications or other papers shall be sufficiently given and shall be deemed given when delivered or mailed by registered or certified mail, postage prepaid, or sent by telegram, telecopy, or telex (or telephone to the extent permitted hereunder), addressed to the parties as follows:

The Issuer:

The City of Beckley
Attention: Finance Director
P. O. Box 2514
Beckley, West Virginia 25802

The Escrow Agent:

West Virginia Municipal Bond Commission
8 Capitol Street, Suite 500
Charleston, West Virginia 25301
Attention: Executive Director

IN WITNESS WHEREOF, the parties hereto have each caused this Escrow Agreement to be executed by their duly authorized officers as of the date first above written.

THE CITY OF BECKLEY

By: _____
Its Mayor

WEST VIRGINIA MUNICIPAL BOND COMMISSION, Escrow Agent

By: _____
Its Executive Director

BRANCH BANKING AND TRUST COMPANY

By: _____
Its: Authorized Representative

$2,405,000.00
THE CITY OF BECKLEY SEWERAGE SYSTEM
REVENUE REFUNDING BONDS SERIES 2005

RECEIPT FOR BONDS

On the date hereof, the undersigned acknowledges receipt of the City of Beckley Building Sewerage System Revenue Refunding Bonds Series 2005 issued on July 20, 2005 in the aggregate principal amount of $2,405,000.00, evidenced in the form of one certificate number R-1. Said certificate has been executed and sealed on behalf of the Issuer.

Dated: July 20, 2005.

BRANCH BANKING AND TRUST COMPANY

By: _____
Russell R. Akers, II
Its: Assistant Vice President

CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE REFUNDING BONDS,
SERIES 2005

GENERAL CERTIFICATE ON:

1. TERMS
2. NO LITIGATION
3. SALE OF BONDS; SIGNATURE
4. DELIVERY AND PAYMENT
5. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
6. MEETINGS
7. INCUMBENCY AND OFFICIAL NAME
8. SPECIMEN BOND
9. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE
10. CONFLICTS OF INTEREST
11. COUNTERPARTS

We, the undersigned MAYOR and the undersigned RECORDER of the City of Beckley in Raleigh County, West Virginia (the "Issuer"), and the undersigned CITY ATTORNEY for the Issuer, hereby certify in connection with the City of Beckley Sewerage System Revenue Refunding Bonds, Series 2005, numbered R-1, dated the date hereof, in the principal amount of $2,405,000 (the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this Certificate and not otherwise defined herein shall have the same meaning set forth in the Ordinance duly adopted by the Issuer on April 12, 2005 and the Supplemental Resolution duly adopted by the Issuer on July 12, 2005 (collectively, the "Bond Ordinance") .

2. NO LITIGATION: No controversy or litigation of any nature is now pending or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale and delivery of the Bonds; the operation of the System, the collection or use of the Gross Revenues, or the pledge and security of the Net Revenues for the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the title of the members or officers of the Issuer, the Governing Body, or the Sanitary Board to their respective offices; nor questioning any proceedings of the Issuer taken with respect to the authorization, issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use of the Gross Revenues, or the pledge and security of the Net Revenues for the Bonds.

3. SALE OF SERIES 2005 BONDS; SIGNATURES: The Series 2005 Bonds were sold to Branch Banking and Trust Company (herein "BB&T") at an agreed purchase price of $2,405,000. As of the date hereof, the Series 2005 Bonds were signed by the manual signature of the Mayor, and the official seal of the City, which seal is impressed upon this Certificate, was impressed thereon and attested by the manual signature of the City Recorder.

4. DELIVERY AND PAYMENT: The undersigned Mayor did, on the date hereof, deliver to BB&T the entire issue of the Series 2005 Bonds, in one bond numbered R-1, as set forth on Exhibit A hereto.

At the time of delivery of the Series 2005 Bonds, there was paid to the City the agreed purchase price therefor. Total funds available to the City were calculated and applied as follows:

Source of Funds – 2005 Bonds Proceeds	2,405,000.00
1995 A Debt Service Reserve	246,671.84
1995 A Revenue	230,110.84
Total	2,881,782.68
Uses of Funds: Escrow Fund (1)	2,778,331.38
Cost of Issuance	103,451.30
Total	2,881,782.68

(1) The amount, together with other moneys transferred from the Prior Bonds sinking fund, necessary to purchase the Government Securities to defease the Prior Bonds.

5. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery by the Issuer of the Bond Purchase Commitment.

6. MEETINGS: All actions, ordinances, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the acquisition, construction, operation and financing of the Project or the System were authorized or adopted at meetings of the Governing Body duly and regularly or specifically called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes including Chapter 6, Article 9A of the Code of West Virginia, 1931, as amended, and a quorum of duly elected or appointed, qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

7. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "City of Beckley." The Issuer is a municipal corporation of the State of West Virginia in Raleigh County of said State. The Governing Body of the Issuer is its Council, consisting of 7

Council members and the Mayor. The Recorder is the ex officio clerk of the Council. The names and dates of commencement and termination of terms of office for all such officials are listed below:

Office	Name	Date of Commencement of Office	Date of Termination of Office
Mayor	Emmett S. Pugh, III	July 1, 2003	June 30, 2007
City Recorder	Gary Sutphin	July 1, 2003	June 30, 2007
Council Member	A. K. Minter, Jr.	July 1, 2003	June 30, 2007
Council Member	Ann Worley	August 24, 2004	June 30, 2007
Council Member	Tim Berry	July 1, 2003	June 30, 2007
Council Member	Lee Leftwich	July 1, 2003	June 30, 2007
Council Member	Howard Mollohan	July 1, 2003	June 30, 2007
Council Member	Robert Rappold	July 1, 2003	June 30, 2007
Council Member	Steve Nickell	July 1, 2003	June 20, 2007

The duly appointed and acting City Attorney for the Issuer is William H. File, III, Esquire, of Beckley, West Virginia.

8. SPECIMEN BOND: Attached hereto as Exhibit A is a specimen of the Bond which is identical in all respects with the Bond this day delivered to the Authority and being substantially in the form prescribed in the Ordinance.

9. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE: Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in the Register Herald, a qualified newspaper published and of general circulation in the Issuer, together with a notice to all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in the Bond Ordinance, stating that any person interested may appear before the Governing Body at the public hearing held at a public meeting of the Governing Body on April 12, 2005, at 7:30 p.m., prevailing time, in the council chambers of the City Hall in Beckley, West Virginia, and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the Recorder of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the Governing Body and the Bond Ordinance became finally adopted, enacted and effective as of the date of such public hearing and remains in full force and effect.

10. CONFLICTS OF INTEREST: No member, officer or employee of the Issuer or the Sanitary Board has a substantial financial interest, direct, indirect or by reason of ownership of

stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, the Ordinance, and for the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

11. COUNTERPARTS: This Certificate may be executed in counterparts and all counterparts shall be deemed to be the Certificate.

WITNESS our signatures and the official corporate seal of the City of Beckley on this 20th day of July, 2005.

[SEAL]

Signature	Official Title
	Mayor
	Recorder
	City Attorney

EXHIBIT A

See Specimen Bond (Tab No. 14)

COPY

Form **8038-G** (Rev. November 2000)
Department of the Treasury Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)
► See separate Instructions.
Caution: *If the issue price is under $100,000, use Form 8038-GC.*

OMB No. 1545-0720

Part I Reporting Authority

If **Amended Return**, check here ► ☐

1 Issuer's name: **City of Beckley**	2 Issuer's employer identification number: **55 6000144**	
3 Number and street (or P.O. box if mail is not delivered to street address): **P. O. Box 2514**	Room/suite	4 Report number: **3 01**
5 City, town, or post office, state, and ZIP code: **Beckley, West Virginia 25802**		6 Date of issue: **07/20/2005**
7 Name of issue: **Sewerage System Revenue Refunding Bonds Series 2005**		8 CUSIP number
9 Name and title of officer or legal representative whom the IRS may call for more information: **Gary Sutphin, Finance Dir.**	10 Telephone number of officer or legal representative: **(304) 256-1755**	

Part II Type of Issue (check applicable box(es) and enter the issue price) See instructions and attach schedule

11	☐ Education	11	
12	☐ Health and hospital	12	
13	☐ Transportation	13	
14	☐ Public safety	14	
15	☑ Environment (including sewage bonds)	15	2,405,000.00
16	☐ Housing	16	
17	☐ Utilities	17	
18	☐ Other. Describe ►	18	
19	If obligations are TANs or RANs, check box ► ☐ If obligations are BANs, check box ► ☐		
20	If obligations are in the form of a lease or installment sale, check box ► ☐		

RECEIVED JUL 25 2005 OGDEN UT

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	07/01/2020	$ 2,405,000.00	$ 2,405,000.00	8.2379 years	3.9420 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22	Proceeds used for accrued interest			22	
23	Issue price of entire issue (enter amount from line 21, column (b))			23	2,405,000.00
24	Proceeds used for bond issuance costs (including underwriters' discount)	24	103,451.30		
25	Proceeds used for credit enhancement	25			
26	Proceeds allocated to reasonably required reserve or replacement fund	26			
27	Proceeds used to currently refund prior issues	27	2,685,425.13		
28	Proceeds used to advance refund prior issues	28			
29	Total (add lines 24 through 28)			29	2,788,876.43
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)			30	(383,876.43)

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)

31	Enter the remaining weighted average maturity of the bonds to be currently refunded ►	12.4835 years
32	Enter the remaining weighted average maturity of the bonds to be advance refunded ►	years
33	Enter the last date on which the refunded bonds will be called ►	10/01/2005
34	Enter the date(s) the refunded bonds were issued ►	04/01/2005

Part VI Miscellaneous

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35	
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	36a	
b	Enter the final maturity date of the guaranteed investment contract ►		
37	Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	37a	

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box ► ☐ and enter the name of the issuer ► _____ and the date of the issue ► _____

38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box ► ☐

39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ► ☐

40 If the issuer has identified a hedge, check box ► ☐

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature of issuer's authorized representative — Date: 7-20-05

Emmett S. Pugh, III, Mayor
Type or print name and title

$2,405,000.00
THE CITY OF BECKLEY SEWERAGE SUSTEM
REVENUE REFUNDING BONDS, SERIES 2005

CERTIFICATE OF REGISTRATION OF BONDS

I, Russell E. Akers II, a duly authorized representative of Branch Banking and Trust (herein "BB&T"), Charleston, West Virginia, as Registrar (the "Registrar") under the Ordinance duly adopted April 12, 2005 by the City of Beckley and a Supplemental Resolution thereto duly adopted July 12, 2005 providing for the issuance of the Bonds described above, hereby certify that on the 20th day of July, 2005, the fully registered Sewerage System Revenue Refunding Bonds, Series 2005 in the stated principal amount of $2,405,000.00, designated "The City Beckley, West Virginia Sewerage System Revenue Refunding Bonds, Series 2005" and consisting of one bond numbered R-1 and dated July 20, 2005 was registered as to principal and interest in the name of "Branch Banking and Trust Company" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of BB&T, as Registrar.

WITNESS my signature as of this 20th day of July, 2005.

BRANCH BANK AND TRUST COMPANY

By: Russell E. Akers II
Authorized Representative

No. R-1

COPY

$2,405,000.00

UNITED STATES OF AMERICA

STATE OF WEST VIRGINIA

COUI'JTY OF RALEIGH

THE CITY OF BECKLEY

SEWER SYSTEM

REFUNDING REVENUE BOND

SERIES 2005

INTEREST RATE	BOND DATE	MATURITY DATE
3.91%	**July 20, 2005**	**July 1, 2020**

REGISTERED OWNER: **BRANCH BANKING AND TRUST COMPANY**

PRINCIPAL AMOUNT: **$2,405,000.00**

KNOW ALL MEN BY THESE PRESENTS: That the City of Beckley, a municipal corporation organized and existing under the laws of the State of West Virginia (hereinafter referred to as the "City"), for value received, hereby promises to pay, solely from the special funds provided therefore, as hereinafter set forth, to the Registered Owner set forth above, on the Maturity Date set forth above, the Principal Amount set forth above and solely from such special funds also to pay interest on said sum from the Bond Date , set forth above, at the Interest Rate set forth above monthly, on the first day of each month commencing on August 1, 2005, and the first day in each month thereafter, both principal of and interest on this Bond being payable in any coin or currency which, on the respective dates of payment of principal and interest, is legal tender for the payment of public and private debts under the laws of the United States of America. 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 Branch Banking and Trust Company, Charleston, West Virginia, as registrar (the "Registrar") on the 1 day of the month preceding an Interest Payment Date (the "Record Date").

This Bond is one of a series of bonds (the "Bonds"), in the aggregate principal amount of $2,405,000.00, of like date and of like tenor and effect, except as to number, date of maturity and interest rate, issued to refund certain sewerage system revenue bonds of the City outstanding on the date of issuance hereof in the aggregate principal amount of $2,405,000 (the "Series 1995A Bonds"), all under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20, Chapter 13, Article 2E and Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended (collectively the "Act"), and an ordinance duly passed by the City Council on the12th day of April, 2005, as supplemented by resolution adopted on the 12th day of July, 2005, (hereinafter referred to

COPY

collectively as the "Ordinance"), and is subject to all the terms and conditions of said Ordinance. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance.

The principal and interest on the Bonds shall be payable in monthly installments so as to amortize the principal outstanding on or before October, 1, 2005, at which time all amounts still outstanding shall then be due and payable. The City reserves the right to prepay the outstanding principal at any time without any penalty accruing therefor.

THIS BOND IS ISSUED ON A PARITY WITH THE SEWERAGE SYSTEM REVENUE BONDS, SERIES 1998 A, OF THE CITY (THE "SERIES 1998 A BONDS"), ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF $11,000,000, AND THE SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A, OF THE CITY (THE "SERIES 2004 A BONDS"), ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF $9,039,000, WITH RESPECT TO LIENS, PLEDGE AND SOURCES OF AND SECURITY FOR PAYMENT (COLLECTIVELY, THE "PRIOR BONDS").

The Bonds are payable only from and are secured by a first lien on the Net Revenues (as defined in the Ordinance) to be derived from the operation of the sewerage system of the City (the "System"), which first lien is shared with the holders of the Prior Bonds, and the sinking fund held by the West Virginia Municipal Bond Commission, including any reserve account therein. Said Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the City within any constitutional or statutory provision or limitation, nor shall the City be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues from the operation of the System or said reserve account. By the Ordinance, the City has covenanted and agreed to fix, establish and collect just and equitable rates or charges for the use of the services and facilities of the System so as to always provide revenues at least sufficient to provide for all reasonable expenses of repair, maintenance and operation of the System and leave a balance each year equal to at least one hundred twenty percent (120%) of the maximum annual amount required to pay the interest on and principal of the Bonds and all other obligations secured by or payable from the revenues of the System on a parity with the Bonds, including the Prior Bonds, as the same become due and accomplish retirement of the Bonds and all bonds on a parity therewith for the payment of which such revenues have or shall have been pledged, charged or otherwise encumbered. The City has entered into certain further covenants with the holders of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided the holders of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This Bond is transferable, only upon the books of the Registrar which shall be kept for that purpose at the office of the Registrar, by the Registered Owner or by its attorney or legal representative duly authorized in writing, upon surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or its duly authorized attorney or legal representative duly authorized in writing.

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

All moneys received from the sale of the Bonds shall be applied solely to refund the Series 1995 A Bonds, and to pay other costs in connection therewith, and there shall be, and hereby is, created and granted a lien upon such moneys, until so applied, in favor of the holder or holders of said Bonds.

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

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

This Bond shall not be valid or obligatory for any purpose or entitled to any security or benefit under the Ordinance unless and until the Certificate of Authentication and Registration attached hereto shall have been manually executed by the Bond Registrar.

IN WITNESS WHEREOF, the City of Beckley has caused this Bond to be signed by its Mayor, attested by its Recorder and its corporate seal to be imprinted hereon, all as of the Bond Date.

THE CITY OF BECKLEY, WEST VIRGINIA

Mayor

[SEAL]

ATTEST:

Recorder

COPY

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the City of Beckley Sewerage System Refunding Revenue Bonds, Series 2005 described in the within-mentioned Ordinance and has been duly registered in the name of the Registered Owner set forth above on the date set forth below.

Date:_____

_____

as Registrar

By_____

Its Authorized Officer

[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 said Bond on the books kept for registration of .the within Bond of said City with full power of substitution the premises.

Dated:_____ _____

_____

In the presence of:

_____

COPY

Beckely, WV - Sewer Refunding

Compound Period: Monthly

Nominal Annual Rate: 3.910 %

CASH FLOW DATA

	Event	Date	Amount	Number	Period	End Date
1	Loan	07/20/2005	2,405,000.00	1		
	Points	0.000%	0.00			
	Prepaid Days	1 days @ 261.21	261.21			
	Other Charges		0.00			
2	Payment	08/01/2005	6,499.95	1		
3	Payment	09/01/2005	17,727.12	1		
4	Payment	10/01/2005	17,727.13	1		
5	Payment	11/01/2005	17,727.13	1		
6	Payment	12/01/2005	17,727.12	1		
7	Payment	01/01/2006	17,727.13	1		
8	Payment	02/01/2006	17,727.13	1		
9	Payment	03/01/2006	17,727.12	1		
10	Payment	04/01/2006	17,727.12	1		
11	Payment	05/01/2006	17,727.12	1		
12	Payment	06/01/2006	17,727.13	1		
13	Payment	07/01/2006	17,727.12	1		
14	Payment	08/01/2006	17,727.13	1		
15	Payment	09/01/2006	17,727.13	1		
16	Payment	10/01/2006	17,727.13	1		
17	Payment	11/01/2006	17,727.13	1		
18	Payment	12/01/2006	17,727.13	1		
19	Payment	01/01/2007	17,727.13	1		
20	Payment	02/01/2007	17,727.13	1		
21	Payment	03/01/2007	17,727.13	1		
22	Payment	04/01/2007	17,727.12	1		
23	Payment	05/01/2007	17,727.12	1		
24	Payment	06/01/2007	17,727.13	1		
25	Payment	07/01/2007	17,727.13	1		
26	Payment	08/01/2007	17,727.13	1		
27	Payment	09/01/2007	17,727.13	1		
28	Payment	10/01/2007	17,727.13	1		
29	Payment	11/01/2007	17,727.13	1		
30	Payment	12/01/2007	17,727.13	1		
31	Payment	01/01/2008	17,727.13	1		
32	Payment	02/01/2008	17,727.12	1		
33	Payment	03/01/2008	17,727.13	1		
34	Payment	04/01/2008	17,727.12	1		
35	Payment	05/01/2008	17,727.12	1		
36	Payment	06/01/2008	17,727.13	1		
37	Payment	07/01/2008	17,727.12	1		

38	Payment	08/01/2008	17,727.12	1
39	Payment	09/01/2008	17,727.13	1
40	Payment	10/01/2008	17,727.12	1
41	Payment	11/01/2008	17,727.13	1
42	Payment	12/01/2008	17,727.13	1
43	Payment	01/01/2009	17,727.13	1
44	Payment	02/01/2009	17,727.13	1
45	Payment	03/01/2009	17,727.13	1
46	Payment	04/01/2009	17,727.13	1
47	Payment	05/01/2009	17,727.13	1
48	Payment	06/01/2009	17,727.12	1
49	Payment	07/01/2009	17,727.12	1
50	Payment	08/01/2009	17,727.13	1
51	Payment	09/01/2009	17,727.12	1
52	Payment	10/01/2009	17,727.12	1
53	Payment	11/01/2009	17,727.13	1
54	Payment	12/01/2009	17,727.12	1
55	Payment	01/01/2010	17,727.13	1
56	Payment	02/01/2010	17,727.12	1
57	Payment	03/01/2010	17,727.13	1
58	Payment	04/01/2010	17,727.12	1
59	Payment	05/01/2010	17,727.13	1
60	Payment	06/01/2010	17,727.12	1
61	Payment	07/01/2010	17,727.12	1
62	Payment	08/01/2010	17,727.13	1
63	Payment	09/01/2010	17,727.12	1
4	Payment	10/01/2010	17,727.12	1
65	Payment	11/01/2010	17,727.12	1
66	Payment	12/01/2010	17,727.13	1
67	Payment	01/01/2011	17,727.12	1
68	Payment	02/01/2011	17,727.13	1
69	Payment	03/01/2011	17,727.12	1
70	Payment	04/01/2011	17,727.12	1
71	Payment	05/01/2011	17,727.13	1
72	Payment	06/01/2011	17,727.12	1
73	Payment	07/01/2011	17,727.13	1
74	Payment	08/01/2011	17,727.13	1
75	Payment	09/01/2011	17,727.13	1
76	Payment	10/01/2011	17,727.13	1
77	Payment	11/01/2011	17,727.12	1
78	Payment	12/01/2011	17,727.12	1
79	Payment	01/01/2012	17,727.12	1
80	Payment	02/01/2012	17,727.13	1
81	Payment	03/01/2012	17,727.13	1
82	Payment	04/01/2012	17,727.12	1
83	Payment	05/01/2012	17,727.13	1
84	Payment	06/01/2012	17,727.12	1
85	Payment	07/01/2012	17,727.13	1
86	Payment	08/01/2012	17,727.13	1
87	Payment	09/01/2012	17,727.12	1

88	Payment	10/01/2012	17,727.13	1
89	Payment	11/01/2012	17,727.12	1
90	Payment	12/01/2012	17,727.12	1
91	Payment	01/01/2013	17,727.13	1
92	Payment	02/01/2013	17,727.13	1
93	Payment	03/01/2013	17,727.13	1
94	Payment	04/01/2013	17,727.13	1
95	Payment	05/01/2013	17,727.12	1
96	Payment	06/01/2013	17,727.12	1
97	Payment	07/01/2013	17,727.13	1
98	Payment	08/01/2013	17,727.13	1
99	Payment	09/01/2013	17,727.13	1
100	Payment	10/01/2013	17,727.13	1
101	Payment	11/01/2013	17,727.13	1
102	Payment	12/01/2013	17,727.13	1
103	Payment	01/01/2014	17,727.12	1
104	Payment	02/01/2014	17,727.12	1
105	Payment	03/01/2014	17,727.12	1
106	Payment	04/01/2014	17,727.12	1
107	Payment	05/01/2014	17,727.12	1
108	Payment	06/01/2014	17,727.13	1
109	Payment	07/01/2014	17,727.12	1
110	Payment	08/01/2014	17,727.12	1
111	Payment	09/01/2014	17,727.12	1
112	Payment	10/01/2014	17,727.12	1
113	Payment	11/01/2014	17,727.13	1
114	Payment	12/01/2014	17,727.13	1
115	Payment	01/01/2015	17,727.13	1
116	Payment	02/01/2015	17,727.13	1
117	Payment	03/01/2015	17,727.13	1
118	Payment	04/01/2015	17,727.13	1
119	Payment	05/01/2015	17,727.12	1
120	Payment	06/01/2015	17,727.12	1
121	Payment	07/01/2015	17,727.12	1
122	Payment	08/01/2015	17,727.13	1
123	Payment	09/01/2015	17,727.12	1
124	Payment	10/01/2015	17,727.13	1
125	Payment	11/01/2015	17,727.13	1
126	Payment	12/01/2015	17,727.12	1
127	Payment	01/01/2016	17,727.12	1
128	Payment	02/01/2016	17,727.12	1
129	Payment	03/01/2016	17,727.13	1
130	Payment	04/01/2016	17,727.12	1
131	Payment	05/01/2016	17,727.12	1
132	Payment	06/01/2016	17,727.12	1
133	Payment	07/01/2016	17,727.12	1
134	Payment	08/01/2016	17,727.12	1
135	Payment	09/01/2016	17,727.13	1
136	Payment	10/01/2016	17,727.13	1
137	Payment	11/01/2016	17,727.13	1

138	Payment	12/01/2016	17,727.13	1
139	Payment	01/01/2017	17,727.12	1
140	Payment	02/01/2017	17,727.12	1
141	Payment	03/01/2017	17,727.13	1
142	Payment	04/01/2017	17,727.13	1
143	Payment	05/01/2017	17,727.12	1
144	Payment	06/01/2017	17,727.13	1
145	Payment	07/01/2017	17,727.12	1
146	Payment	08/01/2017	17,727.12	1
147	Payment	09/01/2017	17,727.12	1
148	Payment	10/01/2017	17,727.13	1
149	Payment	11/01/2017	17,727.13	1
150	Payment	12/01/2017	17,727.12	1
151	Payment	01/01/2018	17,727.12	1
152	Payment	02/01/2018	17,727.12	1
153	Payment	03/01/2018	17,727.12	1
154	Payment	04/01/2018	17,727.12	1
155	Payment	05/01/2018	17,727.13	1
156	Payment	06/01/2018	17,727.13	1
157	Payment	07/01/2018	17,727.13	1
158	Payment	08/01/2018	17,727.13	1
159	Payment	09/01/2018	17,727.13	1
160	Payment	10/01/2018	17,727.13	1
161	Payment	11/01/2018	17,727.13	1
162	Payment	12/01/2018	17,727.12	1
163	Payment	01/01/2019	17,727.13	1
64	Payment	02/01/2019	17,727.13	1
165	Payment	03/01/2019	17,727.12	1
166	Payment	04/01/2019	17,727.12	1
167	Payment	05/01/2019	17,727.13	1
168	Payment	06/01/2019	17,727.13	1
169	Payment	07/01/2019	17,727.13	1
170	Payment	08/01/2019	17,727.12	1
171	Payment	09/01/2019	17,727.12	1
172	Payment	10/01/2019	17,727.12	1
173	Payment	11/01/2019	17,727.13	1
174	Payment	12/01/2019	17,727.12	1
175	Payment	01/01/2020	17,727.13	1
176	Payment	02/01/2020	17,727.13	1
177	Payment	03/01/2020	17,727.12	1
178	Payment	04/01/2020	17,727.12	1
179	Payment	05/01/2020	17,727.13	1
180	Payment	06/01/2020	17,727.13	1
181	Payment	07/01/2020	17,727.12	1

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Payment	Interest	Principal	Balance
Loan	07/20/2005				2,405,000.00
1	08/01/2005	6,499.95	2,873.31	3,626.64	2,401,373.36
2	09/01/2005	17,727.12	7,824.47	9,902.65	2,391,470.71
3	10/01/2005	17,727.13	7,792.21	9,934.92	2,381,535.79
4	11/01/2005	17,727.13	7,759.84	9,967.29	2,371,568.50
5	12/01/2005	17,727.12	7,727.36	9,999.76	2,361,568.74
2005 Totals		77,408.45	33,977.19	43,431.26	
6	01/01/2006	17,727.13	7,694.78	10,032.35	2,351,536.39
7	02/01/2006	17,727.13	7,662.09	10,065.04	2,341,471.35
8	03/01/2006	17,727.12	7,629.29	10,097.83	2,331,373.52
9	04/01/2006	17,727.12	7,596.39	10,130.73	2,321,242.79
10	05/01/2006	17,727.12	7,563.38	10,163.74	2,311,079.05
11	06/01/2006	17,727.13	7,530.27	10,196.86	2,300,882.19
12	07/01/2006	17,727.12	7,497.04	10,230.08	2,290,652.11
13	08/01/2006	17,727.13	7,463.71	10,263.42	2,280,388.69
14	09/01/2006	17,727.13	7,430.27	10,296.86	2,270,091.83
15	10/01/2006	17,727.13	7,396.72	10,330.41	2,259,761.42
16	11/01/2006	17,727.13	7,363.06	10,364.07	2,249,397.35
17	12/01/2006	17,727.13	7,329.29	10,397.84	2,238,999.51
2006 Totals		212,725.52	90,156.29	122,569.23	
18	01/01/2007	17,727.13	7,295.41	10,431.72	2,228,567.79
19	02/01/2007	17,727.13	7,261.42	10,465.71	2,218,102.08
20	03/01/2007	17,727.13	7,227.32	10,499.81	2,207,602.27
21	04/01/2007	17,727.12	7,193.10	10,534.02	2,197,068.25
22	05/01/2007	17,727.12	7,158.78	10,568.34	2,186,499.91
23	06/01/2007	17,727.13	7,124.35	10,602.78	2,175,897.13
24	07/01/2007	17,727.13	7,089.80	10,637.33	2,165,259.80
25	08/01/2007	17,727.13	7,055.14	10,671.99	2,154,587.81
26	09/01/2007	17,727.13	7,020.37	10,706.76	2,143,881.05
27	10/01/2007	17,727.13	6,985.48	10,741.65	2,133,139.40
28	11/01/2007	17,727.13	6,950.48	10,776.65	2,122,362.75
29	12/01/2007	17,727.13	6,915.37	10,811.76	2,111,550.99
2007 Totals		212,725.54	85,277.02	127,448.52	
30	01/01/2008	17,727.13	6,880.14	10,846.99	2,100,704.00
31	02/01/2008	17,727.12	6,844.79	10,882.33	2,089,821.67
32	03/01/2008	17,727.13	6,809.34	10,917.79	2,078,903.88
33	04/01/2008	17,727.12	6,773.76	10,953.36	2,067,950.52
34	05/01/2008	17,727.12	6,738.07	10,989.05	2,056,961.47
35	06/01/2008	17,727.13	6,702.27	11,024.86	2,045,936.61
36	07/01/2008	17,727.12	6,666.34	11,060.78	2,034,875.83
37	08/01/2008	17,727.12	6,630.30	11,096.82	2,023,779.01
38	09/01/2008	17,727.13	6,594.15	11,132.98	2,012,646.03
39	10/01/2008	17,727.12	6,557.87	11,169.25	2,001,476.78

40	11/01/2008	17,727.13	6,521.48	11,205.65	1,990,271.13
41	12/01/2008	17,727.13	6,484.97	11,242.16	1,979,028.97
2008 Totals		212,725.50	80,203.48	132,522.02	
42	01/01/2009	17,727.13	6,448.34	11,278.79	1,967,750.18
43	02/01/2009	17,727.13	6,411.59	11,315.54	1,956,434.64
44	03/01/2009	17,727.13	6,374.72	11,352.41	1,945,082.23
45	04/01/2009	17,727.13	6,337.73	11,389.40	1,933,692.83
46	05/01/2009	17,727.13	6,300.62	11,426.51	1,922,266.32
47	06/01/2009	17,727.12	6,263.38	11,463.74	1,910,802.58
48	07/01/2009	17,727.12	6,226.03	11,501.09	1,899,301.49
49	08/01/2009	17,727.13	6,188.56	11,538.57	1,887,762.92
50	09/01/2009	17,727.12	6,150.96	11,576.16	1,876,186.76
51	10/01/2009	17,727.12	6,113.24	11,613.88	1,864,572.88
52	11/01/2009	17,727.13	6,075.40	11,651.73	1,852,921.15
53	12/01/2009	17,727.12	6,037.43	11,689.69	1,841,231.46
2009 Totals		212,725.51	74,928.00	137,797.51	
54	01/01/2010	17,727.13	5,999.35	11,727.78	1,829,503.68
55	02/01/2010	17,727.12	5,961.13	11,765.99	1,817,737.69
56	03/01/2010	17,727.13	5,922.80	11,804.33	1,805,933.36
57	04/01/2010	17,727.12	5,884.33	11,842.79	1,794,090.57
58	05/01/2010	17,727.13	5,845.75	11,881.38	1,782,209.19
59	06/01/2010	17,727.12	5,807.03	11,920.09	1,770,289.10
60	07/01/2010	17,727.12	5,768.19	11,958.93	1,758,330.17
61	08/01/2010	17,727.13	5,729.23	11,997.90	1,746,332.27
62	09/01/2010	17,727.12	5,690.13	12,036.99	1,734,295.28
63	10/01/2010	17,727.12	5,650.91	12,076.21	1,722,219.07
64	11/01/2010	17,727.12	5,611.56	12,115.56	1,710,103.51
65	12/01/2010	17,727.13	5,572.09	12,155.04	1,697,948.47
2010 Totals		212,725.49	69,442.50	143,282.99	
66	01/01/2011	17,727.12	5,532.48	12,194.64	1,685,753.83
67	02/01/2011	17,727.13	5,492.75	12,234.38	1,673,519.45
68	03/01/2011	17,727.12	5,452.88	12,274.24	1,661,245.21
69	04/01/2011	17,727.12	5,412.89	12,314.23	1,648,930.98
70	05/01/2011	17,727.13	5,372.77	12,354.36	1,636,576.62
71	06/01/2011	17,727.12	5,332.51	12,394.61	1,624,182.01
72	07/01/2011	17,727.13	5,292.13	12,435.00	1,611,747.01
73	08/01/2011	17,727.13	5,251.61	12,475.52	1,599,271.49
74	09/01/2011	17,727.13	5,210.96	12,516.17	1,586,755.32
75	10/01/2011	17,727.13	5,170.18	12,556.95	1,574,198.37
76	11/01/2011	17,727.12	5,129.26	12,597.86	1,561,600.51
77	12/01/2011	17,727.12	5,088.21	12,638.91	1,548,961.60
2011 Totals		212,725.50	63,738.63	148,986.87	
78	01/01/2012	17,727.12	5,047.03	12,680.09	1,536,281.51
79	02/01/2012	17,727.13	5,005.72	12,721.41	1,523,560.10
80	03/01/2012	17,727.13	4,964.27	12,762.86	1,510,797.24
81	04/01/2012	17,727.12	4,922.68	12,804.44	1,497,992.80

82	05/01/2012	17,727.13	4,880.96	12,846.17	1,485,146.63
83	06/01/2012	17,727.12	4,839.10	12,888.02	1,472,258.61
84	07/01/2012	17,727.13	4,797.11	12,930.02	1,459,328.59
85	08/01/2012	17,727.13	4,754.98	12,972.15	1,446,356.44
86	09/01/2012	17,727.12	4,712.71	13,014.41	1,433,342.03
87	10/01/2012	17,727.13	4,670.31	13,056.82	1,420,285.21
88	11/01/2012	17,727.12	4,627.76	13,099.36	1,407,185.85
89	12/01/2012	17,727.12	4,585.08	13,142.04	1,394,043.81
2012 Totals		212,725.50	57,807.71	154,917.79	
90	01/01/2013	17,727.13	4,542.26	13,184.87	1,380,858.94
91	02/01/2013	17,727.13	4,499.30	13,227.83	1,367,631.11
92	03/01/2013	17,727.13	4,456.20	13,270.93	1,354,360.18
93	04/01/2013	17,727.13	4,412.96	13,314.17	1,341,046.01
94	05/01/2013	17,727.12	4,369.57	13,357.55	1,327,688.46
95	06/01/2013	17,727.12	4,326.05	13,401.07	1,314,287.39
96	07/01/2013	17,727.13	4,282.39	13,444.74	1,300,842.65
97	08/01/2013	17,727.13	4,238.58	13,488.55	1,287,354.10
98	09/01/2013	17,727.13	4,194.63	13,532.50	1,273,821.60
99	10/01/2013	17,727.13	4,150.54	13,576.59	1,260,245.01
100	11/01/2013	17,727.13	4,106.30	13,620.83	1,246,624.18
101	12/01/2013	17,727.13	4,061.92	13,665.21	1,232,958.97
2013 Totals		212,725.54	51,640.70	161,084.84	
102	01/01/2014	17,727.12	4,017.39	13,709.73	1,219,249.24
103	02/01/2014	17,727.12	3,972.72	13,754.40	1,205,494.84
104	03/01/2014	17,727.12	3,927.90	13,799.22	1,191,695.62
105	04/01/2014	17,727.12	3,882.94	13,844.18	1,177,851.44
106	05/01/2014	17,727.12	3,837.83	13,889.29	1,163,962.15
107	06/01/2014	17,727.13	3,792.58	13,934.55	1,150,027.60
108	07/01/2014	17,727.12	3,747.17	13,979.95	1,136,047.65
109	08/01/2014	17,727.12	3,701.62	14,025.50	1,122,022.15
110	09/01/2014	17,727.12	3,655.92	14,071.20	1,107,950.95
111	10/01/2014	17,727.12	3,610.07	14,117.05	1,093,833.90
112	11/01/2014	17,727.13	3,564.08	14,163.05	1,079,670.85
113	12/01/2014	17,727.13	3,517.93	14,209.20	1,065,461.65
2014 Totals		212,725.47	45,228.15	167,497.32	
114	01/01/2015	17,727.13	3,471.63	14,255.50	1,051,206.15
115	02/01/2015	17,727.13	3,425.18	14,301.95	1,036,904.20
116	03/01/2015	17,727.13	3,378.58	14,348.55	1,022,555.65
117	04/01/2015	17,727.13	3,331.83	14,395.30	1,008,160.35
118	05/01/2015	17,727.12	3,284.92	14,442.20	993,718.15
119	06/01/2015	17,727.12	3,237.86	14,489.26	979,228.89
120	07/01/2015	17,727.12	3,190.65	14,536.47	964,692.42
121	08/01/2015	17,727.13	3,143.29	14,583.84	950,108.58
122	09/01/2015	17,727.12	3,095.77	14,631.35	935,477.23
123	10/01/2015	17,727.13	3,048.10	14,679.03	920,798.20
124	11/01/2015	17,727.13	3,000.27	14,726.86	906,071.34
125	12/01/2015	17,727.12	2,952.28	14,774.84	891,296.50

2015 Totals		212,725.51	38,560.36	174,165.15	
126	01/01/2016	17,727.12	2,904.14	14,822.98	876,473.52
127	02/01/2016	17,727.12	2,855.84	14,871.28	861,602.24
128	03/01/2016	17,727.13	2,807.39	14,919.74	846,682.50
129	04/01/2016	17,727.12	2,758.77	14,968.35	831,714.15
130	05/01/2016	17,727.12	2,710.00	15,017.12	816,697.03
131	06/01/2016	17,727.12	2,661.07	15,066.05	801,630.98
132	07/01/2016	17,727.12	2,611.98	15,115.14	786,515.84
133	08/01/2016	17,727.12	2,562.73	15,164.39	771,351.45
134	09/01/2016	17,727.13	2,513.32	15,213.81	756,137.64
135	10/01/2016	17,727.13	2,463.75	15,263.38	740,874.26
136	11/01/2016	17,727.13	2,414.02	15,313.11	725,561.15
137	12/01/2016	17,727.13	2,364.12	15,363.01	710,198.14
2016 Totals		212,725.49	31,627.13	181,098.36	
138	01/01/2017	17,727.12	2,314.06	15,413.06	694,785.08
139	02/01/2017	17,727.12	2,263.84	15,463.28	679,321.80
140	03/01/2017	17,727.13	2,213.46	15,513.67	663,808.13
141	04/01/2017	17,727.13	2,162.91	15,564.22	648,243.91
142	05/01/2017	17,727.12	2,112.19	15,614.93	632,628.98
143	06/01/2017	17,727.13	2,061.32	15,665.81	616,963.17
144	07/01/2017	17,727.12	2,010.27	15,716.85	601,246.32
145	08/01/2017	17,727.12	1,959.06	15,768.06	585,478.26
146	09/01/2017	17,727.12	1,907.68	15,819.44	569,658.82
147	10/01/2017	17,727.13	1,856.14	15,870.99	553,787.83
148	11/01/2017	17,727.13	1,804.43	15,922.70	537,865.13
149	12/01/2017	17,727.12	1,752.54	15,974.58	521,890.55
2017 Totals		212,725.49	24,417.90	188,307.59	
150	01/01/2018	17,727.12	1,700.49	16,026.63	505,863.92
151	02/01/2018	17,727.12	1,648.27	16,078.85	489,785.07
152	03/01/2018	17,727.12	1,595.88	16,131.24	473,653.83
153	04/01/2018	17,727.12	1,543.32	16,183.80	457,470.03
154	05/01/2018	17,727.13	1,490.59	16,236.54	441,233.49
155	06/01/2018	17,727.13	1,437.69	16,289.44	424,944.05
156	07/01/2018	17,727.13	1,384.61	16,342.52	408,601.53
157	08/01/2018	17,727.13	1,331.36	16,395.77	392,205.76
158	09/01/2018	17,727.13	1,277.94	16,449.19	375,756.57
159	10/01/2018	17,727.13	1,224.34	16,502.79	359,253.78
160	11/01/2018	17,727.13	1,170.57	16,556.56	342,697.22
161	12/01/2018	17,727.12	1,116.62	16,610.50	326,086.72
2018 Totals		212,725.51	16,921.68	195,803.83	
162	01/01/2019	17,727.13	1,062.50	16,664.63	309,422.09
163	02/01/2019	17,727.13	1,008.20	16,718.93	292,703.16
164	03/01/2019	17,727.12	953.72	16,773.40	275,929.76
165	04/01/2019	17,727.12	899.07	16,828.05	259,101.71
166	05/01/2019	17,727.13	844.24	16,882.89	242,218.82
167	06/01/2019	17,727.13	789.23	16,937.90	225,280.92

168	07/01/2019	17,727.13	734.04	16,993.09	208,287.83
169	08/01/2019	17,727.12	678.67	17,048.45	191,239.38
170	09/01/2019	17,727.12	623.12	17,104.00	174,135.38
171	10/01/2019	17,727.12	567.39	17,159.73	156,975.65
172	11/01/2019	17,727.13	511.48	17,215.65	139,760.00
173	12/01/2019	17,727.12	455.38	17,271.74	122,488.26
2019 Totals		212,725.50	9,127.04	203,598.46	
174	01/01/2020	17,727.13	399.11	17,328.02	105,160.24
175	02/01/2020	17,727.13	342.65	17,384.48	87,775.76
176	03/01/2020	17,727.12	286.00	17,441.12	70,334.64
177	04/01/2020	17,727.12	229.17	17,497.95	52,836.69
178	05/01/2020	17,727.13	172.16	17,554.97	35,281.72
179	06/01/2020	17,727.13	114.96	17,612.17	17,669.55
180	07/01/2020	17,727.12	57.57	17,669.55	0.00
2020 Totals		124,089.88	1,601.62	122,488.26	
Grand Totals		3,179,655.40	774,655.40	2,405,000.00	

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments
The cost of your credit as a yearly rate.	The dollar amount the credit will cost you.	The amount of credit provided to you or on your behalf.	The amount you will have paid after you have made all payments as scheduled.
3.910 %	$ 774,916.61	$ 2,404,738.79	$ 3,179,655.40

WEST VIRGINIA
Water Development Authority

Celebrating 31 Years of Service ***1974 - 2005***

CITY OF BECKLEY
SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2005

CONSENT TO ISSUANCE OF PARITY BONDS

In reliance upon a certificate of Smith, Cochran & Hicks, P.L.L.C., an independent certified public accountant, a copy of which is attached, stating that the coverage and parity requirements have been met, the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Prior Bonds, hereinafter defined and described, hereby consents to the issuance of the Sewerage System Revenue Refunding Bonds, Series 2005 (the "Bonds"), in the original principal amount of $2,405,000, by the City of Beckley (the "Issuer"), on a parity with respect to liens, pledge and source of and security for payment, being the net revenues of the Issuer's System, with the Issuer's Sewerage System Revenue Bonds, Series 1998 A, and Sewerage System Revenue Bonds, Series 2004 A (collectively, the "Prior Bonds").

WITNESS my signature on this 20th day of July, 2005.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Authorized Representative

180 Association Drive, Charleston, WV 25311-1217
phone (304) 558-3612 / fax (304) 558-0299
www.wwda.org

SCH **Smith, Cochran & Hicks, P.L.L.C.**
Certified Public Accountants Beckley Bridgeport Charleston Montgomery
405 Capitol Street ● Suite 908 ● Charleston, West Virginia 25301 ● 304-345-1151 ● Fax 304-346-6731

July 20, 2005

CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE REFUNDING BONDS, SERIES 2005

City of Beckley
P.O. Box 2514
Beckley, WV 25802

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

Vaughan Law Firm
2020 Kanawha Blvd., E.
Charleston, WV 25311

Ladies and Gentlemen:

We have reviewed the sewer service rates of the City of Beckley (the "Issuer"), enacted by the Issuer on January 27, 2004, and the projected operating expenses and anticipated customer usage provided by Chapman Technical Group, the consulting engineer of the Issuer. It is our opinion that such rates are sufficient (i) to provide for all operating expenses of the sewerage system of the Issuer (the "System"), and (ii) to leave a balance each fiscal year equal to at least 120% of the maximum amount required in any succeeding fiscal year for the payment of principal of and interest on the Issuer's Sewerage System Revenue Refunding Bonds, Series 2005 (the "Series 2005 Bonds") and all other obligations secured by or payable from revenues of the System on a parity with the Series 2005 Bonds, including the Issuer's Sewerage System Refunding Revenue Bonds, Series 1995 A, and the Sewerage System Revenue Bonds, Series 1998 A, and the Sewerage System Revenue Bonds, Series 2004 A (collectively, the "Prior Bonds").

It is further our 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 2005 Bonds, will not be less than 120% of the maximum debt service in any succeeding year on the Prior Bonds and the Series 2005 Bonds.

Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Ordinance authorizing the Series 2005 Bonds.

Very truly yours,

Smith Cochran & Hicks

SMITH, COCHRAN & HICKS, P.L.L.C.

VAUGHAN LAW FIRM
Attorneys and Counsellors at Law

DENNIS R. VAUGHAN, JR.

WEST VIRGINIA MUNICIPAL LEAGUE CENTER
2020 KANAWHA BOULEVARD, EAST
CHARLESTON, WEST VIRGINIA 25311

TELEPHONE (304) 342-3900
TELECOPY (304) 344-2386

July 20, 2005

City of Beckley
P. O. Box 2514
Beckley, West Virginia 25802

Branch Banking and Trust Company
501 Tennessee Avenue
Charleston, West Virginia 25302

Re: City of Beckley Sewerage System Revenue Refunding Bonds, Series 2005

Gentlemen:

We have examined a certified record of proceedings relating to the issuance of $2,405,000.00 City of Beckley Sewerage System Revenue Refunding Bonds, Series 2005 (the "Bonds") of the City of Beckley (the "Issuer"), a municipal corporation created under the laws of the State of West Virginia (the "State"), including Chapter 8, Article 20, Chapter 13, Article 2E and Chapter 16, Article 13 of the Code of West Virginia, as amended, all of which are hereinafter referred to collectively as the "Act").

The Bonds are issued under and pursuant to the Act and under and pursuant to the Ordinance of the Issuer adopted on April 12, 2005, and a Supplemental Resolution adopted on July 12, 2005 (collectively referred to as the "Ordinance"). The Bonds are issued for the purpose of providing a portion of the costs of refunding certain hereinbefore issued revenue bonds (the "Series 1995 A Bonds") of the City previously issued to finance the refunding of the previously issued 1986 Series A Bonds (the "Series 1986 A Bonds") issued to finance the acquisition and construction of certain extensions, improvements and betterments to the public sewerage system for the City, and paying the costs of issuance thereof. Other defined terms used herein have the meanings given them in the Ordinance.

We are of the opinion that:

1. The Issuer is a municipal corporation created under and pursuant to the laws of the State (including the Act), with power to adopt the Ordinance, which Ordinance has been duly and lawfully adopted by the Issuer, is in full force and effect and is valid and binding upon the Issuer and enforceable in accordance with its terms, and no other authorization for the Ordinance is required.

2. The Issuer is duly authorized to issue the Bonds, which Bonds have been duly and validly authorized and issued in accordance with law (including the Act) and in accordance with the Ordinance, and when duly authenticated will constitute valid and binding special revenue obligations of the Issuer as provided in the Ordinance, payable and enforceable in accordance with their terms and the terms of the Ordinance and entitled to the benefits of the Ordinance and the Act.

3. The Bonds are special revenue obligations of the Issuer, and the Issuer shall not be obligated to pay the same, or the interest thereon, except from the assets pledged in payment of the Bonds pursuant to the Ordinance. The Bonds do not constitute an indebtedness of the City of Beckley, West Virginia or the State or a charge against any of the property thereof, nor give any right against any member of the Issuer. No owner of a Bond shall have the right to compel the exercise of any taxing power of said City of Beckley, West Virginia or the State for the payment of the principal of and redemption premium, if any, and interest on the Bonds. The Bonds are issued on parity with the Issuer's outstanding Series 1998A and Series 2004A Bonds.

4. Under existing statutes and court decisions as presently written and applied, interest on the Bonds is excludable for federal income tax purposes from the gross income of the recipients thereof pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. Under the Act as presently written and applied, the Bonds and the interest thereon are exempt from taxation in the State, except for inheritance, estate and transfer taxes.

We call your attention to the fact that interest on the Bonds will be taken into account in determining adjusted current earnings of a corporation to the extent the applicable portion of such adjusted current earnings exceeds such corporation's alternative minimum taxable income as otherwise determined for purposes of computing the alternative minimum tax imposed on corporations by the Code. We also call your attention to the fact that interest on the Bonds may become includable in gross income for the purposes of federal income taxes, and income taxes imposed by the State, retroactively to the date of issue, if certain requirements established by the Code are not met. The Issuer has covenanted in the Ordinance to comply with such requirements, and, in rendering our opinion in this paragraph 4, we have assumed compliance with such covenants. Please be advised that this opinion does not address and we express no opinion with respect to certain other provisions contained in the Code that could result in collateral federal income tax consequences to certain investors as a result of adjustments in the computation of tax liability as a consequence of tax-exempt interest.

