CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF PROGRAM/ARRA),
STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA CWSRF PROGRAM/ARRA GREEN),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

Closing Date: September 18, 2009

TRANSCRIPT OF PROCEEDINGS

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The closing of the sale of the City of Beckley Sewerage System Revenue Bonds, Series 2009 A (West Virginia CWSRF Program), Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF Program/ARRA), Stormwater Revenue Bonds, Series 2009 B-2 (West Virginia CWSRF Program/ARRA Green), Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program), will take place at the office of the West Virginia Water Development Authority in Charleston, West Virginia, at 10:00 a.m., prevailing time, on August 27, 2009. No transaction shall be deemed to have been completed and no

documents shall be deemed to have been delivered unless or until all transactions are complete and all documents delivered.

State of West Virginia

WATER DEVELOPMENT AUTHORITY

180 Association Drive, Charleston, WV 25311-1217
(304) 558-3612 - (304) 558-0299 (Fax)
Internet: www.wvwda.org - Email: contact@wvwda.org

BOND CLOSING ATTENDANCE LIST

Date Sept 17, 2009 Time 2:30 pm LGA City of Beckley Program CWSRF

NAME	COMPANY, AGENCY, OR ORGANIZATION	TELEPHONE	FAX	E-MAIL
Sammie Cox	Jackson Kelly PLLC	304 340 1318	304 340 1272	sgcox@jacksonkelly.com
Mark E Kauffelt	WDA / Kauffelt & Kauffelt	304-345-1272	304-345-1280	MKAUFFELT@WVDSL.NET
Rose Brodersen	WV DEP	304 926 0499 x1608	304 926 0496	Rosalie.M.Brodersen@wv.gov
Carol Cummings	WDA	304-558 3612	304-558 0299	Ccummings@wvwda.org

The Authority requests that the following information concerning the individual who will be responsible for sending Debt Service Payments to the Municipal Bond Commission be provided. (If that individual is in attendance, he/she should also sign above.) Please Print:

Name Luke Richmond Telephone 304.256.1760 E-Mail luke.richmond_bsb@yahoo.com

Address P.O. Box 2514, Beckley WV 25802

REMINDER: As a participant in this program, the Local Governmental Agency (LGA) agrees and is required to submit annually to the WDA a copy of its audited financial statements and a copy of its adopted budget. Also, pursuant to the Loan Agreement and the NonArbitrage Certificate (both of which are contained in the bond transcript) you are to provide annually to the WDA a rebate calculation certificate or an exception opinion showing whether a rebate amount is due to the US Government under arbitrage requirements in Section 148(f) of the US Internal Revenue Code, 1986, as amended.

State of West Virginia

Certificate

I, Natalie E. Tennant, 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 2009 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

September 9, 2009

Natalie E. Tennant

Secretary of State

ARTICLE 13

SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND SANITARY DISTRICTS

Section

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.
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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, article twenty, chapter eight of this code; and

(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.

Acts 1933, Ex. Sess., c. 25, § 1; Acts 1955, c. 132; Acts 1986, c. 118; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

Library References

Municipal Corporations ⇐270, 708, 711, 950. Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1535, 1708 to 1709.

Notes of Decisions

Construction and application 1
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Public improvements 5
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Revenue bonds for construction 4

1. Construction and application

Statutes dealing with municipally owned and operated sewer systems should be read and construed together. Code, 8-4-20, 16-13-1, 16-13-2, 16-13-16, 24-1-1 et seq., 24-2-1 et seq., 24-3-1 et seq. Delardas v. Morgantown Water Commission, 1964, 137 S.E.2d 426, 148 W.Va. 776. Statutes ⇐ 223.2(21)

Statutes relating to supervision and regulation of public utilities by Public Service Commission and statute dealing with municipally owned sewer systems relate to the same subject and should be read and construed together. Code, 16-13-1 et seq., 24-1-1 et seq. State ex rel. City of Wheeling v. Renick, 1960, 116 S.E.2d 763, 145 W.Va. 640. Statutes ⇐ 223.2(27)

2. Regulation of public utilities

Under West Virginia Act authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay cost thereof, money used in preliminary engineering work prior to actual beginning of construction of sewage disposal system is not required to be handled by sanitary board, but board is merely required to supervise and control the construction and maintenance of the project. Code W.Va. 16–13–16, 16–13–18, 16–13–32. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Health ⇐ 369

Under statute declaring that words "public utility" shall include any person or persons, or association of persons including municipalities, engaged in any business which is a public service, sewer system owned and operated by city was a "public utility" and Public Service Commission was vested with jurisdiction to supervise or regulate municipal sewer system and to hear proceeding seeking extension of sewer services, and power of Commission to supervise and regulate sewer system was not withdrawn or impaired by statutes authorizing municipal corporation to own, construct and maintain sewer system under control of a Sanitary Board and authorizing Board to operate and control such systems and to order and complete any extensions that Board might deem expedient. Code, 16–13–1 et seq., 16–13–2, 16–13–3, 16–13–5, 16–13–16, 16–13–18, 16–13–23, 24–1–1, 24–2–1, 24–3–1. State ex rel. City of Wheeling v. Renick, 1960, 116 S.E.2d 763, 145 W.Va. 640. Public Utilities ⇐ 113