5. The Issuer has designated the Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code, and the Issuer has covenanted that it will reasonably expect to issue, together with subordinate entities, not more than $10,000,000 of tax-exempt obligations (other than private activity bonds) during the calendar year 2005.

We express no other opinions other than those expressly stated hereinabove. Without limiting the generality of the foregoing sentence, we express no opinion as to the securities laws of the United States or of any state thereof.

Please be advised that the enforcement of remedies with respect to the Bonds is subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally or against the State or municipal agencies such as the Issuer, from time to time in effect, and to general equitable principles and the exercise of judicial discretion in appropriate cases.

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

Very truly yours,

Vaughan Law Firm

Vaughan Law Firm

CITY OF
BECKLEY
P. O. BOX 2514 • BECKLEY, WEST VIRGINIA 25802-2514

WILLIAM H. FILE III
City Attorney

Phone: (304) 256-1750

July 20, 2005

Branch Banking and Trust Company
501 Tennessee Avenue
Charleston, WV 25302

RE: $2,405,000.00 The City of Beckley Sewerage System Revenue Refunding Bonds, Series 2005

Gentlemen:

I am the City Attorney for The City of Beckley (the "City" and the "Issuer" and as such am the attorney for the Issuer in connection with the issuance of the Issuer's $2,405,000.00 in aggregate principal amount of Sewerage System Revenue Refunding Bonds, Series 2005 (the "Bonds").

I have reviewed copies of the approving opinion of the Vaughan Law Firm, as bond counsel, the Bond Purchase Commitment by and between Branch Banking and Trust Company ("BB&T") as the original purchaser and the Issuer dated June 6, 2005 effective as of July 20, 2005, the Bond Ordinance adopted April 12, 2005 and Supplemental Resolution thereto adopted by the Issuer dated as of July 12, 2005 (collectively the "Ordinance"), the Escrow Agreement made by and between the Issuer and West Virginia Municipal Bond Commission and Branch Banking and Trust Company, dated as of July 20, 2005, all relating to the Bonds. All capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Ordinance.

I am of the opinion that:

1. The Issuer is a duly and validly created and existing municipal corporation and pursuant to the laws of the State (including the Act), with full power and authority to authorize the execution and delivery of the Bond Purchase Commitment, the Ordinance and to authorize the issuance of the Bonds.

2. The Bond Purchase Commitment and the Ordinance have been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the respective parties thereto, constitute the valid and binding agreements of the Issuer.

3. The members of the Governing Body of the City of Beckley are the duly and properly elected or appointed and qualified members of Common Council and are thereby authorized to act on behalf of the Issuer.

4. The Ordinance has been duly enacted by the Governing Body of the Issuer, is in full force and effect, and no further action of the Issuer is required for its continued validity.

5. The execution and delivery of the Bonds, the Bond Purchase Commitment, the Ordinance, and the consummation of the transactions contemplated by the Bond Purchase Commitment, the Ordinance, and the carrying out of the terms thereof, do not and will not in any material respect conflict with or constitute on the Issuer's or the City's part a breach of or default under any agreement or other instrument to which the Issuer or the City is a party or any existing law, regulation, court order o consent decree to which the Issuer or the City is subject.

6. The Issuer has received all approvals and authorizations necessary for the issuance of the Bonds, including, without limitation, the enactment of appropriate ordinances of the Governing Body, the consideration of which occurred during regular or duly called special meetings, which were open to the public and held in accordance with all applicable laws, including without limitation, the Open Governmental Proceedings Act, Chapter 6, Article 9A, Section 1 *et seq.* of the Code of West Virginia of 1931, as amended.

7. To the best of my knowledge after due inquiry, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or, to my knowledge, threatened against or affecting the Issuer (or, to my knowledge, any basis therefore) wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bond Purchase Commitment, the Ordinance, or the validity of or security for the Bonds.

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

Very truly yours,

William H. File III
City Attorney

WHFIII/ajr

101 South Queen Street
Martinsburg, West Virginia 25401
(304) 263-0836

5th Floor, United Square
501 Avery Street
Parkersburg, West Virginia 26101
(304) 485-8500

7000 Hampton Center, Suite K
Morgantown, West Virginia 26505
(304) 285-2500

Bowles Rice
McDavid Graff & Love LLP
Attorneys at Law

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Winchester, Virginia 22601
(540) 723-8877

8550 Mayland Drive, Suite 205-A
Richmond, Virginia 23294-4704
(804) 314-5487

July 20, 2005

City Of Beckley
Post Office Drawer 2514
Beckley, West Virginia 25802

Vaughan Law Firm
2020 Kanawha Boulevard, East
Charleston, West Virginia 25311

$2,405,000.00
THE CITY OF BECKLEY SEWERAGE SYSTEM
REVENUE REFUNDING BONDS
SERIES 2005

Ladies and Gentlemen:

We have served as counsel to Branch Banking & Trust Company (the "Bank"), a North Carolina state banking corporation, in connection with the purchase by the Bank of the entire issue of the above captioned Bonds. In connection therewith, we are familiar with the Bank's Articles of Incorporation and By-Laws, all as amended to date and in full force and effect on the date hereof. In addition, we have examined executed counterparts of such documents and certificates as we deem necessary and made such other inquiries as we deemed appropriate in order to render the following opinions.

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

1. The Bank is a North Carolina state banking corporation duly and validly existing under the laws of North Carolina and qualified to and authorized to conduct business in the state of West Virginia;

2. the purchase of the Bonds has been duly authorized by the Bank and no other consent or approval is necessary or required to complete the purchase of such Bonds;

3. the purchase of the Bonds and the performance of the obligations of the Bank in connection therewith, including serving as the Paying Agent, Registrar and Depository Bank, are in compliance with all applicable laws, regulations and procedures applicable to the Bank and the transaction herein contemplated.

Very truly yours,

Bowles Rice McDavid Graff & Love LLP

1419515

BB&T

Branch Banking & Trust Co.

Governmental Finance
501 Tennessee Avenue
Charleston, WV 25302
(304) 353-1635
Fax (304) 340-4702

Closing Item No. _____

July 20, 2005

City of Beckley
Post Office Drawer 2514
Beckley, West Virginia 25802

Vaughan Law Firm
2020 Kanawha Boulevard, East
Charleston, West Virginia 25311

$2,405,000.00
THE CITY OF BECKLEY SEWERAGE SYSTEM
REVENUE REFUNDING BONDS
SERIES 2005

Ladies and Gentlemen:

In connection with our purchase of all of the above referenced Bonds issued by The City of Beckley (the "City" or the "Issuer"), a political subdivision of the State of West Virginia, we hereby represent to you as follows:

1. We have sufficient knowledge and experience in financial and business matters, including purchase and ownership of tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by our purchase of the Bonds, and our net worth and available assets are such that we are able to bear the economic risk of our purchase of the Bonds.

2. We have received and reviewed such information as we deem necessary with respect to the Bonds and have obtained all business, financial and other information, and have made such investigation as we have deemed necessary or desirable in connection with our decision to purchase the Bonds. We acknowledge and agree that the Vaughan Law Firm, as Bond Counsel and the City have not been requested to undertake and have not undertaken, to ascertain, and are not responsible for, the accuracy or completeness of any statements or information relating to the operations, financial condition or future prospects of the project financed with the proceeds of the Issuer's Series 1986A Bonds, refunded by the Issuer's 1995A Bonds, which 1995A Bonds are being refunded with the proceeds of the Bonds. We understand that the proceeds of the Series 1986A Bonds were used to finance the acquisition and construction of certain extensions, improvements and betterments to the public sewerage system for the City.

3. We certify that we have received all of the information that we deem necessary regarding the Bonds and the City. We understand that the Bonds are special revenue obligations of the City and the City is not obligated to pay the same or the interest thereon, except from the Net Revenues pledged pursuant to the Ordinance as adopted on April 12, 2005, as supplemented.

4. We understand that no official statement, prospectus, offering circular or other comprehensive offering statement containing material information with respect to the City or the Bonds is being issued, that the Bonds are unrated, and that in due diligence, we have made our own inquiry and analysis with respect to the City and sources of revenues for payment of the Bonds, the Bonds and the security therefor, and other material factors affecting the security for and payment of the Bonds, and are relying solely on such inquiry and analysis in our purchase of the Bonds.

5. We acknowledge that during the course of the transaction and prior to the sale of the Bonds, we have requested or have had access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and we have had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the City and the Bonds and the security therefor, so that as a reasonable investor, we have been able to make our decision to purchase the Bonds. No such information requested by us has been denied to us.

6. We certify that we are familiar with federal and state statutes, rules and regulations relating to limitations on the public distribution of securities and that we are an "accredited investor" as defined in paragraph (a)(1) of Rule 501 promulgated by the United States Securities and Exchange Commission under the Securities Act of 1933, as amended ("Permitted Investors").

7. We are purchasing the Bonds for investment in our own account and/or for affiliated entities, all of whom are Permitted Investors, and do not intend to resell or otherwise dispose of all or any part of the Bonds purchased by us, except as permitted by law on a basis of full disclosure to any subsequent holder of the Bonds and subject to applicable securities laws and regulations thereunder.

8. We have had the opportunity to consult with and be advised by legal counsel as to the significance of this letter and we have satisfied ourselves that the Bonds are a lawful investment for us under all applicable laws.

BRANCH BANK AND TRUST COMPANY

By: Russell R. Akers II

Russell R. Akers, II

Its: Assistant Vice President

The City of Beckley Sewerage System
Revenue Refunding Bonds
Series 1995A
Dated: April 13, 1995

CERTIFICATE OF DEFEASANCE

I, Sara L. Boardman, a duly appointed, qualified and acting Executive Director of the West Virginia Municipal Bond Commission, as escrow agent as herein described and defined, under the hereinafter described Ordinance (the "Escrow Agent") DO HEREBY CERTIFY as follow:

1. Under and pursuant to a Bond Ordinance, adopted June 14, 1994 and Supplemental Resolution adopted April 3, 1995 respectively (collectively the "Ordinance"), pursuant to which the City of Beckley, West Virginia (the "Issuer") authorized and issued its Sewerage System Refunding Revenue Bonds, Series 1995 A, dated as of April 13, 1995, upon original issuance (the "Series 1995A Bonds"), the Escrow Agent is acting as escrow agent for the Series 1995A Bonds.

2. The Escrow Agent has received (a) the **Government Securities**, Pursuant to the Escrow Agreement, dated July 20, 2005, by and among the Issuer, City of Beckley, and the Escrow Agent, there are held by the Escrow Agent cash and non-callable direct obligations of the United States of America, the principal of and the interest on which, when due, will provide moneys which shall be at least sufficient to pay the principal of and interest on the 1995A Bonds becoming due on October 1, 2005, being the Redemption Date thereof, the remaining principal, premium, and accrued interest on the Series 1995A Bonds, as specified and defined in the Escrow Agreement and in accordance with the Ordinance.

3. The pledge of all revenues and other moneys and collateral pledged by the Issuer pursuant to the Ordinance are discharged and satisfied, and the Series 1995A Bonds are deemed paid within the meaning of the Ordinance, securing the Series 1995 A Bonds.

IN WITNESS WHEREOF, I have hereunto set my hand for and on behalf of the West Virginia Municipal Bond Commission, this 20th day of July, 2005.

WEST VIRGINIA MUNICIPAL BOND COMMISSION

By:
Its: Executive Director

Notice of Optional Redemption to the Holders of

$3,405,000
The City of Beckley Sewerage System
Revenue Refunding Bonds
Series 1995A
Dated: April 13, 1995

NOTICE IS HEREBY GIVEN by the CITY OF BECKLEY (the "Issuer"), to the holders of its outstanding Sewerage System Revenue Bonds Series 1995A, April 13, 1995, (the "Bonds"), that the Bonds have been ordered by the Issuer to be redeemed on October 1, 2005 (the "Redemption Date"), at the redemption price of par, plus a premium in the amount of two percent (2%), (the "Redemption Price"), plus interest accrued to the Redemption Date in accordance with the provisions of the Bond Ordinance authorizing issuance of the Bonds.

Each of the Bonds referred to above are to be surrendered to the Executive Director of WEST VIRGINIA MUNICIPAL BOND COMMISSION, (as Paying Agent) for payment of the Redemption Price thereof and interest accrued thereon to the Redemption Date, by mailing such Bonds by registered or certified mail to the following address:

First Class/Registered/Certified	Express Delivery Only	By Hand Only
J. P. Morgan Chase Bank Institutional Trust Services P. O. Box 2320 Dallas, Texas 75221-2320	J. P. Morgan Chase Bank Institutional Trust Services 2001 Bryan Street, 9th Floor Dallas, Texas 75201	J. P. Morgan Chase Bank Institutional Trust Securities Window 4 New York Plaza – 1st Floor New York, New York 10004-2413

Interest Rate	Maturity Date	Bond Date	Cusip Number	Amount
6.5%	October 1, 2014	April 13, 1995	075806AL3	775,000.00
6.75%	October 1, 2025	April 13, 1995	075806AM1	1,815,000.00

There has been deposited with the West Virginia Municipal Bond Commission, as Escrow Agent for the Bonds, an amount sufficient to pay, on the Redemption Date, the Redemption Price. On October 1, 2005, which is the date fixed for redemption; interest will cease to accrue on all Bonds.

NOTICE: Withholding of 31% of gross redemption proceeds of any payment made within the United States may be required by the Interest and dividend Tax Compliance Act of 1983 unless the Paying Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting your securities.

*The Issuer and Escrow Agent shall not be responsible for the use of the CUSIP numbers selected, nor is any representation made as to its correctness in this notice or as printed on any Bond. It is included solely for the convenience of the holders.

CITY OF BECKLEY, WEST VIRGINIA, as Issuer

By: _____
Its: Mayor

WEST VIRGINIA MUNICIPAL BOND COMMISSION, as Escrow Agent

By: _____
Its: Executive Director

City of Beckley, West Virginia
Sewerage System Refunding Revenue Bonds
Series 2005

Closing Memorandum

To: Dennis R. Vaughan, Jr., Esq.
Emmett S. Pugh, III
Gary R. Sutphin
Sara L. Boardman
Warren Redfern
Rusty Akers
Edward D. McDevitt, Esq.

From: David Kirby

Re: Sources and uses of funds

Date: July 18, 2005

On Wednesday morning, July 20, 2005, Branch Banking and Trust (BB&T) will credit $2,301,548.70 to the account of the West Virginia Municipal Bond Commission (the "Commission").

The above referenced wire will be combined with cash on hand at the Commission from the prior bond issue in the amount of $476,782.68. The total amount of the wire and cash on hand is $2,778,331.38, the amount required to fund the 2005 Escrow Account. Of this total, $2,778,331.00 will be used to purchase the escrow securities and $0.38 will remain in cash. Please refer to sources and uses of funds below.

BB&T will issue checks for the costs of issuance on the day of closing. Please forward invoices to Rusty Akers, at fax number 304-340-4702 and copies to me at 304-357-6501.

After July 20, any monies remaining in the Beckley 95-A Sewer Ref Revenue Fund and the Beckley 95-A Sewer Ref Reserve Fund should be sent to:

City of Beckley
Attn: Gary Sutphin
P. O. Box 2514
Beckley, WV 25802

(continued on next page)

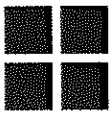
Sources of funds:

2005 bond proceeds	$2,405,000.00
Cash on hand at the Commission:	
1995 Revenue Fund – P&I	230,110.84
1995 Debt Service Reserve Fund	246,671.84
Total sources	$2,881,782.68

Uses of funds:

Deposit to 2005 Escrow Fund	$2,778,331.38
Costs of issuance	103,451.30
Total uses	$2,881,782.68

If anyone has any questions, please feel free to contact me at 304-357-6508.



The Arbitrage Group, Inc.

$2,405,000
The City of Beckley, West Virginia
Sewerage System Refunding Revenue Bonds
Series 2005

The Arbitrage Group, Inc.

3212 Smith Street
Suite 201
Houston, Texas 77006

Telephone 713 522 8527
Facsimile 713 522 8471

www.thearbitragegroup.com

July 20, 2005

The City of Beckley, West Virginia
Beckley, West Virginia

Vaughan Law Firm
Charleston, West Virginia

BB&T Capital Markets
Charleston, West Virginia

West Virginia Municipal Bond Commission
Charleston, West Virginia

$2,405,000
The City of Beckley, West Virginia
Sewerage System Refunding Revenue Bonds
Series 2005

The City of Beckley, West Virginia (the "City") proposes to issue the above referenced bonds (the "Bonds") which are dated July 20, 2005 and will be issued on July 20, 2005. The Bonds consist of $2,405,000 Bonds.

A portion of the proceeds of the Bonds will be used to purchase United States Treasury Securities -- State and Local Government Series (the "Restricted Acquired Obligations") which will be placed in an irrevocable trust together with an initial cash deposit to be used solely to refund that portion of the City's Sewerage System Refunding Revenue Bonds, Series 1995A (the "Refunded Bonds") described below:

Series	Original Amount Issued	Dated Date	Amount to be Refunded	Maturities and Sinking Fund Dates to be Refunded	Maturities and Sinking Fund Dates to be Optionally Redeemed	Optional Redemption Date and Price
1995A	$3,095,000	04-01-1995	$2,655,000	10-01-2005 - 10-01-2025, Inclusive	10-01-2006 - 10-01-2025, Inclusive	10-01-2005 @ 102%

At your request, we have independently verified the arithmetical accuracy of the computations provided to us by BB&T Capital Markets which indicate: (1) the sufficiency of the receipts from the Restricted Acquired Obligations together with an initial cash deposit to pay to and at early redemption the principal, interest, and early redemption premium on the Refunded Bonds; and, (2) the "yield" on the Restricted Acquired Obligations. The term "yield," as used herein, means that discount rate which, when used in computing the present value of all payments of principal and interest on an obligation compounded semiannually using a 30/360-day year basis, produces an amount equal to, in the case of the Restricted Acquired Obligations, the purchase price of such securities.

The original computations, along with certain assumptions and information, were furnished to us by BB&T Capital Markets on behalf of the City. We have relied solely on the assumptions and information provided to us and have not made any study or evaluation of them, except as noted below. We express no opinion on the reasonableness of the assumptions, or the likelihood that the debt service requirements of the Refunded Bonds will be paid as described in the accompanying Exhibits.

In the course of our engagement, we were furnished by BB&T Capital Markets with excerpts from the Official Statement for the Refunded Bonds, the executed bond for the Bonds and copies of the initial and final subscription forms for the purchase of the Restricted Acquired Obligations. We understand that the initial subscription form was filed on July 8, 2005. We compared the information contained in the schedules provided by BB&T Capital Markets with certain information set forth in such documents with respect to prices, principal payment dates and amounts, interest payment dates and rates, yields, and redemption dates and prices. We found that the information contained in such schedules provided to us by BB&T Capital Markets was in agreement with the above-mentioned information set forth in such documents. In addition, we have verified that, based upon the table of interest rates payable on United States Treasury Securities -- State and Local Government Series for use on July 8, 2005, the interest rates payable on the Restricted Acquired Obligations are at or below the maximum allowable interest rate for each maturity date.

In our opinion, based on the assumptions and information provided by BB&T Capital Markets on behalf of the City, the computations in the schedules provided to us are arithmetically accurate. The computations in the accompanying Exhibits prepared by us and the comparable schedules provided to us indicate that:

(1) the receipts from the Restricted Acquired Obligations together with an initial cash deposit of $0.38 will be sufficient to pay to and at early redemption the principal, interest, and early redemption premium on the Refunded Bonds; and,

(2) the yield of the Restricted Acquired Obligations is 3.076750%.

The terms of our engagement are such that we have no obligation to update this report or to verify any revised computation because of events and transactions occurring subsequent to the date of this report. This report is issued solely for your information and assistance in connection with the issuance of the Bonds. This report is not to be quoted or referred to without our prior written consent.

Very truly yours,

The Arbitrage Group, Inc.

Exhibits

A. Escrow Cash Flow

B-1. Debt Service Requirements of the Refunded Bonds to Maturity

B-2. Debt Service Requirements of the Refunded Bonds to Early Redemption

C. Receipts from Restricted Acquired Obligations and Proof of Yield

Escrow Cash Flow

The City of Beckley, West Virginia
Sewerage System Refunding Revenue Bonds, Series 2005

Date	Beginning Cash Balance	Receipts from Restricted Acquired Obligations	Debt Service Requirements of the Refunded Bonds to Early Redemption	Ending Cash Balance
10/01/05	$0.38	$2,795,112.12	$2,795,112.50	$0.00

Debt Service Requirements of the Refunded Bonds to Maturity

The City of Beckley, West Virginia
Sewerage System Refunding Revenue Bonds, Series 2005

Date	Principal	Coupon Rate	Early Redemption Premium	Interest	Debt Service Requirements of the Refunded Bonds to Maturity
10/01/05	$65,000.00	5.750%		$88,312.50	$153,312.50
04/01/06				86,443.75	86,443.75
10/01/06	65,000.00	6.500%	2.000%	86,443.75	151,443.75
04/01/07				84,331.25	84,331.25
10/01/07	70,000.00	6.500%	2.000%	84,331.25	154,331.25
04/01/08				82,056.25	82,056.25
10/01/08	75,000.00	6.500%	2.000%	82,056.25	157,056.25
04/01/09				79,618.75	79,618.75
10/01/09	80,000.00	6.500%	2.000%	79,618.75	159,618.75
04/01/10				77,018.75	77,018.75
10/01/10	85,000.00	6.500%	2.000%	77,018.75	162,018.75
04/01/11				74,256.25	74,256.25
10/01/11	90,000.00	6.500%	2.000%	74,256.25	164,256.25
04/01/12				71,331.25	71,331.25
10/01/12	95,000.00	6.500%	2.000%	71,331.25	166,331.25
04/01/13				68,243.75	68,243.75
10/01/13	105,000.00	6.500%	2.000%	68,243.75	173,243.75
04/01/14				64,831.25	64,831.25
10/01/14	110,000.00	6.500%	2.000%	64,831.25	174,831.25
04/01/15				61,256.25	61,256.25
10/01/15	115,000.00	6.750%	2.000%	61,256.25	176,256.25
04/01/16				57,375.00	57,375.00
10/01/16	125,000.00	6.750%	2.000%	57,375.00	182,375.00
04/01/17				53,156.25	53,156.25
10/01/17	135,000.00	6.750%	2.000%	53,156.25	188,156.25
04/01/18				48,600.00	48,600.00
10/01/18	140,000.00	6.750%	2.000%	48,600.00	188,600.00
04/01/19				43,875.00	43,875.00
10/01/19	150,000.00	6.750%	2.000%	43,875.00	193,875.00
04/01/20				38,812.50	38,812.50
10/01/20	160,000.00	6.750%	2.000%	38,812.50	198,812.50
04/01/21				33,412.50	33,412.50

Debt Service Requirements of the Refunded Bonds to Maturity

The City of Beckley, West Virginia
Sewerage System Refunding Revenue Bonds, Series 2005

Date	Principal	Coupon Rate	Early Redemption Premium	Interest	Debt Service Requirements of the Refunded Bonds to Maturity
10/01/21	175,000.00	6.750%	2.000%	33,412.50	208,412.50
04/01/22				27,506.25	27,506.25
10/01/22	185,000.00	6.750%	2.000%	27,506.25	212,506.25
04/01/23				21,262.50	21,262.50
10/01/23	195,000.00	6.750%	2.000%	21,262.50	216,262.50
04/01/24				14,681.25	14,681.25
10/01/24	210,000.00	6.750%	2.000%	14,681.25	224,681.25
04/01/25				7,593.75	7,593.75
10/01/25	225,000.00	6.750%	2.000%	7,593.75	232,593.75
	$2,655,000.00			$2,279,637.50	$4,934,637.50

Debt Service Requirements of the Refunded Bonds to Early Redemption

The City of Beckley, West Virginia
Sewerage System Refunding Revenue Bonds, Series 2005

Date	Principal	Coupon Rate	Early Redemption Premium	Interest	Debt Service Requirements of the Series 1995a Refunded Bonds to Early Redemption
10/01/05	$2,655,000.00	*	$51,800.00	$88,312.50	$2,795,112.50

* Coupon rates are as shown in the Debt Service Requirements of the Refunded Bonds to Maturity.

Receipts from Restricted Acquired Obligations and Proof of Yield

The City of Beckley, West Virginia
Sewerage System Refunding Revenue Bonds, Series 2005

Date	Principal	Coupon Rate	Interest	Receipts from Restricted Acquired Obligations	Present Value of Future Receipts at 07/20/05 Using a Rate of 3.076750%
10/01/05	$2,778,331.00	3.020%	$16,781.12	$2,795,112.12	$2,778,331.00
			Purchase Price of Restricted Acquired Obligations		$2,778,331.00

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
2-28-96

Entered: February 8, 1996

CASE NO. 95-0920-W-CN

RECEIVED
FEB 29 1996
REGION VII
PLANNING & DEVELOPMENT COUNCIL

CITY OF PARSONS, a municipal corporation, Tucker County.

Application for a certificate of convenience and necessity to construct a new raw water intake near the Shavers Fork River, to construct a new storage tank in the area of Elk Lick plant, as well as a new raw water line from the Shavers Fork River to the existing water treatment plant, at Parsons, Tucker County, and for approval of financing incidental thereto.

RECOMMENDED DECISION

On September 22, 1995, the City of Parsons (Parsons), a municipal corporation, filed with the Public Service Commission (Commission), pursuant to West Virginia Code §24-2-11, a duly certified application for a certificate of convenience and necessity to construct a new storage tank in the area of the Elk Lick plant, as well as a new raw water line from the Shavers Fork River to the existing water plant at Parsons, West Virginia. Parsons estimated the total cost of the project at $1,176,713, and requested approval of financing for the project composed of a Small Cities Block Grant of $750,000 and $426,713 in West Virginia Water Development Authority Revenue Bonds, with an interest rate not to exceed 7% for forty years.

On September 22, 1995, the Commission directed Parsons to publish the Notice of Filing, and on October 10 and 19, 1995, the Commission issued Amended Notices of Filing. Each notice provided that, if no substantial protests to the application were filed within thirty (30) days after the date of publication, the Commission might waive formal hearing and grant the application based upon its review of the evidence submitted with the application.

On October 23, 1995, Staff Attorney Susan J. Riggs filed the Initial Joint Staff Memorandum, indicating that Commission Staff was reviewing the application and would be filing a final recommendation as soon as its review was complete.

On October 30, 1995, the Commission Referral Order was entered in this proceeding, referring this matter to the Division of Administrative Law Judges (ALJ Division) for decision on or before April 19, 1996.

On November 9, 1995, the undersigned ALJ issued a Procedural Order establishing a procedural schedule for resolving this matter, which included ordering Parsons to file the affidavit of publication showing proper publication of the October 19, 1995 amended notice of filing and scheduling hearing for 2:00 p.m. on February 14, 1996, in the Circuit Court Courtroom, Tucker County Courthouse, Parsons, West Virginia.

On November 30, 1995, Parsons filed an affidavit of publication establishing that the October 19, 1995 amended notice of filing was published on October 25, 1995, in The Parsons Advocate, published and of general circulation in Tucker County.

On November 30, 1995, Ms. Riggs filed a Final Joint Staff Memorandum, stating that the City had adopted its ordinance on November 28, 1995, and, therefore, the 30-day protest period set forth in W.Va. Code §24-2-4b would expire on December 28, 1995. She stated that Staff would not submit any recommendations on the filing until said protest period expired.

Between December 11 and 14, 1995, four letters were filed from residential customers of Parsons protesting the water rate increases.

On February 5, 1996, Ms. Riggs filed a Further Final Joint Staff Memorandum, with attached memorandum from Randy Lengyel, Utilities Analyst, and James Spurlock, Utilities Engineer, both of the Water and Sewer Section of the Utilities Division of the Commission. Mr. Lengyel stated that Parsons had received commitment letters from both funding sources and that the proposed project had been approved by the State Office of Environmental Health Services by permit number 12,688. Mr. Lengyel continued,

> The Shavers Fork raw water pump station is being replaced and upgraded because the existing station is without a pump, and the alternate source at Elk Lick is unreliable. The Shavers Fork treatment plant is being upgraded to meet current water quality standards, and a new storage tank is being constructed due to the age, deterioration, and elevation concerns associated with the existing tank.

He accordingly stated that it was Staff's view that the project was needed, and recommended that the certificate of convenience and necessity and the funding for the project be approved. Ms. Riggs concurred, adding that the Commission had not received any protest to Parsons' rate ordinance under the procedure set forth in W.Va. Code §24-2-4b and that, therefore, the ordinance is final.

DISCUSSION

As Ms. Riggs indicated, although some protests were filed with the Commission, they were exclusively in opposition to the rate increase adopted by ordinance and did not fulfill the procedural requirements of Code §24-2-4b. Accordingly, they do not constitute protests that can be

considered by the Commission. The application will be granted without hearing.[1]

FINDINGS OF FACT

1. On September 22, 1995, the City of Parsons filed with the Commission a duly certified application for a certificate of convenience and necessity to construct a new storage tank in the area of the Elk Lick plant, as well as a new raw water line from the Shavers Fork River to the existing water plant at Parsons, West Virginia. Parsons estimated the total cost of the project at $1,176,713, and requested approval of financing for the project composed of a Small Cities Block Grant of $750,000 and $426,713 in West Virginia Water Development Authority Revenue Bonds, with an interest rate not to exceed 7% for forty years. (See application).

2. Following notice to the public of the application, the only protests filed were in opposition to rate increases adopted by ordinance of Parsons on November 28, 1995, which became final because the procedural requirements of W.Va. Code §24-2-4b that provide the Commission with jurisdiction over such municipal rates were not fulfilled. (See affidavit of publication filed November 30, 1995; submissions of December 11 through 14, 1995; Further Final Joint Staff Memorandum filed February 5, 1995).

3. Commission Staff reviewed the application and found the project was needed. Moreover, Staff stated that a permit for the project has been issued by the State Office of Environmental Heallth Services, and that letters of commitment had been received for a Small Cities Block Grant and from the West Virginia Water Development Authority in the amounts stated in the application. Commission Staff, therefore, recommended approval of the certificate of convenience and necessity and the funding for the project. (See Further Final Joint Staff Memorandum filed February 5, 1995).

CONCLUSIONS OF LAW

1. The public convenience and necessity require the proposed project.

2. The proposed project is both economically and technically feasible.

3. It is appropriate to grant the application for a certificate of convenience and necessity, pursuant to W.Va. Code §24-2-11, and to approve the funding.

---

[1]The hearing will be canceled by separate order.

ORDER

IT IS, THEREFORE, ORDERED that the application for a certificate of convenience and necessity filed by the Town of Parsons on September 22, 1995, be granted, contingent upon the construction bids coming in at or below $1,176,713.

IT IS FURTHER ORDERED that the financing, composed of a Small Cities Block Grant of $750,00 and $426,713 in West Virginia Water Development Authority Revenue Bonds, payable at an interest rate not to exceed 7% for forty years, be approved.

IT IS FURTHER ORDERED that, if there is a change in any of the terms, conditions, or scheduling of the project, or the financing of the project, the Town of Parsons notify the Public Service Commission and file for Commission approval of a revised project and/or financing.

IT IS FURTHER ORDERED that the City of Parsons file with the Commissions' Tariff Office a tariff reflecting its rates and charges as adopted by its new rate ordinance.

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

IT IS FURTHER ORDERED that the Executive Secretary 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.

Sunya Anderson
Administrative Law Judge

SA:s

STATE OF WEST VIRGINIA
WATER DEVELOPMENT AUTHORITY
1201 DUNBAR AVENUE
DUNBAR, WV 25064
Telephone (304) 558-3612
Telecopier (304) 558-0299

December 15, 1994

The Honorable Mary G. Moore
Mayor, City of Parsons
341 Second Street
Parsons WV 26287

CITY OF PARSONS - WATER SYSTEM IMPROVEMENTS
$750,000 SMALL CITIES BLOCK GRANT (SEE ATTACHED 11/18/94 LETTER)

The West Virginia Infrastructure and Jobs Development Council (the "Council") has determined that the above-referenced project is grandfathered and/or exempt from the provisions of Section 31-15A-5 of the West Virginia Infrastructure and Jobs Development Act (the "Act") and is not required to submit a Preliminary Application for the Council's review and approval, provided there are no changes in the scope or in the funding scenario for the project.

It should be expressly understood that any changes, including a decision to seek additional grant funding from any State agency or to seek funding from the Infrastructure Fund, will subject the proposed project to the requirements of the Act.

If you have any questions, you may contact the Council through the Water Development Authority at the above address.

RUSSELL L. ISAACS - COUNCIL CHAIRMAN

db

c West Virginia Development Office

THE CITY OF PARSONS

Combined Waterworks and Sewerage System Revenue Bonds, Series 1996
(West Virginia Water Development Authority)

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

The undersigned, authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, and Mary G. Moore, Mayor of The City of Parsons (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the 8th day of May, 1996, the Authority received the entire original issue of $457,500 in aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 (West Virginia Water Development Authority), of the Issuer (the "Bonds"), issued as a single, fully registered Bond, numbered R-1, and dated May 8, 1996.

2. At the time of such receipt of the Bonds upon original issuance, all of the Bonds had been executed by Mary G. Moore, as Mayor of the Issuer, and Constance Simmons, as Recorder of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been affixed upon the Bonds.

3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Bonds, of $457,500, being the entire principal amount of the Bonds (100% of par value), there being no interest accrued thereon.

WITNESS our respective signatures on this 8th day of May, 1996.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Barbara B Meadows
Authorized Representative

THE CITY OF PARSONS

Mary J. Moore
Mayor

04/18/96
PARSWJM.E2
689010/95001

THE CITY OF PARSONS

Combined Waterworks and Sewerage System Revenue Bonds, Series 1996
(West Virginia Water Development Authority)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

One Valley Bank, National Association,
as Bond Registrar
Charleston, West Virginia

Ladies and Gentlemen:

There are delivered to you herewith:

(1) Bond No. R-1, constituting the entire original issue of The City of Parsons Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 (West Virginia Water Development Authority), in the principal amount of $457,500, dated May 8, 1996 (the "Bonds"), executed by the Mayor and Recorder of The City of Parsons (the "Issuer") and bearing the official seal of the Issuer, authorized to be issued under and pursuant to a Bond Ordinance duly enacted by the Issuer on May 7, 1996, and a Supplemental Resolution duly adopted by the Issuer on May 7, 1996 (collectively, the "Bond Legislation");

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

(3) Executed counterparts of the loan agreement, dated May 8, 1996, by and between the West Virginia Water Development Authority (the "Authority") and the Issuer (the "Loan Agreement"); and

(4) An executed opinion of nationally recognized bond counsel regarding the validity of the Loan Agreement and the Bonds.

You are hereby requested and authorized to deliver the Bonds to the Authority upon payment to the Issuer of the sum of $457,500, representing the entire principal amount of the Bonds. Prior to such delivery of the Bonds, you will please cause the Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the form of Certificate of Authentication and Registration thereon.

Dated this 8th day of May, 1996.

THE CITY OF PARSONS

Mary L. Moore

Mayor

04/18/96
PARSWJM.F2
689010/95001

(SPECIMEN BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF PARSONS
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND,
SERIES 1996
(WEST VIRGINIA WATER DEVELOPMENT AUTHORITY)

No. R-1 $457,500

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF PARSONS, a municipal corporation and political subdivision of the State of West Virginia in Tucker 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 FOUR HUNDRED FIFTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS ($457,500), in installments on October 1 of each year, beginning October 1, 1997, as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 of each year, beginning October 1, 1996. 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 One Valley Bank, National Association, 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 upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, dated May 8, 1996.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the waterworks portion of the existing public combined waterworks and sewerage system of the Issuer (the "Project"); (ii) to fund a reserve account for the Bonds of this Series (the "Bonds"); and (iii) to pay certain costs of issuance hereof and related costs. The existing public combined waterworks and sewerage system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), and a Bond Ordinance duly enacted by the Issuer on May 7, 1996, and a Supplemental Resolution duly adopted by the Issuer on May 7, 1996 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED JUNIOR AND SUBORDINATE, WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, TO THE ISSUER'S COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1984, DATED SEPTEMBER 20, 1984, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $68,000 (THE "SERIES 1984 BONDS").

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 COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 A, DATED NOVEMBER 22, 1989, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF $269,103 (THE "SERIES 1989 A BONDS").

THIS BOND IS ISSUED SENIOR AND PRIOR WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, TO THE COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 B, DATED NOVEMBER 22, 1989, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $39,891 (THE "SERIES 1989 B BONDS").

THE SERIES 1984 BONDS, THE SERIES 1989 A BONDS AND THE SERIES 1989 B BONDS ARE HEREINAFTER COLLECTIVELY CALLED THE "PRIOR BONDS".

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, junior and subordinate to the pledge of Gross Revenues in favor of the Holders of the Series 1984 Bonds and on parity with the pledge of Gross Revenues in favor of the Holders of the Series 1989 A Bonds, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1996 Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Gross Revenues, the moneys in the Series 1996 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 prior to or on a parity with or junior and subordinate to the Bonds, including the Prior Bonds; provided however, that so long as there exists in the Series 1996 Bonds Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding prior to or on a parity with or junior and subordinate to the Bonds, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of 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 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 the payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Gross Revenues of the System has been pledged to and will be set aside 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 CITY OF PARSONS 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 May 8, 1996.

[SEAL]

_____
Mayor

ATTEST:

_____
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1996 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: May 8, 1996.

ONE VALLEY BANK, NATIONAL ASSOCIATION,
as Registrar

_____
Authorized Officer

BOND DEBT SERVICE

Loans made from WDA Series 1995B
City of Parsons
$457,500
5/08/96

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
May 8, 1996	-	-	-	-	-
Oct 1, 1996	-	-	11,358.07	11,358.07	11,358.07
Apr 1, 1997	-	-	14,296.88	14,296.88	-
Oct 1, 1997	2,967.00	6.250%	14,296.88	17,263.88	31,560.76
Apr 1, 1998	-	-	14,204.16	14,204.16	-
Oct 1, 1998	3,152.50	6.250%	14,204.16	17,356.66	31,560.82
Apr 1, 1999	-	-	14,105.64	14,105.64	-
Oct 1, 1999	3,349.50	6.250%	14,105.64	17,455.14	31,560.78
Apr 1, 2000	-	-	14,000.97	14,000.97	-
Oct 1, 2000	3,558.80	6.250%	14,000.97	17,559.77	31,560.74
Apr 1, 2001	-	-	13,889.76	13,889.76	-
Oct 1, 2001	3,781.20	6.250%	13,889.76	17,670.96	31,560.72
Apr 1, 2002	-	-	13,771.59	13,771.59	-
Oct 1, 2002	4,017.60	6.250%	13,771.59	17,789.19	31,560.78
Apr 1, 2003	-	-	13,646.04	13,646.04	-
Oct 1, 2003	4,268.70	6.250%	13,646.04	17,914.74	31,560.78
Apr 1, 2004	-	-	13,512.65	13,512.65	-
Oct 1, 2004	4,535.50	6.250%	13,512.65	18,048.15	31,560.80
Apr 1, 2005	-	-	13,370.91	13,370.91	-
Oct 1, 2005	4,818.90	6.250%	13,370.91	18,189.81	31,560.72
Apr 1, 2006	-	-	13,220.32	13,220.32	-
Oct 1, 2006	5,120.10	6.250%	13,220.32	18,340.42	31,560.74
Apr 1, 2007	-	-	13,060.32	13,060.32	-
Oct 1, 2007	5,440.10	6.250%	13,060.32	18,500.42	31,560.74
Apr 1, 2008	-	-	12,890.32	12,890.32	-
Oct 1, 2008	5,780.10	6.250%	12,890.32	18,670.42	31,560.74
Apr 1, 2009	-	-	12,709.69	12,709.69	-
Oct 1, 2009	6,141.40	6.250%	12,709.69	18,851.09	31,560.78
Apr 1, 2010	-	-	12,517.77	12,517.77	-
Oct 1, 2010	6,525.20	6.250%	12,517.77	19,042.97	31,560.74
Apr 1, 2011	-	-	12,313.86	12,313.86	-
Oct 1, 2011	6,933.00	6.250%	12,313.86	19,246.86	31,560.72
Apr 1, 2012	-	-	12,097.20	12,097.20	-
Oct 1, 2012	7,366.40	6.250%	12,097.20	19,463.60	31,560.80
Apr 1, 2013	-	-	11,867.00	11,867.00	-
Oct 1, 2013	7,826.80	6.250%	11,867.00	19,693.80	31,560.80
Apr 1, 2014	-	-	11,622.41	11,622.41	-
Oct 1, 2014	8,315.90	6.250%	11,622.41	19,938.31	31,560.72
Apr 1, 2015	-	-	11,362.54	11,362.54	-
Oct 1, 2015	8,835.70	6.250%	11,362.54	20,198.24	31,560.78
Apr 1, 2016	-	-	11,086.43	11,086.43	-
Oct 1, 2016	9,387.90	6.250%	11,086.43	20,474.33	31,560.76
Apr 1, 2017	-	-	10,793.05	10,793.05	-
Oct 1, 2017	9,974.70	6.250%	10,793.05	20,767.75	31,560.80
Apr 1, 2018	-	-	10,481.34	10,481.34	-
Oct 1, 2018	10,598.10	6.250%	10,481.34	21,079.44	31,560.78
Apr 1, 2019	-	-	10,150.15	10,150.15	-
Oct 1, 2019	11,260.40	6.250%	10,150.15	21,410.55	31,560.70
Apr 1, 2020	-	-	9,798.27	9,798.27	-
Oct 1, 2020	11,964.20	6.250%	9,798.27	21,762.47	31,560.74
Apr 1, 2021	-	-	9,424.38	9,424.38	-
Oct 1, 2021	12,712.00	6.250%	9,424.38	22,136.38	31,560.76
Apr 1, 2022	-	-	9,027.13	9,027.13	-
Oct 1, 2022	13,506.50	6.250%	9,027.13	22,533.63	31,560.76
Apr 1, 2023	-	-	8,605.06	8,605.06	-

BOND DEBT SERVICE

Loans made from WDA Series 1995B
City of Parsons

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
Oct 1, 2023	14,350.60	6.250%	8,605.06	22,955.66	31,560.72
Apr 1, 2024	-	-	8,156.60	8,156.60	-
Oct 1, 2024	15,247.60	6.250%	8,156.60	23,404.20	31,560.80
Apr 1, 2025	-	-	7,680.11	7,680.11	-
Oct 1, 2025	16,200.50	6.250%	7,680.11	23,880.61	31,560.72
Apr 1, 2026	-	-	7,173.85	7,173.85	-
Oct 1, 2026	17,213.10	6.250%	7,173.85	24,386.95	31,560.80
Apr 1, 2027	-	-	6,635.94	6,635.94	-
Oct 1, 2027	18,288.90	6.250%	6,635.94	24,924.84	31,560.78
Apr 1, 2028	-	-	6,064.41	6,064.41	-
Oct 1, 2028	19,431.90	6.250%	6,064.41	25,496.31	31,560.72
Apr 1, 2029	-	-	5,457.16	5,457.16	-
Oct 1, 2029	20,646.40	6.250%	5,457.16	26,103.56	31,560.72
Apr 1, 2030	-	-	4,811.96	4,811.96	-
Oct 1, 2030	21,936.80	6.250%	4,811.96	26,748.76	31,560.72
Apr 1, 2031	-	-	4,126.44	4,126.44	-
Oct 1, 2031	23,307.90	6.250%	4,126.44	27,434.34	31,560.78
Apr 1, 2032	-	-	3,398.07	3,398.07	-
Oct 1, 2032	24,764.60	6.250%	3,398.07	28,162.67	31,560.74
Apr 1, 2033	-	-	2,624.17	2,624.17	-
Oct 1, 2033	26,312.40	6.250%	2,624.17	28,936.57	31,560.74
Apr 1, 2034	-	-	1,801.91	1,801.91	-
Oct 1, 2034	27,956.90	6.250%	1,801.91	29,758.81	31,560.72
Apr 1, 2035	-	-	928.26	928.26	-
Oct 1, 2035	29,704.20	6.250%	928.26	30,632.46	31,560.72
	457,500.00		784,727.51	1,242,227.51	1,242,227.51

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:

_____

STEPTOE & JOHNSON

ATTORNEYS AT LAW

SIXTH FLOOR

BANK ONE CENTER

P. O. BOX 2190

CLARKSBURG, W. VA. 26302-2190

(304) 624-8000

FACSIMILE (304) 624-8183

SEVENTH FLOOR, BANK ONE CENTER
P. O. BOX 1588
CHARLESTON, W. VA. 25326-1588
(304) 353-8000
FACSIMILE (304) 353-8180

1000 HAMPTON CENTER
P. O. BOX 1616
MORGANTOWN, W. VA. 26507-1616
(304) 598-8000
FACSIMILE (304) 598-8116

126 EAST BURKE STREET
P. O. BOX 2629
MARTINSBURG, W. VA. 25401-5429
(304) 263-6991
FACSIMILE (304) 263-4785

104 WEST CONGRESS STREET
P. O. BOX 100
CHARLES TOWN, W. VA. 25414-0100
(304) 725-1414
FACSIMILE (304) 725-1913

THE BRYAN CENTRE
P. O. BOX 570
82 WEST WASHINGTON STREET, FOURTH FLOOR
HAGERSTOWN, MARYLAND 21740-0570
(301) 739-8600
FACSIMILE (301) 739-8742

FOURTH FLOOR - RILEY BUILDING
P. O. BOX 150
14TH AND CHAPLINE STREETS
WHEELING, W. VA. 26003-0020
(304) 233-0000
FACSIMILE (304) 233-0014

THE PMC BUILDING, SUITE 101
P. O. BOX 628
417 GRAND PARK DRIVE
PARKERSBURG, W. VA. 26102-0628
(304) 422-6463
FACSIMILE (304) 422-6462

WRITER'S DIRECT DIAL NUMBER

May 8, 1996

The City of Parsons
Combined Waterworks and Sewerage System Revenue Bonds, Series 1996
(West Virginia Water Development Authority)

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by The City of Parsons (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia, of its $457,500 Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 (West Virginia Water Development Authority), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a loan agreement, dated May 8, 1996, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority") and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one bond, registered as to principal and interest to the Authority, with interest payable April 1 and October 1 of each year, commencing October 1, 1996, at the rate of 6.25% per annum, and with principal installments payable on October 1 in each of the years 1997 through 2035, inclusive, all as set forth in "Schedule X" attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the waterworks portion of the existing public combined waterworks and sewerage system of the Issuer (the

"Project"); (ii) funding a reserve account for the Bonds; and (iii) paying certain costs of issuance hereof and related costs.

We have also examined the applicable provisions of the Act, the Bond Ordinance duly enacted by the Issuer on May 7, 1996, as supplemented by a Supplemental Resolution duly adopted by the Issuer on May 7, 1996 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the Loan Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the Loan Agreement.

In connection with the issuance of the Bonds, the Issuer has executed a Certificate as to Arbitrage, dated as of the date hereof (the "Certificate as to Arbitrage"), which, among other things, sets forth restrictions on the investment and expenditure of the Bond proceeds and earnings thereon, to ensure that the arbitrage requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder (collectively, the "Code"), necessary to establish and maintain the excludability of interest on the Bonds from gross income for federal income tax purposes, are and will continue to be met.

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

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The Loan Agreement has been duly authorized by and executed on behalf of the Issuer, is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Issuer without the written consent of the Authority.

3. The Bond Legislation and all other necessary ordinances and resolutions have been duly and effectively enacted and adopted by the Issuer and constitute valid and binding obligations of the Issuer enforceable upon the Issuer. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Gross Revenues of the System referred to in the Bond Legislation and secured by a lien on and pledge of the Gross Revenues of the System, junior and subordinate to the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 1984, on a parity with the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A, and senior and prior to the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, all in accordance with the terms of the Bonds and the Bond Legislation.

5. Under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, the interest on the Bonds (a) is excludable from gross income of the owners thereof for federal income tax purposes pursuant to the Code and (b) is

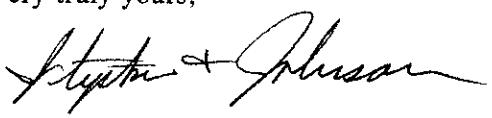
not an item of tax preference for purposes of the federal alternative minimum tax imposed upon individuals and corporations under the Code. It should be noted, however, that interest on the Bonds is included in the adjusted current earnings of certain corporations for purposes of computing the alternative minimum tax that may be imposed with respect to corporations. The opinions set forth above are subject to the condition that the Issuer comply, on a continuing basis, with all requirements of the Code that must be satisfied subsequent to issuance of the Bonds for interest thereon to be or continue to be excludable from gross income for federal income tax purposes and all certifications, covenants and representations which may affect the excludability from gross income of the interest on the Bonds set forth in the Bond Legislation and the Certificate as to Arbitrage, and other certificates delivered in connection with the issuance of the Bonds. Failure to comply with certain of such Code provisions or such certifications, covenants and representations could cause the interest on the Bonds to be includable in gross income retroactive to the date of issuance of the Bonds. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.

6. The Bonds are, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof, and the interest on the 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 holders of the Bonds and the enforceability of the Bonds, the Loan Agreement, the Escrow Agreement and the Bond Legislation, and the liens and pledges set forth therein, may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

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

Very truly yours,



STEPTOE & JOHNSON

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May 8, 1996

The City of Parsons
Combined Waterworks and Sewage System Revenue Bonds, Series 1996
(West Virginia Water Development Authority)

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Steptoe & Johnson
P.O. Box 2190
Clarksburg, WV 26302

Ladies and Gentlemen:

I am counsel to The City of Parsons, in Tucker County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Steptoe & Johnson, as bond counsel, a loan agreement dated May 8, 1996, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the West Virginia Water Development Authority (the "Authority") and the Issuer, a Bond Ordinance duly enacted by the Issuer on May 7, 1996, as supplemented by a Supplemental Resolution duly adopted by the Issuer on May 7, 1996, (collectively, the "Bond Legislation") and other documents relating to the above-captioned Bonds of the Issuer (the "Bonds"). Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation when used herein.

I am of the opinion that:

1. The Loan Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding agreement of the Issuer enforceable in accordance with its terms.

2. The Issuer has been duly created and is validly existing as a municipal corporation and political subdivision of the State of West Virginia, and the Mayor, Recorder and members of the council of the Issuer have been duly and properly

elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act on behalf of the Issuer in their respective capacities.

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 Loan Agreement and the consummation of the transactions contemplated by the Loan Agreement and the Bond Legislation, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any ordinance, resolution, order, agreement or other instrument to which the Issuer is a party or any existing law, regulation, court order or consent decree to which the Issuer is subject.

5. The Issuer has received all permits, licenses, approvals and authorizations necessary for the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of ordinances prescribing such rates and charges. The time for appeal of such rate ordinances have expired prior to the date hereof without any appeal. The Issuer has received the Final Order of the Public Service Commission of West Virginia entered on February 8, 1996, and final as of February 28, 1996, in Case No. 95-0920-W-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project, and approving the financing for the Project, the time for appeal of which has expired prior to the date hereof without any appeal.

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

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

Sincerely,

Pat A. Nichols

PAN:cw

THE CITY OF PARSONS

Combined Waterworks and Sewerage System Revenue Bonds, Series 1996
(West Virginia Water Development Authority)

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND OFFICIAL NAME
7. LAND AND RIGHTS-OF-WAY
8. MEETINGS, ETC.
9. CONTRACTORS' INSURANCE, ETC.
10. GRANT
11. LOAN AGREEMENT
12. RATES
13. SIGNATURES AND DELIVERY
14. BOND PROCEEDS
15. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE
16. PUBLIC SERVICE COMMISSION ORDER
17. PRIVATE USE OF FACILITIES
18. NO FEDERAL GUARANTY
19. IRS INFORMATION RETURN
20. SPECIMEN BONDS
21. CONFLICT OF INTEREST

We, the undersigned MAYOR and RECORDER of The City of Parsons, in Tucker County, West Virginia (the "Issuer"), and the undersigned Counsel to the Issuer, hereby certify in connection with the $457,500 aggregate principal amount of The City of Parsons Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 (West Virginia Water Development Authority) (the "Bonds"), dated the date hereof, as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning as set forth in the Bond Ordinance of the Issuer enacted May 7, 1996, and a Supplemental Resolution adopted May 7, 1996 (collectively, the "Bond Legislation").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Bonds, the grant moneys for the Project, the acquisition and construction of the Project, the operation of the System, the receipt of the Gross Revenues, or in any

way contesting or affecting the validity of the Bonds or any proceedings of the Issuer taken with respect to the issuance or sale of the Bonds, the grant moneys for the Project, the pledge or application of the Gross Revenues or any other moneys or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Bonds, the grant moneys for the Project, the acquisition and construction of the Project, the operation of the System, or such pledge or application of moneys and security or the collection of the Gross Revenues or pledge thereof.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals, permits, exemptions, consents, authorizations, registrations and certificates required by law for the acquisition and construction of the Project, the operation of the System and the issuance of the Bonds have been obtained and remain in full force and effect, and 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.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval and execution and delivery by the Issuer of the Loan Agreement, and the Issuer has met all conditions prescribed in the Loan Agreement entered into between the Issuer and the Authority.

There are outstanding obligations of the Issuer which will rank senior and prior to, on a parity with, or junior and subordinate to the Series 1996 Bonds as to liens, pledge and source of and security for payment, which obligations are designated and have the lien positions with respect to the Series 1996 Bonds, which have a second lien, as follows:

Designation	Lien Position
Combined Waterworks and Sewerage System Revenue Bonds, Series 1984, dated September 20, 1984, issued in the original aggregate principal amount of $68,000 and held by GE Capital Corporation (the "Series 1984 Bonds");	First Lien
Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A, dated November 22, 1989, issued in the original aggregate principal amount of $269,103 and held by the Authority (the "Series 1989 A Bonds"); and	Second Lien

Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, dated November 22, 1989, issued in the original aggregate principal amount of $39,891 and held by the Authority (the "Series 1989 B Bonds").	Third Lien

The Series 1984 Bonds, the Series 1989 A Bonds and the Series 1989 B Bonds are hereinafter collectively called the "Prior Bonds." The Series 1996 Bonds shall be issued junior and subordinate to the Series 1984 Bonds, on a parity with the Series 1989 A Bonds and senior and prior to the Series 1989 B Bonds, with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has obtained consent from the holder of the Series 1989 A Bonds to the issuance of the Series 1996 Bonds on a parity therewith and from the holder of the Series 1989 B Bonds to the issuance of the Series 1996 Bonds on a senior and superior basis. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

5. CERTIFICATION OF COPIES OF DOCUMENTS: The copies of the below-listed documents hereto attached or delivered herewith or heretofore delivered are true, correct and complete copies of the originals of the documents of which they purport to be copies, and such original documents are in full force and effect and have not been repealed, rescinded, amended or changed in any way unless modification appears from later documents also listed below:

City Charter and Code.

Oaths of Office of Officers and Councilmembers.

Bond Ordinance.

Supplemental Resolution.

Water Rate Ordinance and Sewer Rate Ordinance.

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

Affidavits of Publication on Water Rate Ordinance and Sewer Rate Ordinance.

Minutes on Adoption and Enactment of Bond Ordinance and Adoption of Supplemental Resolution.

Minutes on Adoption and Enactment of Water Rate Ordinance and Sewer Rate Ordinance.

Loan Agreement.

Public Service Commission Final Order entered February 8, 1996.

Infrastructure and Jobs Development Council Approval dated December 15, 1994.

1984 Ordinance.

1989 Ordinance and Supplemental Resolution.

Consent of Water Development Authority.

Evidence of Small Cities Block Grant.

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "The City of Parsons." The Issuer is a municipal corporation in Tucker County and is presently existing under the laws of, and a political subdivision of, the State of West Virginia. The governing body of the Issuer is its Council, consisting of a Mayor and 6 councilmembers, all duly elected or appointed, qualified and acting. The names and dates of commencement and termination of current terms of office are as follows:

Name		Date of Commencement of Office	Date of Termination of Office
Mary G. Moore	- Mayor	October 5, 1994	June 30, 1996
Peter S. Michael	- Councilmember	July 1, 1994	June 30, 1996
Sheila Teagarden Blosser	- Councilmember	July 1, 1994	June 30, 1996
Charles Pete Filler	- Councilmember	July 1, 1994	June 30, 1996
Jeffrey D. Helmick	- Councilmember	July 1, 1994	June 30, 1996
Nina D. Burns	- Councilmember	July 1, 1994	June 30, 1996
Curtis G. Wimer	- Councilmember	September 27, 1994	June 30, 1996

The duly appointed and acting Recorder of the Issuer is Constance Simmons.

The duly appointed and acting Counsel to the Issuer is Nichols & Nichols, Parsons, West Virginia.

7. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the acquisition and construction of the Project and the operation and maintenance of the System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be

acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

8. MEETINGS, ETC.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the acquisition, construction, operation and financing of the Project or the System were authorized or adopted at regular or special meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including, particularly and without limitation, Chapter 6, Article 9A, of the West Virginia Code of 1931, as amended, and a quorum of duly elected or appointed, as applicable, qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

9. CONTRACTORS' INSURANCE, ETC.: All contractors have been required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Bond Legislation. All insurance for the System required by the Bond Legislation is in full force and effect.

10. GRANT: The grant from the United States Department of Housing and Urban Development (Small Cities Block Grant through the State of West Virginia) in the amount of $750,000 is fully committed and in full force and effect.

11. LOAN AGREEMENT: As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreement which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information in the Loan Agreement not misleading; and (iv) the Issuer is in compliance with the Loan Agreement.

12. RATES: The Issuer has duly enacted a water rate ordinance on November 28, 1995, and a sewer rate ordinance on May 2, 1989, setting rates and charges for the services of the System. The time for appeal of such rate ordinances has expired prior to the date hereof without any appeal, and such ordinances are currently in effect.

13. SIGNATURES AND DELIVERY: On the date hereof, the undersigned Mayor did officially sign all of the Bonds of the aforesaid issue, all dated the date hereof, by her manual signature, and the undersigned Recorder did officially cause the official seal

of the Issuer to be affixed upon each of said Bonds and to be attested by her manual signature, and the Registrar did officially authenticate and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the Loan Agreement. Said official seal is also impressed above the signatures appearing on this certificate.

14. BOND PROCEEDS: On the date hereof, the Issuer received $457,500 from the Authority, being the entire principal amount of the Bonds (100% of par value), there being no interest accrued thereon.

15. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE: Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in the Parsons Advocate, a newspaper published and of general circulation in The City of Parsons, together with a notice to all persons concerned, stating, among other things, that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in such Bond Ordinance, stating that any person interested may appear before the Council at the public hearing held at a public meeting of Council on the 7th day of May, 1996, at 7:00 p.m., in the Council Chambers of the City Hall of The City of Parsons and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the Recorder of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the Governing Body and the Bond Ordinance became finally adopted, enacted and effective as of the date of such public hearing, and remains in full force and effect.

16. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the Final Order of the Public Service Commission of West Virginia entered on February 8, 1996, and final on February 28, 1996, in Case No. 95-0920-W-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project, and approving the financing for the Project. The time for appeal of the Final Order has expired prior to the date hereof without any appeal.

17. PRIVATE USE OF FACILITIES: The Issuer shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Bonds and the interest thereon. Less than 10% of the proceeds of the Bonds will be used, directly or indirectly, for any private business use, and less than 10% of the payment of principal of, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, payments in respect of such property, or 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. None of the proceeds of the Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Bonds, including the disproportionate related business use of the proceeds of the Bonds, and none of the payment of principal on, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or 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 with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Bonds. None of the proceeds of the issue of the Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person, including related persons, other than a governmental unit or other than use as a member of the general public. All of the foregoing shall be determined in accordance with and within the meaning of the Internal Revenue Code of 1986, as amended, including any successor provisions and rules and regulations thereunder (the "Code").

18. NO FEDERAL GUARANTY: The Bonds are not and will not be, in whole or part, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

19. IRS INFORMATION RETURN: On the date hereof, the undersigned Mayor did officially sign a properly completed IRS Form 8038-G and will cause such executed Form 8038-G to be filed in a timely manner with the Internal Revenue Service Center, Philadelphia, Pennsylvania.

20. SPECIMEN BONDS: Delivered concurrently herewith is a true and accurate specimen of the Bond.

21. 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 Bonds, the Bond Legislation and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

WITNESS our signatures and the official seal of THE CITY OF PARSONS on this 8th day of May, 1996.

[CORPORATE SEAL]

SIGNATURE	OFFICIAL TITLE
Constance K. Simmons	~~Mayor~~ Recorder
Mary G. Moore	~~Recorder~~ Mayor
[illegible]	Counsel to Issuer

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THE CITY OF PARSONS

Combined Waterworks and Sewerage System Revenue Bonds, Series 1996
(West Virginia Water Development Authority)

CERTIFICATE AS TO ARBITRAGE

I, Mary G. Moore, Mayor of The City of Parsons, in Tucker County, West Virginia (the "Issuer"), being the official of the Issuer duly charged with the responsibility for the issuance of $457,500 aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 (West Virginia Water Development Authority), of the Issuer, dated May 8, 1996 (the "Bonds" or "Series 1996 Bonds"), hereby certify as follows:

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986 and applicable regulations (the "Code"). I am the officer of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances, and estimates herein certified and am duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the same meaning as set forth in the bond ordinance authorizing the Bonds duly enacted by the Issuer on May 7, 1996 (as supplemented, the "Bond Ordinance").

2. This certificate may be relied upon as the certificate of the Issuer.

3. The Issuer has not been notified by the Internal Revenue Service of any listing or proposed listing of it as an issuer that may not certify its bonds or the certification of which may not be relied upon by holders of obligations of the Issuer or that there is any disqualification of the Issuer by the Internal Revenue Service because a certification made by the Issuer contains a material misrepresentation.

4. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on May 8, 1996, the date on which the Bonds are to be physically delivered in exchange for the entire principal amount of the Bonds, and to the best of our knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

5. The Bonds were sold on May 8, 1996, to the West Virginia Water Development Authority (the "Authority") for a purchase price of $457,500 (100% of par value). No accrued interest has been or will be paid on the Bonds.

6. The Issuer has covenanted in the Bond Ordinance to not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Bonds which would cause any of the Bonds to be "arbitrage bonds" within the meaning of

Section 148 of the Code. The Issuer has, therefore, covenanted to not intentionally use any portion of the proceeds of the Bonds to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except as otherwise allowed under Section 148 of the Code. The Issuer, in the Bond Ordinance, has further covenanted that it will take all actions that may be required of it so that the interest on the Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

7. The Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the waterworks portion of the existing public combined waterworks and sewerage system of the Issuer (the "Project"); (ii) funding a reserve account for the Bonds; and (iii) paying certain issuance and other related costs in connection therewith.

8. The Issuer will, on the date hereof or immediately hereafter, enter into agreements which require the Issuer to expend in excess of $100,000 on the Project constituting a substantial binding commitment, or has already done so. Acquisition, construction and equipping of the Project will commence immediately and will proceed with due diligence to completion, and, with the exception of proceeds constituting capitalized interest (if any), proceeds deposited in the reserve account for the Bonds (if any), all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of Costs of the Project on or before November, 1996. Construction of the Project is expected to be completed by November, 1996.

9. The total cost of the Project (including all costs of issuance of the Bonds) is estimated at $457,500. Sources and uses of funds for the Project are as follows:

SOURCES	
Gross Proceeds of Bonds	$ 457,500
Small Cities Block Grant	750,000
Total Sources	$1,207,500
USES	
Acquisition and Construction of Project	$1,167,939
Capitalized Interest	-0-
Fund Reserve Account	31,561
Costs of Issuance	8,000
Total Uses	$1,207,500

The amount of Project costs is estimated to be at least equal to the gross proceeds of the Bonds and the grant stated above. Except for the proceeds of the Bonds and the grant stated above, no other funds of the Issuer will be available to meet costs of the Project, which would constitute "replacement proceeds" within the meaning of Treas. Reg. § 1.148-1(c), inasmuch as (i) the Issuer does not reasonably expect that the term of the Bonds is longer than is reasonably necessary for the governmental purposes of the Issuer, (ii) the weighted average maturity of the Bonds does not exceed 120% of the average expected economic life of the Project, and (iii) there are no amounts that have a sufficiently direct nexus to the Bonds or to the governmental purpose of the Bonds to conclude that the amounts would have been used for that governmental purpose if the proceeds of the Bonds were not used or to be used for that governmental purpose.

10. Pursuant to Article V of the Bond Ordinance, the following special funds or accounts have been created (or continued pursuant to the Prior Ordinances):

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

(2) Series 1984 Bonds Reserve Fund (established by the Prior Ordinances);

(3) Depreciation Account (established by the Prior Ordinances);

(4) Renewal and Replacement Fund (established by the Prior Ordinances);

(5) Series 1996 Bonds Construction Trust Fund.

(6) Series 1996 Bonds Sinking Fund;

(a) Within the Series 1996 Bonds Sinking Fund, the Series 1996 Bonds Reserve Account.

(7) Series 1989 A Bonds Sinking Fund (established by the Prior Ordinances);

(a) Within the Series 1989 A Bonds Sinking Fund, the Series 1989 A Bonds Reserve Account (established by the Prior Ordinances);

(8) Series 1989 B Bonds Sinking Fund (established by the Prior Ordinances);

(a) Within the Series 1989 B Bonds Sinking Fund, the Series 1989 B Bonds Reserve Account (established by the Prior Ordinances).

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

(1) Bond proceeds in the amount of $ -0- will be deposited in the Series 1996 Bonds Sinking Fund as capitalized interest and applied to payment of interest on the Bonds during acquisition and construction of the Project and for not more than six months thereafter.

(2) Bond proceeds in the amount of $31,561 will be deposited in the Series 1996 Bonds Reserve Account.

(3) The balance of the proceeds of the Bonds will be deposited in the Bond Construction Trust Fund and applied solely to payment of costs of the Project, including costs of issuance of the Bonds and related costs.

Amounts in the Bond Construction Trust Fund, if invested, will be invested without yield limitation for a period necessary to complete the Project, not to exceed 3 years. All of such moneys are necessary for such purpose.

Except for "preliminary expenditures" as defined in Treas. Reg. §1.150-2(f)(2), none of the proceeds of the Bonds will be used to reimburse the Issuer for costs of the Project previously incurred and paid by the Issuer with its own or other funds.

12. Moneys held in the Series 1996 Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 1996 Bonds Sinking Fund and Series 1996 Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Bond Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

13. Except for the Series 1996 Bonds Sinking Fund and the Series 1996 Bonds Reserve Account, there are no other funds or accounts established or held by the Issuer which are reasonably expected to be used to pay debt service on the Series 1996 Bonds or which are pledged as collateral for the Series 1996 Bonds and for which there is a reasonable assurance that amounts therein will be available to pay debt service on the Series 1996 Bonds, if the Issuer encounters financial difficulties. The Issuer does not expect that moneys in the Renewal and Replacement Fund will be used or needed for payments upon the Series 1996 Bonds. Except as provided herein, no funds which have been or will be used to acquire directly or indirectly securities, obligations, annuity contracts, investment-type property or any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved designation plan producing a yield in excess of the yield on the Bonds have been or will be pledged to payment of the Bonds. Less than 10% of the moneys received from the sale of the Series 1996 Bonds, if any, will be deposited in the Series 1996 Bonds Reserve Account or any other reserve or replacement fund. The amounts deposited in the Series 1996 Bonds Reserve Account from time to time by the Issuer will not exceed the maximum annual principal of and interest on the Series 1996 Bonds and will not exceed 125% of average annual principal of and interest on the Series 1996 Bonds. Amounts in the Series 1996 Bonds Reserve Account, not to exceed 10% of the proceeds of the Series 1996 Bonds, if invested, will be invested without yield limitation. The establishment of the Series 1996 Bonds Reserve Account is required by the Authority, is vital to its purchase of the Series 1996 Bonds, and is reasonably required to assure payments of debt service on the Series 1996 Bonds.

Because amounts in the Renewal and Replacement Fund may be expended for other purposes, there is no reasonable assurance that any such amounts would be available to meet debt service if the Issuer encounters financial difficulties; thus, such amounts may be invested without yield limitation.

14. The Issuer will, on the date hereof or immediately hereafter, enter into a contract for the construction of the Project, and the amount to be expended pursuant to such contract exceeds the lesser of 2 1/2% of the estimated total Project cost financed with proceeds from the sale of the Bonds or $100,000.

15. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. Construction is expected to be completed within 7 months of the date hereof.

16. Except for a reasonable temporary period until such proceeds are needed for the purpose for which such issue was issued or as otherwise allowed, no portion of the proceeds of the Bonds will be used, directly or indirectly, to acquire higher yielding investments, or to replace funds which were used, directly or indirectly, to acquire higher yielding investments, all within the meaning of Section 148 of the Code.

17. The Issuer will comply with the provisions of the Code, for which the effective date precedes the date of delivery of its Bonds to the Authority.

18. With the exception of the amount deposited in the Series 1996 Bonds Sinking Fund for payment of interest on the Bonds, if any, and the amounts deposited in the Series 1996 Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within 7 months from the date of issuance thereof.

19. The Issuer does not expect to sell or otherwise dispose of the Project in whole or in part prior to the last maturity date of the Bonds.

20. The Series 1996 Bonds Sinking Fund (other than the Series 1996 Bonds Reserve Account therein) is intended primarily to achieve a proper matching of payments of debt service on the Series 1996 Bonds each year. The Series 1996 Bonds Sinking Fund (other than the Series 1996 Bonds Reserve Account therein) will be depleted at least once a year except for a reasonable carryover amount not in excess of the greater of 1/12th of annual debt service on the Series 1996 Bonds, or 1 year's interest earnings on the Series 1996 Bonds Sinking Fund (other than the Series 1996 Bonds Reserve Account therein). Except as otherwise allowed, any money deposited in the Series 1996 Bonds Sinking Fund for payment of the principal of or interest on the Series 1996 Bonds (other than the Series 1996 Bonds Reserve Account therein), will be spent within a 13-month period beginning on the date of receipt and will be invested without yield limitation, and any moneys received from the investment of amounts held in the Series 1996 Bonds Sinking Fund (other than in the Series 1996 Bonds Reserve Account therein) will be spent within a 1-year period beginning on the date of receipt.

21. All the proceeds of the Bonds which were used for the payment of costs of the Project will be expended for such purposes within three years of January 9, 1996.

22. The amount designated as cost of issuance of the Bonds consists only of costs which are directly related to and necessary for the issuance of the Bonds.

23. All property financed with the proceeds of the Bonds will be held for federal income tax purposes by (or on behalf of) a qualified governmental unit.

24. The Issuer shall file Form 8038-G or 8038-GC in a timely fashion with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19455.

25. No more than 10% of the proceeds of the Bonds will be used (directly or indirectly) in any trade or business carried on by, and less than 5% of the proceeds of the Bonds have been or will be used to make or finance loans to, any person who is not a governmental unit.

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

27. The Issuer shall use the Bond proceeds solely for the costs of the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

28. 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 treatment afforded by Section 103(a) of the Code by reason of classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions and refrain from taking such actions as shall be necessary to comply with the Code in order to ensure the interest on the Bonds is excludable from gross income for federal income tax purposes.

29. The Bonds are not and will not be, in whole or in part, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

30. The Issuer is a governmental unit and has general taxing powers; no 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 (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and the aggregate face amount of all tax-exempt bonds or obligations (other than private activity bonds) issued by the Issuer during the calendar year 1996, the calendar year in which the Bonds are issued, is not reasonably expected to exceed $5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code. For purposes of this paragraph and for purposes of applying such 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 paragraph 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 paragraph 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 benefiting thereby shall be treated as one issuer.

The Issuer believes that the Authority exclusively lends bond proceeds in a manner that does not result in its bonds being private activity bonds, as defined in the Code, and the Issuer believes that the use of the proceeds by each borrower from the Authority would not result in those proceeds being private activity bonds (if viewed as a separate issue).

31. The Issuer has retained the right to amend or supplement its authorizing documents if such amendment or supplement is necessary to preserve the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

32. The Issuer shall comply with the yield restriction on Bond proceeds as set forth in the Code.

33. The Issuer has either (a) funded the Series 1996 Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Series 1996 Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 1996 Bonds Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year. Moneys in the Series 1996 Bonds Reserve Account and the Series 1996 Bonds Sinking Fund (established for the annual payment of principal and interest) will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

34. The Issuer shall submit to the Authority within 15 days following the end of each bond year a certified copy of its rebate calculation or, if the Issuer qualifies for the small governmental issuer exception to rebate, the Issuer shall submit a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the bond year which would make the Bonds subject to rebate. The Issuer covenants and agrees to comply with the rebate requirements of the Code if not exempted therefrom, and with all other requirements of the Code necessary, proper or desirable to maintain the tax-exempt status of the Bonds and any interest thereon.

35. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bonds, (b) are to be sold pursuant to a common plan of financing together with any of the Bonds and (c) will be paid out of substantially the same source of funds or will have substantially the same claim to be paid out of substantially the same source of funds as any of the Bonds.

36. The transactions contemplated herein do not represent an exploitation of the difference between taxable and tax-exempt interest rates and the execution and

delivery of the Bonds is not occurring sooner than otherwise necessary, nor are the Bonds in principal amounts greater than otherwise necessary or to be outstanding longer than otherwise necessary.

37. The Issuer will rebate to the United States the amount required by the Code and to take all steps necessary to make such rebates. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

38. The Issuer covenants and agrees to comply with the rebate requirements of the Code if not exempted therefrom, and with all other requirements of the Code necessary, proper or desirable to maintain the tax-exempt status of the Bonds.

39. On the basis of the foregoing, it is not expected that the proceeds of any of the Bonds will be used in a manner that would cause any of the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

40. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances which would materially change the expectations herein expressed.

41. Steptoe & Johnson is entitled to rely upon the representations, expectations, covenants, certifications and statements contained herein in rendering its opinions regarding the tax-exempt status of interest on the Bonds.

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

WITNESS our signatures this 8th day of May, 1996.

THE CITY OF PARSONS

Mary L. Moore

Mayor

04/25/96
PARSWJM.J3
689010/95001

THE CITY OF PARSONS

Combined Waterworks and Sewerage System Revenue Bonds, Series 1996
(West Virginia Water Development Authority)

ENGINEER'S CERTIFICATE

I, H. WOOD THRASHER, Registered Professional Engineer, West Virginia License No. 9478, of Thrasher Engineering, Inc., Clarksburg, West Virginia, Consulting Engineer, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain extensions, additions, betterments and improvements to the waterworks portion of the existing public combined waterworks and sewerage system (the "Project") for The City of Parsons (the "Issuer") to be constructed primarily in Tucker County, West Virginia, which acquisition and construction are being financed in part by the proceeds of the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words used herein and not otherwise defined herein shall have the meaning set forth in the Bond Ordinance enacted by the Issuer on May 7, 1996, and the Loan Agreement, by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), dated May 8, 1996.

2. The Bonds are being issued for the purposes of (i) paying a portion of the costs of acquisition and construction of the Project; (ii) funding a reserve account for the Bonds; and (iii) paying certain issuance and other related costs in connection therewith.

3. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least 40 years, (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm will ascertain that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds will be verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project, (v) the rates and charges for the System as adopted by the Issuer are sufficient to comply with the provisions of Subsection 4.1(b) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and

irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project as set forth in the Application, and (vii) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature and seal on this 8th day of May, 1996.

THRASHER ENGINEERING, INC.

(SEAL)

West Virginia License No. 9478

04/18/96
PARSWJM.K2
689010/95001

ESTIMATED TOTAL COST OF PROJECT AND SOURCES OF FUNDS

A. Cost of Project

1.	Construction	$ 850,000	
2.	Technical Services	$ 139,600	
3.	Legal and Fiscal	$ 17,000	
4.	Administrative	$ 30,500	
5.	Site and Other Lands	$ 10,000	
6.	Step I and/or Step II or Other Loan Repayment (Specify Type: _____)	$ 0	
7.	Interim Financing Costs	$ 0	
8.	Contingency	$ 120,839	
9.	Total of Lines 1 through 8		$ 1,167,939

B. Sources of Funds

10.	Federal Grants:		$	
	(Specify Source)		$	
11.	State Grants:	Small Cities Block	$	750,000
	(Specify Source)	Grant Program	$	
			$	
			$	
12.	Other Grants:		$	
	(Specify Source)		$	
13.	Any Other Source:		$	
	(Specify)		$	
14.	Total of Lines 10 through 13:			$ 750,000
15.	Proceeds Required from Bond Issue (Line 9 Less Line 14):			$ 417,939
16.	Cost of Financing:			
	(a) Capitalized Interest (Construction Period Plus Six Months)		$	
	(b) Funded Reserve Account		$	31,561
	(c) Other Costs:	$ 8,000		
		$		
		$		
	Total Other Costs		$	
	Total Cost of Financing			$ 39,561
17.	Size of Bond Issue (Line 15 Plus Total from Line 16):			$ 457,500

Preparer's Name: William R. Watson Phone No: (304) 624-4108

Preparer's Signature: Wm. R. Watson Date: 4-15-96

RODEHEAVER & ASSOCIATES
Certified Public Accountants

316 Second Street
Parsons, West Virginia 26287
(304) 478-3130

Partners
Randle A. Rodeheaver, CPA
James M. Murray, CPA
Denise L. Rinker, CPA

May 8, 1996

The City of Parsons
Combined Waterworks and Sewerage System Revenue Bonds, Series 1996
(West Virginia Water Development Authority)

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, WV 25065

Ladies and Gentlemen:

We have compiled the projected financial information as of and for the year ending June 30, 1995 in accordance with Rule 42 of the West Virginia Public Service Commission Rules and Regulations for the Government of the Construction and Filing of Tariffs of Public Utilities and Common Carriers by Motor Vehicles ("The Rule 42 Exhibits") as indicated in our report dated September 14, 1995, which is attached.

In connection with the bond issue:

1. We are independent certified public accountants with respect to the City of Parsons, West Virginia, and its Water and Sewer funds under Rule 101 of the AICPA's Code of Professional Conduct, and its interpretations and rulings.

2. In our opinion, the projected financial information complies as to form in all material respects with the applicable accounting requirements of Rule 42 of the West Virginia Public Service Commission and the related rules and regulations.

3. With respect to the period subsequent to June 30, 1995, we have carried out certain other procedures to December 31, 1995, as follows (our work did not extend to the period from January 1, 1996 to May 8, 1996, inclusive):

   * We have compared the rates and charges as set forth in the Water Rate Ordinance of the City of Parsons (the "Issuer") enacted November 28, 1995 to the proposed rates in the Rule 42 Exhibits and found them to be in agreement.

* We have compared the revenues resulting from the application of these rates and charges together with the other revenues of the combined waterworks and sewerage systems of the City to the projected operation and maintenance expenses of the water system as furnished to us by Thrasher Engineering, Inc., consulting engineer, and the annual historical operation and maintenance expenses of the sewer system.

* We have obtained actual accounting records for the period January 1, 1995 through December 31, 1995. For the purposes of this report the City does not anticipate an increase in annual net revenues to be received in the three succeeding years after completion of the improvements to be financed by the Bonds.

* We have obtained the annual debt service requirements on the Combined Waterworks and Sewerage System Revenue Bonds Series 1996 (West Virginia Water Development Authority) together with the previous bond issues - Series 1984, Series 1989A, and Series 1989B.

4. Based upon the rates and charges as set forth in the Water Rate Ordinance of The City of Parsons (the "Issuer"), finally enacted November 28, 1995, and the Sewer Rate Ordinance of the Issuer finally enacted May 2, 1989, and projected operation and maintenance expenses and anticipated customer usage as furnished to us by Thrasher Engineering, Inc., consulting engineer, as of the date of issuance of the Bonds, such rates and charges will be sufficient to provide revenues which, together with other revenues of the combined waterworks and sewerage system (the "System") of the Issuer, will pay all repair, operation and maintenance expenses and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 (West Virginia Water Development Authority)(the "Bonds"), to be issued to the West Virginia Water Development Authority.

5. In addition, the Net Revenues actually derived from the System during the period January 1, 1995 through December 31, 1995 (which is a period of 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of the Bonds) plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years is not less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for principal and interest on the Bonds, and the Issuer's outstanding Combined Waterworks and Sewerage System Revenue Bonds, Series 1984, Combined Waterworks and Sewerage System Revenue Bonds, Series 1989A and Combined Waterworks and Sewerage System Revenue Bonds, Series 1989B.

6. The procedures enumerated in the preceding paragraphs do not constitute an audit conducted in accordance with generally accepted auditing standards. Accordingly, we make no representations regarding the sufficiency of the foregoing procedures for your purposes.

7. This letter is solely for the information of the addressee and to assist the addressee in conducting and documenting their investigation of the affairs of the City of Parsons, West Virginia, in connection with the Bonds described in the bond ordinance and it is not to be used, circulated, quoted, or otherwise referred to for any other purposes.

Very truly yours,

Rodeheaver & Associates

Rodeheaver & Associates

PARSONS CITY CODE

PREFACE:		CHARTER - CITY OF PARSONS
CHAPTER	1.	GENERAL PROVISIONS
CHAPTER	2.	ELECTIONS
CHAPTER	3.	MAYOR - POLICE COURT - POLICE JUDGE
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PARSONS CITY CODE
CHARTER OF THE CITY OF PARSONS

An act to create the municipal corporation of the City of Parsons in the County of Tucker, to grant a charter thereto and annul the charter of the Town of Parsons.

(Passed February 18, 1907. In effect from passage. Approved by the Governor February 25, 1907.)

BE IT ENACTED BY THE LEGISLATURE OF WEST VIRGINIA:

Section 1. Corporate name, rights and powers.

That the inhabitants of so much of the county of Tucker as is within the bounds prescribed by Section Two of this act, and their successors, shall be and remain, and they are hereby made, a body politic and corporate by the name of "THE CITY OF PARSONS", and such shall have perpetual succession and a common seal, and by that name may sue and be sued, plead and be impleaded, purchase, lease and hold real estate and personal property necessary to the purchase of said corporation. See Code, 8-4-1, Section 485.

Section 2. Corporate limits and boundaries; wards.

The corporate limits of said City shall hereafter be as follows:

Beginning at a large red oak called for in the old corporate survey, north 50 degrees west 67 poles and 8 links to a stone on the north bank of Sugar Camp Run, 1 pole and 3 links south of Clover Run a large white oak; thence South 48-3/4 degrees east 24 poles and 15 links to a small maple with two oak and a birch pointer standing on a shelving bank north of the county road; thence south 62 1/2 degrees east 12 poles and 12 1/2 links to the Western Maryland Railway Company's "look out" sign; thence crossing Shaffers Fork 47 degrees east _____ to a stone on the bank of said river in John Peter's field, reference point north 24 degrees east 3 poles to a small poplar on the bank of the river; thence north 81 degrees east 250 poles and 10 links to a stone west of the county road and at right angles to the southeast corner of the cemetery fence, 8 poles and 18 links, reference point south 75 degrees east 2 poles and 10 links to a large chestnut standing east of the county road; thence north 27-3/4 degrees east 21 poles to the northeast corner of the cemetery fence; thence continuing with the same bearing 72 degrees east reversed of the side of the cemetery lot to the Black Fork River; thence with the meanders of said river to the head gates of the sluice dam; thence crossing Black Fork River to the east abutment of the Western Maryland Railway Bridge across said river; thence crossing said river to the west abutment of the county bridge; thence down the river with the meanders thereof to two small white oaks called for in the old survey of the Parsons corporation; thence with the old corporation line reversed, south 75 degrees west 190-3/4 poles to a stone against the bank about 4 poles north of a drain; thence South 23 degrees east 126 poles to a stone against the bank about 4 poles north of a drain; thence South 23 degrees east 126 poles to a beech with poplar, gum and two beech pointers; thence South 5 degrees east 97 1/2 poles to the beginning.

The territory of said City shall be divided as follows:

First Ward: All that portion of said City lying north of the Western Maryland Railroad and north and west of the Shaffers Fork of Cheat River.

Second Ward: All that portion of said City lying south of the Western Maryland Railroad.

Third Ward: All that portion of said City lying north of the Western Maryland Railroad and between Shaffers Fork and Black Fork of Cheat River.

And the Council of said City may change the boundaries of said wards, or create such additional wards as may appear to the said council to be necessary, but no change shall be made in the boundaries of said wards, nor any ward created less than sixty days before the holding of any general election for said City. See Code 8-3-8, Section 476.

Section 3. Municipal Authorities.

The municipal authorities of the city shall consist of the mayor, recorder and two councilmen from each ward, who together shall form the common council; said councilmen shall be elected by the voters of the entire city.

Section 4. Exercise of corporate powers.

All the corporate powers and functions pertaining to the city shall be exercised by its common council or under its authority, in the corporate name of the city unless otherwise provided by state law or municipal ordinances.

Section 5. Subordinate Officers.

The council may appoint a superintendent of streets, light, and water, an attorney, an assessor, a collector and all other officers whose offices may be established by an ordinance of the council.

Section 6. Eligibility of Officers.

No person shall be eligible to the office of mayor, recorder or councilman unless, at the time of his election, he is legally entitled to vote in the city election for member of the common council, and was for the preceding year assessed with taxes upon real or personal property within the said city of the assessed value of two hundred dollars, and shall have actually paid taxes so assessed. And no person shall be eligible to any subordinate office under said city who is not at the time of his election or appointment entitled to vote for members of the common council. See Code 8-3-9, Section 477.

Section 7. Powers, duties and compensation of officers.

The powers, duties and compensation of all officers shall be established by ordinance. But the compensation pertaining to any office shall not be increased or diminished so as to effect any officer subsequent to his election or appointment and during the term for which he was elected or appointed. See Code 8-4-2, Section 486, Section 487, 8-4-4, Section 488.

Section 8. Vacancies in Office.

Whenever a vacancy shall occur from any cause in the office of mayor, recorder or councilman, the common council shall fill the same by election by a viva voce vote until the end of the term. See Code 8-3-13, Section 481.

Section 9. Who are Voters.

Every person who has been a bona fide resident of the city for sixty days next preceding the city election therein, and who is a qualified voter under the constitution and laws of this state, shall be entitled to vote at any city election in the ward in which he actually resides but no person shall be deemed a resident of such city by reason of being stationed therein for any temporary purpose. See Code 8-3-14, Section 482.

Section 10. Elections.

The first election hereunder shall be held on the first Tuesday in January, one thousand nine hundred and eight, at which election all of the officers provided for in section three shall be elected. The term of office of all persons elected at said first election shall begin February one, one thousand nine hundred and eight and shall be until their successors are elected and qualified. The next election hereunder shall be held on each year thereafter on the first Thursday in April. The term of office of all persons elected at the election held hereunder in one thousand nine hundred and nine and all succeeding elections shall be for two years, except that of mayor and recorder, which shall be for one year, and until their successors are elected and qualified, unless sooner removed in the manner provided by law. At said election held on the first day of January, one thousand nine hundred and eight, two members of the council shall be elected in each ward in said city who shall reside in the ward for which they are elected, and the candidate receiving the highest number of votes shall be elected for two years and the candidate receiving the next highest number of votes shall be elected for one year from the first day of May next succeeding his election, and shall hold their offices until their successors are elected and qualified, and on the first Monday in April in each succeeding calendar year one member of the council shall be elected in each ward, whose term of office shall begin on the first day of May next succeeding his election and continue for a term of two years and until his successor is elected and qualified; but shall thereby become vacant, and the common council shall fill the said vacancy by appointment until the next general election of [illegible] in the ward who is eligible to the office.

All appointed officers shall hold their office during the pleasure of the common council.

The election shall be held and conducted and the result thereof ascertained, certified, returned and determined under the constitution and general laws of the state governing municipal elections, and shall conform as nearly as practicable to such laws. Contested elections shall be heard and decided by council, and the proceedings therein shall conform as nearly as may be to similar proceedings in the case of county and district officers. The council shall be the judge of the election, return and qualification of its own members. In case two or more persons receive an equal number of votes for the same office, if such number be the highest cast for such office, the persons under whom the supervision is held shall decide by lot which of them shall be returned elected, and shall make their return accordingly. See Code 8-3-4, Section 472, 5-3-5, Section 473.

Section 11. Qualification of Officers.

Every person elected or appointed to an office in such city shall within twenty days after his election or appointment, and before entering upon the duties of his office, take and subscribe the oath of office prescribed by law in the case of district officers, which may be done before the mayor or recorder of such city, or before any person authorized by law to administer oaths; and the officer administering the oath shall be filed with the recorder of the city. See Code 8-3-11, Section 479.

Section 12. Powers and duties of Appointed Officers.

The council shall prescribe the powers and define the duties of all officers by it appointed, except so far as the same are by this act defined; shall fix the compensation, and may require and take from them respectively, bonds payable to the city in the corporate name with such sureties and such penalties as may be deemed proper, conditioned for the faithful performance of their duties. See Code 8-3-10, Section 478, 8-4-2, Section 486.

Section 13. Removal of Officers.

The council shall have the authority to remove from office any officer of the city whether elected or appointed, for misconduct or neglect of duty by an affirmative vote of three-fourths of the members of the council, but only after reasonable notice to such officer, and a hearing of the charges preferred. See Code 8-4-22, Section 506.

Section 14. Meeting of the Council.

The council shall be presided over at its meetings by the mayor, or in his absence by the recorder; in the absence of both mayor and recorder by one of the councilmen selected by the majority of the council present. A majority of the council shall be necessary to constitute a quorum for the transaction of business. See Code 8-4-6, Section 490

Section 15. Votes of Members.

The recorder shall have a vote as a member of the council. The mayor shall have a vote only in case of a tie, and in no case shall the presiding officer have but one vote. No member of council shall vote upon or take part in the consideration of any proposition in which he is or may be interested otherwise than as a resident of said city. See Code 8-4-6, Section 490, 8-4-7, Section 491.

Section 16. Bonds.

The council shall require and take from all officers elected or appointed as aforesaid, whose duty it shall be to receive funds, assets or property belonging to said city, or having charge of the same, such bonds, obligations or other writings as may be deemed necessary and proper to secure the faithful performance of their several duties. All bonds, obligations or other writings taken in pursuance of any of the provisions of this act shall be made payable to the city of Parsons, with such penalties as may be deemed proper, conditioned for the faithful performance of their duties, and for the accounting of and the paying over as required by law, all monies coming into their hands by virtue of their offices, and the respective persons, and their heirs, executors and assigns bound thereby shall be subject to the same proceedings on said bond, obligations and other writings, for enforcing the conditions of the terms thereof, by motion or otherwise, before any court of competent jurisdiction held in and for the county of Tucker, that collectors of county levies and other sureties are or shall be subject to on their bonds for enforcing the payment of the county levies. See Code 6-2-11, Section 284.

Section 17. Records of the Council.

The council shall cause to be kept in a well bound book called the "council journal" an accurate record of all its proceedings, bylaws, ordinances, order, and resolutions which shall be fully indexed, and shall be open to anyone who is required to pay taxes to such city. The records of the town of Parsons shall be deposited with the council of said city, and it shall make suitable provisions for the safekeeping and preservation of the same. At each meeting of the council the proceedings of the last meeting shall be read, corrected if erroneous, and signed by presiding officer for the time being. Code 8-4-8, Section 492, 8-4-9, Section 493.

Section 18. Powers and Duties of Council.

The council of said city shall have power to lay off, vacate, close, open, alter, grade, and keep in good repair the roads, streets, alleys, pavements, sidewalks, crosswalks, drains and gutters therein for the use of the citizens or of the public and to improve and light the same, and to keep the same free from obstructions of every kind; to regulate the width of pavements and sidewalks on the streets and alleys, and to order the pavement, sidewalks, footways, drains and gutters to be kept in good order, free and clean, by the owners and occupants of the real property next adjacent thereto; to establish and regulate markets, prescribe the time for holing the same, provide suitable and convenient buildings therefore and prevent the forestalling or regrating of such markets; to prevent injury or annoyance to the public or to individuals from anything dangerous, offensive or unwholesome; to prohibit or regulate slaughter houses and soap factories within the city limits, or the exercise of any unhealthful or offensive business, trade of employment; to abate all nuisances within the city limits or to require and compel the abatement or removal thereof by or at the expense of the owner or occupant of the ground on which they are placed or found; to cause to be filled up, raised or drained by or at the expense of the owner any city lot or tract of land covered or subject to be covered by stagnant water; to prevent horses, hogs, cattle, sheep or other animals and fowls of all kinds from going or being at large in such city, and as means of prevention to provide for impounding and confining such animals and fowls, and upon failure to reclaim for the sale thereof; to protect places of divine worship and to preserve order in and about the premises where and when such worship is held; to regulate the keeping of gunpowder and other flammable or dangerous substances; to provide and regulate the building of houses and other structures, and for the making and maintaining of division fences by the owners of adjoining premises, and the proper drainage of city lots and other parcels of land, by or at the expense of the owner or occupant thereof; to provide against damage or danger by fire; to punish for carrying deadly weapons, and assaults and batteries; to prohibit loitering in saloons, or upon the streets; to prevent lewd and lascivious conduct, the sale or exhibition of indecent pictures, or other representations; the Sabbath day, profane swearing, the illegal sale of all intoxicating liquors, drinks, mixtures and preparations, beer, ale, wine, or drinks or like nature; to protect the persons of those residing within said city; to build or purchase, or lease and to use a suitable place within or near said city for safekeeping or punishment of persons charged with, or convicted of the violation of ordinances to provide for the employment of persons convicted of the violation of ordinances, or who may be committed in default of the payment of fines, penalties or costs, and who are otherwise unable to discharge the same by putting them to work for the benefit of the city, and to use such means of escape while at work, as they may deem expedient; to erect or authorize or prohibit the erection of gas work, electric light works or water works within the city limits, to prevent injury to such works or the pollution of any gas or water used or intended to be used by the public or by individuals, and to do all things

necessary to adequately supply said city and the inhabitants thereof with pure, healthful and wholesome water; to use, generate, distribute, sell and control electricity and gas for heat, light, and power, and to furnish lights for the streets, houses, buildings, stores, and other places in and about said city; to provide a sewerage system for said city; to provide for and regulate the weighing and measuring of hay, coal, lumber and other articles sold, or offered for sale within the said city; to establish and construct wharves and docks, and to repair, alter, or remove any landing, wharf or dock, which has been or shall be so constructed, and to establish and collect rates and changes for the use thereof; to regulate the running and speed of engines and cars within said city, except that the council of said city shall not interfere with the speed of trains and engines beyond the corporation lines of the town of Parsons as heretofore existing, until the said new territory shall be laid out in lots, streets and alleys, and open and used by the public; to organize one or more fire companies and provide necessary apparatus, tools, implements, engines, or any of them, for their use, and in their discretion to organize a paid fire department to make regulations with respect to the erection and location of the telephone, telegraph, electric light or other poles within said city, and the extension of any wires, lines and poles by any individual or corporation; to grant and regulate all franchises in, upon, over and under the streets, alleys and public ways of said city, under such restrictions as shall be provided by ordinance, but no exclusive franchise shall be granted by said council to any individual or corporation, nor shall any franchise be granted for a longer period than fifty years; to create by ordinance such committees or boards and delegate such authority thereto, as may be deemed necessary or advisable; to provide for the annual assessment of the taxable property therein, including dogs kept in said city, and to provide a revenue for the said city for municipal purposes, and to appropriate such revenue to its expenses, and generally to take such measures, as may be deemed necessary or advisable, to protect the property, public and private, within the city; to preserve and maintain peace, quiet and good order therein, and to preserve and promote the health, safety, comfort and well being of the inhabitants thereof.

The council of said city shall have power and authority to control and regulate the construction and repairs of all houses and other buildings within the said city; to provide for the granting of building permits; to cause the removal of unsafe walls of buildings; and may upon the petition of the persons owning the greater amount of frontage of the lots abutting on any street between any two cross streets or in any square in said city, prohibit the erection on such street, or in such square, of any building, or of any addition to any building, more than ten feet high, unless the outer walls thereof be made of brick and mortar or other fireproof material; and to provide for the removal of any building or an addition which shall have been erected contrary to such prohibition, at the expense of the owner or owners thereof. See Code 8-4-10, Section 494

Section 19. Enforcement of Powers.

To carry into effect these enumerated powers and all others by this act or by general laws conferred, or which may hereafter be conferred upon the said city or its council, or any of its officers, the said council shall have and possess full authority to make, pass and adopt all needful ordinances, bylaws, orders and resolutions, not repugnant to the constitution and laws of the United States or of this state; and to enforce any and all such ordinances, bylaws, orders or resolutions, by prescribing for a violation thereof, fines and penalties and imprisonment in either the county jail of Tucker County or the city prison, if there by one but no fine shall exceed five hundred dollars, and no term for imprisonment shall exceed thirty days; such fines and penalties shall be imposed and recovered, and such imprisonment inflicted and enforced by and under the judgment of the mayor of said city, or in case of his absence or inability to act or both of said officers, of one of the councilmen, appointed for that purpose by the council. See Code 8-4-10, Section 494.

Section 20. Annual Estimate of Expenditures.

The council shall cause to be annually made up and entered upon its journal not later than the first day of July of each year, an accurate estimate of all sums that are or may become chargeable to such city, and which ought to be paid within one year; and it shall order a levy of so much as may in its opinion, be necessary to pay the same. See Code 11-8-9, Section 760, 11-8-14, 14A and 15, Section 765, 765 (1) and 766.

Section 21. Annual Levy.

The levy so ordered shall be upon all dogs in the said city, and upon all real and personal property therein subject to state taxes upon the basis of the valuation of such property as fixed for state purposes; but no taxes so levied upon property shall exceed the rate of fifty cents on every one hundred dollars of the valuation thereof in any one year for current prescribed by law. See Code 8-7-1, Section 547.

Section 22. Money, How and When Paid.