Public Service Commission has statutory power and authority to control facilities, charges and services of all public utilities, and to hear complaints of persons entitled to services which such utilities afford, subject only to limitation that the requirements shall not be contrary to law and that they be just and fair, just and reasonable, and just and proper. Code, 16–13–1 et seq., 24–1–1 et seq. State ex rel. City of Wheeling v. Renick, 1960, 116 S.E.2d 763, 145 W.Va. 640. Public Utilities ⇐ 114; Public Utilities ⇐ 119.1

3. Police power

Statute delegating to municipal corporation power by ordinance to create sanitary boards and authorizing such sanitary boards to enter into contracts for construction of sewerage systems is a valid exercise of police power of state. Code, 16–13–1 et seq. West Virginia Water Service Co. v. Cunningham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Constitutional Law ⇐ 2437; Health ⇐ 358

Legislature may delegate police power to cities or counties, as it sees fit. Brewer v. City of Point Pleasant, 1934, 172 S.E. 717, 114 W.Va. 572. Constitutional Law ⇐ 2437; Constitutional Law ⇐ 2438

4. Revenue bonds for construction

Plan of preparation expense in construction of municipal sewage treatment and disposal system constituted one of first items of expense incurred and constituted a liability, according to agreements between municipality and Federal Works Agency which advanced money to meet such expense, from moment construction be-

gan, and, therefore, repayment of such advancements from proceeds of future revenue bond issues could not be held unlawful on ground that such payment would impair bondholders' security. Code W.Va. 16-13-16, 16-13-18, 16-13-22, 16-13-32; War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 950(15)

In action to cancel certain sewer revenue bonds issued by West Virginia City and to enjoin collection of sewerage service charges assessed for the purpose of liquidating such bonds, District Court was bound by decisions of Supreme Court of Appeals of West Virginia upholding the constitutionality of statute permitting municipalities to issue bonds for self-liquidating municipal projects. Laws W.Va.1933, 1st Ex.Sess., c. 25, as amended by Laws W.Va. 1933, 2nd Ex.Sess., c. 48. Stevenson v. City of Bluefield, 1941, 39 F.Supp. 462. Federal Courts ⇐ 433

City located on or near state boundary and confronted with necessity of purchasing property and erecting sewage disposal plant in adjoining state held authorized under statute to issue revenue bonds payable solely from revenues of such plant. Acts 1933, 1st Ex.Sess., c. 25, as amended by Acts 1933, 2d Ex.Sess., c. 48. Bernard v. City of Bluefield, 1936, 186 S.E. 298, 117 W.Va. 556. Municipal Corporations ⇐ 919

5. Public improvements

Under contract between municipal sanitary board and contractor requiring contractor to bear cost and expense of damage to surface, overhead or subsurface structures in construction of sanitary sewer system, contractor was liable to water company for expense of removal of all water and other pipes under streets which interfered with construction of sewer system. Code, 16–13–1 et seq., 16–13–17, 16–13–24. West Virginia Water Service Co. v. Cunningham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Municipal Corporations ⇐ 400

6. Power to incur indebtedness and expenditures

Obligations incurred by city under authority of West Virginia statute authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay the cost thereof are not "debts" within provision of West Virginia Constitution containing limitations on power of a municipality to incur debts. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19; 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 864(3)

7. Jurisdiction

Taxpayers of a city seeking to enjoin collection by city of sewerage service charges assessed for purpose of liquidating bonds issued for construction of sewerage system could not invoke jurisdiction of federal court on ground that by reason of prior decisions of state court upholding validity of statute, under which bonds were issued and rates assessed, plaintiffs did not have a plain, speedy and efficient remedy in state court within meaning of Judicial Code. Laws W.Va.1933, 1st Ex.Sess., c. 25, as amended by Laws W.Va.1933, 2nd Ex.Sess., c. 48; Jud.Code, § 24(1), 28 U.S.C.A. § 1312. Stevenson v. City of Bluefield, 1941, 39 F.Supp. 462. Federal Courts ⇐ 7; Federal Courts ⇐ 26.1

§ 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 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 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.

Acts 1933, Ex. Sess., c. 25, § 2; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

Library References

Health ⇐369.
Municipal Corporations ⇐711.
Westlaw Topic Nos. 198H, 268.

C.J.S. Health and Environment §§ 7 to 9, 16 to 17, 26 to 27, 44 to 45, 98 to 100.
C.J.S. Municipal Corporations § 1535.