All taxes which the council are or shall be authorized to levy and collect, and all fines and penalties which may be imposed and collected for violations of the laws and ordinances of said city, shall inure to the exclusive benefit of said city, and all monies received or collected for the use of said city shall be paid into the treasury and shall be drawn therefrom, except as the council, in accordance with this act, may order, by orders drawn upon the city treasury, signed by the mayor and countersigned by the recorder, and no order shall be issued upon any fund unless there is an unexpended balance to the credit thereof sufficient to cover such order and money in the treasury to pay it. The council shall, once at least every year cause to be published in the said city, a statement of the receipts and disbursements of the said city for the past year for each of the several funds, signed and sworn to by the recorder and attested by the mayor.

Section 23. Revoking Licenses.

The council may revoke any such license for a breach of any of the conditions of such bond, or for other good cause shown, but the person holding license must first have reasonable notice of the time and place of hearing and adjudicating the matter, as well as the cause alleged; and shall be entitled to be heard in person or by the council, in opposition to such revocation.

Section 24. Other Licenses.

When anything for which a state license is required other than the sale of spirituous, vinous and malt liquors is to be done within such city, the council may require a city license therefor, in the manner prescribed by law, and may impose a tax thereon for the use of the city. And the council may make and enforce all reasonable ordinances respecting the same; provided only that such ordinances shall not conflict with the constitution and laws of this state and of the United States. See Code 8-14-13, Section 497.

Section 25. Sidewalks, Street Paving, etc.

If the owner or occupant of the real property abutting on any sidewalk, footway or gutter in such city, shall fail or refuse to curb, or keep the same clean in the manner or within the time required by council it shall be the duty of the council to cause the same to be done at the expense of the city, and to assess the amount of such expense on such property, or upon the owner thereof, and the same may be collected by the collector in the manner provided herein for the collection of city taxes.

Upon the petition in writing, of the persons owning the greater amount of frontage of the lots abutting on any street, or between a cross street and alley, or any two cross streets, the council of the city by lawful majority thereof, may order such part of any street or alley to be paved between sidewalks with cobble stones, brick, Belgin blocks, asphaltic, or other suitable material, from one of such cross streets or alleys to the other, under such regulations as may be fixed by ordinance duly passed by council; two-thirds of the cost of such paving shall be assessed to the owners of the lots or fractional parts of lots abutting on that part of the street or alley so paved, in proportion to the distance such lots or part lots about on such street or alley, and the remaining one-third of the cost of such paving shall be paid by the city. In making such assessments the basis shall be the cost of paving that part of the street or alley on which the property lies, included between the adjoining cross streets or alleys; and the amount assessed against the owners of each lot fractional part of a lot, shall be in the proportion which the frontage of such lot or part of lot bears to the whole cost of paving said street or alley between said cross streets or alleys as aforesaid, and the same may be collected by the collector in the manner provided herein for the collection of city taxes. See Code 8-7A-1 to 15, Section 554; 8-8-1 to 16, Section 555 to 558 (12); 8-9-1 to 18, Section 559 to 576

Section 26. Liens for Taxes, Assessments, etc.

There shall be a lien on all real estate and personal property within the city for the city taxes assessed thereon, from the date fixed by law for the commencement of the assessment of such taxes in each year, and the interest upon such taxes, at the rate of six percent per annum from the first day of January next year after such assessment until payment, which may be enforced by the council in the manner now provided by law for the enforcement of the lien for the state or county taxes, or in such other manner as the council may by ordinance prescribe. There shall also be a lien on all real estate within the city for other assessments, fines and penalties assessed or imposed upon the owners thereof by the authorities of the city from the time the same are so assessed or imposed, which shall have priority over all other liens except the lien for taxes and may be enforced by the council by suit in equity, in the corporate name of the city, in the same manner as prescribed by law for the enforcement of the lien for state and county taxes, or in such manner as the council may by ordinance prescribe. If any real estate within the city be returned delinquent for the nonpayment of the taxes thereon, a copy of such delinquent list may be certified by the council to the auditor, and the same may be sold for taxes, interest and commissions thereon, in the same manner, at the same time, and by the same officer as real estate is sold for the nonpayment of state taxes. See Code 8-7-3, Section 549.

Section 27. The City Collector.

It shall be the duty of the city collector to collect the city taxes, fines, levies and assessments, under such regulations as may be prescribed by law and the ordinances of the city; and in case the same are not paid within one month after they are placed in his hands for collection, he may distrain and sell therefore in like manner as the officer collecting the state taxes may distrain therefore, and he shall have in all other respects the same powers to enforce the payment and collection thereof; his compensation shall not exceed five percent of the amount duly collected and accounted for, he shall account for pay over all taxes, fines, levies and assessments in accordance with the ordinance prescribed by council. In case the collector shall fail to collect, account for and pay over all monies with which he may be chargeable, belonging to the city, according to the conditions of his bond and ordinances of the council, the city shall have the right in its corporate name to recover the same by action or motion in the circuit court of Tucker County, or where the sum does not exceed his jurisdiction, before a justice of the peace against the collector and his sureties or any of them, or his of their personal representatives, upon giving ten days notice of any such motion. The collector shall on the last day of each month, file with the recorder a sworn, itemized statement, showing his total collections and disbursements for said month; and he shall annually on or immediately before the first day of July, make such settlement with the council as the general laws of this state provide for sheriff's settlements with the county court.

Section 28. The City Assessor.

It shall be the duty of the assessor to make an assessment of the property within the city subject to taxation, substantially in the manner and form in which assessments are made by the assessor of the county, and return the same to the council on or before the first day of June of each year; and for this purpose he shall have access to all public books and records of Tucker County, and to all documents and papers in the hands of the county assessor relating to assessments for state and county purposes, between the first day of April and the first day of June of each year, without expense to the city, and shall have all the powers conferred by law on the county assessors. In case the assessor of the city shall discover any property subject to taxation which has not been listed by the county assessor, or assistant it shall be his duty to list the same, and make a report of the fact, with a description of the property and its owner, to the county assessor or assistant tax commissioner; and it shall be the duty of the county or assistant tax commissioner, to list the same for the state and county purposes, and to make a proper valuation of the same, and report its valuation to the assessor of the city. The assessor of the city shall list the dogs in the city, with the names of the owners thereof, and return the list to the council. The council shall have the power to make and enforce regulations respecting the listing and taxation of dogs in the city, and provide for the impounding and killing such as appear to have no owner, or upon which the tax has not been paid. And it shall have power to make and enforce all needful ordinances respecting the assessment of property. See Code 8-7-1, Section 547, Revisers' note.

Section 29. Exemption from District Poor and Road Levies.

The city shall maintain its own roads and streets; and by reason thereof shall not be required to pay any district road taxes for the construction and maintenance of roads outside of the city limits. See Code 8-7-6, Section 552.

Section 30. Powers and Duties of the Mayor.

The mayor shall be the chief executive officer of the council; he shall recommend such measures as he may deem needful for the welfare of the city. The expense of maintaining any person committed to the jail of the county by him, except that it be to answer an indictment or under the provisions of section two hundred and twenty-eight of chapter fifty of the amended code of this state, shall be paid by the city. But the mayor shall not receive any money belonging to the state or individuals, unless he shall give the bond and security required of a justice of the peace by chapter fifty of the said code, and all provisions of said chapter relating to money received by justices shall apply as to like moneys received by the mayor. The mayor shall have power, when authorized by a proper ordinance of the city, in case of an offender upon whom a fine has been imposed and who neglects or refuses to pay the same, to sentence such offender to work out the amount of the fine imposed, together with the costs of the maintenance of such offender from day to day, by compelling him to labor without compensation upon any of the public works or improvements undertaken by the city; he shall

receive such computation per day, to be fixed by the council, as is allowed laborers regularly, until such fines, costs, and costs of maintenance shall have been fully paid; provided, that no person shall be compelled to labor as aforesaid for more than thirty days for any one offense.

Appeals shall lie from the judgment of the mayor to the circuit court of Tucker County, under regulations prescribed by law. See Code 8-4-3, Section 487, 8-4-25 (509).

Section 31. Powers and Duties of the Recorder.

It shall be the duty of the recorder to keep the journal of the proceedings of the council, to have charge and preserve all records and archives of the city, and to perform such duties pertaining to his office as the council shall prescribe. In the absence of the mayor from the city, or in case of his sickness or disability to act, or during any vacancy in the office of mayor, the recorder shall perform the duties belonging to the office of mayor and for that purpose shall have and possess all the powers of the mayor. See Code 8-4-4, Section 488.

Section 32. Duties of the City Attorney.

The city attorney shall be the city solicitor and council in all legal matters arising upon which legal proceedings are taken; he shall defend all suits against the city, and when requested in writing, shall give his written opinion to the mayor, the council, or any standing committee thereof, upon such legal questions as may be referred to him affecting the city's interests. When required by the mayor he shall attend and prosecute all trials in his court, and shall prosecute all appeals that are taken from such court to the circuit shall receive such sum as the council may allow.

Section 33. Duties of City Treasurer.

The city treasury shall be one or more of the banks of the city, and shall be selected biannually by the council. The bank or banks which shall be designated city treasury shall be first chosen at the first regular meeting of the council held in February, one thousand nine hundred and eight, and thereafter on the same day each second year. The money deposited therein shall be disbursed only upon order drawn against the same signed and countersigned as hereinbefore prescribed. The treasurer shall on the last day of each month, furnish council a statement showing the amount on hand; and it shall annually, on or immediately before the first day of July, make settlement with the council as the general laws of this state prescribe for sheriff's settlements with the county court.

Section 34. Liquor License.

That said city council shall have, and are hereby granted the exclusive control of all licenses required by law; provided, however, that the council shall cause to be submitted to the voters of the city at the annual election every two years the question whether a license for the sale of spiritous liquors, vinous and malt liquors, shall be granted within the city. In case a majority of votes at said election are against licenses no such license shall be granted the two succeeding; and all such other licenses it may see fit to impose and require within the corporate limits of said city not contrary to the constitution of the state of West Virginia. And in any case of any such license granted by said council it shall not be necessary for the person or persons, or corporation holding the same to apply for, obtain or hold any state license or other additional license from the county court of Tucker County, West Virginia, for the carrying on or conducting the business so licensed by said city council shall not be exempt from paying the usual state license tax required by law. When any such license as hereinbefore mentioned by said council, said council may impose a tax thereon for the use of the city in conformity with the requirements of the state law, and shall also require bond payable to said city in its corporate name, with good security from the person or persons, or corporations so licensed; said bond to be approved by said city council in the same sum and penalty as required by the state law. The said city council shall, upon granting any such license required by law, within ten days thereafter furnish to the county court, the prosecuting attorney, and the assessor of Tucker County, by mail to their respective post office addresses, duly certified copies, under the corporate seal of said city, of the order granting every such license, whereupon such assessor shall cause the sheriff of Tucker County to collect the state tax thereon, in the same manner as if said license was granted by the county court of Tucker County, West Virginia; and said city council may revoke such license at any time, the condition of said bond be broken upon ten days previous notice to the person, persons, or corporation holding the same; and suits may be prosecuted and maintained on such bonds as prescribed in section twenty-two of chapter thirty-two of the code of West Virginia by the same persons in the same manner and to the same extent as upon the bonds mentioned in said section, and all the provisions of said section in relation to the bonds mentioned in said section, and all the provisions of said section in relation to the bonds therein named and mentioned shall be applicable to the bonds required by this section.

Notice for the application for license to sell spiritous liquors, wine, porter ale, beer, and drinks of like nature, shall be given by published in the city, for at least two weeks prior to the date said application is made,and notice of said application shall likewise be filed with the recorder of the city at least two weeks before the application is acted upon; which notice and application shall show the name and residence of the applicant, the particular place for which the license is desired, and who is the owner of the property in which the business is to be carried on. See Code 8-4-137, Section 497

Section 35. The Police Officers.

The chief of police shall be ex-officio a constable within the corporate limits of his city; he may execute any writ or process issued by the mayor or justice of the peace at any place in Tucker County; he shall have all the powers, rights and privileges within the corporate limits of the city in regard to the arrest of persons, the collection of claims, and the execution and return of process that can be legally exercised by a constable of the district in which the said city is situated, and his sureties shall be liable to all fines, penalties and forfeitures that a constable is liable to for any failure or dereliction in his office, to be recovered in the same manner and in the same courts that the fines, penalties and forfeitures may be recovered against such constable. All special officers shall have and possess all the powers, rights and privileges of a constable of the district within the corporate limits of the city, in regard to the arrest of persons, and the execution and return of all criminal writs and process issued by the mayor; but the council may exempt them from giving the bond required of constables. See Code 8-4-5, Section 489; 8-7-2, Section 548, 8-4-25, Section 509, 8-7-1, Section 547.

Section 36. Right to Condemn Real Estate.

The council shall have the right to institute proceedings in the name of the city for the condemnation of real estate for the use of roads, streets, alleys, drains, public buildings and grounds, including parks and cemeteries, for the use of the city; and the manner of procedure shall as nearly as practicable, conform to the provisions of chapter forty-two of the code. See Code 8-4-12, Section 496.

Section 37. Repeal of Certain Acts.

All acts and parts of acts which are in conflict and inconsistent with this act are hereby declared inoperative in so far as they are in conflict with this act; and this act shall not be construed to take away any of the powers conferred upon said town, or upon the council, or any officer thereof conferred by general law, except so far as the same may be inconsistent with the powers conferred by this act.

Section 38. Rights and Liabilities of the City.

The said city shall succeed to all the rights and liabilities of the said town of Parsons; it shall be liable for all the debts and obligations of the said town the same as if the bond or other evidence of indebtedness were issued in the corporate name of the city.

Section 39. Ordinances.

The ordinances in force in the town of Parsons on the first day of February, one thousand nine hundred and eight, so far as they are not inconsistent with this charter, shall continue in force as ordinances of the city of Parsons until amended or repealed by the council of said city.

NOTE: Many of the provisions of the foregoing charter have been amended or repealed by the Acts of Legislature of West Virginia, which appear in chapter 8 of the Code of West Virginia 1955 and the 1957 Cumulative Supplement to the Code of West Virginia of 1955. See the provisions of Chapter 8 for such changes and the annotations to said Code, which are listed after each section in the foregoing charter.

Resolution No. I

Introduced in Council
January 3, 1989

Adopted by Council
February 7, 1989

Introduced by
Ruth Lee Williams

Referred to
Tucker County Commissi

Resoltuion No. I -- "Applying to the County Commission of Tucker County, West Virginia, to annex certain territory by minor boundary adjustment."

WHEREAS, the owners of a tract of land, containing 6 acres, more or less, located in Black Fork District, Tucker County, West Virginia have agreed that this tract should be incorporated into the Town of Parsons, West Virginia; and,

WHEREAS, annexation will make available City police and fire protection services to this property; and,

WHEREAS, Chapter 8, Article 6, Section 5 of the Code of West Virginia, 1931, as amended, provides for annexation by West Virginia municipalities by a minor boundary adjustment upon petition by such municipality to the County Commission of the county wherein such municipality is situate; therefore, be it

Resolved by the Council of the City of Parsons, West Virginia:

That the Council of the Town of Parsons approves the petitioning of the County Commission of Tucker County, West Virginia, to make a minor boundary adjustment with reference to a certain acre tract, more or less, in form and substance as is set forth in that certain petition, a copy of which is hereto attached; and, be it

Further Resolved, that the Clerk of the Town of Parsons is authorized and directed for forthwith file the same with said County for appropriate action.

IN THE COUNTY COURT OF TUCKER COUNTY, WEST VIRGINIA

RE: MINOR BOUNDARY ADJUSTMENT TO THE TOWN OF PARSONS BEING 6 ACRES, MORE OR LESS, OF LAND ADJACENT TO THE PRESENT CORPORATE LIMITS

THE PETITION OF THE TOWN OF PARSONS TO HAVE A MINOR BOUNDARY ADJUSTMENT OF 6 ACRES OF LAND ADJACENT TO THE PRESENT CORPORATE LIMITS OF THE TOWN OF PARSONS SITUATE, LYING AND BEING IN BLACK FORK DISTRICT, TUCKER COUNTY, WEST VIRGINIA

TO THE COUNTY COURT OF TUCKER COUNTY, WEST VIRGINIA

Your petitioners respectfully represent unto Your Honors as follows:

I.

The Town of Parsons is a municipal corporation situate, lying and being in Tucker County, West Virginia.

II.

The Mayor and Council of the Town of Parsons is the governing body of the said municipal corporation.

III.

In accordance with Chapter 8, Article 6, Section 5 of the Code of West Virginia, as mended, the Mayor and the Council, as the governing body of the Town of Parsons, your petitioners, hereby make application for a minor boundary adjustment in the boundary lines of said Town of Parsons.

IV.

There is attached hereto a map entitled -

"MINOR BOUNDARY ADJUSTMENT TO THE TOWN OF PARSONS, W. VA.

CHECKED BY: APPROVED BY:

which said map shows the area herein sought to be annexed to the Town of Parsons and showing metes and bounds of said area is marked for identification as Petitioners' Exhibit "A".

V.

The land sought to be annexed is in Black Fork District, Tucker County, West Virginia, The entire tract of land is described in metes and bounds as follows:

This property herein described consists of 6 acres, more or less, and is located in Black Fork District, Tucker County, West Virginia, and more particularly described as follows:

Beginning at a point in the Parsons Corporation limits, thence in a northeasterly direction in the corporation limits, ten (10) feet to the western right of way (R.O.W.) limits (30 feet) of WV Route 41; thence with the meandors of said western R.O.W. limits of WV Route 41 approximately 916 feet, more or less, to a roof bolt (set in concrete), said roof bolt having a reference bearing of N 8° 21' 26" E 742.90 feet to the Point of Beginning (P.O.B.); thence continuing with the meandors of said western R.O.W. limits of WV Route 41 approximately 35 feet, more or less, to a point at the center of the right hand fork of Sawmill Run, said point being a corner with the 0.33 acre parcel of Amos W. Hardy and having a reference being of N 5° 56' 17" E 34.11 feet to the aforementioned roof bolt (set in concrete); thence with the lands of Hardy and Larry A. Mayfield, i.e. Sawmill Run, ten (10) lines N 47° 34' 36" W 184.27 feet to a point in said run; thence N 40° 34' 15" W 222.90 feet to a point in said run at the intersection of the two main forks of said run; thence N 80° 04' 41" W 131.41 feet to a point in said run; thence N 86° 37' 52" W 81.38 feet to a point in said run; thence 77° 46' 56" W 55.49 feet to a point in said run; thencealong the present corporation limits of the Town of Parsons to the place of beginning.

The aforesaid parcel contains 6 acres, more or less, and is shown on a plat of survey dated April 22, 1986 by Triad Engineering Consultants, Inc., which is attached hereto as a part of this description.

VI.

Your petitioners are informed and believe and state that no person resides within the above described territory and the said territory sought to be incorporate in this proceeding comprises 6 acres, more or less.

Your petitioners know of no one who is interested who will be adversely affected by said annexation.

VII.

The change in the boundary of the Town of Parsons described above by metes and bounds for which application is made is a minor boundary adjustment.

P R A Y E R

Your petitioners therefor pray that an order may be entered filing this petition and directing publication and posting of notices that annexation of the above described areas has been proposed in accordance with Chapter 8, Article 6, Section 5 of the Code of West Virginia, as amended, and that this Court set a time for hearing on the question of annexation, and that this Court may enter an order changing and extending the territorial boundary limits of the Town of Parsons so as to

include and embrace the area described in this petition, and as shown and set forth upon the map filed herewith and marked Petitioners' Exhibit "A", and this Court grant such other and further relief as may seem meet. And as in duty bound, will ever pray.

TOWN OF PARSONS, a
municipal corporation

By Ruth Lee Williams

CHAPTER 1

GENERAL PROVISIONS

Section 1. Rules of Construction.

In the construction of this code, and of all ordinances, the following rules shall be observed unless the context clearly requires otherwise:

(1) The City. The words, "The City", means the City of Parsons, in the County of Tucker and State of West Virginia, chartered and incorporated under the laws of the State of West Virginia.

(2) Tense. Words used in the past and present tense include the future as well as the past and present.

(3) Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

(4) Number. Words used in the singular include the plural, and the plural includes the singular number.

(5) Person. The word "person" shall extend and be applied to firms, partnerships, associations, organizations and bodies politic and corporate, or any combination thereof, as well as to individuals.

(6) Writing. The word "writing", or "written" includes printing on paper.

(7) Signature or subscription includes a mark when the person cannot write.

(8) Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed".

(9) Street. The word, "street", shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways and thoroughfares in the city.

(10) Sidewalk. The word "sidewalk" means a strip of land in front or on the sides of a house or lot of land lying between the property line and the street and other public ways maintained by the city for foot travel.

(11) Council. Whenever the word "council" is used, it shall be construed to mean "the common council" of the City of Parsons.

Section 2. Constitutionality.

If any section, subsection, clause, provision or portion of this code shall be held to be invalid or unconstitutional in a court of competent jurisdiction, such holdings shall not affect any other section, clause, provision or portion of this code which is not in itself and of itself unconstitutional.

Section 3. Effect of repeal of ordinance.

No ordinance or provision shall be construed to repeal a former one as to any offense committed against such former ordinance, nor as to any act done, any penalty, forfeiture, or punishment incurred, or any right accrued, or claim arising, under such former ordinance or provision.

When an ordinance which repealed another shall itself be repealed, the previous ordinance shall not thereby be revived, without express words to that effect.

Section 4. General penalty for violation of ordinances.

Any person violating the provisions of any section of this code, except where penalties are otherwise specifically prescribed, shall be subject to a fine of not exceeding one hundred dollars or imprisonment in the city jail for not exceeding one hundred days, or both, in the discretion of the mayor or the court trying the case.

CHAPTER 2

ELECTIONS

Section 1. Wards.

The territory of said city shall be divided into wards as follows:

First Ward: All of that section of said city lying north and west of the Western Maryland Railroad, and west of Shavers Fork and Cheat River.

Second Ward: All of that section of said city lying east and south of the Western Maryland Railroad, and west of the Blackfork of Cheat River.

Third Ward: All of that section of said city lying north and east of the Western Maryland Railroad between Shavers Fork and Blackfork of Cheat River.

Section 2. Elective Municipal Officers.

The municipal officers of said city shall consist of a mayor, and recorder, to be elected by the voters of the whole city, and two councilmen from each ward, to be elected by the voters of such wards, who together shall form as a common council and who shall receive such common compensation as the council shall from time to time determine, and which shall not be increased or diminished during their term of office.

Section 3. Council to exercise corporate powers.

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

Section 4. Qualification of mayor, recorder and councilmen.

The mayor, recorder and councilmen must severally at the time of their election be assessed with property, real or personal, or both in the aggregate of the value of at least two hundred dollars and have paid taxes on the preceding year on property situated within the corporate limits of said city of an assessed value of at least two hundred dollars, and at the time of their election be entitled to vote in said city for members of the common council thereof.

Section 5. Appointive officers and their qualifications.

There shall be a chief of police, city attorney, superintendent of streets, collector-treasurer, and such employees as the council may from time to time require. These several offices shall be filled by appointment, by the common council, and to be held by the appointee during the pleasure of the council and until his successor shall have been appointed and qualified.

Section 6. Election of mayor and recorder.

On the first Tuesday in June, 1958, and every two years thereafter on the first Tuesday in June there shall be elected by the qualified voters of said city a mayor and recorder. The mayor and recorder shall hold their offices for a term of two years, commencing on the first day of July, 1958, and until their successors have been elected and qualified.

Section 7. Election of councilmen; vacancies.

On the same day mentioned in the preceding section, one member of the common council shall be elected in each ward of the city, who shall reside in the ward from which he was elected, and shall hold his office for the term of two years or until his successor is elected and qualified. On the same day mentioned in the preceding section, one member of the common council shall be elected in each ward of the said city, who shall reside in the ward from which he is elected, and shall hold his office for a period of four years from the first day of July next succeeding his election, or until his successor is elected and qualified; on the same day of every second year thereafter, one member of the council shall fill such vacancy by appointment, until the next general election, when some qualified person residing in the ward shall be elected. Each ward shall constitute an election precinct and the council of the city, in office at the time of the passage of this act, shall establish a voting place in each ward, at which the first election above provided for shall be held and,unless such new places be established, the election shall be held at the several places now established therefore. No voter shall be allowed to vote at any city election except in the ward in which he resides.

Section 8. Qualification of voters.

All persons who are qualified by the laws of the state of West Virginia to vote in a state or county election shall be entitled to vote at any municipal election in said city, provided he has been a resident of said city for four months next preceding said election.

Section 9. Mode of voting; law governing.

The mode of voting shall be by ballot, but the voter shall be left free to vote an open or sealed ballot as he may elect. The elections in said city shall be held and conducted, and the result thereof determined, as fixed by the laws of this state, relating to general elections, as they exist at the time any such election is being held, except that the persons conducting said elections shall, on the day after the election is held, deliver the ballots to the recorder, and thereafter the common council of said city shall meet on the sixth day succeeding said election and canvass the return thereof, and declare the result thereof, and in all respects comply with the requirements of the council and the statute relating to general elections as they are in force at the time of holding said election. The corporate authorities of said city shall perform all the duties in relation to such elections required by general law of county courts and officers in the general election laws of this state, and the provisions of the code of West Virginia, in effect at the date of such election, concerning elections by the people, shall govern such election laws shall have the same force and effect as if they were specially enacted for corporate elections.

Section 10. Determination of ties.

Whenever two or more persons shall receive an equal number of votes for mayor, recorder, or councilmen, such ties shall be decided by the council in being at the time the election is held.

Section 11. Determination of contested elections.

All contested elections shall be heard and determined by the common council and the contest shall be made and conducted in the same manner as provided for in contests for county and district officers, and the common council, by their proceeding in such cases, shall comply as nearly as practible in conformity with like proceedings of the county courts in such cases.

Section 12. Vacancies.

Whenever a vacancy from any cause shall occur in any office the council shall by a majority vote of those present fill such vacancy until the next election.

Section 13. Oaths of Officers.

The mayor, recorder and councilmen provided for in this act shall each, before entering upon the duties of their office, take the oath or affirmation prescribed by law for all officers in this state. Said oath or affirmation may be taken before any person authorized to administer oaths under the laws in force at the time the same is taken, or before the mayor or recorder of said city, but in any event a copy of said officers shall be filed with the recorder.

Section 14. When Officers duties begin.

The mayor, recorder and councilmen shall enter upon the duties of their offices on the first day of July next after their election, or as soon thereafter as they have qualified; and all officers shall remain in office until their successors are elected and qualified or until removed therefrom.

Section 15. Procedure when Officer-Elect is ineligible or fails to qualify.

If any person elected to any office shall not be eligible thereto under the provisions of this act or shall fail to qualify as herein required, the council shall declare his said office vacant, and proceed to fill the vacancy as required by this act.

CHAPTER 2

AN ORDINANCE TO AMEND CHAPTER 2, ELECTIONS, BY ADDITION OF SECTION 16 AND 17, SETTING FORTH TYPE OF ELECTION, METHOD OF FILING, FILING DATES, FILING FEES AND REGULATIONS, FINANCIAL REPORTING.

Section 16.

There shall be no primary or convention; candidates will file for office and run as non-partisan.

The filing period shall be from 8:00 A.M. on the first Monday in April through 12:00 midnight on the following Friday. Any filing forms postmarked by midnight on that Friday shall be accepted and considered timely filed.

Each candidate filing for such office shall file on the State approved filing forms available from the City Recorder.

There shall be a filing fee of 1% of the annual salary of the office being sought with a minimum fee of $10.00 and a maximum fee of $50.00

All citizens registered to vote and living in the city limits of Parsons shall be eligible to vote for non-partisan candidates.

All citizens registered to vote and living in the city limits of Parsons shall be eligible to vote for non-partisan candidates.

The candidate receiving the highest number of votes shall be elected for each office.

Section 17.

Each candidate shall file a financial report pertaining to election expenses using the State financial reporting forms. These forms can be obtained at the City office.

The reports shall be filed between 5 and 10 days preceding the election and not more than 20 days following the election.

All other procedures for elections shall follow the Code if West Virginia, Chapter 3 for Election Laws.

THIS ORDINANCE SHALL BE EFFECTIVE FROM THE DATE OF ITS ADOPTION.

Adopted February 16, 1982

Wanda Gail Blume, Recorder Bradley J. Ramsey, Mayor

AN ORDINANCE CHANGING THE TIME OF CITY ELECTION

BE IT ENACTED AND ORDAINED: By the Common Council of the City of Parsons, Tucker County, West Virginia, that Sections 6 and 7 of Chapter 2 "Elections" be repealed and enacted as follows:

Section 6. Election of Mayor and Recorder

On the first Tuesday in May 1980 and every two years thereafter, on the first Tuesday in May there shall be elected by the qualified voters of the said City a Mayor and Recorder. The Mayor and Recorder shall hold their offices for a term of two years, commencing on the first day of July, 1980, and until their successors have been elected and qualified.

Section 7. Election of Councilmen - Vacancies

On the same day mentioned in the preceding section, one member of the common council shall be elected in each ward of the City, who shall reside in the Ward from which he was elected, and shall hold his office for the term of two years or until his successor is elected and qualified. On the same day mentioned in the preceding section, one member of the common council shall be elected in each ward of the said city, who shall reside in the ward from which he is elected, and shall hold his office for a period of four years from the first day of July next succeeding his election, or until his successor is elected and qualified; on the same day of every second year thereafter, one member of the council shall be elected in each ward, whose term of office shall begin on the first day of July succeeding and continue for the term of four years, and until his successor is elected and qualified; but if any member of the council moves from the ward in which he was elected, his office shall thereby become vacant, and the council shall fill such vacancy by appointment, until the next general election, when some qualified person residing in the ward shall be elected. Each ward shall constitute an election precinct and the council of the city, in office at the time of the passage of this act, shall establish a voting place in each ward, at which the first election above provided for shall be held and unless such new places be established, the election shall be held at the several places now established therefore. No voter shall be allowed to vote in any city election except in the ward in which he resides.

This Ordinance Shall be Effective from the Date of It's Adoption.

Adopted: February 20, 1980 on Third and Final Reading

Burley R. Bohon, Acting Mayor

Bradley J. Ramsey, Acting Recorder

CHAPTER 3

MAYOR AND POLICE COURT.

Section 1. Powers of the Mayor.

The mayor shall be the chief executive officer of the city, and shall take care that the orders, bylaws, ordinances, acts and resolutions of the council thereof are faithfully executed. He shall have control of the police of the city and may appoint special police officers whenever he deems it necessary, and may suspend any police officer, upon written charges, until the next meeting of council. It shall be his duty especially to see that the peace and good order of the city are preserved and that persons and property therein are protected. The mayor from time to time shall recommend to the council such measures as he shall deem needful for the welfare of the city. He shall have all of the powers and duties granted by the laws of the state of West Virginia and shall be subject to all of the provisions thereof. The mayor shall be entitled to vote as a member of council only in the case of a tie vote. No member of council shall vote upon an order, measure, resolution, or proposition in which he may be interested, other than a citizen of said city.

Section 2. Salary of Mayor.

The mayor for his public services as chief executive officer of the city, shall receive such amount as an annual salary as the city council by resolution shall prescribe, not to exceed the total amount of $900.00 (changed to $1,200.00 April 1982) dollars a year, but such salary shall not be increased or diminished during his term of office.

Section 3. Power of mayor in emergencies.

If at any time any matter shall come to the attention of the mayor which affects the peace and good order of the city, or the health, welfare or morality of any of the inhabitants thereof and no specific ordinance, bylaw, rule or regulation has been passed or adopted by the city council covering such matter, the mayor shall nevertheless take such action, not contrary to the laws of this state, as in his opinion is necessary on the premises.

Section 4. Mayor and other officers and employees without authority to excuse fines or posting bonds.

Neither the mayor of the municipality nor any other officer or employee of the city shall have the authority to excuse anyone charged with a violation of the city code from paying the fine of posting the bonds required hereinbefore, except as may be authorized by the municipal judge.

Section 5. Jurisdiction.

The council shall establish a police court for the city, which court shall have such jurisdiction and powers as are now or may hereafter be prescribed by general law.

(1) The police court shall have jurisdiction over all offenses against or in violation of the ordinances of said city, and authority to inflict punishments for such violations in the manner lawfully prescribed by such ordinances upon and against offenders or violators of the same, provided, however, that jury shall be allowed in any trial in said court for the violations of any ordinance of the city.

(2) The proceedings for the recovery of the fine or for the enforcement of the penalty prescribed by any ordinance shall conform to the regulations so far as they are applicable, prescribed in chapter fifty of the code of one thousand nine hundred thirty one for the enforcement of penalties against persons convicted for misdemeanors; but the judge of said court by capias pro fine or other process may cause the defendant to be arrested and brought before said court to be dealt with according to law.

(3) In cases where evidence discloses such a violation within the city, a law of the state that, in the opinion of the judge of the police court, the persons accused should be committed to await the action of the grand jury upon an accusation made, the judge of the police court shall have the same jurisdiction and powers as a magistrate in the County of Tucker in regard to the apprehension, commitment and admission to bail of the person so accused; and in the exercise of such jurisdiction and powers shall be governed by the same regulations.

(4) The said court shall have full power and authority to enforce its orders and judgments, by any process of law which may be necessary and proper for the purpose and all processes, executions and orders of said court shall be signed by the judge. Such process and executions shall be directed to the chief of police of said city, and be executed by him or one of his deputies. In the execution of any process or order of said court, the chief of police or deputy shall have the same powers, be governed in his proceedings by the same rules of law, and be subject to the same liabilities as the sheriff of Tucker County, West Virginia, in the performance of like services. There may be charged for the services of such officer the same fees as the sheriff is entitled to charge for like services, but all such fees, as well as all fines imposed by said court, shall be collected by the chief of police, and accounted for and paid by him to the treasurer of the city. The city shall in no event be liable for any such fees.

(5) The judge of said court shall have authority to administer oaths within said city, and shall perform such duties as may be required of the judge of said court, or be prescribed by rule or order of the council. Such judge may charge the same fees for his services as are allowed to be charged by magistrates for like services, and such fees shall be collected by him in like manner as fees of the clerk of the circuit court are collected, but all such fees shall be accounted for by him to the city and paid over to its treasurer.

(6) A docket and other books required for the records and a seal shall be provided for the said court by the council, and the seal may be altered or renewed as the said court may direct. Full faith and credit shall be given to the records of said court and the certificates of its judge, whether the seal of said court be fixed thereto or not, in like manner and with the same effect as if the same were records of the circuit court similarly authenticated.

(7) The said police court shall have power, upon rendering judgment against a defendant charged with the violation of an ordinance of the city, to render judgment against him also for the costs of prosecution.

Section 6. Sessions.

The sessions of said court shall be at such times and places as the council shall by ordinance direct.

Section 7. Judge---Appointment.

A judge of said court shall be appointed by a majority of the Council.

Section 8. Same---Salary.

The salary of the police judge shall be fixed by the Council, not to exceed $75.00 per month.

Section 9. Same--Temporary.

In the event of and during the temporary absence or disability of the police judge, the council shall appoint qualified persons to preside over said court, and perform the duties of the judge thereof, and the judges salary shall be transferred to and paid such temporary judge for the time he serves as such.

ORDINANCE AMENDED AND ADOPTED SEPTEMBER 18, 1979.

An Ordinance amending and readopting Chapter 3, Article 1, Section 8 of the Code of the City of Parsons, West Virginia, setting the salary of the Municipal Police Judge.

Section 8. Same--Salary.

The salary of the Police Judge shall be fixed by the Council, not to exceed $150.00 per month.

This Ordinance shall be effective from passage.

Adopted: December 4, 1984.

John M. Gribble, Mayor Loren D. Metzner, Recorder

CHAPTER 3 - SECTION 10
POLICE COURT

Article 1. Purpose.

An ordinance appending Chapter 3, to specify Municipal Court Costs for judgements against violations of the City Code of Parsons, and to comply with the West Virginia Code requirements of certain costs to be charged.

Article 2. Court Costs.

All criminal proceedings in which a guilty verdict is rendered by the Municipal Court shall be charged court costs amounting to ten dollars ($10.00) and shall, after being collected, remain in the General Fund of the city treasury for use of the City of Parsons.

Article 3. Law Enforcement Training and Certification Fund LET (As mandated by Chapter 30-29-4 of the West Virginia Code).

a. A two dollar ($2.00) fee shall be added to the usual court costs of all criminal court proceedings involving violations of any criminal law of the City of Parsons, excluding violations of municipal parking ordinances.

b. A two dollar ($2.00) fee shall be added to the amount of cash or property bond posted for violation of any criminal law of the City of Parsons, excluding bonds posted solely for the violation of Municipal parking ordinances. Upon forfeiture of such bond, the two dollar fee shall be deposited as provided in subsection (c) of this article.

c. All fees collected pursuant to subsections (a) and (b) of this section shall be deposited in a separate account by the City Treasurer. Within ten calendar days following the beginning of each calendar month, the City Treasurer shall forward the amount deposited to the State Treasurer.

Article 4. Crime Victims Reparation Fund CVR (as mandated by Chapter 14-2A-4 of the West Virginia Code).

a. Every person who is convicted of or pleads guilty to a violation of the City Code of Parsons, other than a traffic offense that is not a moving violation, shall pay the sum of three dollars ($3.00) as costs in the case, in addition to any other court costs that the court is required by law to impose upon such convicted person.

The City Treasurer shall, on or before the last day of each month, transmit all costs received under this article to the State Treasurer for deposit in the state treasury to the credit of a special revenue fund to be known as the "Crime Victims Reparation Fund".

Article 5. Regional Jail and Prison Development Fund (as mandated by Chapter 8-11-1 and 8-11-1A of the West Virginia Code).

a. An additional cost shall be imposed in an amount of not less than twenty two dollars ($22.00) in each proceeding, except that such additional cost shall not be assessed for a traffic offense that is not a moving violation or an offense for which an ordinance does not provide for a period of incarceration.

b. Of the twenty two dollars imposed as an additional cost, two dollars ($2.00) shall be an administrative cost to be retained by the City of Parsons.

c. The City Treasurer shall at the end of each month pay into the regional jail and prison development fund in the state treasury an amount equal to twenty dollars ($20.00) of the costs collected in each proceeding except for traffic offenses that are not moving violations: Provided, that in a case where a defendant has failed to pay all costs assessed against him, no payment shall be made to the regional jail and prison development fund unless and until the defendant has paid all costs which, when paid, are available for use and benefit of the City of Parsons.

Article 6. Ordinance to make Municipal Powers Effective--Right to Injunctive Relief. (As defined in Chapter 8-11-1 of the West Virginia Code.

The Municipal Judge may, at his discretion, cause to be maintained a civil action in the name of the City of Parsons in the Circuit Court of Tucker County, to obtain an injunction to compel compliance with, or to enjoin a violation or threatened violation of, any ordinance of the City of Parsons, and such Circuit Court shall have jurisdiction to grant the relief sought.

A certified transcript of a judgement for a fine rendered by the Municipal Court may be filed in the office of the Tucker County Circuit Clerk and docketed in the judgement lien book kept in the office of the clerk of the Tucker County Commission in the same manner and with the same effect as the filing and docketing of a certified transcript of judgement rendered by a Magistrate Court as provided for in Chapter 50-6-2 of the West Virginia Code.

The judgement shall include costs assessed against the defendant.

ADOPTED BY COUNCIL

, Mayor

, Recorder

Ordinance Chapter 3 As Amended

An Ordinance to amend and reenact Chapter 3 of the Code of the City of Parsons as amended, by adding thereto a new Article designated Article 2 relating to juries for Municipal Court, qualifications, procedure for selection, payment of costs and providing for penalties.

Be it Ordained by the Council of the City of Parsons, West Virginia:

That Chapter 3 of the Code of the City of Parsons be amended by adding thereto a new Article designated Article 2 to read as follows:

ARTICLE 2 - JURIES

Section 2-1. Persons liable to service.

All persons, who are eighteen years of age and not over sixty-five, and who are citizens of this City, shall be liable to serve as jurors, except as hereinafter provided.

Section 2-2. Exemptions and disqualifications.

The judge of the court may, in his discretion, exempt or excuse any person from jury service when it appears that such service would be improper or work an undue hardship. The following persons shall be disqualified from serving on juries: Idiots, Lunatics, Paupers, Vagabonds, Habitual Drunkards, and persons convicted of infamous crimes.

Section 2-3. Jury commissioners; appointment and qualifications; term; removal; vacancies; compensation; oath; powers and duties generally.

There shall be two jury commissioners of the court. They shall be of opposite politics, citizens of good standing, residents in the city, and well known members of the principal political parties thereof. The chairman of a political party shall be ineligible to appointment.

Jury commissioners shall be appointed by the judge. The terms of office shall be four years and shall commence upon appointments.

Jury commissioners may be removed from office by the judge for official misconduct, incompetency, habitual drunkenness, neglect of duty or gross immorality. Vacancies caused by death, resignation or otherwise shall be filled for the unexpired term in the same manner as the original appointments.

Jury commissioners shall receive as compensation for their services, while necessarily employed, an amount to be fixed by the judge of the court, which amount shall not exceed fifty dollars ($50.00) per day of actual service, which shall be payable out of the city treasury upon orders of the judge.

Before entering upon the discharge of his duties, a jury commissioner shall take and subscribe, before the clerk of the court, who is hereby authorized to administer the same, an oath, to be filed and preserved by him in his office, to the following effect:

State of West Virginia,
County of Tucker, to wit:

I, , do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and will faithfully discharge the duties of jury commissioner to the best of my skill and judgment, and that I will not place any person upon the jury list in violation of law, or out of fear, favor or affection.

Section 2-4. Preparation of jury list.

The jury commissioners shall annually at such time as may be designated by order of the court prepare, without reference to party affiliations, a list of such inhabitants of the city, not exempted or disqualified by law as aforesaid, as they shall think well qualified to serve as jurors, being persons of sound judgment, of good moral character, and free from legal exception, which list shall include not less than fifty (50) nor more than two hundred (200) persons. The name of no person shall be put on such list who shall have been drawn and who actually served as a petit juror in any court of record within a period of two years prior thereto, or who shall have requested the jury commissioners or either of them, by himself or another person, to have his name placed on such list; and any such person shall be disqualified from serving as a juror for the period of two years from the date of such service or from the time of making such request.

Section 2-5. Custody of jury list; striking off names.

The list so prepared shall be delivered to the clerk of the court, and by him safely kept. It shall be subject to inspection only by the court, or the jury commissioners, or the clerk of the court, as hereinafter prescribed. Such court, or the jury commissioners, may strike from such list the name of any person who has been convicted of any scandalous offense, or been guilty of any gross immorality, and substitute another in his place.

Section 2-6. Preparation and custody of ballots.

At the time such list is made out, the jury commissioners shall also cause all the names upon the same to be fairly written, each on a separate paper or ballot, and shall fold or roll up the ballots so as the resemble each other as nearly as may be, and so that the name written thereon shall not be visible on the outside, and shall deposit the ballots in a secure box, to be prepared for the purpose, which shall be known as the "jury box" and shall be safely kept by the clerk of the court, and shall be opened only by the order of the jury commissioners, or as hereinafter prescribed.

Section 2-7. Selection of trial jurors.

All jurors required for the trial of cases in the court shall be selected by drawing ballots from the jury box in the manner prescribed in this article, and the persons whose names are written on the ballots so drawn shall be returned to serve as jurors.

Section 2-8. Issuance of venire fascias's number of jurors summoned.

The clerk of the court, at the discretion of the judge, shall at least fifteen days before any jury may be wanted, issue a venire facial for thirty jurors, unless the court shall order a greater or less number, in which event the writ shall issue for such other number. Such writ shall require the attendance of the jurors on such day as the judge may order.

Section 2-9. Issuance of summons to jury commissioners.

The jurors chosen in accordance with Section 2-7 shall be chosen by the jury commissioners. The clerk of the court shall issue a summons requiring the jury commissioners to attend at the office of the clerk of the court, on a day named in such summons, which shall be not less than five days before the issuance of said summons, for the purpose of drawing the ballots for the number of jurors mentioned in such writ.

Section 2-10. Service of summons; drawing of jurors; preparation of list.

The writ of venire facias and summons shall be delivered to the chief of police or other officer acting in lieu of the chief, who shall serve the summons on the jury commission and it shall be the duty of the jury commissioners to attend on the day designated in the summons, at the clerks office of the court, and in the presence of the clerk, to draw the proper number of jurors from the jury box, and to make a list thereof to be delivered to the officer serving the summons.

Section 2-11. Special jury commissioners; delivery of list; summoning the jurors.

If either or both of the jury commissioners fail to attend as required by such summons, the clerk of the court shall appoint a special jury commissioner or commissioners, having the qualifications herein required, to act in his or their place and stead, for the time being, and such jurors shall be drawn by such commissioners; and it shall be the duty of the clerk of the court to place the list thereof in the hand of the chief of police or other officer authorized to summon them. And it shall be the duty of such officer, at least three days before the time when the jurors are required to attend, to summon each person who is drawn to attend the sitting of the court at the time and place mentioned in the writ, and make due return thereof, and of the summons aforesaid, to such court, at the opening thereof.

In addition to any other method provided by law, any person named in writs of venire facias, or a summons for jurors, by direction of the court, may be served by the chief of police as provided by law as to service of process.

Section 2-12. Mode of drawing ballots from box; destruction of ballots.

When jurors are to be drawn as aforesaid, the ballots in the jury box shall be shaken and mixed together by one of the jury commissioners, and the jury commissioner shall openly draw therefrom as many ballots (without inspecting the names written on any until the proper number is drawn) as shall be equal to the number of jurors required; and if any person whose name is so drawn is unable by reason of sickness, absence from home or other cause to attend as a juror, his name shall, at the conclusion of such draft, be returned into the box; or if he be exempted by law, or his name has been stricken from the jury list, the ballot shall be destroyed and another shall be drawn in his stead.

Section 2-13. Endorsement on and custody of ballots drawn; notation of jurors drawn on jury list.

When any person is drawn and returned to serve as a aforesaid, the jury commissioners shall cause to be endorsed on the ballot containing his name the word "drawn" and shall cause it to be placed in another box to be kept for the purpose in the custody of the clerk of the court, and opened only as hereinafter prescribed and the date of the draft shall be entered on the list of jurors opposite the name of the person so drawn.

Section 2-14. When ballots to be returned to jury box.

When all the ballots in the jury box have been destroyed or placed in the box for the ballots marked "drawn", except such as contain the names of those who, for the reasons aforesaid, are unable to attend, the last-mentioned box shall be opened in the presence of the officers attending to draw jurors, and the ballots therein replaced in the jury box, from which drafts shall thereafter again be made in the manner herein prescribed.

Section 2-15. Penalty for failure of jurors to attend.

If any person duly summoned to attend as a juror shall neglect to attend without any sufficient excuse, he shall pay a fine not exceeding fifty dollars, which shall be imposed by the court.

Section 2-16. Discharge of jurors; excuse from attendance.

The court, when not incompatible with the proper dispatch of its business, shall have power to discharge persons summoned as jurors therein, or dispense with their attendance on any day of its sitting.

Section 2-17. Competency of jurors.

No juror shall be deemed incompetent because the City of Parsons is a party to the matter to be tried, and the juror is a resident of said city.

Section 2-18. Penalty for failure to draw or summon jurors.

When, by neglect of any of the duties required in this article to be performed by any of the officers or persons herein mentioned, the jurors to be returned shall not be duly drawn and summoned to attend the court, any person guilty of such neglect shall pay a fine not exceeding twenty dollars, to be imposed by the court.

Section 2-19. Compensation of jurors; taxation of jury fees as costs; disposition thereof.

Any person summoned as aforesaid, by virtue of a venire facias or otherwise, to serve as a juror, and actually attending upon the court at the time summoned, whether he be called to serve on a jury or not, shall, for each day he so attends, be entitled to receive the sum of not more than $15.00, which said sum shall include travel expenses and meal allowance, to be paid out of the city treasury. When jury in any case shall be placed in the custody of the chief of police, he shall provide for and furnish such jury necessary meals and lodging while they are in such custody, at a reasonable cost to be determined by an order of the court, and such meals and lodging shall be paid for out of the treasury. There shall be taxed in the costs against any person against whom a judgment on the verdict of a jury may be rendered in a case, and against any person on whose motion

the verdict of a jury is set aside and a new trial granted, a total sufficient to pay the costs of the jury as aforesaid, which, when collected by the clerk from the party, shall be paid to the city treasury. All money so received by the clerk shall be forthwith paid by him to the city treasurer, and the clerk and his surety shall be liable therefore on his official bond as for other money coming into his hands by virtue of his office. The clerk of the court shall at least annually certify to the city treasurer a list of all money so paid to him, and, in addition, thereto a correct list of all the cases in which jury fees have been taxed, and are, at the time, properly due and payable in the city treasury.

Section 2-20. When juror not entitled to compensation.

No juror who shall depart without leave of the court shall be entitled to receive any compensation for his services as a juror.

Section 2-21. Record of allowance to jurors; certification to city treasurer; failure of clerk to comply with provisions.