Notes of Decisions

Construction and application 1
Construction of sewer systems 3
Public utilities 2

1. Construction and application

Statutes dealing with municipally owned and operated sewer systems should be read and construed together. Code, 8-4-20, 16-13-1, 16-13-2, 16-13-16, 24-1-1 et seq., 24-2-1 et seq., 24-3-1 et seq. Delardas v. Morgantown Water Commission, 1964, 137 S.E.2d 426, 148 W.Va. 776. Statutes ⇐ 223.2(21)

2. Public utilities

All contracts made by a utility relating to the public service must be deemed to be entered into in contemplation of the exercise by the state of its regulatory power whenever the public interest may make it necessary. Berkeley County Public Service Sewer Dist. v. West Vir-

ginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Public Utilities ⇐ 115

Under statute declaring that words "public utility" shall include any person or persons, or association of persons including municipalities, engaged in any business which is a public service, sewer system owned and operated by city was a "public utility" and Public Service Commission was vested with jurisdiction to supervise or regulate municipal sewer system and to hear proceeding seeking extension of sewer services, and power of Commission to supervise and regulate sewer system was not withdrawn or impaired by statutes authorizing municipal corporation to own, construct and maintain sewer system under control of a Sanitary Board and authorizing Board to operate and control such systems and to order and complete any extensions that Board might deem expedient. Code, 16–13–1 et seq., 16–13–2, 16–13–3, 16–13–5, 16–13–16, 16–13–18, 16–13–23, 24–1–1, 24–2–1, 24–3–1. State ex rel. City of Wheeling v. Renick, 1960, 116 S.E.2d 763, 145 W.Va. 640. Public Utilities ⇐ 113

3. Construction of sewer systems

Obligations incurred by city under authority of West Virginia statute authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay the cost thereof are not "debts" within provision of West Virginia Constitution containing limitations on power of a municipality to incur debts. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 864(3)

If sewer project is undertaken by municipality, whatever loans may have been made on faith of the revenue bonds as authorized under West Virginia law would or should be included in cost of the works and repaid out of proceeds of the bonds. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 950(15)

§ 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.

Acts 1933, Ex. Sess., c. 25, § 3; Acts 1989, c. 133; Acts 2001, c. 143, eff. 90 days after April 11, 2001; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

Historical and Statutory Notes

Acts 2001, c. 143, also amended this section to 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."

Library References

Health ⇐369.
Westlaw Topic No. 198H.

C.J.S. Health and Environment §§ 7 to 9, 16 to 17, 26 to 27, 44 to 45, 98 to 100.

Notes of Decisions

Independent contractor 3
Police power of local authorities 1
Validity of municipal contracts 2

1. Police power of local authorities

Under the police power of the State, the Legislature has the power to provide for the protection of the safety, health, morals and general welfare of the public, and may delegate such powers to municipalities created by it. West Virginia Water Service Co. v. Cunningham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Constitutional Law ⇐ 2437; Constitutional Law ⇐ 1066

Under statute delegating to municipal corporations power by ordinance to create sanitary boards and authorizing such boards to enter into contracts for construction of sewerage systems, ordinance creating sanitary board and authorizing such board to enter into contract for construction of sewerage system was valid exercise of police power of state delegated to city by statute. Code, 16–13–1 et seq. West Virginia Water Service Co. v. Cunningham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Health ⇐ 358; Health ⇐ 369

2. Validity of municipal contracts

Contract between municipal sanitary board and contractor providing for construction of sanitary sewerage system in furtherance of exercise of police power of state and provisions of city ordinance was valid. West Virginia Water Service Co. v. Cunningham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Municipal Corporations ⇐ 339(1)

3. Independent contractor

Where city had no right of control over contractor and sanitary board in construction of sanitary sewer system, contractor was "independent contractor". West Virginia Water Service Co. v. Cunningham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Municipal Corporations ⇐ 400

§ 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.

Acts 1933, Ex. Sess., c. 25, § 4.

Library References

Municipal Corporations ⇐288.
Westlaw Topic No. 268.
C.J.S. Municipal Corporations § 969.

Notes of Decisions

Construction planning expenses 2
Power to incur indebtedness and expenditures 1

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1. Power to incur indebtedness and expenditures

West Virginia municipalities are authorized to incur obligations for purpose of defraying preliminary expenses of sewer projects, provided repayment of such obligations is to be made solely from proceeds of revenue bonds, not from tax levies. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 864(3)

2. Construction planning expenses

Plan of preparation expense in construction of municipal sewage treatment and disposal system constituted one of first items of expense incurred and constituted a liability, according to agreements between municipality and Federal Works Agency which advanced money to meet such expense, from moment construction began, and, therefore, repayment of such advancements from proceeds of future revenue bond issues could not be held unlawful on ground that such payment would impair bondholders' security. Code W.Va. 16-13-16, 16-13-18, 16-13-22, 16-13-32; War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 950(15)

Under West Virginia Act authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay cost thereof, money used in preliminary engineering work prior to actual beginning of construction of sewage disposal system is not required to be handled by sanitary board, but board is merely required to supervise and control the construction and maintenance of the project. Code W.Va. 16–13–16, 16–13–18, 16–13–32. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Health ⇐ 369

United States, which was entitled to reimbursement for advances made to West Virginia city by Federal Works Agency for purpose of plan preparation for construction of proposed sewage treatment and disposal system, would not be entitled to general judgment against city but would be entitled to an order requiring repayment from existing or future revenue bond proceeds and to four percent interest. War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785; Code W.Va. 38-4-5, 38-4-6, 53-1-1. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 1037

In agreement between West Virginia city and Federal Works Administrator for advances to be used for purpose of plan preparation for construction of proposed sewage treatment and disposal system, parties would be presumed to know extent of city's authority to make a binding contract in such respect, and, therefore, limitation imposed by West Virginia law on city would be read into the agreement. War Mobilization and Reconversion Act of 1944, §§ 101 et seq., 501, 58 Stat. 785, 791; Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. W.Va. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 250

§ 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.