The clerk of the court upon which juries are in attendance shall quarterly, and under the direction of the court, make any entry upon its minutes, stating separately the amount which each juror is entitled to receive out of the city treasury for his services or attendance during the quarter; and such clerk of the court upon which juries are in attendance, if directed by the court, shall at any time during such period, and under the direction of the court, make an entry upon its minutes, stating separately the amount which each juror is entitled to receive out of the city treasury for his services or attendance during the period. It shall be the duty of the clerk, as soon as practicable to transmit to the treasurer copies of all orders under this section making allowances payable out of the city treasury. Any clerk who shall fail to pay over, as required by law, any monies so received by him, or otherwise to comply with the provisions of this article, shall be deemed guilty of a misdemeanor and fined not less than fifty dollars.

Section 2-22. Payment of compensation.

It shall be the duty of the clerk, as soon as practicable after the adjournment of the court, or before the adjournment of the court at such time as the court may direct, to deliver to each juror a certified copy of any order under the preceding section making an allowance to him, payable out of the city treasury; and the treasurer shall, upon demand, pay to such juror the amount allowed to him.

Section 2-23. Fraud in selection of jurors.

If any persons shall be guilty of any fraud, by tampering with the jury box prior to drawing jurors, or in drawing a juror, or in returning into the jury box the name of any persons which has lawfully been drawn out, and drawing and substituting another instead, or in failing to place such name in the box for the ballots marked "drawn", or in any other way in the drawing of jurors, he shall, on conviction thereof, be punished by a fine not exceeding five hundred dollars.

Section 2-24. Use of terms of gender.

The words "he", "him", "himself", "she", "her", or "herself" when used in this ordinance shall when required by the context thereof, be taken to refer to a male or female person, as the case may be, without regard to gender.

Ordinance Passed by Council November 3, 1982.

CHAPTER 4

RECORDER

Section 1. Duties.

It shall be the duty of the recorder to keep the journal of the proceedings of the council and have charge of and preserve the records of the city. He shall conform with all the provisions of the city charter and the laws of the State of West Virginia, and shall perform such further duties as the council may direct from time to time.

Section 2. Assumed duties of mayor.

In the absence of the mayor from the city, or in the event the mayor is unable to perform his duties, or during any vacancy in the office of mayor, the recorder shall perform the duties of the mayor and be vested with all this powers.

CHAPTER 5

CITY COUNCIL

Section 1. Standing rules of the Council.

1. Regular meetings. There shall be a regular meeting of the council held at the council chamber on the first Friday of each month at seven o'clock in the evening.

2. Special or adjourned meetings. There may be a special or adjourned meeting of the council held at any time fixed by the council.

3. Special called meetings. There may be special called meetings of the council at any time fixed by the mayor or by any three members of the council, but there shall be a notice in writing of any such called meeting served upon every member of the council in person or left at his usual place of abode at least two hours before the time at which such meeting is called, and in said notice it shall be clearly stated for what purpose said meeting is called and, at such meeting, no other matter shall be considered except by the unanimous consent of all the members present.

4. Business council may consider. It shall be proper for the council to consider any public business which may come before it at any meeting of said council, but with the limitation prescribed in the third rule.

5. Notice of regular or adjourned meetings not required. No notice shall be required to be given to any member of the council of the time of holding any regular or adjourned meeting.

6. Meeting to be called promptly by mayor or those designated to act in his stead. The mayor shall promptly call all meetings of the council to order at the time fixed therefore, or in the absence of the mayor or his inability to act, the recorder shall call such meeting to order, or if he be also absent or it shall be improper for him to act, then the members of the council shall choose one of their own number to preside for the time being.

7. Decisions on question of order and appeal therefrom. All questions of order shall be decided by the presiding officer but his decision shall be subject to an appeal to the council upon the demand of any three members and when such demand is made of the presiding officer, without debate, he shall at once put the question, "Is the ruling of the chair sustained"? and direct a roll call of the members and upon such call, every member of the council shall vote unless excused by a majority of the council present or personally interested in the question, and upon such vote being taken, the ruling of the presiding officer shall be sustained unless a majority of the councilmen then present and voting vote "no".

8. Attendance at meetings. It shall be the duty of every member of the council to attend every meeting of the council.

9. Standing committees to be appointed by mayor. As soon as practicable after his term of office begins, the mayor shall appoint from the members of the council the following committees: Finance, Lighting, Municipal Property, Ordinance, Parks and Recreation, Sanitation, Sewers, Streets and Water.

Each committee shall consist of three members, but the number of any committee may be increased at any time by the council. Said committees shall be appointed for a period of two years subject to the rights of the mayor or the council to remove any member of any committee.

10. Conduct of councilmen during meetings. The members of the council, during the meetings thereof, shall be decorous and attentive to the business under consideration and upon demand of the mayor, any member shall take his seat and remain seated and quiet until authorized by the mayor or council to proceed.

11. Motions on original propositions may be required to be in writing. Every motion or proposition made before or presented to the council for its consideration as an original proposition shall be reduced to writing if required by the mayor or any two members of the council.

12. All matters to be referred to committees before council sets thereon. All matters presented to the council for its action shall, before being acted upon by the council be referred by the mayor to the proper committee and a report made thereon by such committee as soon as practicable.

13. Method of Voting. All votes taken, except for the election of city officers, shall be by yeas and nays, but upon the demand of any member made before such vote is taken, the roll shall be called and record made by the clerk of the vote of every member voting.

14. Roll call for votes. All roll calls for a vote shall be made alphabetically and every member shall vote when his name is called unless personally interested in the matter being voted upon or unless excused from voting by the council.

15. Order of business in regular meetings. The order of business before all regular meetings of the council shall be as follows:

First: Roll call and the presence of all members noted by the recorder.

Second: The reading of the proceedings of the last regular meeting and the reading of any intervening adjourned, called or special meetings, and if such proceedings are found correct, they shall be signed by the presiding officer and the recorder, but if found incorrect, they shall be corrected and then signed by said officers.

Third: Unfinished business appearing upon the minutes shall be taken up and advanced or disposed of. NEW BUSINESS.

Fourth: The reports of all committees shall be received and acted upon, by either advancing the matters thereof or finally disposing of the same as seems proper.

Fifth: Petitions and applications of any kind upon which the action of the council is desired, all of which shall be taken up at once, and if the nature thereof is such that the same should be referred to a committee, such action shall be taken, otherwise the same shall be finally disposed of or continued to the next meeting of the council as seems proper.

Sixth: The reports of all city officers, all of which shall be referred to the proper committee or such action taken thereon as is deemed proper.

Seventh: Motions, resolutions, ordinances and all other propositions which any member or other resident of the city wish to submit and which shall be taken up at once without debate, if a resolution or ordinance, and referred to the proper committee, and if any other matter, such action taken thereon as may be proper.

Eighth: Adjournment.

16. Order of business to be completed before adjournment.

No regular meeting of the council shall adjourn until the entire order of business has been bone over, except upon the motion of two members and a majority vote of all members present taken upon a roll call vote.

17. Motions to table or indefinitely postpone propositions.

A motion to lay on the table or to indefinitely postpone any proposition pending before the council shall always be in order upon any reading of such proposition but after said motions, or either of them, have been once made and rejected, the motion so rejected shall not be again made on the same reading of such proposition except by unanimous consent.

18. Consideration of matters indefinitely postponed.

A proposition indefinitely postponed shall not again be taken up except upon the motion of two members and after a majority of the members present have voted to do so.

19. Tabled propositions to be considered at next meeting.

A proposition laid on the table shall be called up at the next meeting of the council as unfinished business.

20. Recorder to keep docket of unfinished business.

The recorder shall keep an accurate docket of all unfinished business which he shall lay before the council at each meeting.

21. Ordinances, etc., to be given three readings before passage except by unanimous consent.

No ordinance, rule, resolution or bylaw affecting the citizens and residents of the city, or any of them unless otherwise expressly provided, shall be passed until it has been fully read on three regular meetings of the council, provided, that by unanimous consent of all the members of the council present this rule may be suspended and the council may take such action as is, by unanimous consent, agreed upon.

22. Ordinances, etc., may be amended or rejected upon any reading thereof.

Any ordinance, rule, resolution or bylaw presented to the council for its action may be amended upon any reading thereof and may be rejected by a majority of the council after any reading thereof, and after being rejected shall not again be presented to the council for its action in the same form in which it was rejected.

23. Motions to refer to committee or to recommit.

A motion to refer to a committee or to recommit any proposition pending before the council shall always be in order but after the council has once refused to recommit such proposition, the motion shall not be again entertained at the same meeting except by unanimous consent, or until after such proposition has been amended.

24. Citizens speeches limited to fifteen minutes except by unanimous consent.

Any citizen or taxpayer of the city may be heard either in person or by council upon any matter introduced or pending before the council, but no speech or hearing shall extend over fifteen minutes to any person except by the unanimous consent of the council.

25. Limitation on time and number of speeches any member shall make on same proposition.

No member shall speak more than twice, nor more than ten minutes each time, upon any proposition pending before the council, except by unanimous consent of the council.

26. Certain motions to be decided without debate.

A motion to adjourn, to lay any measure on the table or to indefinitely postpone any measure shall be decided without debate.

27. Time limits on debates.

No debate upon any proposition pending before the council shall exceed beyond thirty minutes except by unanimous consent of council.

28. Committee reports to be signed by majority thereof.

The reports of all committees shall be in writing and signed by at least a majority of such committee.

29. Councilmen not to leave meeting without consent.

No member shall leave a meeting of the council except by consent of the council.

30. Councilmen to elect city officers by ballot.

The city officers who are appointed by the council shall be elected by ballot, and no person shall be declared elected unless he receives a majority of the votes cast by the councilmen voting.

31. Manner of addressing council.

Any member of the council or other person before addressing the council shall arise to his feet, respectfully address the presiding officer and remain standing while delivering his address.

32. First of two persons addressing chair to be recognized.

If at any time two or more persons desire to address the council at the same time, the presiding officer shall recognize the person who first addressed the chair and the other shall at once be seated.

33. Presiding officer may clear council chamber of all except certain persons.

The presiding officer may at any time require all persons except members of the council, the recorder and the chief of police to retire from the council chamber.

34. Chief of Police to attend council meetings, preserve order there and enforce orders of mayor.

It shall be the duty of the chief of police to attend all meetings of the council and preserve order both in the council chamber and also in the vicinity thereof, and enforce all orders of the mayor by arresting without warrant anyone who refuses to obey any order given by the mayor, and the person so arrested shall be confined in the city jail until such time as the mayor can hear a charge against such person.

35. Charges against city officers.

Charges against any city officer shall be in writing, shall specifically and fully state the offense or misconduct charged against such officer, shall be verified by the affidavit of some creditable person, shall be regarded as privileged, shall be taken up when presented and regardless of what business is then pending shall at once be give precedence over all other business and if, upon the reading thereof, the council is of the opinion that such charges should be investigated, a time shall be fixed for the speedy hearing thereof and the accused officer given immediate notice of such charges and of the time fixed for the hearing thereof. At the time fixed for such hearing, the council shall hear such witnesses as it deems necessary and pronounce such judgment as it deems proper, either removing said officer or reprimanding him, if found guilty, or dismissing the charges at the cost of the person making the same, if not sustained. No judgment of the council pronounced under this rule shall be held to bar any civil or criminal proceeding against such officer.

36. Contracts above certain amounts to be advertised except upon unanimous consent.

No contract involving the expenditure of the funds of the city to the amount of $500.00 or more shall be awarded without advertising same for at least two weeks in some newspaper in the city except upon unanimous consent of the council.

Section 2. Requirements for appointive positions.

All appointive officers of the city to be appointed by the common council, including the chief of police, city attorney; superintendent of streets, sidewalks and sewers, city collector and treasurer, water purifier and other permanent officers appointed in the city by the common council, shall be elected by the council.

Section 3. Compensation of Public Officers.

The city council shall prescribe such compensation as the city officers shall receive for their public services, subject to the limitations laid down in this code, and the same shall be paid out of the city treasury, but the public salary of no city officer shall be increased or diminished during his term of office.

CHAPTER 6

OFFICERS AND EMPLOYEES

ARTICLE 1

CITY COLLECTOR AND TREASURER

Section 1. Election, term of office, qualifications, etc.

The city collector and treasurer shall be elected by the council at the first regular meeting held in the month of July of each even year, or as soon thereafter as practicable. He/she shall be a citizen and qualified voter of the city at the time of his election, and shall hold his office during the pleasure of the council, for a term of two years or until his successor is elected and qualified. His/her term of office shall commence immediately upon his qualification.

Section 2. Bond and oath of office.

Before entering upon the discharge of his/her duties, the city collector and treasurer shall take and subscribe the oath of office as required by law in such cases for the faithful performance of his duties, and he/she shall also execute an official bond with a solvent corporate surety in such penalty as the council may from time to time prescribe, but such bond, until otherwise provided, shall be in the minimum penalty of ten thousand dollars, to be approved by the council and, when approved, to be reported and filed by the recorder as required by law. Said council shall have the right at all times to require the penalty of said bond to be increased or additional bonds to be given by the city collector and treasurer.

Section 3. General powers, duties, etc.

The city collector and treasurer shall collect assessments, levies, licenses, water rents and all other bills, accounts and charges placed in his hands by the council, and such as may be required by law, and shall duly receipt for the same. He shall be chargeable with all such taxes, levies, licenses, water rents, charges, or other collections placed in his hands for collection, and shall account for the same to the council as required by law. He may distrain and sell therefore in like manner as the sheriff may distrain and sell for state taxes, and he shall in all other respects have the same power as the sheriff to enforce the payment and collection thereof. A full and complete set of books, showing monies received and disbursed on account of the city, shall be kept.

Section 4. Keeping or paying out money.

The city collector and treasurer shall act as treasurer and shall pay, as presented to him, all orders allowed by the council, when properly signed by the mayor and recorder, when there are funds in his hands sufficient to pay the same. He shall keep all monies collected by him in banks in his name as such collector and treasurer, to the credit of the city, subject to his check. He shall not pay out of any such funds except upon such orders as are herein specified and as allowed by law; provided, that at the expiration of his term of office, upon the order of the council, signed by the mayor and recorder, he shall pay over to his successor in office all the monies remaining in his hands and with which he is chargeable.

Section 5. Liens for taxes, fines, etc.

There shall be a lien on all real estate and personal property within the city for the city taxes assessed thereon, and for all fines and penalties assessed to or imposed upon the owners thereof by the authorities of such city, including expenses for making sidewalks and streets, pavements and sewers for the time the same are so assessed or improved, which shall have priority over all other liens except taxes due the United States, and taxes due to the state and county, and such lien may be enforced by the council in the same manner provided by law for the enforcement of the lien for state taxes.

Section 6. Monthly reports to council, settlement of accounts.

It shall be the duty of the city collector and treasurer to make a report to the council at its regular meeting each month of the gross amount collected and disbursed by him during the preceding month and the balance remaining at the end of the month. Said collector and treasurer shall make full settlement of his accounts in the manner required by the state tax commissioner and as the council may require.

Section 7. Salary, rules, etc., to which collector subject.

The city collector and treasurer shall receive for his services such compensation as the city council from time to time may prescribe, to be paid monthly out of the general funds belonging to the city, by an order to be allowed by the council at the regular meeting each month. The city collector and treasurer shall be subject to the provisions of the city charter and the acts of the legislature relating to his office, and also to such acts and ordinances as the council may from time to time adopt.

Section 8. Fees collected to be paid into city treasury.

All fees authorized by law or ordinance to be collected by the city collector and treasurer for any services shall, when received by said collector and treasurer, be paid by him, into the city treasury.

ARTICLE 2
CITY ATTORNEY

Section 1. Powers, duties, salary, etc.

The council shall appoint a city attorney, who shall be an attorney at law, admitted to practice in the State of West Virginia. He shall be the legal adviser, attorney and counsel for the city and for the officers thereof in matters relating to their official duties. He shall prosecute and defend all suits, actions and procedures for and in behalf of the city, shall prepare all contracts and other instruments in writing in which the city is concerned and shall endorse on each his approval of the form and correctness thereof. He shall, if required by the mayor, appear and assist in the prosecution of persons arrested for violation of the laws and ordinances of the city of the laws of the state of which the mayor may have jurisdiction. The mayor or any member of the council may require the opinion of the city attorney upon any question of law involving their respective powers and duties. The city attorney shall be appointed by the council at the first regular meeting of the new council, after a city election, and he shall continue in office at the pleasure of the council for a term of two years, at a salary to be fixed by the council in advance.

ARTICLE 3

POLICE OFFICERS

Section 1. Appointment, salaries, etc.

At the first regular meeting of each new council, a chief of police and such other police officers as the council may deem necessary shall be appointed for a term of two years, at the will and pleasure of the council, at such salaries as the council may from time to time provide in advance.

Section 2. Rights and duties of police officers.

The chief of police and any other police officers employed under the provisions of the foregoing section shall have all of the rights and privileges provided by the city charter and the laws of the State of West Virginia. They are hereby authorized and empowered to enter any place of business in the city to make, or follow up and arrest persons guilty of any offense against the laws, ordinances, rules and regulations of the city, and said police are further authorized to enter any place of business or other house, where disturbances are going on, and arrest the persons committing such offense, with or without a warrant.

Section 3. Bonds of officers.

All regularly appointed police officers of the city shall give a bond, to be approved by the council, in the penalty of five thousand dollars, signed by some surety company authorized to do business in this state, conditioned that said officer will faithfully perform the duties of his office; provided, that the bond of the chief of police shall be conditioned that he shall faithfully discharge the duties of his office as chief of police of the city, and account for and pay over as required by law and the ordinances of said city, all monies which may come into his hands by virtue of said office.

Section 4. Appointment, compensation, etc., of special police officers.

If at any time in the opinion of the mayor extra policemen are necessary for the protection of persons and property or for the preservation of peace and good order, he shall appoint such number of extra policemen as in his judgment are necessary. Any extra policemen so appointed, shall hold office during the time for which he was appointed, unless sooner removed from his office by the mayor or city council, and shall have the same power to arrest persons as is exercised by the chief of police, and shall have general power to preserve the peace and good order of the city. For their services, such extra policemen shall receive such sum as the council shall, by resolution prescribe.

Section 5. Duty of officers in case of breach or threatened breach of peace.

It shall be the duty of the mayor, chief of police, assistant policeman, extra policeman and also of any other city officer who is charged with the duty of preserving the peace and good order of the city to go at once to the scene of any disturbance of threatened breach of the peace as soon as they know of the existence of such disturbance, breach of the peace or threatened breach of the peace, and command the peace and it shall at all times be the duty of such officers, or any of them, to arrest without warrant any person who commits a breach of the peace or violates any of the city laws, ordinances, rules or regulation in their presences, and if any such officer have credible information that any person has committed a breach of the peace or been guilty of violating any of the laws, ordinances, rules and regulations of the city, or any laws of this state within the city, such officer shall make proper complaint on oath before the mayor or some other proper peace officer and ask that a proper warrant be issued for such offender.

Section 6. Citizens may be deputized to assist police.

The mayor, chief of police, assistant policeman, extra policeman or any other peace officer of the city, may call to his aid and assistance any citizen in making any arrest or to aid him in preserving the peace and the person so called upon shall assist such officer to the uttermost of his ability and if he fails to do so, he shall be deemed guilty of obstructing an officer in the discharge of his official duty.

Section 7. Indemnity bond may be required of special police officers.

The mayor in his discretion may from time to time appoint special police for such purpose as he may designate and he may require each such special officer to give bond in the penalty not to exceed one thousand dollars with good security approved by said mayor, conditioned that said special officer shall indemnify and save harmless on account of any unlawful or improper acts done by said special officer and to satisfy and pay any damages that may be sustained by any person by reason of any unlawful or improper act done by said special officer while acting as such.

Section 8. Prisoners may be worked on streets, etc.

Any person sentenced to imprisonment for a violation of any of the laws, ordinances, rules and regulations of the city may also be sentenced to work upon the streets, alleys and roads of the city or upon any other public work the city may have under construction, until the amount of the fine, costs and expenses against such person is satisfied, which labor shall be performed under the direction and supervision of the superintendent of streets and an allowance shall be paid for each hour such person may be compelled to work until the fine, costs and expenses assessed against him are fully paid, the amount of such hourly allowance shall be at the rate then paid by the city for similar labor. The chief of police may charge against any person convicted of an offense against any of the laws, ordinances, rules or regulations of the city, his board, at the rate of one dollar per day, for the time he is confined in the city jail and also all other actual necessary expenses incurred in keeping such person therein and, in case the person so convicted and sentenced to work does not perform sufficient work to fully satisfy the fine, costs and expenses assessed against him, the same may be collected by execution to be issued by the mayor and in order to enable the mayor to issue such execution against a person sentenced to perform labor, it shall be the duty of the superintendent of streets to report the amount of labor performed by such person and the chief of police to report the expenses incurred by him, including board after the time of sentence, and the mayor shall show by endorsement upon the execution the amount of such labor credited thereon and the expenses charged against said labor.

CHAPTER 17

WATER DEPARTMENT

SECTION 1. Furnishing water in competition with city; compliance with regulations, etc.

It shall be unlawful for any person to furnish water in competition with the city; provided, that any person may furnish water for his own use. It shall be unlawful for any person to use water from the mains or service pipes of the city without first complying with the rules, regulations and schedules of water rates set forth in this chapter.

SECTION 2. Water Superintendent.

The care and maintenance of the entire water system of the city shall be entrusted to a water superintendent, who shall be elected by the council at the first regular meeting of the council each even year, to serve at the will and pleasure of the council, for a term of two years, at such salary as the council may set in advance.

SECTION 3. Applications and permits to use water.

All applications for the introduction or supply of water to any premises, or for the extension of any pipe conveying water, must be made in writing by the owner of the premises or his authorized agent to the city collector-treasurer. Such application shall state fully the use to which the water is to be applied and the place where the mains or pipes are to be tapped.

No permit to use the water shall be granted except to the property owner or his agent, and he shall be responsible for the compliance with the established rules and regulations governing the supply and introduction of water and rates thereof.

SECTION 4. Certain uses of water may be forbidden in case of scarcity.

The water superintendent shall have the right, in case of scarcity of water, to discontinue the use of all sprinklers, fountains, motors, etc., and may restrict the use of water to essential purposes during the time of scarcity and the said water superintendent shall be the judge of such scarcity.

SECTION 5. Waste of unnecessary use of water.

Consumers shall prevent unnecessary waste of water, and shall keep their sprinklers, pipes, hydrants, faucets, valves, hose and all other apparatus in good condition at their own expense. All water outlets shall be kept closed when not in actual use, and water must not be left running to prevent freezing in the pipe or for any other reason.

SECTION 6. Installation, inspection, etc., of water meters; minimum charge.

The city council reserves the right to set meters and charge meter rates. Customers shall have the right, at their option, to put in meters and pay meter rates; provided, the kind of meters shall be designated by the council or the water superintendent. Whenever meters are used they shall be placed under the direction of the water superintendent, and the cost of the meter and placing of same shall be paid by the city. The city officers shall have access to said meters at all reasonable times for the purpose of inspection and care.

Where meters are placed on the premises of any user of water, the same shall be read at the end of each month or quarter, as prescribed by the council, and collections made the same as with other users, and each user shall be entitled to the reduction for prompt payment, as provided in this chapter.

SECTION 7. Water rents; discounts, liens, etc.,

All water rents for the water furnished by the city shall be due and payable to the city collector-treasurer either monthly or quarterly, as the council may prescribe, in advance, at the office of the collector on the first day of each month or quarter, and if paid within ten days of the time due, then a discount of 2-1/2% shall be allowed by the city collector and if not paid within thirty days from the time such rent is due, the water superintendent shall, when directed by the city collector-treasurer, shut off the water supply from the premises where the default has been made and the water supply from the premises shall not again be turned on by the water superintendent until notice in writing shall be given by the said city collector that all water rents and penalties in arrears are paid. From the time the water rent becomes due it shall constitute and be a lien against the property which is supplied with water and shall have priority against all other liens except taxes or demands due the United States and the lien for taxes due the state or county; and such lien may be enforced in the same manner provided by law for the enforcement of the lien for county taxes and any time after six months after said lien attached the city may in its corporate name proceed to the enforcement of said lien against the real estate chargeable therewith by a suit in equity.

SECTION 8. Returns to be made by the collector-treasurer.

The Collector-Treasurer shall keep all such records and make all such reports as may be required by the rules and regulations of the public service commission, or which may be required by the council, by resolution.

SECTION 9. Tapping of water mains or turning on water.

The introduction of service pipes for the supply of water into any premises shall be under the direct supervision of the water superintendent, or his authorized agent.

Any person not authorized by the water superintendent who shall be found tapping the water mains, or turning on the water, shall be fined ten dollars, and the introduction of the water shall not be allowed until the said fine is paid.

SECTION 10. Fixtures and service pipes from building to main.

All persons taking water must keep their service pipes and fixtures connected therewith in food repair and protected from frost at their own expense.

SECTION 11. Right of access and inspection of plumbing.

All apparatus, pipe and fixtures, wherever the same may be located, shall be subject to the inspection of the city authorities or their agents, who shall have free access at reasonable hours to all parts of the premises supplied with water for the purpose of inspection and examination.

SECTION 12. Damaging waterworks, etc.

It shall be unlawful for any person to interfere with, molest or destroy the waterworks, reservoir, pipes, branches, fittings, faucets, fire plugs, hydrants, or any part thereof, or any property or building belonging or appertaining thereto. A penalty of not less than one dollar nor more than one hundred dollars shall be imposed upon any person who shall be found guilty of a violation of this section.

SECTION 13. City not liable for damages by reason of water.

It is expressly stipulated by the city and the consumers of water from the water works, that no claims shall be made against the said city by reason of the breaking of any pipe, or for any failure for the supply of water.

SECTION 14. Where two families are supplied from the same service pipe.

In case any two or more families are supplied with water from the same service pipe, if either of the parties fail to pay the water rent when due, or fail to comply with any rule of the water superintendent, or of the council, the city shall turn off the water from such pipes until the rent is paid or the rule is strictly complied with or both.

SECTION 15. Guarding and lighting excavations.

It is hereby made the duty of every plumber, or any other citizen, in making water connections to erect suitable barriers to guard all excavations in the public streets and alleys, and to properly light the same with lanterns, flares or other means, at night, so that the location of the excavation may be seen and determined, and to guard all persons walking on the streets or alleys at night.

SECTION 16. Rates.

The rates charged for the use of water from the city mains shall be such as are approved by the city council and the Public Service Commission, and on file in the Mayor's office.

SECTION 17. Tapping fees.

Tapping fees shall be fixed by the council and a schedule filed in the Mayor's office.

SECTION 18. Penalty.

Any person violating any provision of this chapter or any of the regulations relating to the use of city water, shall be guilty of an offense and on conviction thereof, fined not less than one dollar nor more than one hundred dollars for each offense, and on being convicted a second time for such offense may be confined in the city jail for a period not to exceed thirty days, in addition to such fine.

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SEWER USE ORDINANCE

1. DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used herein shall be as follows:

a. "B.O.D." or "Biochemical Oxygen Demand". The quantity of oxygen expressed in milligrams per liter utilized in the biochemical oxidation of organic matter under standard laboratory procedures of five (5) days at 20 degrees Centigrade.

b. "Building Drain". That part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the customer service line, and/or to the lateral sewer.

c. "Building Sewer". The extension from the building drain to the customer service line and/or lateral sewer.

d. "City". The City of Parsons, Tucker County, West Virginia, a municipal corporation incorporated under the laws of this state.

e. "Combined Sewer". A sewer receiving both surface runoff and sewage.

f. "Customer". A customer is a person, corporation, partnership or association and is that party whether owner or tenant, utilizing sewer service furnished by the City to a property.

g. "Customer Service Line". The extension from the building drain of any structure to the lateral of a sanitary sewer controlled by the City.

h. "Garbage". Solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

i. "Governing Body". The mayor and council, together, who are charged with the responsibility of enacting ordinances and determining the public policy for the City.

j. "Improved Property". Any property located within the City upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or industrial wastes are or may be discharged.

k. "Industrial Waste". Any garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage or solid or dissolved materials in irrigation return flows.

l. "Lateral". That part of the sewer system extending from a sewer located in the street to the curb line; or, if there shall be no curb line, to the property line; or, if no such lateral shall be provided, then "Lateral" shall mean that portion of, or place in, a sewer which is provided for connection of any customer service line.

m. "Natural Outlet". Any outlet, including storm sewers and combined sewers, which flows into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

n. "Owner". Any person, corporation, partnership or association vested with ownership, legal or equitable, sole or partial, in any real property.

o. "Person". Any individual, firm, company, association, society, corporation, partnership or group.

p. "pH". The reciprocal of the logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.

q. "Public Sewer". A sewer in which all owners of abutting properties have equal rights and that is controlled by the City.

r. "Right-of-Way" or "Easement". An acquired legal right for the specific use of land owned by others.

s. "Sanitary Sewage". Normal water-carried household and toilet wastes from any improved property. The preferred term is wastewater.

t. "Sanitary Sewer". A sewer controlled by the City that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, and to which storm, surface and ground waters are not intentionally admitted.

u. "Sewer". Any pipe or conduit that carries wastewater domestic drainage, sanitary wastes, or industrial wastes.

v. "Sewer System". All wastewater facilities, owned by the City, for collecting, pumping, treating and disposing of sanitary sewage or industrial wastes.

w. "Significant Industrial User". Any industrial user that will contribute greater than 10 percent of the design flow or design pollutant loading of the wastewater facilities.

x. "Single Family Dwelling". Any room, group of rooms, house trailer or other enclosure occupied or intended for occupancy as separate living quarters by a family or other group of persons living together, or by persons living alone.

y. "Slug". Any discharge of wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes and is more than 5 times the average twenty-four hour concentration of flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater facilities.

z. "Storm Sewer; Storm Drain". A sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

aa. "Superintendent". The superintendent of sanitary sewer and wastewater facilities for the City, or his authorized deputy, agent, or representative.

bb. "Suspended Solids". Those solids which are visible and in suspension in the water. Included are the larger floating particles consisting of sand, grit, clay, fecal solids, paper, sticks of wood, particles of food and garbage, and similar materials.

cc. "Wastewater Facilities". The structures, equipment, and processes required to collect, carry and treat domestic and industrial wastes and to dispose of the effluent.

dd. "Watercourse". A channel in which a flow of water occurs, either continuously or intermittently.

2. GENERAL

a. This Sewer Use Ordinance has been enacted in compliance with requirements of the United States Environmental Protection Agency (USEPA) and the West Virginia Department of Natural Resources (WVDNR).

b. In accordance with EPA requirements this Ordinance shall be reviewed by the Governing Body no less often than every two years. Particular items to be included in the review include the wastewater contribution of customers and customer classes and the total cost of operation and maintenance of the wastewater facilities. As a result of the review the Governing Body shall revise the effective rates and charges to accomplish the following:

1. Maintain the proportionate distribution of operation and maintenance costs among customers and customer classes;

2. Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the wastewater facilities; and,

3. Apply excess revenues collected from a class of customers to the costs of operation and maintenance attributable to that class for the next year and adjust rates accordingly.

c. The City will notify each user, at least annually, in conjunction with a regular bill, of the rates and that portion of the rates which are attributable to wastewater facilities services.

3. USE OF PUBLIC SEWERS REQUIRED

a. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or objectionable waste. It shall be unlawful to discharge to any natural outlet or watercourse within the City, or in any area under the jurisdiction of the City, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance, as well as with applicable regulations of the U.S. Environmental Protection Agency, the West Virginia Department of Natural Resources and the West Virginia Department of Health.

b. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, sinkhole, septic tank, cesspool, or other facility intended for wastewater disposal or storage on any property which is presently served by a sanitary sewer of the City.

c. The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, right-of-way or easement in which there is now located or may hereafter be located a sanitary sewer of the City, are hereby required at the Owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper sanitary sewer in accordance with the provisions of this Ordinance. All sanitary sewage and industrial wastes from any improved property, after connection of such improved property with a sewer shall be conducted into the sanitary sewer, subject to such limitations and restrictions as are established herein or otherwise shall from time to time be established by the Governing Body.

d. Every privy vault, cesspool, sinkhole, septic tank or similar receptacle in existency shall be abandoned and, at the discretion of the Governing Body, shall be cleansed and filled at the expense of the Owner, and any such receptacle not so abandoned and/or cleansed and filled, shall constitute a public nuisance and such nuisance may be abated as provided by law.

4. PUBLIC SEWERS AND EXTENSIONS

a. The Governing Body shall be responsible for maintenance and protection of all sanitary sewers.

b. All extension of the sanitary sewers shall be approved by the City and shall comply with applicable rules and regulations of the West Virginia Department of Natural Resources and the West Virginia State Department of Health.

c. Any person or agency, public or private, paving or repairing a road under which a sanitary sewer has been laid shall be responsible for adjusting the height of manhole frames and covers to make them flush with the road surface.

d. Any person or agency, public or private, changing the elevation of the ground surface above a sanitary sewer shall be responsible for adjusting manhole elevations, correcting sewer structural problems, relocation of sewers, and/or making any other changes directed by the City that shall be required to protect the sewer and provide access to the sewer.

5. APPLICATION FOR SERVICE

a. It shall be unlawful for any person or property Owner to connect with or tap a sanitary sewer, either directly or indirectly, without first having obtained a permit from the Superintendent, acting for and in behalf of the City, which permit may be secured by complying with the procedure hereinafter set forth.

b. The procedure for obtaining a permit for connecting with or tapping a sanitary sewer shall be as provided herein. The property Owner desiring connection shall apply to the Superintendent for a permit. The application for such permit shall be in the following form:

CITY OF PARSONS
PARSONS, WEST VIRGINIA

APPLICATION FOR SEWER TAP PERMIT

The undersigned makes application to tap into the sewer system of the City of Parsons as follows:

Lot Number Block Number
House Number Street or Avenue
Date of Tap: Day Month Year Hour
By: Name Address

The undersigned property Owner, for and in consideration of the granting of the permission to make said tap, does hereby covenant and agree that (a) he will erect all necessary barricades around the proposed construction and will provide red lights for the same between sundown and sunup and will take all other necessary precautions for the protection of the public; (b) he will assume sole responsibility and liability for all claims for injury or damages which may arise or result from said construction; (c) he will save and hold the City of Parsons harmless from any and all claims for damages or actions at law or in equity which may arise, either directly or indirectly, out of the making and completing of the construction of the sewer tap or connection applied for; and (d) he will be responsible and liable for any and all damage resulting from said construction; that such liability shall continue for a period of twenty-four months from the date of the final inspection of said work by the duly designated representative of the City, and that such liability shall include any and all damages or injuries to said street, sidewalk, gutter or curb which may appear within a twenty-four month period, as a result of the said work done by applicant, his agents or contractors.

It is further understood that the word "he" shall mean any person, male or female, or any corporation, firm, partnership or association.

Given under my hand and seal, in duplicate, this day of , 19 .

By:

The sewer connection or sewer tap permit shall be in the following form:

CITY OF PARSONS
PARSONS, WEST VIRGINIA
PERMIT FOR SEWER TAP

Pursuant to application above, approved: Permit No.
Dated this day of

CITY OF PARSONS
PARSONS, WEST VIRGINIA

By:

It's:

An application for a sewer tap or connection permit shall be executed in duplicate. The original shall be retained by the Superintendent and the duplicate copy shall be delivered to the applicant upon the payment by the applicant of the requisite fee.

c. The fee for a sewer tap permit for residential or commercial service shall be one hundred fifty dollars, and the fee for a sewer tap permit for industrial service shall be two hundred dollars; provided that where any Owner, or his predecessors in title, of property consisting of two or more lots has extended the required sanitary sewer lines into a subdivision in accordance with the prior written approval of, and inspection by, the Superintendent, acting for and in behalf of the City, and without cost or expense to the City, the tap or connection fee shall be one hundred fifty dollars for the connection of the subdivision sewer main to the public sewer main and in addition a sewer permit shall be obtained for each lot in such subdivision as and when sewer taps or connections to serve such lots are made. The fee for each such additional tap or connection shall be one hundred fifty dollars.

d. There shall be two classes of building sewer permits (1) For residential and commercial service and (2) for service to establishments producing industrial wastes. In either case, the Owner or his agent shall make application on the special form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of one hundred fifty dollars for a residential or commercial building sewer permit and two hundred dollars for an industrial building sewer permit shall be paid to the City at the time the application is filed.

e. In cases where the City will transport and treat wastes of users located outside of the City's political jurisdiction, a written agreement between the Governing Body and the political jurisdiction in which such users are located, if there be one, shall be required as a prerequisite for obtaining a sewer connection permit. Such agreement shall provide that the outlying political jurisdiction will institute a system of user charges acceptable to the U.S. Environmental Protection Agency, the West Virginia Department of Natural Resources and the West Virginia Public Service Commission.

6. CUSTOMER SERVICE LINES

a. No unauthorized person shall uncover, make any connections with, or opening into, use, alter, or disturb any sanitary sewer or appurtenance of the City without first obtaining a written permit from the Superintendent.

b. There shall be two classes of sewer service permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the Owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. An adequate and responsible bond shall be required and delivered to the City for the purpose of repairing and replacing any damage done to any public street or way be reason of such installation of a sewer connection or a sewer before such permit is issued. The City shall determine the amount of such bond.

c. All costs and expenses incidental to the installation connection and maintenance of the customer service line shall be borne by the Owner. The Owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the customer line, and such installation shall be done by a certified plumber or a person approved by the Superintendent under whose supervision the installation shall be made.

d. A separate and independent customer service line shall be provided for every building or series of buildings located on a single parcel of land owned by the applicant. Old building sewers may be used in connection with new customers service lines only when they are found, on examination by the Superintendent, to meet all requirements of this Ordinance.

e. The slope, alignment, and materials of construction of a customer service line, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Sanitary Sewer Specifications used by the City. All customer service lines must be a minimum of 4" diameter and must be standard strength vitrified clay pipe provided with ASTM C-425 type special joints, medium weight ductile iron pipe with O-ring rubber joints, Class 2400 asbestos-cement pipe, or polyvinyl chloride (PVC) sewer pipe meeting ASTM Spec. 2729. Adequate soil cover to protect the service line from crushing or frost action is required. No customer service line shall be laid in the same trench with any gas and/or water line and must be separated by at least ten feet from any water line. The slope of the customer line shall be no less than one-eighth inch (1/8") per foot. All excavations for customer service line installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City

f. The customer service line shall be connected to a sanitary sewer at the place designated by the Superintendent and shall be made by the City employees under the supervision of the Superintendent The invert of a customer service line at the point of connection shall be at the same or higher elevation than the invert of the sanitary sewer.

g. No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a customer service line or lateral sewer which in turn is connected directly or indirectly to a sanitary sewer. Upon determination that this type of connection has been made, the City shall cause the Owner to be notified by Certified mail that he shall remove such connections within 30 days. Should the Owner fail to do so, penalties called for under Section 18, paragraph b, of this Ordinance shall be invoked.

h. Except as otherwise provided in this Ordinance, each improved property shall be connected separately and independently with a lateral through an independent customer service line. Grouping of more than one improved property on one customer service line shall not be permitted except under special circumstances and for good sanitary reasons or other good causes shown and then only after special permission of the Superintendent as may be prescribed by the Governing Body; provided, however, a single customer service line may be permitted to serve a school, mobile home park, apartment house or other permanent multiple unit property.

i. Where an improved property, at the time connection to a sanitary sewer is required, shall be served by its own sewage disposal system or device, the existing sewer line shall be broken on the structure side of sewage disposal system or device and attachment shall be made, with proper fittings, to continue such sewer line as a customer service line. The Superintendent may, at his discretion, permit the utilization of an existing sewer line provided an inspection discloses that it is reasonably true to grade and alignment and in good condition. In case of an existing sewer line utilizing a type of sewer pipe not specified herein, the Superintendent shall have the right to require the Owner to uncover the full extent of the pipe to determine its condition and may require its replacement with approved pipe as outlined herein if the inspection discloses such pipe to be deteriorated in any manner. The cost of replacing the pipe where necessary, shall be the sole responsibility of the Owner thereof.

j. No customer service line shall be covered until it has been inspected and approved by the Superintendent or his representative. Every customer service line shall be maintained in a sanitary and safe operating condition by the Owner of such improved property.

k. The applicant for the sewer service permit shall notify the Superintendent when the customer service line is ready for inspection and connection to the sanitary sewer. The connection and testing shall be made by the Superintendent or his representative.

7. SEWER USER CHARGES

a. Rates

Sewer user charges, or rates, are imposed upon and shall be collected from the owner of each improved property which shall be connected with the sanitary sewer system, for use of the sewer system, whether such use shall be direct or indirect. The sewer user charges shall commence and shall be effective as of the date of connection of each such improved property to the sewer system or within 31 days of availability of the sewer system, whichever is first, and shall be payable as provided herein.

b. The Superintendent is authorized to bill the customer for the cost of services performed at the request of the customer if the solution to the problem is known or found to be the responsibility of the customer.

c. Every Owner of improved property which is connected to the sewer system shall provide the City with and thereafter shall keep the City advised of his or her correct address. Failure of any person to receive bills for sewer user charges shall not be considered an excuse for nonpayment nor shall such failure result in an extension of the period of time during which the net bill shall be payable.

d. Surcharge for High Strength Users:

Users discharging any water or wastes with a 30 day average BOD in excess of 300 milligrams per liter or a 30 day average suspended solids content in excess of 300 milligrams per liter or containing suspended solids with a character or quantity of pollutant requiring unusual attention or expense to handle or treat, shall pay, in addition to the base monthly sewer charges, an additional surcharge (Cs) as determined by the following formula:

$$Cs = Bc(B)+Sc(S)+Pc(P)Vu$$

where

B - Concentration of BOD from a user above a base level (300 mg/l)

Bc	-	O & M cost for treatment of a unit of biochemical oxygen demand (BOD)
S	-	Concentration of suspended solids from a user above a base level (300 mg/l)
Sc	-	O & M cost for treatment of a unit of suspended solids
P	-	Concentrated of any pollutant from a user above a base level
Pc	-	O & M cost for treatment of a unit of any pollutant
Vu	-	Volume contribution from a user per unit of time

e. The governing Body shall review user charges annually and revise them periodically to reflect actual treatment works operation and maintenance costs.

8. BILLING PROCEDURE

a. All rates or charges provided for by this Ordinance shall be billed and collected monthly by the City or by persons or agencies authorized by the City. All bills shall be considered due and payable on or before the tenth day following the date rendered.

9. LIENS AND PENALTIES FOR NONPAYMENT

a. Sewer user charges or related charges imposed by Ordinance shall be a lien on the improved property connected to and served by the sewer system; and any such sewer user charges or other charges which are delinquent for a period of 30 days shall, together with a penalty of ten percent and a reasonable attorney's fee, be filed as a lien against the improved property and premises so connected to and served by the sewer system, which lien shall be filed in the office of the clerk of the County Commission of Tucker County, West Virginia, and shall be collected in the same manner now provided by law for the enforcement of tax liens on real property. Such liens shall be of equal dignity, rank, and priority with a lien on such premises for state, county, school, and municipal taxes.

b. At the discretion of the City, it may request that the water service to any improved property be shut off for nonpayment of sewer user charges if the bill for sewer user charges is delinquent for a period of 50 days and such owner shall have received 24-hour notice from the City of the intention to shut off the water supply, provided such action is not in violation of any rules of the West Virginia Public Service Commission or the West Virginia Department of Health. In such event, water service shall not be restored until the Owner of the improved property has paid all delinquent user charges to the City, plus the then appropriate charge for the re-installment of the water meter and opening of the water service line.

10. ACCESS TO PROPERTIES

a. The City and its Superintendent shall have the right of access at reasonable times to any part of any improved property served by the sewer system as shall be required for purposes of maintenance, inspection, measurement, sampling and testing and for the performance of other functions relating to service rendered by the City through the sewer system.

b. Every employee of the City whose duties require him to enter the premises of a customer will carry on his person identification as an employee or representative of the City.

c. The Superintendent and other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the sewer system.

d. The Superintendent or other duly authorized employees bearing proper identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work shall be done in full accordance with the terms of the easement pertaining to the private property involved.

11. DETRIMENTAL WASTES

a. No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, or cooling water to any sanitary sewer.

b. No person shall discharge or cause to be discharged any of the following described waters or wastes to any sanitary sewer:

1. Any gasoline, benzene, naptha, fuel oil, motor oil or any other flammable or explosive liquid, solid, or gas.

2. Any water or waste with a BOD in excess of 300 milligrams per liter, except as provided for herein.

3. Any water or waste containing suspended solids in excess of 300 milligrams per liter, except as provided for herein.

4. Any water containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant effluent.

5. Any water or waste having a pH lower than 6.5 or greater than 8.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the wastewater facilities or the sanitary sewers.

6. Any solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sanitary sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, gravel, ashes, bones, red dog, sand, mud, coal, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk, containers, etc., either whole or ground by garbage grinders.

c. The following described substances, materials, waters, or wastes shall be limited in discharges to the sewer system, to concentrations or quantities which will not harm either the sanitary sewers or wastewater facilities; will not have an adverse effect on the receiving streams; or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sewer system which shall not be exceeded by any person without approval of the Superintendent are as follows:

1. Wastewater having a temperature higher than 40 degrees Centrigrade.

Refuse Disposition. The disposition of refuse in accordance with rules and regulations promulgated by the mayor with the approval of the Council.

Refuse Containers. The trash and garbage containers referred to in this Ordinance shall meet the following specifications:

Standard containers for the storage of refuse shall be made of metal, to be leak proof and water tight with a tight fitting metal cover and shall have a capacity not to exceed thirty (30) gallons, any container having a capacity of over twenty (20) gallons shall have the carrying handles but any container of less than twenty (20) gallon capacity may be equipped with an adequate bail carrying handle.

The Mayor or other proper officer of the Division of Sanitation may authorize or direct the use of such other or special containers as the circumstances of any particular situation may require.

County Health Officer. Shall mean the County Health Officer of Tucker County.

Private Scavenger. One who for hire, collects, removes or disposes of refuse.

Person. Means any individual, partnership, firm or corporation.

ARTICLE TWO

SECTION 1. It shall be unlawful for any person, except the City of Parsons, to engage in or conduct the business of collection, removal or disposal of refuse, raw garbage prepared garbage within the corporate limits of the City of Parsons, and all persons, businesses, houses, firms or corporations residing in or doing business within the City of Parsons shall be required to subscribe to, take and pay for the service provided by the Division of Sanitation of the City of Parsons.

It shall be unlawful for any person, firm or corporation to neglect or refuse to subscribe to such service and to pay for the same at the rates established by the common council of the City of Parsons for the type of service furnished to each such person, firm or corporation.

SECTION 2. On and after the date when this Ordinance becomes operative, there shall be a Division of Sanitation under the supervision or direction of the Mayor. The Mayor or other duly authorized officer, with the approval of the Council, shall be adequately supplied with the personnel and equipment to property and satisfactorily carry out the essential public service of collecting, removing and disposing of refuse produced in the households and places of business in the City of Parsons.

AN ORDINANCE DECLARING THE USE OF THE SEWER FACILITIES OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF PARSONS, WEST VIRGINIA, TO BE ESSENTIAL FOR THE PROTECTION AND PRESERVATION OF THE HEALTH, COMFORT, SAFETY, WELFARE, CONVENIENCE AND ECONOMY OF THE INHABITANTS OF SAID CITY; REQUIRING CONNECTIONS WITH SUCH SEWER FACILITIES; PROVIDING FOR THE IMPOSITION AND COLLECTION OF RATES, FEES AND CHARGES FOR THE USE AND AVAILABILITY OF THE SERVICES AND FACILITIES OF SAID SEWER FACILITIES AND OF THE WATERWORKS; PRESCRIBING RULES AND REGULATIONS GOVERNING THE FURNISHING AND USE OF ALL SUCH SERVICES AND FACILITIES; AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARSONS, WEST VIRGINIA:

Section 1. Recitals.

The City Council of the City of Parsons has heretofore on May 3, 1963, adopted an Ordinance providing for the issuance of $290,000 Combined Waterworks and Sewerage Revenue Bonds to finance in part the cost of construction or acquisition of additions, extensions and improvements to the waterworks and sewerage systems of the City and in said Ordinance ordered that said systems be operated as a Combined Waterworks and Sewerage System and a single undertaking until all Bonds so authorized have been paid in full. The Public Service Commission of West Virginia has heretofore, following due application by the City and public hearing conducted by said Commission, entered final orders on the 14th day of March, 1963, in case Nos. 5672 and 5673 establishing water and sewerage rates and charges respectively for the facilities of said Combined Waterworks and Sewerage System identical with those applied for. By this Ordinance, the City Council establishes and confirms such rates and charges established by said Commission and establishes and prescribes rules and regulations governing the furnishing and use of the service and facilities of the Combined Waterworks and Sewerage System. The City Council deems it essential in the best interests of the City and of the inhabitants thereof to make the provisions contained in this Ordinance.

Section 2. Definitions.

The following terms shall have the following meanings in this Ordinance unless the text otherwise expressly requires:

a. Person means and includes individual; firm, partnership, corporation, association and public body

b. Sewer facilities means all facilities of the sewer system owned by the City prior to the combination of the Waterworks and sewer system of the City into a Combined Waterworks and Sewerage System and includes the additions, extensions and improvements to be constructed and acquired with the proceeds of the Bonds hereinabove mentioned and all facilities of any kind or nature at any time hereafter constructed or acquired by the City and used for sewage collection or disposal purposes, such term including, among other things, all sanitary, storm, trunk, collecting intercepting and lateral sewers, sewer lines, drains, force mains, conduits, plants for the treatment or disposal of sewage and waste matters, lift stations, machinery, buildings, fixtures, equipment, all other real or personal property and all other property, appurtenances, extensions and improvements necessary, convenient, useful, appurtenant or incidental to or for the collection, treatment or disposal in a sanitary manner of sewage and waster matters.

c. Waterworks means all facilities of the waterworks owned by the City prior to combination of the waterworks and sewer system of the City into a Combined Waterworks and Sewerage System and includes the additions, extensions and improvements to be constructed and acquired with the proceeds of the Bonds hereinabove mentioned and all facilities of any kind or nature at any time hereafter constructed or acquired by the City and used for impoundment, storage, purification, settling, transmission or distribution of water or any other purpose in connection with furnishing water to the customers of the City for water service, such term including, among other things, mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, intakes, wells, impounding reservoirs, pumps, machinery, purification plants, softening apparatus and all other elements, items and property, real or personal, useful in connection with a water supply or service.

Section 3. Use of Sewer Facilities Mandatory.

The mandatory use of the Sewer Facilities as hereinabove defined is hereby determined and declared to be essential and necessary for the protection and preservation of the public health, comfort, safety, convenience, welfare and economy of the inhabitants of the City and for the rendering harmless of sewage and waste matters produced or arising within the City. Accordingly, every owner, tenant and occupant of every lot, parcel and tract of land within the City which abuts on a street, alley or other public way in which any sewer line, main or facility is located, or which is located within 100 feet thereof and upon which lot, parcel or tract a building or other habitable structure has been or shall be erected for residential, commercial or industrial use, shall connect such building or structure immediately with the Sewer Facilities and shall thereafter refrain from using and cease to use any other method for the disposal of sewage or waste matters and shall pay all charges, fees and rates provided herein.

Any such building or structure not so connected with the Sewer Facilities is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the City and a public nuisance which shall be abated as promptly as possible by proceedings in the Circuit Court of Tucker County or other court of competent jurisdiction.

Section 4. Application for Service Required.

It shall be unlawful for any person to use any of the facilities of the Combined Waterworks and Sewerage System without first making written application therefore to the City and paying all costs, charges, fees and deposits incident thereto, such application to be made on forms furnished by the City; provided, however, that all persons now lawfully using such facilities shall not be required to make such application. Such application shall constitute an agreement by the applicant with the City to abide by all provisions of this Ordinance and such applicable rules of the City as to use of such facilities as may from time to time be placed in effect. Applications for service by firms, partnerships, corporations and associations shall be tendered only by their duly authorized agents or representatives and the official title of such agent or representative shall be shown on the application. Any person now lawfully using any such facilities shall by continuation of such use be deemed to have agreed to abide by all provisions of this Ordinance and such applicable rules of the City as to the use of such facilities as may from time to time be placed in effect, whether or not such person has ever made written application for such service.

Section 5. Rates and Charges.

The following schedules of rates, fees and charges, heretofore approved by the Public Service Commission of West Virginia shall be charged against and paid by the user, tenant, owner or occupant of each habitable building or structure and of each building used for commercial or industrial purposes and connected or required to be connected with any of the facilities of the Combined Waterworks and Sewerage System, except as hereinafter provided:

A. Water Rates

AVAILABILITY

Available for all domestic and commercial users.

METER RATE

First	2,000 gals. per month	$ .90 per thousand gals.
Next	8,000 gals. per month	.65 per thousand gals.
Next	15,000 gals. per month	.60 per thousand gals.
Next	10,000 gals. per month	.45 per thousand gals.
Next	15,000 gals. per month	.40 per thousand gals.
Next	25,000 gals. per month	.35 per thousand gals.
Next	25,000 gals. per month	.30 per thousand gals.
Next	50,000 gals. per month	.25 per thousand gals.
Next	50,000 gals. per month	.20 per thousand gals.
Over	200,000 gals. per month	.16 per thousand gals.

FLAT RATE

One spigot	1.13 per month
Four openings, one commode	1.70 per month
Six openings, full bath	2.07 per month
Each spigot above six	.09 per month

MINIMUM CHARGE

On meter of 1/2" or less	1.80 per month
On meters over 1/2", but not greater than 1"	2.10 per month

DELAYED PAYMENT PENALTY

On all accounts not paid in full within ten (10) days of billing date, ten percent (10%), but not less than twenty cents (.20) will be added to net amount shown.

SERVICE CONNECTION

For furnishing taps of 1/2", or less	$25.00
For furnishing taps greater than 1/2", but not larger than 1"	35.00

B. SEWER RATES

AVAILABILITY

Available for all domestic and commercial users.

METER RATE (Based upon the metered amount of water supplied)

First	2,000 gals. per month	$ .775	per thousand gals.
Next	3,000 gals. per month	.55	per thousand gals.
Next	15,000 gals. per month	.51	per thousand gals.
Next	10,000 gals. per month	.38	per thousand gals.
Next	15,000 gals. per month	.34	per thousand gals.
Next	25,000 gals. per month	.30	per thousand gals.
Next	25,000 gals. per month	.26	per thousand gals.
Next	50,000 gals. per month	.21	per thousand gals.
Next	50,000 gals. per month	.17	per thousand gals.
Over	200,000 gals. per month	.13	per thousand gals.

FLAT RATE

Domestic and Commercial Users	1.55	per month

MINIMUM CHARGE

The above schedule is subject to a minimum charge of $1.55 per month.

DELAYED PAYMENT PENALTY

On all accounts not paid in full within ten (10) days of billing date, ten percent (10%), but not less than twenty cents (.20) will be added to net amount shown.

SERVICE CONNECTION

Tap Inspection Fee - New Installation	$25.00

BILLING

Bills for water and sewer services shall be rendered monthly, provided, however, that the City may read water meters once each two or three months and render monthly billings based upon the last monthly billings rendered. If any bill shall not be paid in full within thirty days of billing date, both water and sewer services shall be disconnected by the City and shall not be restored until all delinquent bills and penalties plus a cutoff charge of $3.00 and a reconnection charge of $4.00 have been paid.

Section 6. Vacancy of Premises Served.

In the event that any building, structure or premises served by any facilities of the Combined Waterworks and Sewerage System is to be vacated for a period of not less than thirty days, the person responsible for paying the rates, fees and charges for such services for such building, structure or premises may apply in writing to the City to have the same temporarily disconnected from such facilities. The City shall, upon such application and payment of a cutoff charge of $3.00, temporarily disconnect such building, structure or premises from all facilities of the Combined Waterworks and Sewerage System, beginning on the first day of such vacancy. During such period of disconnection, such building, structure or premises shall not be occupied or used. At the end of such vacancy, upon application or notification in writing contained in the application for disconnection or a separate paper, such building, structure or premises shall be reconnected upon payment of a reconnection charge of $4.00.

Section 7. No Free Service.

The City will not render or cause to be rendered any free services of any nature by the Combined Waterworks and Sewerage System, nor will any preferential rates be established for users of the same class; and in the event the City or any department, agency, instrumentality, officer or employee thereof shall avail itself or themselves of the facilities or services provided by the Combined Waterworks and Sewerage 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 City, and any such department, agency, instrumentality, officer or employee thereof. Such charges shall be paid as they accrue, and the City shall transfer from its general funds sufficient sums to pay such charges incurred by it. The revenues so received shall be deemed to be revenues derived from the operation of the Combined Waterworks and Sewerage System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the Combined Waterworks and Sewerage System.

The City covenants and agrees that it will, prior to the end of each fiscal year, transfer from its general funds and pay into the Revenue Fund, provided for in the aforesaid Bond authorizing ordinance, the sum of $3.00 as a fire hydrant rental for each fire hydrant in the City connected with the water facilities of the Combined Waterworks and Sewerage System. Such payments shall constitute revenues of the Combined Waterworks and Sewerage System and shall be treated and applied as all other revenues thereof.

Section 8. Industrial Use of Sewer Facilities.

In the event that the sewage or waste matters from any manufacturing, commercial or industrial plant, building or premises should be such that a burden is placed upon the Sewer Facilities greater than the average or normal burden, an additional charge therefore shall be established by the City, which additional charge shall be fair and commensurate with the additional cost of collecting, treating or disposing of such sewage or waste matters. The City may compel the owner, tenant or occupant of any such manufacturing, commercial or industrial plant, building or premises to treat such sewage or waste matters in a manner specified by the City upon recommendation of the Consulting Engineer of the City before discharging such sewage or waste matters into the Sewer Facilities.

Section 9. Deposits for Services.

The City may require any applicant for any of the services of the Combined Waterworks and Sewerage System to deposit with the City a reasonable and equitable amount to be prescribed to insure payment of all charges for such services, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission.

Section 10. Responsibility to Keep Sewer Connection Clean.

The owner, tenant or occupant of any property connected with the Sewer Facilities shall maintain and keep the sewer pipe between the plumbing system of the property and the sewer main of the City clean and free from obstruction and shall not cause, suffer or permit any article or thing to be introduced into such pipe which causes a stoppage thereof. Upon failure so to keep such sewer pipe clean and free from obstruction and in proper condition, the City shall have the immediate right to cut off all water and sewer services until such sewer pipe is placed in the condition hereby required and the property served by such sewer pipe shall not be used for any purpose which might produce sewage or any waste matters until such sewer pipe is restored to such proper condition.

Section 11. No Allowance for Leaks.

No allowance or adjustment in any bill for use of facilities of the Combined Waterworks and Sewerage System shall be made for any leak occurring on the users side of any meter.

Section 12. Right of Access.

The City shall have all rights, easements, permits and privileges which are necessary for the rendering of adequate sewer service. Duly authorized employees of the City shall have access at all reasonable hours to the premises of any user of the facilities of the Combined Waterworks and Sewerage System for the purposes of installing or removing any property of the City necessary for such sewer service or for examining pipes, lines or fixtures or for any purpose incidental to the rendering of proper service.

Section 13. Taps; Tampering with Facilities.

No person other than duly authorized employees of the City shall tap the City's sewer or water mains, nor shall connect with, turn on, tamper with interconnect, alter or damage in any way any part of the Combined Waterworks and Sewerage System.

Section 14. Approval of Sewer Connections.

No sewer service shall hereafter be connected until the plumbing of the premises and all connections incident thereto shall have been inspected and approved by the plumbing inspector of the City or some other duly authorized employee of the City.

Section 15. No Liability of City; Right to Restrict Services.

The City shall not be liable for any damage resulting from bursting or breakage of any water or sewer main, pipe, valve, equipment or part or from discontinuance of the operation of any part of the Combined Waterworks and Sewerage System or from failure of any part thereof for any cause whatsoever. In case of emergency, the City shall have the right to restrict the use of any part of the Combined Waterworks and Sewerage System in any reasonable manner for the protection of the City, the inhabitants thereof and the Combined Waterworks and Sewerage System.

Section 16. Penalty.

Any person who shall violate any provisions of this Ordinance shall, upon conviction thereof, be punished by a fine not to exceed $500 or imprisonment not to exceed sixty days or both such fine and imprisonment.

Section 17. Severability.

If any provision, clause, section or part of this Ordinance is held to be invalid by any court of competent jurisdiction, then such invalid part shall be null and void and shall be deemed separable from the remaining parts hereof and shall in no way affect the validity of all other provisions and parts of this Ordinance.

Section 18. Conflicting Provisions Repealed.

All ordinances, resolutions and orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, herein repealed.

Section 19. Headings.

The headings of the Sections and parts 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 20. Effective Date.

This Ordinance shall take effect and become operative from passage.

Passed June 7, 1983

Robert R. Gilmore, Recorder Forrest Armentrout, Mayor

Section 6.05. Effective Time.

This ordinance shall take effect at the time and in the manner provided in the Act and the Charter of the Town as the same may be applicable.

Section 6.06. Statutory Notice.

Upon adoption and approval of this ordinance, the Recorder is hereby authorized and directed to cause it to be published and having a general circulation in the City, together with a notice to all persons concerned, and to post a copy hereof with such notice in at least three public places in the City of Parsons, such notice to state that this ordinance has been adopted and that the City contemplates the issuance of the Bonds described in the Ordinance and that this ordinance shall be in full force and effect if no petition as provided in the Act be filed within ten days of such publication.

Section 6.07. 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.

Passed and approved June 7, 1963

Robert R. Gilmore, Recorder Forrest Armentrout, Mayor

OFFICER'S OATH

STATE OF WEST VIRGINIA

COUNTY OF TUCKER

CITY OF PARSONS, to-wit:

I, Mary G. Moore, do solemly swear that I will support the Constitution of the United States, the Constitution of West Virginia, and that I will faithfully discharge the duties of the office of Mayor of the City of Parsons to fill the unexpired term of Earl Delaney, term to expire June 30, 1996 to which office I have been (elected, appointed) to the best of my skill and judgment. So help me God.

Mary G. Moore

Subscribed and sworn to before the undersigned authority, this the 5th day of October, 1994

D. Judy Circuit Clerk

Term Expires Dec 31, 1998

OFFICER'S OATH

STATE OF WEST VIRGINIA

COUNTY OF TUCKER

CITY OF PARSONS, to-wit:

I, Constance Simmons, do solemly swear that I will support the Constitution of the United States, the Constitution of West Virginia, and that I will faithfully discharge the duties of the office of Recorder for City of Parsons to fill an unexpired term ending June 30,1996 to which office I have been (elected, appointed) to the best of my skill and judgment. So help me God.

Constance Simmons

Subscribed and sworn to before the undersigned authority, this the 21 day of November, 1994

Mary H. Moore

Mayor

OFFICER'S OATH

STATE OF WEST VIRGINIA

COUNTY OF TUCKER

CITY OF PARSONS, to-wit:

I, Peter Shannon Michael, do solemly swear that I will support the Constitution of the United States, the Constitution of West Virginia, and that I will faithfully discharge the duties of the office of Councilmember Ward One in the City of Parsons for a two year term beginning July 1,1994 and ending June 30,1996 to which office I have been (elected, appointed) to the best of my skill and judgment. So help me God.

Peter S Michael

Subscribed and sworn to before the undersigned authority, this the 29th day of June, 19 94

Earl J Delaney

Mayor

OFFICER'S OATH

STATE OF WEST VIRGINIA

COUNTY OF TUCKER

CITY OF PARSONS, to-wit:

I, Sheila Teagarden Blosser, do solemly swear that I will support the Constitution of the United States, the Constitution of West Virginia, and that I will faithfully discharge the duties of the office of Councilmember for Ward One in the City of Parsons for a two year term beginning July 1,1994 and ending June 30,1996 to which office I have been (elected, appointed) to the best of my skill and judgment. So help me God.

Sheila Teagarden Blosser

Subscribed and sworn to before the undersigned authority, this the 29th day of June, 1994

Earl J Delaney

Mayor

OFFICER'S OATH

STATE OF WEST VIRGINIA

COUNTY OF TUCKER

CITY OF PARSONS, to-wit:

I, Charles Pete Filler, do solemly swear that I will support the Constitution of the United States, the Constitution of West Virginia, and that I will faithfully discharge the duties of the office of Councilmember for Ward Two in the City of Parsons for a two year term beginning July 1,1994 and ending June 30,1996 to which office I have been (elected, appointed) to the best of my skill and judgment. So help me God.

Charles Pete Filler

Subscribed and sworn to before the undersigned authority, this the 29th day of June, 1994

Earl J Delaney

Mayor

OFFICER'S OATH

STATE OF WEST VIRGINIA

COUNTY OF TUCKER

CITY OF PARSONS, to-wit:

I, Jeffrey D. Helmick, do solemly swear that I will support the Constitution of the United States, the Constitution of West Virginia, and that I will faithfully discharge the duties of the office of Councilmember for Ward Two in the City of Parsons for a two year term beginning July 1,1994 and ending June 30,1996 to which office I have been (elected, appointed) to the best of my skill and judgment. So help me God.

Jeffrey D Helmick

Subscribed and sworn to before the undersigned authority, this the 29th day of June, 1994

Earl J Delaney

Mayor

OFFICER'S OATH

STATE OF WEST VIRGINIA

COUNTY OF TUCKER

CITY OF PARSONS, to-wit:

I, Nina D. Burns, do solemly swear that I will support the Constitution of the United States, the Constitution of West Virginia, and that I will faithfully discharge the duties of the office of Ccuncilmember for Ward Three in the City of Parsons for a two year term beginning July 1, 1994 and ending June 30,1996 to which office I have been (elected, appointed) to the best of my skill and judgment. So help me God.

Nina D. Burns

Subscribed and sworn to before the undersigned authority, this the 29th day of June, 1944

Earl J Delaney

Mayor

OFFICER'S OATH

STATE OF WEST VIRGINIA

COUNTY OF TUCKER

CITY OF PARSONS, to-wit:

I, Curtis G. Wimer, do solemly swear that I will support the Constitution of the United States, the Constitution of West Virginia, and that I will faithfully discharge the duties of the office of Councilmember Third Ward, term ending June 30, 1996

to which office I have been (elected, appointed) to the best of my skill and judgment. So help me God.

Curtis G Wimer

Subscribed and sworn to before the undersigned authority, this the 27th day of September, 1994

Mary H. Moore

THE CITY OF PARSONS

AN ORDINANCE ESTABLISHING AND FIXING RATES, FEES, CHARGES AND DELAYED PAYMENT PENALTY CHARGES FOR SERVICE TO CUSTOMERS OF THE WATERWORKS FACILITIES OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF PARSONS

THE CITY COUNCIL OF THE CITY OF PARSONS HEREBY ORDAINS: The following schedule of rates, fees, charges and delayed payment penalty charges are hereby fixed and determined as the rates, fees, charges and delayed payment penalty to be charged to customers of the waterworks facilities of the combined waterworks and sewerage system of The City of Parsons throughout the territory served.

SECTION 1. SCHEDULE OF RATES

APPLICABILITY

Applicable to all Residential, Commerical and Industrial Users in entire area served.

AVAILABILITY OF SERVICE

Available for water service.

RATES

First 2,000 gals. used per month $7.30 per thousand gals.
Next 3,000 gals. used per month $6.30 per thousand gals.
Next 5,000 gals. used per month $5.60 per thousand gals.
Next 10,000 gals. used per month $4.40 per thousand gals.
Next 30,000 gals. used per month $3.40 per thousand gals.
Next 50,000 gals. used per month $2.40 per thousand gals.
All over 100,000 gals. used per month $1.70 per thousand gals.

Minimum monthly charges:

5/8"	meter	-	$ 14.60
1"	meter	-	25.60
2"	meter	-	102.37
4"	meter	-	405.98

DELAYED PAYMENT PENALTY

A 10% penalty shall be added to all charges not paid within 20 days from the date of the billing. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

SECTION 2. EFFECTIVE DATE

The rates, fees, charges and delayed payment penalty charges provided herein shall be effective 45 days after the enactment hereof.

SECTION 3. SEPARABILITY; REPEAL OF CONFLICTING ORDINANCES

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

SECTION 4. STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the Recorder shall publish a copy of this Ordinance once a week for 2 successive weeks within a period of 14 consecutive days, with at least 6 full days intervening between each publication, in the Parsons Advocate, being a newspaper published and of general circulation in The City of Parsons, West Virginia, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council on November 28, 1995, at 7:30 p.m., which date is not less than 10 days subsequent to the date of the first publication of the Ordinance and notice, and present protests. 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.

The above Ordinance has been introduced at a meeting of Council held October 17, 1995. Any person interested may appear before Council on November 28, 1995, at 7:30 p.m., and present protests.

Mary G. Moore
Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of THE CITY OF PARSONS on the 28th day of November, 1995.

Dated: May 8, 1996

[SEAL]

Constance K Simmons
Recorder

04/18/96
PARSWJM.D4
689010/95001

P. S. C. W. Va. No. 5

Cancels P. S. C. W. Va. No. 4

CITY OF PARSONS, a municipal utility

OF

Parsons, West Virginia

Rates, Rules and Regulations for Furnishing

SEWERAGE AND SEWAGE DISPOSAL SERVICE

AT

Psrsons, Tucker County, West Virginia.

Public Service Commission of W.Va. Tariff Section
AUG 30 1990
Special Studies Section
RECEIVED

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
OCT 17 1989
SPECIAL STUDIES SECTION
RECEIVED

Filed with THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

Issued September 20, 1989 Effective September 1, 1990

Issued by authority of an Order of the Public Service Commission of West Virginia in Case No. 89-316-S-MA, dated September 20, 1989.

Issued by CITY OF PARSONS
(Name of Utility)

By John H. Wilson
Mayor

17B

Applicable in entire territory served.

C)(R) RATES

First	5,000 gallons used per month	$3.70 per 1,000 gallons
Next	15,000 gallons used per month	$1.80 per 1,000 gallons
All Over	20,000 gallons used per month	$1.23 per 1,000 gallons

(R) MINIMUM MONTHLY CHARGE

$7.40

(C) DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

SERVICE CONNECTION

$150.00

(C) Indicates change
(R) Indicates reduction

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

CITY OF PARSONS

COUNTY OF TUCKER

STATE OF WEST VIRGINIA

Regular meeting of Parsons City Council was held Oct. 17, 1995 at 7:00 PM in Council Chambers of Parsons City Hall. The meeting was called to order by Mayor Moore and opened with prayer led by Councilman Filler.

Roll Call read with those present being Sheila Blosser, Pete Filler, Jeff Helmick, and Pete Michael. Absent was Curtis Wimer. Visitors were Chief Bunner, Rocky Clark, Elmer Watring, Sheila Smith, R E Jones, Larry Shaffer, Clyde Long, and Gail Blume.
After reading the minutes, Mayor Moore stated that there needed to be an insert to the motion of Rescinding resignation of Rich Canfield to add the Council agreement to settle pending litigation discussed in Executive session with Pat A Nichols to handle the litigation. The Executive session was for personnel .
Motion to approve with insertion was made by Filler, second by Helmick, motion carried.

R.E. Jones, representitive for New York Life Ins. was here to introduce himself to council and discuss insurance possibilities.

Larry Shaffer appeared with a complaint against Chief Bunner, Discussion with Bunner asked to refrain from saying anything just yet. Apparently some citizens are unhappy with having to obey traffic laws.

Clyde Long attended just to thank the City and Ken Teagarden for the efforts in cleaning up the area around the slew.

Sheila Smith was here from Region VII to help with some of the paper work needed and get papers signed for the water project. Matters acted on were Grievance Procedute and Ordinance establishing rates.

SECTION 504 GRIEVANCE PROCEDURE

The City of Parsons has adopted an internal grievance procedure providing for prompt and equitable resolution of Complaints alleging any action prohibited by HUD/Small Cities Block Grant regulations implementing Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794). Section 504 states, in part, that " no otherwise qualified handicapped individual...shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance..."

Motion to adopt grievance as read, full statement enclosed in Minutes Record Book, made by Councilman Filler, second by Blosser, Motion Carried.

Motion to accpet first reading of Ordinance establishing and fixing rates, fees, charges and delayed Payment penalty charges for service to customers of the waterworks facilities of the combined woaterworks and sewerage system of the City of Parsons; motion made by Councilman Helmick, second by Filler, all in favor, motion carried. The ordinance will be published next two weeks in the Advocate, the second reading will be Nov. 7, 1995.

Under old business; The No Parking signs has been removed from in front of Mike Long residence on Third Street.
Dedication of the Flood Monument will be held the afternoon of Nov. 4, 1995.
Notice to be published in Advocate concerning the approval of all building permits before any construction work is begun, to be strictly enforced.
Concerning parking on Rt 72, all we need is a sign stating NO TRACTOR TRAILER PARKING BEYOND THIS SIGN.

Under new business; John Leddon wants permission to put a drain across the street between two privately owned properties to drain water from basement, he will need to cut across the street and then repair what he has done. Rocky will be there when cutting is done. Motion to allow made by Helmick, second by Michael, all in favor.
Pete Michael brought up matter of CHILDREN AT PLAY signs, need to be checked by John.
Councilman Filler made the motion to pay bills for September, motion second by Michael, motion carried.

Filler Moved to approve a permit for a sidewalk at Martha Lewis residence on Walnut St., motion second by Michael, motion carried.

Filler moved to go from regular session into executive session concerning personnel; motion second by Helmick, motion carried. Filler moved to come from executive session to regular session, Michael second, motion carried.
Filler moved to adjourn, Michael second, motion carried.

Curtis Wimer — Mary E. Moore

RECORDER — MAYOR

Council agreed to allow purchase of Meters on First Street near Tucker Co. Thrift Shop by S,Goss for Fri. and Sat. Nov. 24 and 25 as courtesy to customers.

Motion to adjourn made by Wimer, second Filler, motion carried.

RECORDER MAYOR

CITY OF PARSONS
COUNTY OF TUCKER
STATE OF WEST VIRGINIA

Parsons City Council met in special session Tuesday, Nov. 28, 1995 at 7:30 PM. Roll Call; Present were Curtis Wimer, Pete Michael, Charles Filler, Sheila Blosser, Recorder Connie Simmons, Mayor Moore. Purpose of the meeting was for public Hearing on the Proposed water rate increase, and adoption of the increase. Bob Coit was in attendance to explain to the Public the reason of necessity of increase and the purpose of the new water plant construction. After discussion and question and answer session, the Ordinance was acted on by Council Members with Charles Filler making the motion to accept the ordinance on the second and final reading Curtis Wimer second the motion, motion carried with all present voting affirmatively. Curtis Wimer moved to adjourn the meeting; Sheila Blosser second motion carried.

RECORDER mayor

STATE OF WEST VIRGINIA
COUNTY OF TUCKER
CITY OF PARSONS

The regular meeting of the Parsons City Council met at city hall, April 18, 1989. Mayor John Wilson called the meeting to order with all council members present: Charles Filler, Rose Ann Humphrey, Jerry Parsons, Randy Shahan, Bill Simmons, Fred Trader and Ruth Lou Williams, recorder.

VISITORS: Dewey Wilfong, Sam Goughnour, Gail Jones and Jerry DiBacco
CITY EMPLOYEES: Gail Blume and Patrolman Marshall Davisson
CITY ATTORNEY: William "Mont" Miller

Motion to approve the minutes of April 4, 1989 was made by Mrs. Humphrey and seconded by Mr. Trader with typing errors corrected. All in Favor.

Dewey Wilfong came to council to speak about the situation on Tucker Avenue. He was not at all pleased with the bad publicity he has been getting over the new buildings and the clean-up of Tucker Avenue. He stated that as soon as the weather breaks and the ground dries, he would be ready to start to grade the road. Mr. Wilfong said that proper drains had been installed and are working. He also said that he would not be forced into landscaping. Mr. Wilfong did say that the managers of the new stores are being harassed. He feels that people deserve more places to shop. This is good business and makes for good competition. Councilman Filler told Mr. Wilfong that he agreed with him about competition. He said that the Crostens had contacted him, and he told them that we couldn't do a thing until the weather got pretty and equipment could be taken in. Mr. Filler said he hadn't heard any "bad-mouthing" over what had been done, and what Mr. Wilfong has done has been a blessing to this community. Recorder Williams personally thanked Mr. Wilfong for all the good he had done for the City of Parsons. Mr. Wilfong also told council that the cost to fix the street sweeper would be $1000.00 or maybe less.

OLD BUSINESS:

Councilman Parsons brought up the subject of the house laterals. The city received a call from Ralph Goolsby, who wanted to know why we were not proceeding with this. We tried to get in touch with Mr. Goolsby twice, but he was at a meeting. Attorney Miller is to have a document to look over and approve before we can start this. Attorney Miller explained that Huffman and Region VII had contacted him-----Kelly, Gidley, Blair and Wolfe wanted additional compensation for engineering the house laterals. This should have been covered initially. It looks like they "goofed" and want paid again for engineering the laterals. Region VII's Joe Godwin also reveiwed the documents and feels that this should have been covered under the initial contract. Attorney Miller and Joe Godwin talked with Mayor Wilson and in order to get this thing going, we would offer them $500.00 to engineer the laterals. Miller sent them a letter stating these facts. The city would be actually paying twice to get this work done. Mr. Parsons said that they should be made to honor that contract, and it was up to Region VII to tell Kelly, Gidley. Blair and Wolfe to get going on this project. Councilman Parsons made the motion that we contact Region VII to get this straightened out with Kelly, Gidley, Blair and Wolfe and get this job done. Seconded by Mrs. Humphrey. All in favor.

The motion was made by Recorder Williams to make the final payment of $100.00 to James White Construction. Seconded by Mrs. Humphrey. All in favor. They are willing to drop the interest charges when this is done.

Mayor Wilson asked council if they would consider another meeting night.

Councilman Trader reported that we have $65.00 in donations for the cemetary.

Councilman Shahan reported a complaint about dogs on Spruce Street. Recorder Williams talked with Attorney Miller. He stated that we delay the dog ordinance because the county commission is still working on it. Council felt that we can't wait much longer. Mayor Wilson asked Councilman Filler to attend the county commission meeting on Thursday, April 20, 1989.

Councilman Shahan is to have a report about the flag pole for the Christmas Lights from Mr. Hobbs by the next meeting.

Councilman Simmons wanted to know if we had any funding left for the street cleaner. He made the suggestion that we auction the old vehicles to pay for the sweeper repair. Mayor Wilson asked him to check with Labor Supervisor John Filler. This was tabled until the next meeting.

Mayor Wilson reported that Mr. Staud of the DOH may call anytime and want someone to meet with him about the water problems on Lover's Lane and at the railroad grades, and some streets in the Pulp Mill Bottom.

NEW BUSINESS:

Eight items of new business were presented by Gail Blume, city treasurer.

The motion was made by Councilman Filler to lay the levy for the budget at the maximum. Seconded by Mr. Shahan. All in favor.

AT 100% EVALUATION

CLASS I	12.50
CLASS II	25.00
CLASS IV	50.00

A letter was received from SEM Partners giving the final bill of Huffman for streetscape. Payment request is for $21,481.85. Councilman Parsons made the motion that we apply for the money from the state because we have a list that he needs to finish before we pay him in full that was sent with that letter. We can go ahead and get the money from the state because it will take thirty days. Seconded by Mrs. Humphrey. All in favor.

Mrs. Blume reported that there is 1.2 million dollars left for Small Cities Block Grants. If the city wants to apply, we would have until June 30, 1989 to apply and have filed. Mayor Wilson stated that this is the last of the grants. Council discussed that the project possibly be the paving of as many city streets as possible.

The motion was made by Miss Williams to apply for a Small Cities Block Grant to be used for paving of city streets. Seconded by Mr. Trader. All in favor.

The public meeting for this was set for May 5, 1989 at 6:00 p.m. at Parsons City Hall. The public can then give suggestions and opinions on what they would want. Mayor Wilson asked Councilman Filler to be in charge of the canvassing for the low income. Mrs. Blume is to get him the correct forms for this.

A petition was presented to council from the citizens of Pulp Mill Bottom concerning buildings unfit for human habitation, yards and lots with high grass and unlicensed vehicles and debris on the streets of Mill, Virginia, Merrill and Poplar.

According to Attorney Miller there is to be a building commission consisting of the fire chief, health inspector, mayor and an appointee by the mayor before the law can proceed with the ordinance. Mayor Wilson asked Councilman Trader to check with Fire Chief Bernard Martin and Assistant Fire Chief Jim Propst.

The city has filled out the forms for the Summer Youth Program and the city can hire the foreman.

Motion to approve Building Permit #89-05 for Harold Arbogast was made by Mr. Parsons. Seconded by Mrs. Humphrey. All in favor.

Mayor Wilson asked again for the council meeting nights to be changed. Discussion followed.

Motion to adjourn was made by Mr. Filler. Seconded by Mr. Trader. All in favor.

Respectfully submitted,

John A Wilson
Mayor

Nita Lee Williams
Recorder

STATE OF WEST VIRGINIA
COUNTY OF TUCKER
CITY OF PARSONS

The Parsons City Council met in Regular Session Tuesday, May 2, 1989 at Parsons City Hall. Present were Councilmembers Jerry Parsons, Randall Shahan, Pete Filler, Charles Trader, Rose Ann Humphrey and William Simmons.

Employees present were Marshall Davisson, John Filler, Gail Blume, Brian Huffman and James Murray.

Visitors present were: Darl Pine, Hazel Phillips, Grace Gainer, Sandra Goss, Barbara McClain, Betty Humphrey, Gail Jones, Judy Bava, Shirley Summerfield, Mrs. Sam Gerasco, Sandra Jones, John Collett, Jr., Sharon Nestor, Patty McDaniel, Mary Moore, Sandy Mullenax, Evelyn Collins, Donna Roy, Gwen Roy, Bernard Martin, Richard Helmick, Tom Klus, Charles Lantz, Jim Propst, Doretha Helmick, Naomi Moore, Archie Kerns, Jim Summerfield, Kenneth Hovatter, Ronald Moore, Larry Knicley, Phil Haddix, Willetta Bolinger, Raymond Knecht, Richard Bolinger, Delmas Hardy, Sam Blosser, Jr., Jim and Ann Rogers, Haskel Schilansky, Goldie Schilansky, Mr. & Mrs. Darl Stalnaker.

Motion by Filler, seconded by Trader that in the absence of Mayor Wilson and Recorder Williams, Jerry Parsons conduct the meeting. Voted on, all in favor.

Jerry Parsons requested Gail Blume take the minuts of the meeting in the absence of Recorder Williams.

Motion by Shahan, seconded by Humphrey to approve the minutes of the April 18th meeting as written. Voted on, all in favor.

Councilman Parsons advised that the public meeting on sewer rate increase was advertised for 7:30 P.M. that the Regular Council Meeting would continue until 7:30.

Hazel Phillips appeared before Council concerning two buildings along riverbank which was washed there during the flood and requested that the City remove them. She advised that she had contacted the Bowley and White families and they did not want the buildings. Councilman Filler stated that if owners of property would give the City permission to go on private property; they could be torn down. Mrs. Phillips will attempt to get permission from property owners.

Clarence Haller appeared before Council stating that this would be the 12th year that he had been trying to get the alley near his property cleaned out, that it is the worst spot in the City. Councilman Parsons advised that the State Legislature has passed new laws concerning trash on private property which goes into effect 90 days from passage and the City is investigating this law and hopes to be able to use it to clean up such areas in the City. Mr. Haller stated that he wished to protest the hiring of a retiree by the City. Mr. Parsons advised him that the position was advertised and Council chose the best applicant for the job.

Mrs. Sam Gerasco advised Council that there were 4 tall pines, 2 in front and 2 in rear, which needed cut or trimmed, stated that she did not know if they were on the City or her property. The Street Committee will investigate this.

Darl Pine advised Council that he still has the water problem at his residence, this is a drainage problem. Councilman Parsons advised that Council was aware of this problem and would see what they could do.

Sandra Goss stated that she wished to thank Council for filling in the hole in front of her property and asked what had been done concerning the property on Merrill Street in which residents of the area had complained. She was

The Second Reading of the Bond Ordinance for Combined Waterworks & Sewage System was read by title only:

ORDINANCE

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS FOR THE SEWAGE PORTION OF THE EXISTING COMBINED PUBLIC WATERWORKS AND SEWERAGE FACILITIES OF THE CITY OF PARSONS AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $300,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS SERIES 1989 B, AND NOT MORE THAN $1,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF BOND ANTICIPATION NOTES, GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR ANY COMBINATION OF THE FOREGOING: PROVIDING FOR THE RIGHTS AND REMEDIES OF SUCH BONDS AND NOTES: AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES: APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS: AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO.

Motion by Filler, seconded by Humphrey to pass on Second Reading. Voted on, all in favor.

Sewer Rate Ordinance was read by title only:

AN ORDINANCE ESTABLISHING AND FIXING RATES, FEES, CHARGES AND DELAYED PAYMENT PENALTY CHARGES FOR SERVICE TO CUSTOMERS OF THE SEWER FACILITIES OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF PARSONS

Motion by Humphrey, seconded by Filler to adopt on Third and Final Reading. Voted on, all in favor.

Motion by Simmons, seconded by Trader to approve Building Permit 89-06 for Naomi Tennant - 213 Pennsylvania Avenue - Cost $300.00. Voted on, all in favor.

Gail Blume reported that $600.00 has been received in donations for Cemetery maintenance. It was suggested that a mower could be purchased using interest earned on Certificate of Deposit.

Motion by Trader, seconded by Simmons to purchase a riding lawn mower 17 hp. Cub Cadet at a cost of $2,700.00 from Newlon's, to be financed through the First National Bank on a lease-purchase agreement. Voted on, all in favor.

Trader advised that a drain in front on the Emergency Squad Building was sunken and plugged. Filler is to investigate.

Simmons suggested that the application for Small Cities Block Grant that had been suggested for paving might be changed to replacement of water tanks as he had talked with Roscoe Clark and was advised that they were in bad shape.

Motion by Trader, seconded by Filler to adjourn.

John H Williams
Mayor

Ruth Lou Williams
Recorder

STATE OF WEST VIRGINIA
COUNTY OF TUCKER
CITY OF PARSONS

The Parsons City Council held the first public meeting for the Small Cities Block Grant on May 5, 1989 at 6:00 p.m. Those present included: Councilmen Filler, Simmons, Trader, Recorder Williams and Patrolman Davisson. Joe Godwin of Region VII. There were no other citizens present.

Joe Godwin chaired the meeting and explained the outline for the first public hearing on Housing and Community Development Needs. (copy attached)

After discussion with Mr. Godwin, Mr. Simmons commented that the water storage tank was in need of replacement. Everyone present seemed to agree that it should take top priority.

Mr. Godwin stated that we might get funded the first year, if not, the application would be on record.

Mr. Zambelli is to be at the second public meeting.

The meeting then adjourned.

John H Williams
Mayor

Ruth Lou Williams
Recorder

RECEIVED

DEC 1 1995

REGION VII
PLANNING & DEVELOPMENT COUNCIL

NOTICE OF PUBLIC HEARING

AN ORDINANCE ESTABLISHING AND FIXING RATES, FEES, CHARGES AND DELAYED PAYMENT PENALTY CHARGES FOR SERVICE TO CUSTOMERS OF THE WATERWORKS FACILITIES OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF PARSONS.

THE CITY COUNCIL OF THE CITY OF PARSONS HEREBY ORDAINS: the following schedule of rates, fee, charges and delayed payment penalty charges are hereby fixed and determined as the rates, fees charges and delayed payment penalty to be charged to customers of the waterworks facilities of the combined waterworks and sewerage system of the City of Parsons throughout the territory served.

SECTION 1. SCHEDULE OF RATE

APPLICABILITY

Applicable to all Residential, Commercial and Industrial Users in entire area served.

AVAILABILITY OF SERVICE

Available for water service.

RATES

First 2,000 gals. used per month $7.30 per thousand gals.

Next 3,000 gals. used per month $6.30 per thousand gals.

Next 5,000 gals. used per month $5.60 per thousand gals.

Next 10,000 gals. used per month $4.40 per thousand gals.

Next 30,000 gals. used per month $3.40 per thousand gals.

Next 50,000 gals. used per month $2.40 per thousand gals.

All over 100,000 gals. used per month $1.70 per thousand gals.

Minimum monthly charges:

5/8" meter-14.60
1" meter-25.60
2" meter-102.37
4" meter-405.98

DELAYED PAYMENT PENALTY

A 10% penalty shall be added to charges not paid within 20 days from the date of the billing. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

SECTION 2. EFFECTIVE DATE

The rates, fees, charges and delayed payment penalty charges provided herein shall be effective 45 days after the enactment hereof.

SECTION 3. SEPARABILITY; REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are separable, and if any clause, provision or section hereof be held void or unenforceable by any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. All ordinance are, to the extent of such conflicts, hereby repealed; and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts therof, the same shall remain in full force and effect.

SECTION 4. STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the Recorder shall publish a copy of this Ordinance once a week for 2 successive days, with at least 6 full days intervening between each publication, in The *Parsons Advocate*, being a newspaper published and of general circulation in the City of Parsons, West Virginia, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council on November 28, 1995 at 7:30 p.m., which date is not less than 10 days subsequent to the date of the first publication of the Ordinance and notice, and present protests. 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.

Constance K. Simmons
Recorder

11-15 11-22c

CERTIFICATE OF PUBLICATION

I, George A. Smith, Jr., publisher of *The Parsons Advocate*, a weekly newspaper published at Parsons, West Virginia, do hereby certify that

the annexed .....

.....

in the case of ...Rates.....

.....

vs. .....

.....

.....

has been published for 2 consecutive weeks in said newspaper, beginning with the issue of

.....Nov. 15, 1995.....

Given under my hand this ....22.. day of

.....Nov....., 19..95..

...George A. Smith....., Publisher

Publication fee $..70.46...

11" or 671 words at 10 1/2¢ each

STATE OF WEST VIRGINIA,
COUNTY OF TUCKER, to-wit:

George A. Smith, Jr., publisher of *The Parsons Advocate*, being duly sworn, says that statements contained in the above certificate are true and correct, to the best of his knowledge and belief.

...George A. Smith....., Affiant

Sworn to and subscribed before me, this the

.....22.. day of ..Nov....., 19..95..

.....Elsie M. Davis.....

Notary Public

My commission expires ..... 19 ...

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ELSIE M. DAVIS
105 Central Ave.
Parsons, WV 26287
My Comm. Expires Oct. 19, 1996

19

Legal Notice

NOTICE OF PUBLIC HEARING
AN ORDINANCE ESTABLISHING AND FIXING RATES, FEES, CHARGES AND DELAYED PAYMENT PENALTY CHARGES FOR SERVICE TO CUSTOMERS OF THE SEWER FACILITIES OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF PARSONS

THE CITY COUNCIL OF THE CITY OF PARSONS HEREBY ORDAINS: The following schedule of rates, fees, charges and delayed payment penalty charges are hereby fixed and determined as the rates, fees, charges and delayed payment penalty to be charged to customers of the sewer facilities of the combined waterworks and sewerage system of the City of Parsons throughout the territory served.

SECTION 1. SCHEDULE OF RATES

APPLICABILITY
Applicable in entire area served.

AVAILABILITY OF SERVICE
Available for sanitary sewer service.

RATES

First	2,000 gals. used per month	$4.20 per thousand gals.
Next	3,000 gals. used per month	3.79 per thousand gals.
Next	5,000 gals. used per month	3.21 per thousand gals.
Next	10,000 gals. used per month	2.72 per thousand gals.
Next	30,000 gals. used per month	2.30 per thousand gals.
All over	50,000 gals. used per month	1.95 per thousand gals.

(Minimum monthly bill $8.40)

DELAYED PAYMENT PENALTY
A 10% penalty shall be added to all charges not paid within 20 days from the date of the billing. This delayed payment is not interest and is only to be collected once for each bill where it is appropriate.

SECTION 2. EFFECTIVE DATE

The rates, fees, charges and delayed payment penalty charges provided herein shall be effective 45 days after the enactment hereof.

SECTION 3. SEPARABILITY; REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are separable, and if any clause, provision or section hereof be held void or unenforceable by any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. All resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed; and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior resolutions, orders or parts thereof, the same shall remain in full force and effect.

SECTION 4. STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the Recorder shall publish a copy of this Ordinance once a week for 2 successive weeks within a period of 14 consecutive days, with at least 6 full days intervening between each publication, in *The Parsons Advocate*, being a newspaper published and of general circulation in the City of Parsons, West Virginia, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council on the 2nd day of May, 1989, at 7:30 p.m., which date is not less than 10 days subsequent to the date of the first publication of the Ordinance and notice, and present protests. 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.

The above Ordinance has been introduced at a meeting of Council held April 18, 1989. Any person interested may appear before Council on the 2nd day of May, 1989, at 7:30 p.m., and present protests.

s/s Ruth Lou Williams
City Clerk

4-15 ..6c

CERTIFICATE OF PUBLICATION

I, George A. Smith, Jr., publisher of *The Parsons Advocate*, a weekly newspaper published at Parsons, West Virginia, do hereby certify that

the annexed .....

.....

in the case of ..Sewage rate....

....increase.....

vs. .....

.....

.....

has been published for .2. consecutive weeks in said newspaper, beginning with the issue of

.....April 19, 1989.....

Given under my hand this ...26... day of

....April....., 19.89...

George A. Smith....., Publisher

Publication fee $..77.35

17" or 884 words at 8.75 ea

STATE OF WEST VIRGINIA,
COUNTY OF TUCKER, to-wit:

George A. Smith, Jr., publisher of *The Parsons Advocate*, being duly sworn, says that statements contained in the above certificate are true and correct, to the best of his knowledge and belief.

George A. Smith....., Affiant

Sworn to and subscribed before me, this the .....26... day of ...April, 19..89..

....Elsie M. Davis.
Notary Public

My commission expires Oct. 19., 19.96...

19B

CITY OF PARSONS
COUNTY OF TUCKER
STATE OF WEST VIRGINIA

ecial meeting of Parsons City Council held Tuesday, Apr 23, 1996 at 7:00 in Council Chambers of Parsons City Hall. Present were Mayor Moore, Recorder Simmons, Council members Filler, Michael, and Wimer. Sheila Smith from Region VII was present also.
The purpose of the meeting was

1, Second reading of Combined Waterworks & Sewage System REvenue Bond Ordinance
2. Consider agreement with patrolman.

Motion to accept Second Reading made by Councilman Filler, second by Wimer, all in favor, motion carried.

After discussion on agreement with patrolman, it was decided to change time limit for work to two years instead of eighteen months. Filler moved to enter into the agreement with correction, Wimer second, all in favor. motion carried.

All business taken care of, Wimer moved to adjourn, second by Filler, motion carried.

Constance K Simmons
RECORDER

Mary G. Moore
MAYOR

CITY OF PARSONS
COUNTY OF TUCKER
STATE OF WEST VIRGINIA

The regular bi-monthly meeting of Parsons City Council was held May 7, 1996 at 7:00PM in the Council Chambers of Parsons City Hall. The meeting was opened with prayer by Councilman Charles Filler. Roll Call; Sheila Blosser, absent, Charles Filler, present, Pete Michael, absent, Erik Wesoloski, absent, Curtis Wimer, present, Mayor Moore, present and Recorder Simmons, present. Chief Bunner was also present. Also present were Sheila Smith from Region VII and an attorney from Steptoe and Johnson to finalize the Bond Ordinance for the Small Cities Block Grant for the Waterworks project. Visitors were Daris Alkire, Elmer Watring, Rocky Clark, and Gail Blume.

After study and discussion of Minutes of Special Meeting of Apr. 23, 1996, the motion to appr as written was made by Councilman Filler and second by Councilman Wimer. The regular meetinc of Apr. 16, 1996, minutes were approved by motion of Councilman Wimer, second by Councilman Filler, all in favor of both motions so carried.

Heritage House, at the old Depot bldg. wants to put advertisiement sign up in Stop Light area near the park lot. There may be some restrictions from state because of being on highway are

Pat A Nichols has road Right of Way agreement papers typed ready for signature by Pennington family to approve. They requested a gate on the road with a key, water and sewer tap, and new gas line. Motion to allow made by Wimer, second by Filler, motion carried.

Building permits presented for approval:

W.Va Housing	16 Harper Drive	Deck	D. & R. Builders
Church of God	Central Ave.	Carport	Rev. Hostetler
Larry Lahman	317 Walnut St.	Metal Shed	Larry Lahman
Junior Harris	101 River St.	New Roof	Ability Roofing Co.

Motion to approve made byFiller, second by Wimer, motion carried.

Patrolman Burns has signed Two Year Agreement with the City. Daris Alkire has commended the City Police for establishing safer driving practices within the City Limits.

20A

Motion to join the W.Va. Municipal League for a six-month trial basis made by Wimer, second by Filler, motion carried.

RESOLUTION FOR AUTHORITY TO ENTER INTO A CONTRACT FOR CONSTRUCTION

WHEREAS, The City of Parsons, Parsons, WV, has been granted $750,000.00 of Small Cities Block Grant Funds from the West Virginia Development Office; and

WHEREAS, Such funds will be used to help finance impreovements to the City's water system, which will include:

Contract 1 -- Raw water pump station and eight (8) inch raw water line.
Contract 2 -- Shavers Fork water plant improvements.
Contract 3 -- 27,000 gallon glass-lined steel or welded steel standpipe.

WHEREAS, Construction of this pruject can only be provided by firms with an experienced labor force and the proper equipment.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Parsons hereby agrees to engage in the following construction contracts;

Contracts 1 and 2

Impaq, Inc.
Route 1, Box 256
Moatsville, WV, 26405

Contract 3

Mid Atlantic Storage Systems, Inc.
1551 Robinson Road
Washington C.H., OH 46160

ADOPTED This 7th day of May, 1996

Mary G. Moore
Mary G. Moore, Mayor
City of Parsons

Constance K. Simmons
Constance K. Simmons, Recorder
City of Parsons

CITY OF PARSONS

ORDINANCE AUTHORIZING THE ACQUISTION AND CONSTRUCTION OF TXTENSIONS, ALDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE WATERWORKS PORTION OF THE EXISTING PUBLIC COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF PARSONS AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $500,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1996 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY); 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 CITY OF PARSONS:

Motion to approve on Third and Final reading made by Councilman Filler,. second by Councilman Wimer, approved by all present, motion carried.