Acts 1933, Ex. Sess., c. 25, § 5.

Library References

Municipal Corporations ⇐293.
Westlaw Topic No. 268.
C.J.S. Municipal Corporations §§ 977 to 978.

Notes of Decisions

Power to incur indebtedness and expenditures 1

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1. Power to incur indebtedness and expenditures

West Virginia municipalities are authorized to incur obligations for purpose of defraying preliminary expenses of sewer projects, provided repayment of such obligations is to be made solely from proceeds of revenue bonds, not from tax levies. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 864(3)

United States, which was entitled to reimbursement for advances made to West Virginia city by Federal Works Agency for purpose of plan preparation for construction of proposed sewage treatment and disposal system, would not be entitled to general judgment against city but would be entitled to an order requiring repayment from existing or future revenue bond proceeds and to four percent interest. War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785; Code W.Va. 38-4-5, 38-4-6, 53-1-1. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 1037

If sewer project is undertaken by municipality, whatever loans may have been made on faith of the revenue bonds as authorized under West Virginia law would or should be included in cost of the works and repaid out of proceeds of the bonds. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 950(15)

§ 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, 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.

Acts 1933, Ex. Sess., c. 25, § 6; Acts 1967, c. 105; Acts 1981, 1st Ex. Sess., c. 2.

Library References

Municipal Corporations ⇐294 to 300.
Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 979 to 985, 988 to 1001.

§ 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, 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 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.

Acts 1933, Ex. Sess., c. 25, § 7.

Library References

Municipal Corporations ⇐287.
Westlaw Topic No. 268.

§ 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.

Acts 1933, Ex. Sess., c. 25, § 8.

Library References

Municipal Corporations ⇐288.
Westlaw Topic No. 268.
C.J.S. Municipal Corporations § 969.

Notes of Decisions

Monetary advances 2
Preliminary expenditures 1

1. Preliminary expenditures

Under West Virginia Act authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay cost thereof, money used in preliminary engineering work prior to actual beginning of construction of sewage disposal system is not required to be handled by sanitary board, but board is merely required to supervise and control the construction and maintenance of the project. Code W.Va. 16–13–16, 16–13–18, 16–13–32. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Health ⇐ 369

2. Monetary advances

United States, which was entitled to reimbursement for advances made to West Virginia city by Federal Works Agency for purpose of plan preparation for construction of proposed sewage treatment and disposal system, would not be entitled to general judgment against city but would be entitled to an order requiring repayment from existing or future revenue bond proceeds and to four percent interest. War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785; Code W.Va. 38-4-5, 38-4-6, 53-1-1. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 1037

Plan of preparation expense in construction of municipal sewage treatment and disposal system constituted one of first items of expense incurred and constituted a liability, according to agreements between municipality and Federal Works Agency which advanced money to meet such expense, from moment construction began, and, therefore, repayment of such advancements from proceeds of future revenue bond issues could not be held unlawful on ground that such payment would impair bondholders' security. Code W.Va. 16-13-16, 16-13-18, 16-13-22, 16-13-32; War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 950(15)

§ 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.

Acts 1933, Ex. Sess., c. 25, § 9; Acts 1949, c. 93; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

Library References

Municipal Corporations ⇐870, 911, 950(15). Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1573 to 1579, 1581, 1647 to 1649, 1708 to 1709.

Notes of Decisions

Power of municipal corporations to contract 2
Power to incur indebtedness and expenditures 3
Preliminary expenditures 4
Preliminary proceedings and ordinances 5
Validity 1

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1. Validity

Statute authorizing municipalities to construct and finance self-liquidating sewer systems held constitutional (Acts 1933 [1st Ex.Sess.] c. 25). Brewer v. City of Point Pleasant, 1934, 172 S.E. 717, 114 W.Va. 572. Municipal Corporations ⇐ 266

2. Power of municipal corporations to contract

Under provisions of statute relating to contract with other municipalities for service of sewage works, city which ordered construction of sewage disposal plant was authorized to contract with town to provide that town would have the right to use part of the capacity of the plant in return for contributing to its cost and town was authorized to enter into such contracts with city for the use of the plant, and fact that town was unable to sell revenue bonds because it was not allowed to have part ownership in the plant or in the interceptor sewers did not mean that town was not liable for payments agreed to under the contracts, where city offered to buy the revenue bonds issued by the town. Code, 16–13–9, 16–13–19, 16–13–23a. City of Morgantown v. Town of Star City, 1973, 195 S.E.2d 166, 156 W.Va. 529. Municipal Corporations ⇐ 277

3. Power to incur indebtedness and expenditures

Obligations incurred by city under authority of West Virginia statute authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay the cost thereof are not "debts" within provision of West Virginia Constitution containing limitations on power of a municipality to incur debts. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 864(3)

West Virginia municipalities are authorized to incur obligations for purpose of defraying preliminary expenses of sewer projects, provided repayment of such obligations is to be made solely from proceeds of revenue bonds, not from tax levies. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 864(3)