Motion to adjourn made by Councilman Wimer, second by Filler, motion carried.

Constance K Simmons Mary G. Moore

NOTICE OF PUBLIC HEARING ON
CITY OF PARSONS ORDINANCE

A public hearing will be held on the following-entitled Ordinance at a regular meeting of the Council of the City of Parsons to be held on May 7, 1996, at 7:00 pm in the Council chambers at the Parsons City Hall, Walnut and Second Street, Parsons, West Virginia, and at such hearing any person interested may appear before the Council and present protests, and all protests and suggestions shall be heard by the Council and it shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE WATERWORKS PORTION OF THE EXISTING COMBINED PUBLIC COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF PARSONS AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $500,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1996 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY); 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 PROVISION OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The above-entitled Ordinance was adopted by the Council of the City of Parsons on April 23, 1996.

The above-entitled title of the Ordinance describes generally the contents thereof and the purposes of the bonds contemplated thereby. The City of Parsons contemplates issuing the Bonds described in said Ordinance. The proceeds of the bonds will be used to finance a portion of the costs of acquisition and construction of extensions, additions, betterments and improvements to the waterworks portion of the existing public combined waterworks and sewerage system of the City. The Bonds are payable solely from revenues to be derived from the ownership and operation of the combined waterworks and sewerage system of the City. No taxes may at any time be levied for the payment of the Bonds or the interest thereon.

A certified copy of the above-entitled Ordinance is on file with the Council at the office of the Recorder of the City of Parsons for review by interested parties during regular office hours.

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

Dated: April 24, 1996.

s/sConstance K. Simmons
Recorder
4-24 5-1c

CERTIFICATE OF PUBLICATION

I, George A. Smith, Jr., publisher of *The Parsons Advocate*, a weekly newspaper published at Parsons, West Virginia, do hereby certify that

the annexed .....

.....

in the case of ...Public Hearing.....

.....

vs. .....

.....

.....

has been published for .2. consecutive weeks in said newspaper, beginning with the issue of

.....April 24, 1996.....

Given under my hand this ....1..... day of

.....May....., 19.96....

.....George A. Smith....., Publisher

Publication fee $..60.85...

9½" or 580 words at 10½¢ each

STATE OF WEST VIRGINIA,
COUNTY OF TUCKER, to-wit:

George A. Smith, Jr., publisher of *The Parsons Advocate*, being duly sworn, says that statements contained in the above certificate are true and correct, to the best of his knowledge and belief.

...George A. Smith....., Affiant

Sworn to and subscribed before me, this the

.....1.....day of ..May..., 19..96..

.....Elsie M. Davis.....

Notary Public

My commission expires .....10.....

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ELSIE M. DAVIS
105 Central Ave.
Parsons, WV 26287
My Comm. Expires Oct. 19, 1996

STEPTOE & JOHNSON
ATTORNEYS AT LAW
SIXTH FLOOR
BANK ONE CENTER
P. O. BOX 2190
CLARKSBURG, W. VA. 26302-2190
(304) 624-8000
FACSIMILE (304) 624-8183

SEVENTH FLOOR, BANK ONE CENTER
P. O. BOX 1588
CHARLESTON, W. VA. 25326-1588
(304) 353-8000
FACSIMILE (304) 353-8180

1000 HAMPTON CENTER
P. O. BOX 1616
MORGANTOWN, W. VA. 26507-1616
(304) 598-8000
FACSIMILE (304) 598-8116

128 EAST BURKE STREET
P. O. BOX 2629
MARTINSBURG, W. VA. 25401-5429
(304) 263-6991
FACSIMILE (304) 263-4785

104 WEST CONGRESS STREET
P. O. BOX 100
CHARLES TOWN, W. VA. 25414-0100
(304) 725-1414
FACSIMILE (304) 725-1913

THE BRYAN CENTRE
P. O. BOX 570
82 WEST WASHINGTON STREET, FOURTH FLOOR
HAGERSTOWN, MARYLAND 21740-0570
(301) 739-8600
FACSIMILE (301) 739-8742

FOURTH FLOOR - RILEY BUILDING
P. O. BOX 150
14TH AND CHAPLINE STREETS
WHEELING, W. VA. 26003-0020
(304) 233-0000
FACSIMILE (304) 233-0014

THE PNC BUILDING, SUITE 101
P. O. BOX 628
417 GRAND PARK DRIVE
PARKERSBURG, W. VA. 26102-0628
(304) 422-6463
FACSIMILE (304) 422-6462

WRITER'S DIRECT DIAL NUMBER

FILE COPY

May 8, 1996

The City of Parsons
Combined Waterworks and Sewerage System
Revenue Bonds, Series 1996
(West Virginia Water Development Authority)

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Internal Revenue Service
Internal Revenue Service Center
Philadelphia, Pennsylvania 19255

Ladies and Gentlemen:

Enclosed herewith is a completed and executed Internal Revenue Service Form 8038-G and a file copy thereof with regard to the above-captioned issue. Please file the original form in the appropriate Internal Revenue Service records and return the copy marked in red as the "File Copy" to me (after acknowledging receipt of the same) in the enclosed self-addressed, stamped envelope. Thank you for your attention to this matter.

Very truly yours,

Francesca Tan

Francesca Tan

Enclosures
Copy of letter with enclosure to:
Samme L. Gee, Esquire
Mary G. Moore, Mayor
8038.LTR
689010/95001

Form **8038-G** (Rev. May 1995)

Department of the Treasury Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

▶ Under Internal Revenue Code section 149(e)

▶ See separate instructions.

(Note: Use Form 8038-GC if the issue price is under $100,000.)

OMB No. 1545-0720

Part I Reporting Authority — If Amended Return, check here ▶ ☐

1 Issuer's name: The City of Parsons

2 Issuer's employer identification number: 55 6000228

3 Number and street (or P.O. box if mail is not delivered to street address): Walnut and Second Streets

Room/suite:

4 Report number: G19 96 - 1

5 City, town, or post office, state, and ZIP code: Parsons, West Virginia 26287

6 Date of issue: 5/8/96

7 Name of issue: The City of Parsons Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 (WVWDA)

8 CUSIP number: None

Part II Type of issue (check applicable box(es) and enter the issue price)

9	☐ Education (attach schedule–see instructions)	9	$
10	☐ Health and hospital (attach schedule–see instructions)	10	
11	☐ Transportation	11	
12	☐ Public safety	12	
13	☒ Environment (including sewage bonds) waterworks improvements	13	$457,500
14	☐ Housing	14	
15	☐ Utilities	15	
16	☐ Other. Describe (see instructions) ▶	16	
17	If obligations are tax or other revenue anticipation bonds, check box ▶ ☐		
18	If obligations are in the form of a lease or installment sale, check box ▶ ☐		

Part III Description of Obligations

		(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
19	Final maturity.	10/1/2035	6.250 %	29,704.20	29,704.20			
20	Entire issue			457,500	457,500	27.444 years	6.251 %	6.250 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

21	Proceeds used for accrued interest			21	-0-
22	Issue price of entire issue (enter amount from line 20, column (c))			22	457,500
23	Proceeds used for bond issuance costs (including underwriters' discount)	23	8,000		
24	Proceeds used for credit enhancement	24	-0-		
25	Proceeds allocated to reasonably required reserve or replacement fund	25	31,561		
26	Proceeds used to currently refund prior issues	26	-0-		
27	Proceeds used to advance refund prior issues	27	-0-		
28	Total (add lines 23 through 27)			28	39,561
29	Nonrefunding proceeds of the issue (subtract line 28 from line 22 and enter amount here)			29	417,939

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.) N/A

30	Enter the remaining weighted average maturity of the bonds to be currently refunded ▶	years
31	Enter the remaining weighted average maturity of the bonds to be advance refunded ▶	years
32	Enter the last date on which the refunded bonds will be called ▶	
33	Enter the date(s) the refunded bonds were issued ▶	

Part VI Miscellaneous

34	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	34	-0-
35	Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(III) (small issuer exception)	35	-0-
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	36a	-0-
b	Enter the final maturity date of the guaranteed investment contract ▶		
37	Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	37a	-0-

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ ☒ and enter the name of the issuer ▶ West Virginia Water Development Authority and the date of the issue ▶ 1/9/96

38 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ▶ ☐

39 If the issuer has identified a hedge, check box ▶ ☐

Please Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Mary G. Moore — Signature of issuer's authorized representative — 5/8/96 — Date — Mary G. Moore, Mayor — Type or print name and title

Printed on recycled paper

WV MUNICIPAL BOND COMMISSION
812 Quarrier Street
Suite 300
Charleston, WV 25301
(304)558-3971

NEW ISSUE REPORT FORM

Date of Report: May 8, 1996

(See Reverse for Instructions)

ISSUE: THE CITY OF PARSONS COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1996 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY)

ADDRESS: Walnut and Second Streets, Parsons, West Virginia **COUNTY:** Tucker

PURPOSE OF ISSUE: New Money X / Refunding ___ Refunds issue(s) dated: ___

ISSUE DATE: May 8, 1996 **CLOSING DATE:** May 8, 1996

ISSUE AMOUNT: $457,500 **RATE:** 6.25%

1st DEBT SERVICE DUE: 10/1/96 **1st PRINCIPAL DUE:** 10/1/97

1st DEBT SERVICE AMOUNT: $11,358.07 **PAYING AGENT:** Municipal Bond Commission

ISSUERS
BOND COUNSEL: Steptoe & Johnson
Contact Person: Vincent A. Collins, Esq.
Phone: 624-8161

CLOSING BANK: Mountain Valley Bank
Contact Person: Eric Mullenex
Phone: 478-2461

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Gail Blume
Position: Treasurer
Phone: 478-2311 **FAX:** ___

UNDERWRITERS
BOND COUNSEL: Jackson & Kelly
Contact Person: Samme L. Gee, Esq.
Phone: 340-1318

ESCROW TRUSTEE: ___
Contact Person: ___
Phone: ___

OTHER: ___
Contact Person: ___
Function: ___
Phone: ___

DEPOSITS TO MBC AT CLOSE:
By ___ Wire / X Check

___ Accrued Interest: $ ___
___ Capitalized Interest: $ ___
X Reserve Account: $ 31,561
___ Other: ___ $ ___

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By ___ Wire / ___ Check / ___ IGT

___ To Escrow Trustee: $ ___
___ To Issuer: $ ___
___ To Cons. Invest. Fund: $ ___
___ To Other: ___ $ ___

NOTES: ___

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED: ___
TRANSFERS REQUIRED: ___

The purpose of the **NEW ISSUE REPORT FORM** is to provide the WV Municipal Bond Commission with an early warning of three basis facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The Commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the WV Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all suppliments, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes".

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at close are required, please submit this form before closing. If no significant facts change by closing, no resubmission at close is required. If, however, there are changes, please submit an updated form, with changes noted, at close.

If you should have any questions concerning this form, please call the Commission.

THE CITY OF PARSONS

Combined Waterworks and Sewerage System Revenue Bonds, Series 1996
(West Virginia Water Development Authority)

ACCEPTANCE OF DUTIES AS DEPOSITORY BANK

Mountain Valley Bank, National Association, a national banking association, in Parsons, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of The City of Parsons (the "Issuer"), duly enacted by the Issuer on May 7, 1996, and a Supplemental Resolution duly adopted by the Issuer on May 7, 1996 (collectively, the "Bond Legislation"), authorizing issuance of the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 (West Virginia Water Development Authority), dated May 8, 1996, in the principal amount of $457,500 (the "Bonds") and agrees to perform all duties of Depository Bank in connection with such Bonds, all as set forth in said Bond Legislation.

WITNESS my signature this 8th day of May, 1996.

MOUNTAIN VALLEY BANK, NATIONAL ASSOCIATION

Operations Officer

04/18/96
PARSWJM.M2
689010/95001

THE CITY OF PARSONS

Combined Waterworks and Sewerage System Revenue Bonds, Series 1996
(West Virginia Water Development Authority)

ACCEPTANCE OF DUTIES AS REGISTRAR

ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association with its principal office in Charleston, West Virginia, hereby accepts appointment as Registrar in connection with The City of Parsons Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 (West Virginia Water Development Authority), dated May 8, 1996, in the principal amount of $457,500 (the "Bonds") and agrees to perform all duties of Registrar in connection with such Bonds, all as set forth in the Bond Legislation authorizing issuance of the Bonds.

WITNESS my signature this 8th day of May, 1996.

ONE VALLEY BANK,
NATIONAL ASSOCIATION

Assistant Vice President

04/18/96
PARSWJM.N2
689010/95001

THE CITY OF PARSONS

Combined Waterworks and Sewerage System Revenue Bonds, Series 1996
(West Virginia Water Development Authority)

CERTIFICATE OF REGISTRATION OF BONDS

ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association with its principal office in Charleston, West Virginia, as Registrar under the Bond Legislation and Registrar's Agreement providing for the Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 (West Virginia Water Development Authority), of The City of Parsons (the "Issuer"), hereby certifies that on the date hereof, the single fully registered Bond of the Issuer in the principal amount of $457,500, designated "Combined Waterworks and Sewerage System Revenue Bond, Series 1996 (West Virginia Water Development Authority)," numbered R-1, was registered as to principal and interest in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of One Valley Bank, National Association, as Registrar.

WITNESS my signature this 8th day of May, 1996.

ONE VALLEY BANK, NATIONAL ASSOCIATION

Assistant Vice President

04/18/96
PARSWJM.O2
689010/95001

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 8th day of May, 1996, by and between THE CITY OF PARSONS, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its $457,500 aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 (West Virginia Water Development Authority), in fully registered form (the "Bonds"), pursuant to a Bond Ordinance of the Issuer duly enacted May 7, 1996, and a Supplemental Resolution of the Issuer duly adopted May 7, 1996 (collectively, the "Bond Legislation");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Bond Legislation, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Bond Legislation provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond Legislation and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Bond Legislation, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exemption of interest on the Bonds from federal income taxation, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar, from time to time, the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection therewith.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Bond Legislation with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Legislation, the terms of the Bond Legislation shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Bond Legislation will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: The City of Parsons
City Hall
Walnut and Second Street
Parsons, West Virginia 26287
Attention: City Manager

REGISTRAR: One Valley Bank, National Association
Post Office Box 1793
One Valley Square
Charleston, West Virginia 25326
Attention: Corporate Trust Department

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Bond Legislation.

IN WITNESS WHEREOF, THE CITY OF PARSONS and ONE VALLEY BANK, NATIONAL ASSOCIATION have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

THE CITY OF PARSONS

Mary L. Moore

Mayor

ONE VALLEY BANK, NATIONAL ASSOCIATION

Assistant Vice President

04/18/96
PARSWJM.P2
689010/95001

EXHIBIT A

[Included in transcript as Documents No. 1 and 2]

Invoice

ONE VALLEY BANK

HONORABLE MARY G. MOORE
MAYOR - THE CITY OF PARSONS
CITY HALL, WALNUT & SECOND STREET
PARSONS WV 26287

DATE MAY 8, 1996

UNITS	ITEM DESCRIPTION	TOTAL
	$457,500 PAR THE CITY OF PARSONS, WV COMBINED WATER-WORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1996 (WV WATER DEVELOPMENT AUTHORITY)	
	ONE TIME FEE FOR SERVICES AS REGISTRAR AND AUTHENICATING AGENT.....	$500.00

SEND REMITTANCE TO: One Valley Bank
One Financial Place - 6th Floor
One Valley Square
P.O. Box 1793
Charleston, WV 25326

ATTN: CHARLOTTE S MORGAN

THE CITY OF PARSONS

Combined Waterworks and Sewerage System Revenue Bonds, Series 1996
(West Virginia Water Development Authority)

ASSIGNMENT SEPARATE FROM BOND

FOR VALUE RECEIVED, the West Virginia Water Development Authority hereby sells, assigns and transfers unto One Valley Bank, National Association, Charleston, West Virginia, the Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 (West Virginia Water Development Authority), of The City of Parsons in the principal amount of $457,500, numbered R-1, dated May 8, 1996, standing in the name of the West Virginia Water Development Authority on the books of said Issuer.

WITNESS my signature on this 8th day of May, 1996.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Barbara B Meadows
Authorized Representative

04/18/96
PARSWJM.S2
689010/95001

CITY OF PARSONS

Combined Waterworks and Sewerage System Revenue Bond, Series 1984

BOND ORDINANCE

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08/24/84
PARSN1-B

CITY OF PARSONS

ORDINANCE AUTHORIZING THE CONSTRUCTION AND ACQUISITION OF IMPROVEMENTS FOR THE WATERWORKS OF THE CITY OF PARSONS, TUCKER COUNTY, AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF ITS $68,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND, SERIES 1984; PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PROVIDING FOR THE RIGHTS, REMEDIES AND SECURITY OF THE BONDHOLDER; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF PARSONS:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for This Ordinance. This Ordinance is adopted pursuant to the provisions of Article 20, Chapter 8 of the West Virginia Code (the "Act") and other applicable provisions of law.

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

A. The City of Parsons (the "Issuer"), in the County of Tucker, State of West Virginia, is now served by a public combined waterworks and sewerage system (the "System"). The inhabitants of the Issuer and surrounding area served by the System urgently require that the waterworks portion of the System be improved as herein provided. The waterworks and sewerage system of the Issuer were combined pursuant to the 1963 Ordinance.

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 improvements to the existing waterworks of the Issuer consisting of updating of the waterworks facilities, including replacement and renovation of water lines and renovation of the water treatment plant, with all necessary

appurtenant facilities (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 Recording Officer of the Issuer. The construction and acquisition 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. It is necessary for the Issuer to issue its revenue bond in the principal amount of $68,000 to finance a portion of the cost of the Project in the manner hereinafter provided.

D. The estimated maximum cost of the construction of the Project is $262,000 of which $68,000 will be obtained from the proceeds of sale of the Bond herein authorized and $194,000 from a grant by Appalachian Regional Commission.

E. The cost of such construction shall be deemed to include, without being limited to, the construction or acquisition of the Project, the acquisition of any necessary property, real or personal, or interest therein; interest on the Bond prior to, during and for six months after completion of such construction to the extent that revenues of the System, herein defined, are not sufficient therefor; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the construction of the Project and the financing authorized hereby.

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

G. There are outstanding obligations of the Issuer which will rank senior and prior to the Bond as to lien and source of and security for payment, being the Combined Waterworks and Sewerage Revenue Bonds of the Issuer, dated May 1, 1963 (the "1963 Bonds"), issued in the original principal amount of $290,000 of which $130,000 principal amount of such 1963 Bonds remains outstanding and are presumed to be held by various members of the public.

H. The Purchaser is expected by the Issuer to purchase the entire principal amount of the Bond.

I. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bond, or will have so complied prior to issuance of the Bond. The rates, charges and rules provided for in Article V hereof shall be in full

force and effect, except as modified by the Public Service Commission, in the event of appeal, and the time for appeal as to such order shall have expired without appeal therefrom.

Section 1.03. Ordinance to Constitute Contract. In consideration of the acceptance of the Bond by the Purchaser, this Ordinance (the "Bond Legislation") shall be deemed to be and shall constitute a contract between the Issuer and such Purchaser, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Purchaser as holder of the Bond.

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

"Act" means Article 20, Chapter 8 of the West Virginia Code.

"Bond" means the $68,000 Combined Waterworks and Sewerage System Revenue Bond, Series 1984, authorized hereby to be issued pursuant to this Ordinance.

"Bonds" means, collectively, the Bond and the 1963 Bonds.

"1963 Bonds" means the Combined Waterworks and Sewerage Revenue Bonds of the Issuer, dated May 1, 1963, issued in the original principal amount of $290,000.

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

"Consulting Engineer" means Kelley, Gidley, Blair & Wolfe, Inc., Charleston, 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.

"Facilities" or "Combined Waterworks 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.

"Fiscal Year" means each year beginning on July 1 and ending on the succeeding June 30.

"Governing Body" means the Council of the Issuer.

"Government" means United States Department of Agriculture, Farmers Home Administration, and any successor thereof.

"Herein" means in this Bond Legislation.

"Holder of the Bond," "Bondholder" or any similar term means any person who shall be the bearer or owner of the Bond.

"Issuer" means the City of Parsons, in Tucker County, West Virginia, and includes the Governing Body.

"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 System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to 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 of the payments upon the Bonds and into the Sinking Fund, Depreciation Account and the 1984 Reserve Fund have been made to the last monthly payment date prior to such retention.

"1963 Ordinance" means the ordinance of the Issuer enacted May 3, 1963, authorizing the 1963 Bonds.

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

"Purchaser" means United States Department of Agriculture, Farmers Home Administration, and any successor thereof.

"Recording Officer" or "Recorder" means the Recorder of the Issuer.

"Registrar" means the Issuer, which shall usually so act by its Secretary.

"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.

"System" means and includes the complete combined waterworks and sewerage system of the Issuer, including the Project, and all waterworks and 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 combined system; and shall also include any and all additions, extensions, improvements, properties or other facilities at any time acquired or constructed for the combined waterworks and sewerage system after completion of the Project.

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

Section 1.05. Compliance with Requirements of 1963 Ordinance. The issuance of the Bond junior and subordinate to the 1963 Bonds is permitted under the terms of the 1963 Ordinance.

ARTICLE II

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BOND

Section 2.01. Authorization of Bond. Subject and pursuant to the provisions of this Ordinance, the Bond of the Issuer, to be known as "Combined Waterworks and Sewerage System Revenue Bond, Series 1986," is hereby authorized to be issued in the aggregate principal amount of not exceeding Sixty-Eight Thousand Dollars ($68,000) for the purpose of financing a portion of the cost of the construction and acquisition of the Project.

Section 2.02. Description of Bond. The Bond shall be issued in single form, No. R-1, only as a fully registered bond, and shall be dated the date of delivery. The Bond shall bear interest from date, payable monthly at the rate of 5% per annum, and shall be sold for the par value thereof.

The Bond 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 2.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Bond 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 Bond may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 2.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Bond for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Issuer.

Whenever the Bond shall be surrendered for a registration of transfer, the Issuer shall execute and deliver a new Bond in authorized denominations, for a like aggregate principal amount. The Issuer 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 Issuer with respect to such transfer.

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

Section 2.04. Registrar. The Issuer will keep or cause to be kept at its office, sufficient books for the registration and transfer of the Bond, and, upon presentation for such purpose, the Issuer shall, under such reasonable regulations as it may prescribe, register the Bond initially issued pursuant hereto and register the transfer, or cause to be registered, on such books, the transfer of the Bond as hereinbefore provided.

The Issuer shall accept the Bond for registration or transfer only if ownership thereof is to be registered in the name of 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.

Section 2.05. Execution of Bond. The Bond shall be executed in the name of the Issuer by the Mayor and its corporate seal shall be affixed thereto and attested by the Recording Officer.

Section 2.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Bond 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 Bond so surrendered shall be canceled and held for the account of the Issuer. If the Bond shall have matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 2.07. Bond Secured by Pledge of Revenues. The payment of the debt service of the Bond shall be secured forthwith by a lien on the Gross Revenues derived from the System in addition to the statutory mortgage lien on the System hereinafter provided for, but said liens are junior and subordinate to the liens and pledges, and in all other respects, of the 1963 Bonds. The revenues derived from the System in an amount sufficient to pay the principal of and interest on the Bond after payments required for the 1963 Bonds outstanding are hereby irrevocably pledged to the payment of installments of the principal and interest on the Bond as the same become due as herein provided.

Section 2.08. Form of Bond. Subject to the provisions hereof, the text of the Bond 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 any resolution adopted after the date of adoption hereof and prior to the issuance thereof:

(Form of Bond)

COMBINEL WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND, SERIES 1984

CITY OF PARSONS

$68,000

No. R-1 Date:_____

FOR VALUE RECEIVED, the CITY OF PARSONS (herein called "Borrower") promises to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture (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 Sixty-Eight Thousand Dollars ($68,000), plus interest on the unpaid principal balance at the rate of 5% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing on the 30th day following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof and $334, 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 hereinbelow. 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 reverse 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 Farmers Home Administration 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 construction and acquisition of additions, extensions and improvements to the combined waterworks and sewerage system (the "System") of the Borrower, is payable solely from 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.

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 the Registrar as defined in the Bond Legislation hereinafter described, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the Bond Legislation, 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 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, Article 20 of Chapter 8 of the West Virginia Code (herein called the "Act"), and with an Ordinance of the Borrower duly enacted (the "Bond Legislation").

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 Farmers Home Rural Development Act. This Bond shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

This Bond is junior and subordinate as to liens and pledges and in all respects to the 1963 Bonds described in the said Bond Legislation.

CITY OF PARSONS
(Name of Borrower)

[CORPORATE SEAL]

(Signature of Executive Official)

Mayor
(Title of Executive Official)

222 Water Street
(P. O. Box No. or Street Address)

Parsons, West Virginia 26287
(City, State and Zip Code)

ATTEST:

(Signature of Attesting Official)

Recorder
(Title of Attesting Official)

(Form of)

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$		(6)	$	
(2)	$		(7)	$	
(3)	$		(8)	$	
(4)	$		(9)	$	
(5)	$		(10)	$	

TOTAL $_____

(Form of)

ASSIGNMENT

Pay to the Order of _____

_____

UNITED STATES OF AMERICA
FARMERS HOME ADMINISTRATION

By _____

_____
(Title)

(No writing on this Bond except by the Registrar)

Date of Registration	In Whose Name Registered	Signature of Recorder of Registrar

ARTICLE III

BOND PROCEEDS; REVENUES AND APPLICATION THEREOF

Section 3.01. Bond Proceeds; Project Construction Account. The proceeds of sale of the Bond shall be deposited on receipt by the Issuer in First National Bank of Parsons, Parsons, West Virginia, a member of Federal Deposit Insurance Corporation (the "FDIC"), in a special account hereby created and designated as "City of Parsons Project Construction Account" (herein called "Project Construction Account"). The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by such bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Until completion of construction of the Project, the Issuer will transfer from the Project Construction Account and pay to the Government on or before the 15th day of each month, such sums as shall be from time to time required to make the monthly installment payments on the Bond if there are not sufficient Net Revenues to make such monthly payment.

Moneys 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 Purchaser.

If the Issuer shall determine at any time that all funds on deposit in the Project Construction Account exceed the estimated disbursements on account of the Project for the ensuing 90 days, the Issuer may invest such excess funds in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, which shall mature not later than eighteen months after the date of such investment. All such investments and the income therefrom shall be carried to the credit of the Project Construction Account.

When 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 3.02. Covenants of the Issuer as to Revenues and Funds. So long as the Bond shall be outstanding and unpaid, or

until there shall have been set apart in the 1984 Reserve Fund hereinafter established, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Bond remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the holder of the Bond 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 a special fund in a bank or trust company in the State of West Virginia which is a member of FDIC, which Fund, known as the "Revenue Fund" was established by the 1963 Ordinance and is hereby continued initially with the Bank named in Section 3.01. The Revenue Fund shall constitute a trust fund for the purposes provided in this Ordinance and in the 1963 Ordinance and shall be kept separate and distinct from all other funds of the Issuer and used only for the purposes and in the manner provided herein. The holder of the Bond shall have a lien on and a pledge, hereby granted, of all the Gross Revenues of the System and a statutory mortgage lien granted by the Act, so long as the Bond remains unpaid; the 1963 Bonds have first and senior priority thereon and the Bond has second, junior and subordinate priority thereon.

B. DISPOSITION OF REVENUES. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(1) The Issuer shall first each month transfer from the Revenue Fund to the "Sinking Fund" established by the 1963 Ordinance with the West Virginia Municipal Bond Commission (the "Commission"), a sum sufficient to pay the interest on and principal of the 1963 Bonds outstanding under the conditions and restrictions set forth in the 1963 Ordinance, and any additional sums required for paying agents on the 1963 Bonds and shall remit to the Commission, for deposit in the Reserve Account established in the Sinking Fund, an amount equal to 20% of all amounts required to be paid for maturity principal and interest into said Sinking Fund or such lesser amount as required to maintain in said Reserve Account an amount equal to the largest amount of principal and interest which will mature and become due on the 1963 Bonds in any succeeding year, all as provided in the 1963 Ordinance.

(2) The Issuer shall next, each month, transfer from the Revenue Fund and the Depreciation Account, hereinafter described, and pay to the National Finance Office designated in the Bond the amount required to pay the

interest on the Bond and to amortize the principal of the Bond over the life of the Bond issue.

(3) The Issuer shall next by the 15th day of each month, from the Revenue Fund, pay the reasonable and proper costs of operating, maintaining and repairing the System, all in accordance with the 1963 Ordinance, including Section 1.04(h) thereof.

(4) The Issuer shall next, by the 15th day of each month, transfer from the Revenue Fund to the "Depreciation Account" established by the 1963 Ordinance an amount equivalent to at least 6% of the Gross Revenues of the System in the preceding month in accordance with the conditions and restrictions set forth in the 1963 Ordinance.

(5) The Issuer shall next, by the 15th day of each month, transfer from the Revenue Fund and the Depreciation Account and deposit with the said Bank in the 1984 Reserve Fund hereby initially established with said Bank, 1/12 of 1/10 of the amount of principal and interest becoming due on the Bond in any year until the amount in the Reserve Fund equals the sum of $4,010, such sum being herein called the "Minimum Reserve." After the Minimum Reserve has been accumulated in the 1984 Reserve Fund, the Issuer shall monthly deposit into the 1984 Reserve Fund such part of the moneys remaining in the Revenue Fund, after such provision for payment of monthly installments and Reserve Account requirements for the 1963 Bonds and the Bond, the Operating Expenses and the Depreciation Account, and, to the extent necessary, shall also transfer moneys from the Depreciation Account, as shall be required to maintain the Minimum Reserve in the 1984 Reserve Fund. Moneys in the 1984 Reserve Fund shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Bond to said National Finance Office as the same shall become due or for prepayment of installments on the Bond, or for mandatory prepayment of the Bond as hereinafter provided, and for no other purpose.

(6) After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, any moneys remaining therein and not permitted to be retained therein shall be transferred to and deposited in the Depreciation Account.

Whenever the moneys in the 1984 Reserve Fund shall be sufficient to prepay the Bond in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Bond at the earliest practical date and in accordance with applicable provisions hereof.

The aforesaid Bank (and any successor appointed by the Issuer) is hereby designated as the Fiscal Agent for the administration of the 1984 Reserve Fund and the Depreciation Account as herein provided, and all amounts required therefor will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such Fund.

All the funds provided for in this Section 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 Bond and the interest thereon, which lien shall be junior and subordinate to the lien of the holders of the 1963 Bonds, but the aforesaid Bank shall not be a trustee as to such funds. The moneys in excess of the sum insured by FDIC in any of such funds shall at all times be secured, to the full extent thereof in excess of such insured sum, in a manner lawful for securing deposits of State and municipal funds under the laws of the State of West Virginia.

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.

The Fiscal Agent shall keep the moneys in the 1984 Reserve Fund and the Depreciation Account invested and reinvested to the fullest extent practicable in direct obligations of, or obligations the payment of the principal of and interest on which are guaranteed by, the United States of America and having maturities not exceeding 2 years. Earnings upon moneys in the 1984 Reserve Fund, so long as the Minimum Reserve is on deposit and maintained therein, shall be paid annually in January into the Revenue Fund by the Fiscal Agent.

C. CHANGE OF FISCAL AGENT. The Issuer may designate another bank insured by FDIC as Fiscal Agent if the aforesaid Bank should cease for any reason to serve or if the Governing Body determines by resolution that said Bank or its successor should no longer serve as Fiscal Agent. 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 Bond, provide evidence that the System now serves at least 797 bona fide full time users in full compliance with the requirements and conditions of the Purchaser.

ARTICLE IV

GENERAL COVENANTS

Section 4.01. General Statement. So long as the Bond shall be outstanding and unpaid, or until there shall have been set apart in the 1984 Reserve Fund a sum sufficient to prepay the entire principal of the Bond 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 Purchaser.

Section 4.02. Rates. 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 will always provide Revenues in each fiscal year sufficient to produce Net Revenues equal to not less than the amounts required by the 1963 Ordinance, and in any event not less than 110% of the annual debt service on the Bond and sufficient to make the payments required herein into the 1984 Reserve Fund and the Depreciation Account and into the funds and accounts herein and in the 1963 Ordinance provided 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.

Section 4.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Bond is outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 4.04. Issuance of Additional Parity Bonds. No additional parity bonds payable out of the revenues of the System shall be issued after the issuance of the Bond pursuant hereto except with the prior written consent of the Purchaser.

Section 4.05. 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 Bond remains 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 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 Bond.

(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) Workmen's Compensation Coverage for all Employees of the District 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.

(E) Fidelity Bonds will be provided as to every member of the Governing Body and as to every officer and

employee thereof having custody of the Revenue Fund or of any revenues or other funds of the Issuer in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of $10,000 upon the Recording Officer, provided, however, that no bond shall be required insofar as custody of the Project Construction Account is concerned so long as checks thereon require the signature of a representative of the Purchaser.

(F) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Bond is 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 4.06. 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 due on the Bond at the date specified for payment thereof;

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

Section 4.07. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, the Purchaser may proceed to protect and enforce its rights by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement, or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by the Purchaser, such court may, upon proof of such default appoint a receiver for the affairs of the Issuer and the System. The receiver so appointed shall administer the System on behalf of the Issuer, shall exercise all the rights and powers of the Issuer with respect to the System, shall proceed under the direction of the court to obtain authorization to increase

rates and charges of the System, and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct.

Section 4.08. Fiscal Year; Budget. While the Bond is 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 ten per centum; 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 4.09. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer and on file with the Secretary on the date of adoption hereof, subject to permitted changes.

Section 4.10. 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.

Section 4.11. 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 Bond is outstanding.

Section 4.12. No Competition. 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.

Section 4.13. Concerning Arbitrage. The proceeds of sale of the Bond will not be invested in such a way as to violate the regulations of the Internal Revenue Service or of the Treasury Department of the United States of America in connection with the arbitrage provisions of Section 103(c) of the Internal Revenue Code of 1954, as amended.

ARTICLE V

RATES, ETC.

Section 5.01. Initial Schedule of Rates and Charges; Rules. The initial schedule of rates and charges for the services and facilities of the waterworks portion of the System shall, subject to change consonant with the provisions hereof, be as provided in the Ordinance of the Issuer providing rates and charges enacted February 15, 1983, and now in full force and effect according to its terms which Ordinance is incorporated herein by reference as a part hereof.

The Issuer, to the extent permitted by law, will not accept payment of any water bill from a customer served with water and sewer services by the Issuer without payment at the same time of a sewer bill owed by such customer for the same premises.

The fees, rates and charges above referred to 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 net revenues to meet its obligations hereunder and under the 1963 Ordinance, but not less than 110% of the average annual debt service on the Bond after the 1963 Bonds have been paid.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Modification or Amendment. No material modification or amendment of this Bond Legislation, or of any Bond Legislation amendatory hereof or supplemental hereto, may be made without the consent in writing of the Purchaser.

Section 6.02. Delivery of Bond No. R-1. The Mayor is hereby authorized and directed to cause Bond No. R-1, 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 6.03. 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 severable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Bond.

Section 6.04. Conflicting Provisions Repealed. 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) nor to the 1963 Ordinance.

Section 6.05. 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 6.06. Effective Time. This Bond Legislation shall take effect following public hearing hereon in accordance with the Act.

Section 6.07. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Legislation, determined by the Governing Body to contain sufficient information to give notice of the contents hereof, shall be published once a week for 2 successive weeks within a period of 14 consecutive days, with at least 6 full days intervening between each publication, in The Parsons Advocate, a newspaper published and of general circulation in the boundaries of the Issuer, together with a notice stating that

this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Bond, and that any person interested may appear before the Governing Body upon a date certain, not less than 10 days subsequent to the date of the first publication of the said abstract and notice, and present protests. 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	August 28, 1984
Passed on Second Reading	September 4, 1984
Effective on Third and Final Reading	September 19, 1984

John M. Gribble
Mayor

Jacquelyn L. Lamb
Recorder

09/19/84
PARSN1-A

CITY OF PARSONS

COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 A AND SERIES 1989 B and INTERIM CONSTRUCTION FINANCING

BOND AND NOTES ORDINANCE

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CITY OF PARSONS

ORDINANCE

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS FOR THE SEWERAGE PORTION OF THE EXISTING COMBINED PUBLIC WATERWORKS AND SEWERAGE FACILITIES OF THE CITY OF PARSONS AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $300,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 A, NOT MORE THAN $100,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 B, AND NOT MORE THAN $1,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF BOND ANTICIPATION NOTES, GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR ANY COMBINATION OF THE FOREGOING; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF PARSONS:

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 adopted pursuant to the provisions of Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law.

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

A. The City of Parsons (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Tucker County of said State.

B. The Issuer presently owns and operates a public combined waterworks and sewerage system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be constructed certain additions, betterments and improvements for the existing sewerage facilities portion of such system consisting of a new wastemaker treatment plant and collector lines, together with all appurtenant facilities (the "Project") which constitute properties for the collection and transportation of liquid or solid wastes, sewage or industrial wastes (the existing combined waterworks and sewerage facilities of the Issuer, the Project and any further additions thereto or extensions thereof is herein called the "System") at an estimated cost of $1,569,568, 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 estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Prior Bonds and the Bonds and all Sinking Funds, Reserve Accounts and other payments provided for herein and in the Prior Ordinances, all as such terms are hereinafter defined.

D. It is deemed necessary for the Issuer to issue its Combined Waterworks and Sewerage System Revenue Bonds in the total aggregate principal amount of not more than $400,000 in two series, being the Series 1989 A Bonds in the aggregate principal amount of not more than $300,000, and the Series 1989 B Bonds in the aggregate principal amount of not more than $100,000 (collectively, the "Original Bonds"), and (at the option of the Issuer) to issue its sewerage system bond anticipation notes prior to issuance of the Original Bonds and contemporaneously therewith, or as soon as practicable thereafter, to issue its sewerage system grant anticipation notes, and/or a note or notes evidencing a line of credit, or any combination of the foregoing (collectively, the "Notes") in the aggregate principal amount of not more than $1,000,000 to temporarily finance costs of construction and acquisition of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Notes during the term thereof and upon the Bonds prior to and during construction or acquisition and for a period not exceeding 6 months after completion of construction of the Project; amounts which may be deposited in the

Accounts; 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 of the Authority (as hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bonds and Notes and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, including, with respect to the Notes, any fees for the providing of a letter of credit, as hereinafter defined, and any costs of obtaining insurance thereon; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or Notes or the repayment of indebtedness incurred by the Issuer for such purposes, shall be deemed Costs of the Project, as hereinafter defined.

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

F. It is in the best interests of the Issuer that its Original Bonds be sold to the Authority (as hereinafter defined) pursuant to the terms and provisions of a loan agreement and a supplemental loan agreement to be entered into between the Issuer and the Authority, in form satisfactory to the Issuer and the Authority, as shall be approved by supplemental resolution.

G. There are outstanding obligations of the Issuer which will rank senior and prior to the Bonds as to lien and source of and security for payment as follows:

(i) Combined Waterworks and Sewerage Revenue Bonds, dated May 1, 1963, issued in the original aggregate principal amount of $290,000, of which $65,000 remains outstanding as of the date of enactment of this Ordinance (the "1963 Bonds") and

(ii) Combined Waterworks and Sewerage System Revenue Bond, Series 1984, dated September 20, 1984, issued in the original aggregate principal amount of $68,000, of which approximately $64,000 remains outstanding as of the date of enactment of this Ordinance (the "1984 Bond").

The 1963 Bonds and the 1984 Bond are herein collectively called the "Prior Bonds." The Bonds shall be junior and subordinate

to the Prior Bonds. The Series 1989 B Bonds shall be junior and subordinate to the Series 1989 A Bonds as set forth herein. The Grant Anticipation Notes, if issued, will not be payable from the Gross Revenues, but shall be payable from Grant Receipts, Surplus Revenues and proceeds of a letter of credit, if any, all as shall be set forth in the Indenture or the Supplemental Resolution authorizing the Notes. The Bond Anticipation Notes, if issued, will be payable from the proceeds of the Bonds and Gross Revenues, if necessary, all as shall be set forth in the Indenture or the Supplemental Resolution authorizing the Notes.

H. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bonds and the Notes, or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of a Certificate of 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 Bonds or any of the Notes or such final order will not be subject to appeal.

I. The Issuer is a governmental unit which has general taxing powers to finance operations of or facilities of the nature of the Project and System, and the Issuer, all subordinate entities, all entities which issue obligations on behalf of the Issuer, and all entities formed or, to the extent provided under Section 148 of the Code, herein defined, availed of, to avoid the purposes of Section 148(f)(4)(C) of the Code and all other entities benefiting thereby reasonably expect to issue less than $5,000,000 aggregate principal amount of tax-exempt obligations during the calendar year in which the Notes or the Bonds are to be issued.

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

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

"Act" means Chapter 8, Article 20 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 of the Original Bonds, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Mayor of the Issuer or any acting Mayor duly appointed by the Governing Body.

"Bond Construction Trust Fund" means the Bond Construction Trust Fund established by Section 5.01 hereof.

"Bondholder," "Holder of the Bonds," "Holder" 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 and Notes Ordinance" or "Local Act" means this Bond and Notes Ordinance and all ordinances, orders and resolutions supplemental hereto or amendatory hereof.

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

"Bond Year" means the 12-month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year except that the first Bond Year shall begin on the Closing Date.

"Bonds" means the Original Bonds, and any bonds on a parity therewith authorized to be issued hereunder.

"1963 Bonds" means the Combined Waterworks and Sewerage Revenue Bonds of the Issuer, dated May 1, 1963, issued in the original principal amount of $290,000.

"1984 Bond" means the Combined Waterworks and Sewerage System Revenue Bond of the Issuer, dated September 20, 1984, issued in the original principal amount of $68,000.

"Closing Date" means the date upon which there is an exchange of the Bonds for the proceeds representing the purchase of the Bonds by the Authority.

"Code" means the Internal Revenue Code of 1986, as amended, and 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 Kelley, Gidley, Blair & Wolfe, Inc., Charleston, West Virginia, or any engineer or firm of engineers that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

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

"Debt Service" means the scheduled amount of interest and amortization of principal payable on the Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

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

"EPA Grant" means the grant from the EPA pursuant to the commitment therefor.

"Excess Investment Earnings" means an amount equal to the sum of:

(A) The excess of

(i) The aggregate amount earned from the Closing Date on all Nonpurpose Investments in which Gross Proceeds of the Series 1989 A Bonds are invested [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings], over

(ii) The amount that would have been earned if the Yield on such Nonpurpose Investments [other than amounts attributable to an excess described in this clause (A) of this definition

of Excess Investment Earnings] had been equal to the Yield on the Series 1989 A Bonds, plus

(B) Any income attributable to the excess described in clause (A) of this definition of Excess Investment Earnings.

"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 may 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.

"Grant Agreement" means a written commitment for the payment of the EPA Grant or any of the Other Grants, specifying the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which such Grant is to be paid to the Issuer; provided that, "EPA Grant Agreement" means only the Grant Agreement relating to the EPA Grant and "Other Grant Agreements" means only those Grant Agreements relating to the Other Grants.

"Grant Receipts" means all moneys received by the Issuer on account of any Grant after the date of issuance of any grant anticipation notes; provided that "EPA Grant Receipts" means only Grant Receipts on account of the EPA Grant, and "Other Grant Receipts" means only Grant Receipts on account of any or all of the Other Grants.

"Grants" means, collectively, the EPA Grant and the Other Grants, as hereinafter defined.

"Gross Proceeds," except as otherwise provided in the Regulations, means the sum of the following amounts:

(i) Original proceeds, namely, net amounts received by or for the Issuer as a result of the sale of the Series 1989 A Bonds, excluding original proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to

refund in whole or in part the Series 1989 A Bonds;

(ii) Investment proceeds, namely, amounts received at any time by or for the Issuer, such as interest and dividends, resulting from the investment of any original proceeds (as referenced in clause (i) above) or investment proceeds (as referenced in this clause (ii)) in Nonpurpose Investments, increased by any profits and decreased (if necessary, below zero) by any losses on such investments, excluding investment proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Series 1989 A Bonds;

(iii) Transferred proceeds, namely, original proceeds of any prior obligations, and interest earnings and profits less losses resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any prior bonds and which are deemed to become proceeds of the Series 1989 A Bonds ratably as original proceeds of the Series 1989 A Bonds, and interest earnings and profits resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any such prior obligations, all on the date of such ratable discharge;

(iv) Sinking fund proceeds of the Series 1989 A Bonds, namely, amounts, other than original proceeds, investment proceeds or transferred proceeds (as referenced in clauses (i) through (iii) above) of the Series 1989 A Bonds, which are held in any fund to the extent that the Issuer reasonably expects to use such fund to pay Debt Service on the Series 1989 A Bonds;

(v) Amounts in the Reserve Accounts and in any other fund established as a reasonably required reserve or replacement fund with respect to the Series 1989 A Bonds;

(vi) Investment Property pledged as security for payment of Debt Service on the Series 1989 A Bonds by the Issuer;

(vii) Amounts, other than as specified in this definition, used to pay Debt Service on the Series 1989 A Bonds;

(viii) Amounts received as a result of investing amounts described in this definition; and

(ix) Such other amounts designated as Gross Proceeds under the Code and/or Regulations and not set forth hereinbefore in this definition of Gross Proceeds.

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

"Indenture" or "Trust Indenture" means the Trust Indenture which may, at the Issuer's option, be entered into between the Issuer and the Trustee relating to the Notes and all supplements or amendments thereto.

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

"Investment Property" means any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract, investment-type property or residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered

or approved housing desegregation plan, excluding, however, obligations the interest on which is excluded from gross income, under Section 103 of the Code, for federal income tax purposes other than specified private activity bonds as defined in Section 57(a)(5)(C) of the Code.

"Issuer" means the City of Parsons, in Tucker County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" shall mean, collectively, the Loan Agreement and the Supplemental Loan Agreement, to be entered into between the Authority and the Issuer providing for the purchase of the Original Bonds from the Issuer by the Authority, the forms of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 1989 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Series 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 1989 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 which is acquired with the Gross Proceeds of the Bonds and is not acquired in order to carry out the governmental purpose of the Bonds.

"Noteholder," "Holder of the Notes" or any similar term means the person, whenever used herein with respect to an outstanding Note or Notes, in whose name such Note is registered.

"Notes" means collectively, the not more than $1,000,000 in aggregate principal amount of sewerage system bond anticipation notes, grant anticipation notes or notes evidencing a line of credit originally authorized hereby which may be issued by the Issuer, the terms of which shall be set forth in a Supplemental Resolution, and unless the context clearly indicates otherwise, the terms "Notes" includes any refunding Notes of the Issuer.

"Notes Construction Trust Fund" means the Notes Construction Trust Fund which may be established by the Indenture.

"Notes Debt Service Fund" means the Notes Debt Service Fund which may be established by the Indenture.

"Notes Registrar" means the bank to be designated as such in the Indenture or the Supplemental Resolution and its successors and assigns.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar, Paying Agent and the Trustee (all as herein defined), other than those capitalized as part of the Costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds or Notes, 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.

"1963 Ordinance" means the ordinance of the Issuer enacted May 3, 1963, authorizing the 1963 Bonds.

"1984 Ordinance" means the ordinance of the Issuer enacted September 19, 1984, authorizing the 1984 Bond.

"Original Bonds" or "Bonds originally authorized hereby" or similar phrases mean, collectively, the not more than $300,000 in aggregate principal amount of Series 1989 A Bonds and the not more than $100,000 in aggregate principal amount of Series 1989 B Bonds, issued for the purpose of paying a portion of the Costs of the Project and for such other purposes permitted and authorized by this Bond Legislation.

"Original Notes Purchaser" means, in the event Notes are issued, the original purchaser of such Notes, as shall be named in the Supplemental Resolution, and, in the event a note or notes evidencing a line of credit are issued, such bank or banks as shall be named in a resolution supplemental hereto.

"Other Grants" means the grant from the Federal Emergency Management Agency (the "FEMA Grant") and any other grant other than the EPA Grant hereafter received by the Issuer to aid in financing any Costs.

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

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

"Paying Agent" means the bank or banks or other entity designated as such for the Bonds and/or the Notes in the Indenture or in the Supplemental Resolution or such entity or authority as may be designated by the Issuer.

"Prior Bonds" means collectively, the 1963 Bonds and the 1984 Bond of the Issuer, both hereinbefore defined.

"Prior Ordinances" means collectively, the 1963 Ordinance and the 1984 Ordinance, both hereinbefore defined.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements," if any.

"Program" means the Authority's loan program, under which the Authority purchases the water development revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of water development revenue bonds of the Authority.

"Project" means the acquisition and construction of certain additions, betterments and improvements for the existing sewerage facilities portion of the combined waterworks and sewerage system of the Issuer, consisting of a new wastewater treatment plant and collector lines, together with all appurtenant facilities.