If sewer project is undertaken by municipality, whatever loans may have been made on faith of the revenue bonds as authorized under West Virginia law would or should be included in cost of the works and repaid out of proceeds of the bonds. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 950(15)

Where statute authorizing municipalities to issue bonds for self-liquidating municipal project, provided that bonds should not be corporate indebtedness, bonds held not to create "debts" within constitutional inhibition (Acts 1933 [1st Ex.Sess.] c. 25, §§ 9, 10, 16, 21). Brewer v. City of Point Pleasant, 1934, 172 S.E. 717, 114 W.Va. 572. Municipal Corporations ⇐ 907

Provisions of statute relating to issuance of municipal bonds constitute integral parts of bonds regardless of whether included therein (Acts 1933 [1st Ex.Sess.] c. 25, §§ 9, 10, 16, 21). Brewer v. City of Point Pleasant, 1934, 172 S.E. 717, 114 W.Va. 572. Municipal Corporations ⇐ 923

Statute permitting municipalities to issue bonds for self-liquidating municipal projects held legitimate delegation of legislative power

Acts 1933, 1st Ex.Sess., c. 25. Brewer v. City of Point Pleasant, 1934, 172 S.E. 717, 114 W.Va. 572. Constitutional Law ⇐ 2437; Municipal Corporations ⇐ 907

4. Preliminary expenditures

Under West Virginia Act authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay cost thereof, money used in preliminary engineering work prior to actual beginning of construction of sewage disposal system is not required to be handled by sanitary board, but board is merely required to supervise and control the construction and maintenance of the project. Code W.Va. 16–13–16, 16–13–18, 16–13–32. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Health ⇐ 369

5. Preliminary proceedings and ordinances

Provision of sewer ordinance declaring that statutory mortgage lien should exist in favor of bondholders violated statute permitting municipalities to construct self-liquidating sewer systems, but declaration could be regarded as surplusage and did not affect validity of remainder of ordinance (Acts 1933 [1st Ex.Sess.] c. 25). Brewer v. City of Point Pleasant, 1934, 172 S.E. 717, 114 W.Va. 572. Municipal Corporations ⇐ 303(4)

§ 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 percent 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.

Acts 1933, Ex. Sess., c. 25, § 10; Acts 1970, c. 11; Acts 1980, c. 33; Acts 1981, 1st Ex. Sess., c. 2.

Library References

Municipal Corporations ⇐922, 950(15). Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1684 to 1686, 1697, 1708 to 1709.

§ 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.

Acts 1933, Ex. Sess., c. 25, § 11.

Library References

Municipal Corporations ⇐911, 950(15). Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1647 to 1649, 1708 to 1709.

§ 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.

Acts 1933, Ex. Sess., c. 25, § 12.

Library References

Municipal Corporations ⇐911, 950(15). Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1647 to 1649, 1708 to 1709.

§ 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 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.

Acts 1933, Ex. Sess., c. 25, § 13.

Library References

Municipal Corporations ⇐911, 950(15). Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1647 to 1649, 1708 to 1709.

Notes of Decisions

Preliminary expenditures 1
Repayment of loans 2

1. Preliminary expenditures

Under West Virginia Act authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay cost thereof, money used in preliminary engineering work prior to actual beginning of construction of sewage disposal system is not required to be handled by sanitary board, but board is merely required to supervise and control the construction and maintenance of the project. Code W.Va. 16–13–16, 16–13–18, 16–13–32. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Health ⇐ 369

2. Repayment of loans

If sewer project is undertaken by municipality, whatever loans may have been made on faith of the revenue bonds as authorized under West Virginia law would or should be included in cost of the works and repaid out of proceeds of the bonds. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 950(15)

United States, which was entitled to reimbursement for advances made to West Virginia city by Federal Works Agency for purpose of plan preparation for construction of proposed sewage treatment and disposal system, would not be entitled to general judgment against city but would be entitled to an order requiring repayment from existing or future revenue bond proceeds and to four percent interest. War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785; Code W.Va. 38-4-5, 38-4-6, 53-1-1. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 1037

§ 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,

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.

Acts 1933, Ex. Sess., c. 25, § 15; Acts 1933, 2nd Ex. Sess., c. 48; Acts 1986, c. 118.

Library References

Municipal Corporations ⇐951. Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1704 to 1705.

§ 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

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.

(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 storm-

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 determine.

Acts 1933, Ex. Sess., c. 25, § 14.

Library References

Municipal Corporations ⇐911, 950(15). Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1647 to 1649, 1708 to 1709.

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

§ 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

water 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, 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.

(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, 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.

Acts 1933, Ex. Sess., c. 25, § 16; Acts 1933, 2nd Ex. Sess., c. 48; Acts 1959, c. 125; Acts 1967, c. 105; Acts 2001, c. 212, eff. 90 days after April 14, 2001; Acts 2004, c. 185, eff. 90 days after March 12, 2004.

Library References

Municipal Corporations ⇐712.
Westlaw Topic No. 268.
C.J.S. Municipal Corporations § 1535.

Notes of Decisions

Construction and application 1
Public utilities 3
Rates and charges for service 2
Summary judgment 5
Water service termination 4

1. Construction and application

Statutes dealing with municipally owned and operated sewer systems should be read and construed together. Code, 8-4-20, 16-13-1, 16-13-2, 16-13-16, 24-1-1 et seq., 24-2-1 et seq., 24-3-1 et seq. Delardas v. Morgantown Water Commission, 1964, 137 S.E.2d 426, 148 W.Va. 776. Statutes ⇐ 223.2(21)

2. Rates and charges for service

If rates and charges set forth in ordinance and established by public service commission by its order should be considered improper for any valid reason, they may be challenged by any user of sewer services by complaint in proper proceeding before public service commission. Code, 8–4–20, 16–13–1, 16–13–2, 16–13–16, 24–1–1 et seq. Delardas v. Morgantown Water Commission, 1964, 137 S.E.2d 426, 148 W.Va. 776. Municipal Corporations ⇐ 712(8)

Where charges for use of sewer by sanitary board of city of Beckley were assessed to property owners according to quantity of water supplied subject to deduction of amount of water retained on premises to be determined by a meter installed by consumers and allowing deduction of costs thereof from amounts due on bills, such charges were not discriminatory, notwithstanding some users were financially unable to install meters. Code 16–13–30. Houchins v. City of Beckley, 1944, 32 S.E.2d 286, 127 W.Va. 306. Municipal Corporations ⇐ 712(7)

Party aggrieved by rates established for use of sewer could not resort to courts for relief, where he failed to exercise statutory remedy of appearing before governing body of municipality at public hearing (Acts 1933 [1st Ex.Sess.] c. 25). Brewer v. City of Point Pleasant, 1934, 172 S.E. 717, 114 W.Va. 572. Municipal Corporations ⇐ 712(8)

3. Public utilities

Under statute declaring that words "public utility" shall include any person or persons, or association of persons including municipalities, engaged in any business which is a public service, sewer system owned and operated by city was a "public utility" and Public Service Commission was vested with jurisdiction to supervise or regulate municipal sewer system and to hear proceeding seeking extension of sewer services, and power of Commission to supervise and regulate sewer system was not withdrawn or impaired by statutes authorizing municipal corporation to own, construct and maintain sewer system under control of a Sanitary Board and authorizing Board to operate and control such systems and to order and complete any extensions that Board might deem expedient. Code, 16–13–1 et seq., 16–13–2, 16–13–3, 16–13–5, 16–13–16, 16–13–18, 16–13–23, 24–1–1, 24–2–1, 24–3–1. State ex rel. City of Wheeling v. Renick, 1960, 116 S.E.2d 763, 145 W.Va. 640. Public Utilities ⇐ 113

4. Water service termination

Any impairment of sewer revenue bonds issued by cities providing for imposition of liens against property for unpaid sewer charges, by statutory amendment precluding cities from attaching lien to landlord's property for tenant's failure to pay sewer charges, was not "substantial impairment" and, thus, amendment did not violate constitutional prohibition against impairment of contracts, where bond contracts acknowledged that parties' rights were subject to legislative regulation, contracts were merely modified, abridged right was not central to parties' undertaking, and prior legislation provided utilities with far more effective remedy of water service termination for unpaid sewer charges. U.S.C.A. Const. Art. 1, § 10, cl. 1; W.Va.Code, §§ 8–18–23, 16–13–16. City of Charleston v. Public Service Com'n of West Virginia, 1995, 57 F.3d 385, certiorari denied 116 S.Ct. 474, 516 U.S. 974, 133 L.Ed.2d 404. Constitutional Law ⇐ 2704; Municipal Corporations ⇐ 712(7)

5. Summary judgment

Allegation, in city's notice of motion for judgment, that claim was for services of city sewage system and penalty for nonpayment to sanitary board for a specified period of time and that defendant was owner of property served and a specified sum was due by reason of a specified ordinance, when read in connection with verified itemized statement accompanying notice, was insufficient to state a claim based upon contract in absence of showing of relationship of sanitary board to sewage system, method of service and right of sanitary board to charge for service, and demurrer to notice was properly sustained. Code 1937, 16–13–15 et seq. City of Beckley v. Craighead, 1943, 24 S.E.2d 908, 125 W.Va. 484. Judgment ⇐ 184

§ 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.

Acts 1933, Ex. Sess., c. 25, § 17; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

Library References

Municipal Corporations ⇐712.
Westlaw Topic No. 268.
C.J.S. Municipal Corporations § 1535.

Notes of Decisions

In general 1

1. In general

Under contract between municipal sanitary board and contractor requiring contractor to bear cost and expense of damage to surface, overhead or subsurface structures in construction of sanitary sewer system, contractor was liable to water company for expense of removal of all water and other pipes under streets which interfered with construction of sewer system. Code, 16–13–1 et seq., 16–13–17, 16–13–24. West Virginia Water Service Co. v. Cunningham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Municipal Corporations ⇐ 400

§ 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.

Acts 1933, Ex. Sess., c. 25, § 18; Acts 1939, c. 96; Acts 1953, c. 146; Acts 1957, c. 137; Acts 1992, c. 95; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

Library References

Health ⇐369.
Municipal Corporations ⇐711.
Westlaw Topic Nos. 198H, 268.