"Purchase Price," for the purpose of computation of the Yield of the Series 1989 A Bonds, has the same meaning as the term "issue price" in Sections 1273(b) and 1274 of the Code, and, in general, means the initial offering price of the Series 1989 A Bonds to the public (not including bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of the Series 1989 A Bonds of each maturity is sold or, if the Series 1989 A Bonds are privately placed, the price paid by the first buyer of the Series 1989 A Bonds or the acquisition cost of the first buyer. "Purchase Price," for purposes of computing Yield of Nonpurpose Investments, means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the Series 1989 A Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Series 1989 A Bonds.

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

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government

National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

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

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

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

such collateral; and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia State Board of Investments 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" or "City Clerk" means the Recorder of the Issuer.

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

"Registrar" means as appropriate, either the Bond Registrar or the Notes Registrar or both.

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

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

"Series 1989 A Bonds" or "Series A Bonds" means the not more than $300,000 in aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A, of the Issuer.

"Series 1989 A Bonds Reserve Account" means the Series 1989 A Bonds Reserve Account established in the Series 1989 A Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1989 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 1989 A Bonds in the then current or any succeeding year.

"Series 1989 A Bonds Sinking Fund" means the Series 1989 A Bonds Sinking Fund established by Section 5.02 hereof.

"Series 1989 B Bonds" or "Series B Bonds" means the not more than $100,000 in aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, of the Issuer.

"Series 1989 B Bonds Reserve Account" means the Series 1989 B Bonds Reserve Account established in the Series 1989 B Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1989 B Bonds Reserve Requirement" means, as of the date of calculation, the maximum amount of principal which will become due on the Series 1989 B Bonds in the then current or any succeeding year.

"Series 1989 B Bonds Sinking Fund" means the Series 1989 B 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 resolutions authorizing the sale of the Notes or the Original Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Notes or the Original Bonds, as the case may be, 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, the Prior Bonds or any other obligations of the Issuer, including the Depreciation Account and the Reserve Accounts, the proceeds of which Bonds or other obligations are to be used to pay Costs of the Project.

"System" means the combined waterworks and sewerage system of the Issuer, the sewerage facilities portion of which constitute public service properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes and any improvements or extensions thereto hereafter constructed or acquired from any sources whatsoever, and includes the Project.

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

"Trustee" means the banking institution designated as trustee for the Noteholders under the Indenture, if any, its successors and assigns.

"Yield" means that yield which, when used in computing the present worth of all payments of principal and interest (or other payments in the case of Nonpurpose Investments which require payments in a form not characterized as principal and interest) on a Nonpurpose Investment or on the Series 1989 A Bonds produces an amount equal to the Purchase Price of such Nonpurpose Investment or the Bonds, all computed as prescribed in applicable Regulations.

Words importing singular number shall include the plural number in each case and vice versa; 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 CONSTRUCTION AND ACQUISITION OF THE PROJECT

Section 2.01. Authorization of Construction and Acquisition of the Project. There is hereby authorized the construction and acquisition of the Project, at an estimated cost of $1,569,568, 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 Notes and the Bonds hereby authorized shall be applied as provided in the Indenture, if any, and Article VI hereof, respectively.

ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 1989 A Bonds, funding a reserve account for each series of Original Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Original Bonds and related costs, or any of such purposes, as determined by the Supplemental Resolution there shall be issued negotiable Original Bonds of the Issuer, in an aggregate principal amount of not more than $400,000. Said Bonds shall be issued in two series, to be designated respectively, "Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A," in the aggregate principal amount of not more than $300,000, and "Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B," in the aggregate principal amount of not more than $100,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. Such Bonds shall be issued contemporaneously with or prior to issuance of the Grant Anticipation Notes, if any. The proceeds of the Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Bond Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Bonds shall bear interest at such rate or rates, not exceeding the then legal maximum, payable semiannually 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. The 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 Bonds shall be paid by check or draft of the Paying Agent mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Original Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of each series, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Bonds of each series shall be exchangeable at the option and expense of the Holder for other fully

registered 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. The Bonds shall be dated as of the date specified in a Supplemental Resolution and shall bear interest from such date.

Section 3.03. Execution of Bonds. The 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 any of the Bonds shall cease to be such officer of the Issuer before the 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 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 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 forms set forth in Section 3.09 shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any 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 Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting any of said Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of

negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive 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 any of the Bonds remain outstanding, the Issuer, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

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

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any 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 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Gross Revenues derived from the operation of the System as herein provided and amounts, if any, in the respective Reserve Accounts. No holder or holders of any of the Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Gross Revenues; Lien Positions with Respect to Prior Bonds. The payment of the debt service of all the Series 1989 A Bonds shall be secured forthwith equally and ratably with each other, by a lien on the Gross Revenues derived from the System, but junior and subordinate to the lien on Gross Revenues in favor of the Holders of the Prior Bonds. The payment of the debt service of all the Series 1989 B Bonds shall also be secured forthwith equally and ratably with each other by a lien on the Gross Revenues derived from the System, but junior and subordinate to the lien on such Gross Revenues in favor of the Holders of the Prior Bonds and the Series 1989 A Bonds. Such Gross Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make the payments into the Sinking Funds, the Reserve Accounts therein and the Depreciation Account hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due.

Section 3.09. Form of Original Bonds. The text of the Bonds shall be in substantially the following forms, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

[Form of Series 1989 A Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF PARSONS
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND,
SERIES 1989 A

No. AR-____ $_____

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF PARSONS, a municipal corporation and political subdivision of the State of West Virginia in Tucker 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 _____

_____
($_____), in installments on October 1 of each year (except for the final installment due April 1, 2029) as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest rate on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning October 1, 1989. 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 One Valley Bank, National Association, 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 upon the terms and conditions prescribed

by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated _____, 1989.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the sewerage facilities portion of the existing combined waterworks and sewerage system of the Issuer (the "Project"); (ii) to pay interest on the Bonds of this series (the "Bonds") during the construction of the Project and for not more than 6 months thereafter; and (iii) to pay certain costs of issuance hereof and related costs. The existing combined waterworks and sewerage system of the Issuer, the Project and any further additions, betterments or improvements thereto is herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the Issuer on _____, 1989 and a Supplemental Resolution duly adopted by the Issuer on _____, 1989 (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is issued concurrently with the Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, of the Issuer (the "Series 1989 B Bonds"), issued in the aggregate principal amount of $_____, which Series 1989 B Bonds are junior and subordinate with respect to liens and sources of and security for payment to the Bonds.

THIS BOND IS JUNIOR AND SUBORDINATE WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT TO CERTAIN OUTSTANDING COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS OF THE ISSUER AS FOLLOWS:

(i) COMBINED WATERWORKS AND SEWERAGE REVENUE BONDS, DATED MAY 1, 1963, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $290,000 (THE "1963 BONDS") AND

(ii) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND, SERIES 1984, DATED SEPTEMBER 20, 1984, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $68,000 (THE "1984 BOND").

The 1963 Bonds and the 1984 Bond are herein collectively called the "Prior Bonds." This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System after there has first been paid from said Gross Revenues all payments then due and owing on account of the Prior Bonds, moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1989 A Bonds Reserve Account"), and unexpended proceeds of the Bonds and the Series 1989 B Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Gross Revenues, the moneys in the Series 1989 A Bonds Reserve Account and unexpended proceeds of the Bonds and the Series 1989 B 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, the Series 1989 B Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds or the Series 1989 B Bonds, including the Prior Bonds, provided however, that so long as there exists in the Series 1989 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 any succeeding year, and in the respective reserve accounts established for the Series 1989 B Bonds and any other obligations outstanding prior to or on a parity with the Bonds or the Series 1989 B Bonds, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of 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 by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the

Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to 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, shall be applied solely to the payment of the Costs of the Project described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the 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 have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the 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 CITY OF PARSONS 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 _____, 1989.

[SEAL]

_____
Mayor

ATTEST:

_____
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1989 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: _____

ONE VALLEY BANK, NATIONAL ASSOCIATION,
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

(Form of)

ASSIGNMENT

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

the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

[Form of Series 1989 B Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF PARSONS
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND,
SERIES 1989 B

No. BR-____ $_____

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF PARSONS, a municipal corporation and political subdivision of the State of West Virginia in Tucker 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 _____

_____

($_____), in annual installments on October 1 of each year (except for the final installment due April 1, 2029) as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference, without interest.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Supplemental Loan Agreement between the Issuer and the Authority, dated _____, 1989.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the sewerage facilities portion of the existing combined waterworks and 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 existing combined waterworks and sewerage system of the Issuer, the Project and any further additions, betterments or improvements thereto is herein called the "System." This Bond is issued under the authority of and in full compliance with

the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the Issuer on _____, 1989 and a Supplemental Resolution duly adopted by the Issuer on _____, 1989 (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS JUNIOR AND SUBORDINATE WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT TO CERTAIN OUTSTANDING COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS OF THE ISSUER AS FOLLOWS:

(i) COMBINED WATERWORKS AND SEWERAGE REVENUE BONDS, DATED MAY 1, 1963, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $290,000 (THE "1963 BONDS");

(ii) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND, SERIES 1984, DATED SEPTEMBER 20, 1984, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $68,000 (THE "1984 BOND"); AND

(iii) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 A, ISSUED CONCURRENTLY HEREWITH IN THE AGGREGATE PRINCIPAL AMOUNT OF $_____ AND DESCRIBED IN THE BOND LEGISLATION (THE "SERIES 1989 A BONDS").

The 1963 Bonds and the 1984 Bond are herein collectively called the "Prior Bonds." This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System after there has first been paid from said Gross Revenues all payments then due and owing on account of the Prior Bonds and the Series 1989 A Bonds herein described, all moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 1989 B Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said

special fund provided from the Gross Revenues, the moneys in the Series 1989 B Bonds Reserve Account and unexpended Bond proceeds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, the Series 1989 A Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity therewith, including the Prior Bonds, provided however, that so long as there exists in the Series 1989 B Bonds Reserve Account and the reserve account established for the Series 1989 A Bonds, respectively, amounts at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds and the Series 1989 A Bonds in the then current or any succeeding year, and any reserve account for any such prior or parity obligations, including the Prior Bonds, is funded at least at 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 One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements as 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, shall be applied solely to the payment of the Costs of the Project described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owners of the Bonds, which lien is subordinate to the lien in favor of the registered owners of the Series 1989 A Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of 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 revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

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

IN WITNESS WHEREOF, the CITY OF PARSONS 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 _____, 1989.

[SEAL]

_____
Mayor

ATTEST:

_____
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1989 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____

ONE VALLEY BANK, NATIONAL ASSOCIATION,
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

(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 3.10. Sale of Original Bonds; Ratification of Execution of Loan Agreement with Authority. The Original 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, ratified and approved.

Section 3.11. "Amended Schedule A" Filing; Tender of Series 1989 B Bonds. Upon completion of acquisition and construction of the Project, the Issuer will file with the Authority a schedule in substantially the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funds therefor. In the event such schedule reflects an excess of funding for the Project, or if the Authority is otherwise advised of an excess, the Authority may tender the Series 1989 B Bonds to the Issuer for payment in an amount equal to such excess.

ARTICLE IV

INTERIM CONSTRUCTION FINANCING

Section 4.01. Authorization and General Terms. In order to pay certain Costs of the Project pending receipt of the Grant Receipts or issuance of the Bonds, the Issuer may issue and sell its Notes in an aggregate principal amount not to exceed $1,000,000. The Notes may be in the form of bond anticipation notes, grant anticipation notes or as evidence of a line of credit from a commercial bank or other lender, at the discretion of the Issuer, and as shall be set forth in a resolution supplemental hereto. 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 Indenture or supplemental resolution, as applicable.

Section 4.02. Terms of and Security for Notes; Trust Indenture. The Notes, if issued, shall be issued in fully registered form, in the denominations, with such terms and secured in the manner set forth in the Indenture, if applicable (which Indenture in the form to be executed and delivered by the Issuer shall be approved by a supplemental resolution), or supplemental resolution, if no Indenture is used.

Section 4.03. Notes are Special Obligations. The Notes shall be special obligations of the Issuer payable as to principal and interest solely from proceeds of the Bonds or the Gross Revenues (if issued as bond anticipation notes) or the Grant Receipts, the Surplus Revenues, the letter of credit proceeds and other sources described in the Indenture or supplemental resolution (if issued as grant anticipation notes or a line of credit). 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 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 in the Indenture and the Supplemental Resolution.

Section 4.04. Letters of Credit. As additional security for any Notes, the Issuer may obtain a letter or letters of credit from a bank or banks, pursuant to which such bank or banks would agree to pay to the Trustee, upon presentation by the Trustee of certain

certificates, the sum or sums set forth therein but not to exceed $1,000,000 in the aggregate. In the event of a draw under any such letter of credit, the Issuer shall issue its refunding notes to the bank issuing such letter of credit. Any such letter or letters of credit shall be authorized and shall have such terms as shall be set forth in a resolution supplemental hereto.

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 created (or continued if previously established by the 1963 Ordinance and continued by the 1984 Ordinance) 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 the 1963 Ordinance and continued by the 1984 Ordinance);

(2) Depreciation Account (established by the 1963 Ordinance and continued by the 1984 Ordinance);

(3) Renewal and Replacement Fund; and

(4) Bond Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established with the Commission:

(1) Series 1989 A Bonds Sinking Fund;

(a) Within the Series 1989 A Bonds Sinking Fund, the Series 1989 A Bonds Reserve Account.

(2) Series 1989 B Bonds Sinking Fund;

(a) Within the Series 1989 B Bonds Sinking Fund, the Series 1989 B Bonds Reserve Account.

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

(1) The Issuer shall first each month transfer from the Revenue Fund to the Sinking Fund established with respect to the 1963 Bonds under the 1963 Ordinance with the West Virginia Municipal Bond Commission (the "Commission"),

a sum sufficient to pay the interest on and principal of the 1963 Bonds outstanding under the terms set forth in the 1963 Ordinance, and any additional sums required to pay fiscal charges due to paying agents on the 1963 Bonds and the interest thereon, and shall next remit to the Commission, for deposit in the Reserve Account established with respect to the 1963 Bonds under the 1963 Ordinance, an amount equal to 20% of all amounts required to be paid for maturing principal and interest until the amount in said Reserve Account equals the largest amount of principal and interest which will mature and become due on the 1963 Bonds in any succeeding year, all as provided in the 1963 Ordinance.

(2) The Issuer shall next, each month, transfer from the Revenue Fund and pay to the National Finance Office designated in the 1984 Bond the amount required to pay the interest on the 1984 Bond and to amortize the principal of the 1984 Bond over the life of such Bond issue and, thereafter, the Issuer shall, by the 15th day of each month, transfer from the Revenue Fund and deposit with the Depository Bank in the 1984 Reserve Fund established with respect to the 1984 Bonds under the 1984 Ordinance, 1/12 of 1/10 of the amount of principal and interest becoming due on the Bond in any year until the amount in the Reserve Fund equals the sum of $4,010 (the "Minimum Reserve"). After the Minimum Reserve has been accumulated in the 1984 Reserve Fund, the Issuer shall monthly deposit into the 1984 Reserve Fund such part of the moneys remaining in the Revenue Fund, after such provision for the payments hereinabove provided, as shall be required to maintain the Minimum Reserve in the 1984 Reserve Fund. Moneys in the 1984 Reserve Fund shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the 1984 Bond to said National Finance Office as the same shall become due or for prepayment of installments on the 1984 Bond, or for mandatory prepayment of the 1984 Bond as hereinafter provided, and for no other purpose.

(3) Thereafter, from the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing 7 months prior to the first date of payment of interest on the Series 1989 A Bonds for which interest has not been capitalized, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1989 A Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Series 1989 A Bonds on the next ensuing semiannual

interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1989 A Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date.

(4) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1989 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1989 A Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1989 A Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1989 A Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(5) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Series 1989 A Bonds, if not fully funded upon issuance of the Series 1989 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1989 A Bonds Reserve Account, an amount equal to 1/120 of the Series 1989 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1989 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 1989 A Bonds Reserve Requirement.

(6) The Issuer shall next, by the 15th day of each month, transfer from the Revenue Fund to the Depreciation Account a sum equal to at least 6% of the Gross Revenues of the System in the preceding month in accordance with the terms set forth in the Prior Ordinances, until the Prior Bonds have been paid or otherwise defeased in accordance with the Prior Ordinances.

(7) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, transfer to the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any Reserve 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, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Prior Bonds Reserve Account, the Series 1989 A Bonds Reserve Account or the Series 1989 B Bonds 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 by Subsection 5.03(a)(4) and 5.03(a)(9), respectively] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

(8) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1989 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1989 B Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1989 B Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1989 B Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(9) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Series 1989 B Bonds, if not fully funded upon issuance of the Series 1989 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1989 B Bonds Reserve Account, an amount equal to 1/120 of the Series 1989 B Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1989 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit

therein, an amount equal to the Series 1989 B Bonds Reserve Requirement.

(10) The Issuer shall next by the 15th day of each month, from the Revenue Fund, pay the reasonable and proper costs of operating, maintaining and repairing the System, all in accordance with the Prior Ordinances, specifically Section 1.04(h) of the 1963 Ordinance.

Moneys in the Series 1989 A Bonds Sinking Fund and the Series 1989 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective series of Bonds as the same shall become due. Moneys in the Series 1989 A Bonds Reserve Account and the Series 1989 B Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the respective series of Bonds, as the same shall come due, when other moneys in the attendant Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the several Sinking Funds and Reserve Accounts 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 Bond 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 payments, if any, due on the respective Series of Bonds, and then to the next ensuing principal payments due thereon.

Any withdrawals from the Series 1989 A Bonds Reserve Account which result in a reduction in the balance of the Series 1989 A Bonds Reserve Account to below the Series 1989 A Bonds Reserve Requirement shall be subsequently restored from the first Gross Revenues available after all required payments to the Prior Bonds Sinking Funds and the Series 1989 A Bonds Sinking Fund for payment of debt service on the Prior Bonds and the Series 1989 A Bonds have been made in full.

Any withdrawals from the Series 1989 B Bonds Reserve Account which result in a reduction in the balance of the Series 1989 B Bonds Reserve Account to below the Series 1989 B Bonds Reserve Requirement shall be subsequently restored from the first Gross Revenues available after all required payments to the Prior Bonds Sinking Funds, the Series 1989 A Bonds Sinking Fund, the

Series 1989 A Bonds Reserve Account, the Depreciation Account and the Series 1989 B Bonds Sinking Fund have been made in full.

As and when additional Bonds ranking on a parity with the 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 appropriate Reserve Account in an amount equal to the maximum provided and required to be paid into the concomitant Sinking Fund in any year for account of the Bonds of such series, including such additional Bonds which by their terms are payable from such Sinking Fund.

The Issuer shall not be required to make any further payments into the Series 1989 A Bonds Sinking Fund, or the Series 1989 B Bonds Sinking Fund or into the Reserve Accounts therein when the aggregate amount of funds in said respective Sinking Funds and Reserve Accounts are at least equal to the aggregate principal amount of the respective Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the respective maturities thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Sinking Funds created hereunder, and all amounts required for said Sinking Funds shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

The payments into the Sinking Funds shall be made on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

Moneys in the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Sinking Funds, including the Reserve Accounts therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the respective Bonds and any additional Bonds ranking on a parity therewith that

may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Funds, including the Reserve Accounts therein and the Sinking Funds established for the Prior Bonds, and the Depreciation Account during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System, including, but not limited to, payment to the Trustee for deposit in the Notes Debt Service Fund.

C. 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 the Depository Bank's charges and the Paying Agent fees then due.

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

E. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03 and the Gross Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

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

H. All Tap Fees shall be deposited by the Issuer, as received, in the Bond Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System, provided that, in the event Notes are issued, Tap Fees may, with the written consent of the Authority be deposited otherwise.

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

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

A. From the proceeds of the Series 1989 A Bonds, there shall first be deposited with the Commission in the Series 1989 A Bonds Sinking Fund, the amount, if any, specified in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 1989 A Bonds for the period commencing on the date of issuance of the Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 1989 A Bonds, there shall be deposited with the Commission in the Series 1989 A Bonds Reserve Account and from the proceeds of the Series 1989 B Bonds, there shall be deposited with the Commission in the Series 1989 B Reserve Account the respective sums, if any, set forth in the Supplemental Resolution for funding of the Reserve Accounts.

C. Next, from the proceeds of the Series 1989 A Bonds, there shall first be credited to the Bond Construction Trust Fund and then paid, any and all borrowings by the Issuer made for the purpose of temporarily financing a portion of the Costs of the Project, including interest accrued thereon to the date of such payment.

D. The remaining moneys derived from the sale of the Bonds shall be deposited with the Depository Bank in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02.

E. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in the Bond Legislation. Moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so expended, are hereby pledged as additional security for the Series 1989 A Bonds, and thereafter for the Series 1989 B Bonds. In the event that Notes are issued, the disposition of funds in the Bonds Construction Trust Fund may be modified from that set forth herein, with the written consent of the Authority.

Section 6.02. Disbursements From the Bond Construction Trust Fund. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Bond Construction Trust Fund (except for the costs of issuance of the Original Bonds which shall be made upon request of the Issuer), shall be made only after submission to the Depository Bank of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:

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

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

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

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

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Bond Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Bond Construction Trust Fund shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Bond Construction Trust Fund. The Consulting Engineers shall from time to time file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

Pending such application, moneys in the Bond Construction Trust Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

After completion of the Project, as certified by the Consulting Engineers, the Depository Bank shall transfer any moneys remaining in the Bond Construction Trust Fund to the Series 1989 A Bonds Reserve Account, and when fully funded to the Series 1989 B Bonds Reserve Account, and when both Reserve Accounts are fully funded, shall return such remaining moneys to the Issuer for deposit

in the Revenue Fund. The Issuer shall thereafter, apply such moneys in full, first to the next ensuing interest payments, if any, due on the respective Series of Bonds and thereafter to the next ensuing principal payments due thereon. Notwithstanding the foregoing, if the Authority tenders any of its Series 1989 B Bonds to the Issuer pursuant to the provisions of the Supplemental Loan Agreement, such moneys shall be applied to the purchase of such Series 1989 B Bonds.

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 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 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 said Bonds or the interest thereon is Outstanding and unpaid.

Until the payment in full of the principal of and interest on the Notes when due, and to the extent they do not materially adversely affect Bondholders, the covenants, agreements and provisions contained in this Bond Legislation shall, where applicable, also inure to the benefit of the Holders of the Notes and the Trustee therefor and constitute valid and legally binding covenants of the Issuer, enforceable in any court of competent jurisdiction by the Trustee or any Holder or Holders of said Notes as prescribed in the Indenture; provided, that Section 7.09 shall not be applied to the Grant Anticipation Notes.

Section 7.02. Bonds and Notes not to be Indebtedness of the Issuer. Neither the Bonds nor the Notes shall be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Bonds or Notes, shall ever have the right to compel the exercise of the taxing power of the Issuer to pay said Bonds or Notes or the interest thereon.

Section 7.03. Bonds Secured by Subordinate Pledge of Gross Revenues; Lien Positions with Respect to Prior Bonds. The payment of the debt service of the Series 1989 A Bonds issued hereunder shall be secured forthwith equally and ratably by a lien on the Gross Revenues derived from the operation of the System junior and subordinate to the lien in favor of the Holders of the Prior Bonds. Payment of the debt service of the Series 1989 B Bonds issued hereunder shall be secured forthwith equally and ratably by a lien on said Gross Revenues, but such lien shall be junior and subordinate to the lien on said Gross Revenues in favor of the Holders of the Prior Bonds and the Series 1989 A Bonds. The revenues derived from the System, in an

amount sufficient to pay the principal of and interest on the Prior Bonds and the Bonds and to make the payments into the Sinking Funds, including the Reserve Accounts therein, and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the ordinance of the Issuer enacted May 2, 1989.

Section 7.05. Sale of the System. Except as otherwise required by law, 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 pay fully all the Bonds and Notes, if any, Outstanding, or to effectively defease this Bond Legislation in accordance with Section 10.01 hereof and, if entered into and not previously defeased, the Indenture in accordance with Section 8.01 thereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Bonds, immediately be remitted to the Commission for deposit in the Sinking Funds, 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 at maturity of and interest on the Bonds. Any balance remaining after the payment of all the Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System. With respect to the Notes, such proceeds in an amount sufficient to pay the Notes in full shall be applied to the payment of the Notes, either at maturity or, if allowable under the Supplemental Resolution or Indenture, prior thereto.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution, 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 Depreciation Account. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $10,000 but not in excess of $50,000, the Issuer shall first, determine upon consultation with 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 upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of $10,000 and not in excess of $50,000, shall with the written consent of the Authority, be remitted by the Issuer to the Commission for deposit in the Sinking Fund and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value or otherwise. Such payment of such proceeds into the Sinking Fund or the Depreciation Account 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, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of $50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of over 50% in amount of the Bonds then Outstanding and the Consulting Engineers. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and in Section 7.07B, the Issuer shall not issue any obligations whatsoever with a lien on or otherwise payable from any source of payment pledged originally to the Notes issued under the Indenture or supplemental resolution prior to or on a parity with the lien on behalf of such Notes until such Notes have been defeased in accordance with the provisions of the Indenture and the Bond Legislation; and, so long as any of the Bonds are Outstanding, 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 Bonds; provided, however, that additional Bonds on a parity with the Series 1989 B Bonds only may be issued as provided for in Section 7.07 hereof. All obligations issued by the

Issuer after the issuance of the 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 1989 A Bonds and the Series 1989 B Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the Reserve Accounts and the Depreciation Account at the time of the issuance of such subordinate obligations have been made and are current.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

Section 7.07. Parity Bonds. A. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Bond Legislation, except under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 1989 B Bonds. No Parity Bonds shall be issued which shall be payable out of the revenues of the System on a parity with the Series 1989 A Bonds, unless the Series 1989 B Bonds are no longer outstanding.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the construction or acquisition of extensions, improvements or betterments to the System or refunding one or more series of Bonds issued pursuant hereto, or both such purposes.

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, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, 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 on the following:

(1) The Prior Bonds and any other obligations with a lien on the Gross Revenues prior to that of the Bonds;

(2) The Bonds then Outstanding;

(3) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Ordinance then Outstanding; and

(4) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Recorder prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Consulting Engineers and the said Independent Certified Public Accountants, as stated in a certificate jointly made and signed by the Consulting Engineers and said Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the period for appeal of which has expired prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate construction or acquisition of such additions, betterments or improvements, if any, to the System that are to be financed by such Parity Bonds.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with

this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. 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.

All Parity Bonds shall mature on the day of the years of maturities, and the semiannual interest thereon shall be payable on the days of each year, specified in a Supplemental Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Series 1989 A Bonds and the Series 1989 B Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 1989 A Bonds or the Series 1989 B 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 with respect to the Bonds then Outstanding, and any other payments provided for in this Bond Legislation, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Bond Legislation.

B. Notwithstanding the foregoing, or any provision of Section 7.06 to the contrary, additional Bonds may be issued solely for the purpose of completing the Project as described in the application to the Authority submitted as of the date of the Loan Agreement without regard to the restrictions set forth in this Section 7.07, if there is first obtained by the Issuer the written consent of the Authority to the issuance of bonds on a parity with the Bonds.

Section 7.08. Books and Records. 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 or of a Note or Notes issued pursuant to this Bond Legislation or the Trustee 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 Governing Body. The Governing Body 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 Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Consulting Engineers, the Trustee and the Authority, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds or Notes, as the case may be, 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 Indenture with respect to said Bonds or Notes, as the case may be, and the status of all said funds and accounts.

(C) The amount of any Bonds, Notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds or Notes, as the case may be, and shall submit said report to the Trustee and the Authority, or any other original purchaser of the Bonds. Such audit report submitted to the Authority shall include a statement that the Issuer is in compliance with the terms and provisions of the Loan Agreement and this Bond Legislation.

Section 7.09. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all

in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the Reserve Requirements are on deposit respectively in the Reserve Accounts and reserve accounts for obligations prior to or on a parity with the Bonds (including the Prior Bonds) are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance described in Section 7.04.

Section 7.10. Operating Budget and Audit. 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 expenditures for operation and maintenance of the System during the succeeding Fiscal Year. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the 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 the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual

budget and all resolutions authorizing increased expenditures for operation and maintenance to the Trustee and the Authority and to any Holder of any Bonds or Notes, as the case may be, 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 Trustee and to any Holder of any Bonds or Notes, as the case may be, or anyone acting for and in behalf of such Holder of any Bonds or Notes, as the case may be.

In addition, the Issuer shall annually cause the records of the System to be audited by an independent certified public accountant, the report of which audit shall be submitted to the Authority and which audit report shall include a statement that the Issuer is in compliance with the terms and provisions of this Bond Legislation and the Loan Agreement.

Section 7.11. 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 7.12. 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.

Section 7.13. 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 the Issuer 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 7.14. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as any of the Bonds or the Notes remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of

the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than $1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than $100,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(4) FLOOD INSURANCE, to the extent available at reasonable cost to the Issuer.

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

B. 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. 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 7.15. 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 7.16. Completion of Project. The Issuer will complete the Project and operate and maintain the System in good condition.

Section 7.17. 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 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 Bonds during the term thereof is, under the terms of the 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 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 Bonds during the term thereof is, under the terms of the 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 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 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.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of 5% of the Net Proceeds of the 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 Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code and Regulations promulgated thereunder.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Bonds and the interest thereon, including without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including those deemed necessary by the Authority) so that the interest on the 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 those determined by the Authority) which would adversely affect such exclusion.

Section 7.18. Statutory Mortgage Lien. For the further protection of the Holders of the Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Bonds and shall be for the equal benefit of all Holders of each respective Series of Bonds, provided however, that the statutory mortgage lien in favor of the Holders of the Series 1989 A Bonds shall be senior to the statutory mortgage lien in favor of the Holders of the Series 1989 B Bonds.

ARTICLE VIII

INVESTMENT OF FUNDS; NON ARBITRAGE

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Bond Legislation or the Indenture, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Trustee, if any, 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, and the Indenture, if any, the need for such moneys for the purposes set forth herein and in the Indenture, if any, and the specific restrictions and provisions set forth in this Section 8.01 and in the Indenture.

Except as provided in the Indenture, if any, any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Trustee, if any, 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 Trustee, if any, 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 bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Trustee, if any, and 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, 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 Bonds are Outstanding.

Section 8.02. Arbitrage. The Issuer covenants that (i) it will restrict the use of the proceeds of the Bonds in such manner and to such extent as may be necessary, in view of the Issuer's reasonable expectations at the time of issuance of the Bonds, so that the Bonds will not constitute "arbitrage bonds" under Section 148 of the Code and Regulations, 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 Bonds) so that the interest on the Bonds will be and remain excluded from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Rebate of Excess Investment Earnings to the United States. In accordance with Section 148(f)(4)(C) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that the Bonds are not private activity bonds as defined in Section 141 of the Code; that 95% or more of the Net Proceeds of the 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 obligations (other than private activity bonds as defined in Section 141 of the Code) issued by the Issuer during the calendar year in which the Bonds are issued will not exceed $5,000,000, determined in accordance with Section 148(f)(4)(C) of the Code and the Regulations promulgated thereunder. For purposes of this Section 8.03 and for purposes of applying Section 148(f)(4)(C) 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 subordinate entity shall, for purposes of applying this Section 8.03 and Section 148(f)(4)(C) 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)(C) of the Code and all other entities benefiting 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 shall take the following actions:

A. CREATION OF FUNDS. There are hereby created, to be held by the Depository Bank as separate funds distinct from all other funds and accounts held by the Depository Bank under this Bond Legislation, the Earnings Fund and the Rebate Fund. All interest earnings and profits on amounts in all funds and accounts established under this Bond Legislation, other than (i) interest earnings and profits on any

funds referenced in Subsection C(5) of this Section if such earnings in any Bond Year are less than $100,000, provided that, if the Bonds are not private activity bonds (including any "qualified 501(c)(3) bond" as defined under Section 145 of the Code), if the average maturity of the issue of the Bonds (determined in accordance with Section 147(b)(2)(A) of the Code) is at least 5 years and if the rate of interest on the issue of the Bonds does not vary during the term of the issue, then this clause (i) of this Section 8.03A shall be applied without regard to such dollar limitation, (ii) interest earnings and profits on amounts in funds and accounts which do not constitute Gross Proceeds, (iii) interest earnings and profits on the Rebate Fund, and (iv) interest earnings and profits on amounts in funds and accounts otherwise excepted under the Regulations shall, upon receipt by the Depository Bank, be deposited in the Earnings Fund. In addition, all interest earnings and profits on Gross Proceeds in funds held by the Issuer shall, upon receipt, be paid to the Depository Bank for deposit in the Earnings Fund. Annually, before the 30th day following the end of each Bond Year or on the preceding business day in the event that such last day is not a business day, or such earlier date as may be required under the Code, the Depository Bank shall transfer from the Earnings Fund to the Rebate Fund for purposes of ultimate payment to the United States an amount equal to Excess Investment Earnings, all as more particularly described in this Section. Following the transfer referenced in the preceding sentence, the Depository Bank shall transfer all amounts remaining in the Earnings Fund to be used for the payment of Debt Service on the next interest payment date and for such purpose, Debt Service due from the Issuer on such date shall be credited by an amount equal to the amount so transferred.

B. DUTIES OF ISSUER IN GENERAL. The Issuer shall calculate Excess Investment Earnings in accordance with Subsection C and shall assure payment of an amount equal to Excess Investment Earnings to the United States in accordance with Subsections D and E.

C. CALCULATION OF EXCESS INVESTMENT EARNINGS. Within 15 days following the last day of the first Bond Year, or such earlier date as may be required under the Regulations, the Issuer shall calculate, and shall provide written notice to the Authority and Depository Bank of, the Excess Investment Earnings referenced in clause (A) of the definition of Excess Investment Earnings. Thereafter, within 15 days following the last day of each Bond Year and within 15 days following the date of the retirement of the Bond, or such earlier dates as may be required under the Regulations, the Issuer shall calculate, and shall provide written notice to the Authority and Depository Bank of, the amount of Excess Investment Earnings. Said calculations shall be made or caused to be made by the

Issuer in accordance with the following, or in accordance with such other requirements as may be applicable under the Regulations:

(1) Except as provided in (2), in determining the amount described in clause A(i) of the definition of Excess Investment Earnings, the aggregate amount earned on Nonpurpose Investments shall include (i) all income realized under federal income tax accounting principles (whether or not the person earning such income is subject to federal income tax) with respect to such Nonpurpose Investments and with respect to the reinvestment of investment receipts from such Nonpurpose Investments (without regard to the transaction costs incurred in acquiring, carrying, selling or redeeming such Nonpurpose Investments), including, but not limited to, gain or loss realized on the disposition of such Nonpurpose Investments (without regard to when such gains are taken into account under Section 453 of the Code relating to taxable year of inclusion of gross income), and income under Section 1272 of the Code (relating to original issue discount) and (ii) any unrealized gain or loss as of the date of retirement of the Bonds in the event that any Nonpurpose Investment is retained after such date.

(2) In determining the amount described in clause (A) of the definition of Excess Investment Earnings, Investment Property shall be treated as acquired for its fair market value at the time it becomes a Nonpurpose Investment, so that gain or loss on the disposition of such Investment Property shall be computed with reference to such fair market value as its adjusted basis.

(3) In determining the amount described in clause (A)(ii) of the definition of Excess Investment Earnings, the Yield on the Bonds shall be determined based on the actual Yield of the Bonds during the period between the Closing Date of the Bonds and the date the computation is made (with adjustments for original issue discount or premium).

(4) In determining the amount described in clause (B) of the definition of Excess Investment Earnings, all income attributable to the excess described in clause (A) of said definition must be taken into account, whether or not that income exceeds the Yield of the Bonds, and no amount may be treated as "negative arbitrage."

(5) In determining the amount of Excess Investment Earnings, there shall be excluded any amount

earned on any fund or account which is used primarily to achieve a proper matching of revenues and Debt Service within each Bond Year and which is depleted at least once a year except for a reasonable carryover amount not in excess of the greater of 1 year's earnings on such fund or account or 1/12th of annual Debt Service (which may include a portion of a fund or account, although not a separate and distinct fund or account) as well as amounts earned on said earnings if the gross earnings on such fund or account for the Bond Year is less than $100,000, provided that, if the Bonds are not private activity bonds (including any "qualified 501(c)(3) bond" as defined under Section 145 of the Code), if the average maturity of the issue of the Bonds (determined in accordance with Section 147(b)(2)(A) of the Code) is at least 5 years and if the rate of interest on the issue of the Bonds does not vary during the term of the issue, then all amounts earned on such fund or account as well as amounts earned on said earnings shall be excluded in determining the amount of Excess Investment Earnings.

D. PAYMENT TO THE UNITED STATES. The Issuer shall direct the Depository Bank to pay from the Rebate Fund an amount equal to Excess Investment Earnings to the United States in installments with the first payment to be made not later than 30 days after the end of the 5th Bond Year and with subsequent payments to be made not later than 5 years after the preceding payment was due, except to the extent otherwise required under the Regulations. The Issuer shall assure that each such installment is in an amount equal to at least 90% of the Excess Investment Earnings with respect to the Gross Proceeds as of the close of the computation period or other period required under the Regulations. Not later than 60 days after the retirement of the Bonds, the Issuer shall direct the Depository Bank to pay from the Rebate Fund to the United States 100% of the theretofore unpaid Excess Investment Earnings in the Rebate Fund. In the event that there are any amounts remaining in the Rebate Fund following the payment required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States at the address prescribed by the Regulations as the same may be in time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required by this Subsection D, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor.

E. FURTHER OBLIGATIONS OF ISSUER. The Issuer shall assure that Excess Investment Earnings are not paid or disbursed except as

required in this Section. To that end the Issuer shall assure that investment transactions are on an arm's length basis and that Nonpurpose Investments are acquired at their fair market value. In the event that Nonpurpose Investments consist of certificates of deposit or investment contracts, investment in such Nonpurpose Investments shall be made in accordance with the procedures described in applicable Regulations as from time to time in effect. The Depository Bank shall keep the moneys in the Earnings Fund and Rebate Fund invested and reinvested to the fullest extent practicable in Government Obligations with maturities consonant with the required use thereof and investment profits and earnings shall be credited to the account of such fund on which earned.

F. MAINTENANCE OF RECORDS. The Issuer shall keep, and retain for a period of 6 years following the retirement of the Bonds, records of the determinations made pursuant to this Section 8.03.

G. INDEPENDENT CONSULTANTS. In order to provide for the administration of this Section 8.03, the Issuer and the Depository Bank (at the expense of the Issuer) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer or the Depository Bank may deem appropriate.

H. FURTHER AGREEMENT. Notwithstanding the foregoing, the Issuer further covenants to comply with all Regulations from time to time in effect and applicable to the Bonds, as may be necessary in order to fully comply with Section 148(f) of the Code.

I. REPORTING TO AUTHORITY. The Issuer shall furnish to the Authority, annually, 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 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 or, if the Issuer qualifies for the small governmental issue exception to rebate, then the Issuer shall submit a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Bonds subject to rebate.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. A. Each of the following events shall constitute an "Event of Default" with respect to the Notes:

(1) If default occurs in the due and punctual payment of the principal of or interest on any Notes; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Notes set forth in this Bond Legislation, any supplemental resolution, the Indenture or in the Notes, 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 Trustee, any other bank or banking association holding any fund or account hereunder or a Holder of a Note; 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.

B. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest on any 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 Bonds set forth in this Bond Legislation, any supplemental resolution or in the 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, Registrar 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 Note or Bond, as the case may be, 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 Notes or Bonds, as the case may be, (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 Notes or Bonds, as the case may be, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Notes or Bonds, or the rights of such Registered Owners, provided however, that no remedy herein stated may be exercised by a Noteholder in a manner which adversely affects any remedy available to the Bondholders, and provided further, that all rights and remedies of the Holders of the Series 1989 B Bonds shall be subject to those of the Holders of the Series 1989 A Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond or Bond Anticipation Note may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, 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 or Bond Anticipation Notes 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 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

DEFEASANCE

Section 10.01. Defeasance of Series 1989 A Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1989 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 1989 A Bonds only, the pledge of Gross Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1989 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1989 A Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agents at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date, the principal installments of and interest on such Series 1989 A Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1989 A Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Series 1989 A Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 1989 A Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the

Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

Section 10.02. Defeasance of Series 1989 B Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1989 B Bonds, the principal 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 1989 B Bonds only, the pledge of Gross Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1989 B Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1989 B Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agents at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date the principal installments of such Series 1989 B Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1989 B Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of said Series 1989 B Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of said Series 1989 B Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

Section 10.03. Defeasance of Notes. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of any series of Notes, the principal of and interest due or to become due thereon, at the times and in the manner set forth in the Indenture, then with respect to such Notes only, this Bond Legislation, the Indenture, if any, and the pledges of Grant Receipts and other moneys and securities pledged thereby, and all covenants, agreements and other obligations of the Issuer to the Holders of the Notes shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. No material modification or amendment of this Bond Legislation, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the respective rights of Registered Owners of the Notes or Bonds shall be made without the consent in writing of the Registered Owners of 66-2/3% or more in principal amount of the Notes, the Series 1989 A Bonds or the Series 1989 B Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or any Note or Notes 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 respectively pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds or Notes respectively, 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 or Noteholder 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 Bonds and the Notes 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 Notes, 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, the Indenture, if any, the Bonds or the Notes, if any.

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 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 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 Bond Legislation 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 Parsons Advocate, a qualified newspaper published and of general circulation in the City of Parsons, together with a notice stating that this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Bonds and Notes, and that any person interested may appear before the City Council upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Bond Legislation and notice, and present protests, and that a certified copy of the 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 - April 18, 1989

Passed on Second Reading - May 2, 1989

Passed on Final Reading Following Public Hearing - May 16, 1989

John H. Wilson
Mayor

Mary Alice Parsons
Recorder

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the CITY OF PARSONS on the 16th day of May, 1989.

Dated: July 25, 1989

[SEAL]

Mary Alice Parsons
Recorder

05/16/89
PARSONSE.A4
68901/88001

CITY OF PARSONS

Combined Waterworks and Sewerage System Revenue Bonds,
Series 1989 A and Series 1989 B

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 A AND SERIES 1989 B OF THE CITY OF PARSONS; AUTHORIZING AND APPROVING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS

WHEREAS, the city council (the "Governing Body") of the City of Parsons (the "Issuer"), has duly and officially enacted a bond ordinance, effective May 16, 1989 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS FOR THE SEWERAGE PORTION OF THE EXISTING COMBINED PUBLIC WATERWORKS AND SEWERAGE FACILITIES OF THE CITY OF PARSONS AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $300,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 A, NOT MORE THAN $100,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 B, AND NOT MORE THAN $300,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF BOND ANTICIPATION NOTES, GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR ANY COMBINATION OF THE FOREGOING; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN

AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Bond Ordinance provides for the issuance of Combined Waterworks and Sewerage System Revenue Bonds of the Issuer (the "Bonds"), in an aggregate principal amount not to exceed $400,000, to be issued in two series, the Series 1989 A Bonds to be in an aggregate principal amount of not more than $300,000 (the "Series 1989 A Bonds") and the Series 1989 B Bonds to be in an aggregate principal amount of not more than $100,000 (the "Series 1989 B Bonds"), and has preliminarily authorized the execution and delivery of a loan agreement relating to the Series 1989 A Bonds to be dated November 22, 1989, and a supplemental loan agreement relating to the Series 1989 B Bonds, also to be dated November 22, 1989 (sometimes collectively referred to herein as the "Loan Agreement"), by and between the Issuer and West Virginia Water Development Authority (the "Authority"), all in accordance with Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"); and in the Bond Ordinance it is provided that the form of the Loan Agreement and the exact principal amounts, maturity dates, interest rates, interest and principal payment dates, sale prices 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 Loan Agreement has been presented to the Issuer at this meeting;

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

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the Loan Agreement be approved and entered into by the Issuer, that the exact principal amounts, the prices, the maturity dates, the redemption provisions, the interest rates and the interest and principal payment dates of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF PARSONS:

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:

(A) The Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A, of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of $269,103. The Series 1989 A Bonds shall be dated the date of delivery thereof, shall finally mature October 1, 2029, shall bear interest at the rate of 8.4% per annum, payable semiannually on April 1 and October 1 of each year, first interest payable April 1, 1990, shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Series 1989 A Bonds, and shall be payable in installments of principal on October 1 of each of the years and in the amounts as set forth in "Schedule X," attached thereto and to the Loan Agreement and incorporated therein by reference.

(B) The Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of $39,891. The Series 1989 B Bonds shall be dated the date of delivery thereof, shall finally mature October 1, 2029, shall be interest free, shall be subject to redemption upon the written consent of the Authority, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Series 1989 B Bonds, and shall be payable in installments of principal on October 1 of each of the years and in the amounts as set forth in "Schedule X," attached thereto and to the Supplemental Loan Agreement and incorporated therein by reference.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the forms provided in the Bond Ordinance.

Section 3. The Issuer does hereby authorize, approve and accept the Loan Agreement, copies of which are incorporated herein by reference, and the execution and delivery by the Mayor of the Loan Agreement, and the performance of the obligations contained therein,

on behalf of the Issuer are hereby authorized, directed and approved. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon.

Section 4. The Issuer does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, as Registrar for the Bonds 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 One Valley Bank, National Association, in substantially the form attached hereto, and the execution and delivery by the Mayor of the Registrar's Agreement, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, approved and directed.

Section 5. The Issuer does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds.

Section 6. The Issuer does hereby appoint Citizens National Bank, Elkins, West Virginia, as Depository Bank under the Bond Ordinance.

Section 7. Series 1989 A Bonds Proceeds in the amount of $21,800 shall be deposited in the Series 1989 A Bonds Sinking Fund as capitalized interest on the Series 1989 A Bonds.

Section 8. The balance of proceeds of the Bonds shall be deposited in the Bond Construction Trust Fund for payment of Costs of the Project, including payment of all bank loans, WDA loans and costs of issuance of the Bonds.

Section 9. The Issuer hereby determines to pay, on the date of delivery of the Bonds and receipt of proceeds thereof, all borrowings of the Issuer heretofore incurred for the purpose of temporarily financing a portion of the Costs of the Project, including, but not limited to, all borrowings from West Virginia Water Development Authority.

Section 10. The Mayor, City Manager and Recorder are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about November 22, 1989, to the Authority pursuant to the Loan Agreement.

Section 11. The financing of the Project in part with proceeds of the Bonds is in the public interest, serves a public

purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 12. The Issuer hereby determines that it is in the best interest of the Issuer to invest all moneys in the funds and accounts established by the Bond Ordinance in time accounts secured by a pledge of Government Obligations with Citizens National Bank, and therefore the Issuer hereby directs the Depository Bank and the Paying Agent to take such actions as may be necessary to cause such moneys to be invested in such time accounts, until further directed by the Issuer.

Section 13. 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 (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. They will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 14. The Issuer has general taxing powers to finance operations of or facilities of the nature of the System, and the Issuer and all subordinate entities reasonably expect to issue less than $5,000,000 aggregate principal amount of tax-exempt obligations during the calendar year 1989, being the calendar year in which the Bonds are to be issued.

Section 15. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 21st day of November, 1989.

CITY OF PARSONS

John H. Wilson

Mayor

11/20/89
PARSONSS.D3
68901/88001

STATE OF WEST VIRGINIA
WATER DEVELOPMENT AUTHORITY
1201 DUNBAR AVENUE
DUNBAR, WV 25064
Telephone (304) 558-3612
Telecopier (304) 558-0299

May 8, 1996

The City of Parsons
Combined Waterworks and Sewerage System Revenue Bonds, Series 1996
(West Virginia Water Development Authority)

TO WHOM IT MAY CONCERN:

The undersigned duly authorized representative for West Virginia Water Development Authority, the present holder of the entire outstanding aggregate principal amount of the Series 1989 A Bonds and the Series 1989 B Bonds, hereinafter defined and described, hereby consents to the issuance of the Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 (West Virginia Water Development Authority) (the "Bonds"), in the original aggregate principal amount of $457,500, by The City of Parsons (the "Issuer"), under the terms of the ordinance authorizing the Bonds, on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A (the "Series 1989 A Bonds"), senior and prior, with respect to liens, pledge and source of and security for payment, to the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B (the "Series 1989 B Bonds"), and junior and subordinate, with respect to liens, pledge and source of and security for payment, to the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 1984.

Daniel B. Lyonbarger
Authorized Representative

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

GASTON CAPERTON
GOVERNOR

November 18, 1994

The Honorable Mary G. Moore
Mayor
City of Parsons
341 Second Street
Parsons, West Virginia 26287

Dear Mayor Moore:

Thank you for your application to the Small Cities Block Grant program for fiscal year 1994.

I am pleased to approve your request in an amount not to exceed $750,000. These funds will enable you to make water system improvements. The expenditure of these funds will be subject to review and concurrence by the newly established Infrastructure and Jobs Development Council. Please be advised that cost necessary to obtain concurrence from the Infrastructure and Jobs Development Council after this date will be considered allowable project cost.

The West Virginia Development Office, Community Development Division staff, will contact you to complete the necessary contracts in order to proceed with your project.

It is with pleasure that I am able to work with you to make this project a reality.

Sincerely,

Gaston Caperton

Gaston Caperton
Governor

GC:bks