C.J.S. Health and Environment §§ 7 to 9, 16 to 17, 26 to 27, 44 to 45, 98 to 100.
C.J.S. Municipal Corporations § 1535.

Notes of Decisions

Funds 4
Membership of sanitary boards 2
Powers and duties of sanitary boards 1
Public utilities 3

1. Powers and duties of sanitary boards

Under West Virginia Act authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay cost thereof, money used in preliminary engineering work prior to actual beginning of construction of sewage disposal system is not required to be handled by sanitary board, but board is merely required to supervise and control the construction and maintenance of the project. Code W.Va. 16–13–16, 16–13–18, 16–13–32. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Health ⇐ 369

City which created sanitary board for purpose of erecting sewage disposal plant held authorized to incorporate such sanitary board as a nonstock corporation for purpose of being domesticated in Virginia as a sewage purification company under Virginia law, where no other way was pointed out by which city or sanitary board could under law of Virginia acquire property in that state and carry out contemplated plan of erecting sewage disposal plant. Acts 1933, 1st Ex.Sess., c. 25, as amended by Acts 1933, 2d Ex.Sess., c. 48. Bernard v. City of Bluefield, 1936, 186 S.E. 298, 117 W.Va. 556. Municipal Corporations ⇐ 277

2. Membership of sanitary boards

Where sanitary board created by municipality optional for either mayor or city manager, (but not both) to be appointed to board. 52 W.Va. Op.Atty.Gen. 217 (February 9, 1967) 1967 WL 93382.

3. Public utilities

Under statute declaring that words "public utility" shall include any person or persons, or association of persons including municipalities, engaged in any business which is a public service, sewer system owned and operated by city was a "public utility" and Public Service Commission was vested with jurisdiction to supervise or regulate municipal sewer system and to hear proceeding seeking extension of sewer services, and power of Commission to supervise

and regulate sewer system was not withdrawn or impaired by statutes authorizing municipal corporation to own, construct and maintain sewer system under control of a Sanitary Board and authorizing Board to operate and control such systems and to order and complete any extensions that Board might deem expedient. Code, 16–13–1 et seq., 16–13–2, 16–13–3, 16–13–5, 16–13–16, 16–13–18, 16–13–23, 24–1–1, 24–2–1, 24–3–1. State ex rel. City of Wheeling v. Renick, 1960, 116 S.E.2d 763, 145 W.Va. 640. Public Utilities ⇐ 113

4. Funds

Charleston Sanitary Board treasurer must deliver funds collected from sewer system users to Charleston city treasurer. 52 W.Va. Op.Atty. Gen. 497 (October 6, 1967) 1967 WL 93425.

§ 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, 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.

Acts 1957, c. 138; Acts 1967, c. 105.

Acts 1976, c. 33, provided that all references to "justice of the peace" in the code of West Virginia mean "magistrate." See § 50–1–17.

Library References

Health ⇐369.
Municipal Corporations ⇐885.
Westlaw Topic Nos. 198H, 268.
C.J.S. Health and Environment §§ 7 to 9, 16 to 17, 26 to 27, 44 to 45, 98 to 100.
C.J.S. Municipal Corporations § 1628.

§ 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.

Acts 1933, Ex. Sess., c. 25, § 19; Acts 1981, 1st Ex. Sess., c. 2; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

Library References

Municipal Corporations ⇐328.
Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1027 to 1029.

Notes of Decisions

In general 1

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1. In general

Under provisions of statute relating to contract with other municipalities for service of sewage works, city which ordered construction of sewage disposal plant was authorized to contract with town to provide that town would have the right to use part of the capacity of the plant in return for contributing to its cost and town was authorized to enter into such contracts with city for the use of the plant, and fact that town was unable to sell revenue bonds because it was not allowed to have part ownership in the plant or in the interceptor sewers did not mean that town was not liable for payments agreed to under the contracts, where city offered to buy the revenue bonds issued by the town. Code, 16–13–9, 16–13–19, 16–13–23a. City of Morgantown v. Town of Star City, 1973, 195 S.E.2d 166, 156 W.Va. 529. Municipal Corporations ⇐ 277

§ 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.

Acts 1933, Ex. Sess., c. 25, § 20.

Library References

Municipal Corporations ⇐288(2).
Westlaw Topic No. 268.
C.J.S. Municipal Corporations § 969.

§ 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.

Acts 1933, Ex. Sess., c. 25, § 21.

Library References

Municipal Corporations ⇐937, 955.
Westlaw Topic No. 268.
C.J.S. Municipal Corporations §§ 1707, 1711.

§ 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.

Acts 1933, Ex. Sess., c. 25, § 22; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

Library References

Municipal Corporations ⇐711.
Westlaw Topic No. 268.
C.J.S. Municipal Corporations § 1535.

§ 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.

Acts 1949, c. 93; Acts 1961, c. 107; Acts 1980, c. 59; Acts 1981, 1st Ex. Sess., c. 2; Acts 1986, c. 118.

Library References

Municipal Corporations ⇐864(3).
Westlaw Topic No. 268.
C.J.S. Municipal Corporations §§ 1583 to 1585, 1587.

Notes of Decisions

Power to incur indebtedness and expenditures 1
Repayment of loans and advances 2

1. Power to incur indebtedness and expenditures

Obligations incurred by city under authority of West Virginia statute authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay the cost thereof are not "debts" within provision of West Virginia Constitution containing limitations on power of a municipality to incur debts. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 864(3)

2. Repayment of loans and advances

United States, which was entitled to reimbursement for advances made to West Virginia city by Federal Works Agency for purpose of plan preparation for construction of proposed sewage treatment and disposal system, would not be entitled to general judgment against city but would be entitled to an order requiring repayment from existing or future revenue bond proceeds and to four percent interest. War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785; Code W.Va. 38-4-5, 38-4-6, 53-1-1. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 1037

If sewer project is undertaken by municipality, whatever loans may have been made on faith of the revenue bonds as authorized under West Virginia law would or should be included in cost of the works and repaid out of proceeds of the bonds. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇐ 950(15)

Under agreement between West Virginia city and Federal Works Administrator, in accordance with the War Mobilization and Reconversion Act of 1944, West Virginia city incurred obligation to repay advances made for purpose of plan preparation for construction of proposed sewage treatment and disposal system if and when construction of the sewage treatment plant should be started and would not be obligated to repay the advances if the construction were not undertaken. War Mobilization and Reconversion Act of 1944, §§ 101 et seq., 501, 58 Stat. 785, 791. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. United States ⇐ 82(1)

§ 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.

Acts 1949, c. 93.

Library References

Municipal Corporations ⇐328.
Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1027 to 1029.

§ 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.

Acts 1949, c. 93.

Library References

Municipal Corporations ⇐913. Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1647 to 1648, 1651.

§ 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.

Acts 1949, c. 93.

Library References

Municipal Corporations ⇐950(15). Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1708 to 1709.

§ 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.

Acts 1955, c. 132.

Library References

Municipal Corporations ⇐328. Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1027 to 1029.

§ 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.

Acts 1955, c. 132; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

Library References

Taxation ⇐2316, 3519.
Westlaw Topic No. 371.

§ 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.

Acts 1955, c. 132; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

Library References

Municipal Corporations ⇐922.
Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1684 to 1686, 1697.

§ 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.

Acts 1933, Ex. Sess., c. 25, § 23.

Library References

Municipal Corporations ⇐270, 906. Westlaw Topic No. 268.

C.J.S. Municipal Corporations §§ 1645 to 1646, 1702.

Notes of Decisions

Public utilities 1

1. Public utilities

Under statute declaring that words "public utility" shall include any person or persons, or association of persons including municipalities, engaged in any business which is a public service, sewer system owned and operated by city was a "public utility" and Public Service Commission was vested with jurisdiction to supervise or regulate municipal sewer system and to hear proceeding seeking extension of sewer services, and power of Commission to supervise and regulate sewer system was not withdrawn or impaired by statutes authorizing municipal corporation to own, construct and maintain sewer system under control of a Sanitary Board and authorizing Board to operate and control such systems and to order and complete any extensions that Board might deem expedient. Code, 16–13–1 et seq., 16–13–2, 16–13–3, 16–13–5, 16–13–16, 16–13–18, 16–13–23, 24–1–1, 24–2–1, 24–3–1. State ex rel. City of Wheeling v. Renick, 1960, 116 S.E.2d 763, 145 W.Va. 640. Public Utilities ⇐ 113

§ 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.

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

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

After such hearing, which may be adjourned from time to time, the ordinance establishing the rates, fees or charges, either as originally introduced or as modified and amended, may be passed and put into effect. A copy of the schedule of the rates, fees and charges so established shall be kept on file in the office of the sanitary board having charge of the construction and 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 rates, fees or charges may be made in the same manner as 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 is required.

If any 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 sanitary board of such municipal corporation in a civil action in the name of the municipality.

Any municipal corporation exercising the powers given herein has authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery, or works necessary to comply with the order of the director of the division of environmental protection or the environmental quality board, and the authority provided herein to establish, maintain and collect rates, fees or charges is an additional and alternative method of financing such works and matters, and is independent of any other provision of this article insofar as the article provides for or requires the issuance of revenue bonds or the imposition of rates, fees and charges in connection with the bonds: Provided, That except

for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the director of the division of environmental protection or the environmental quality board, and the rights, powers, and duties of the municipal corporation and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article: Provided, however, That 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 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.

Acts 1955, c. 135; Acts 1967, c. 105; Acts 1994, c. 61; Acts 2001, c. 212, eff. 90 days after April 14, 2001.

Library References

Municipal Corporations ⇐712.
Westlaw Topic No. 268.
C.J.S. Municipal Corporations § 1535.

Notes of Decisions

In general 1

1. In general

Under provisions of statute relating to contract with other municipalities for service of sewage works, city which ordered construction of sewage disposal plant was authorized to contract with town to provide that town would have the right to use part of the capacity of the plant in return for contributing to its cost and town was authorized to enter into such contracts with city for the use of the plant, and fact that town was unable to sell revenue bonds because it was not allowed to have part ownership in the plant or in the interceptor sewers did not mean that town was not liable for payments agreed to under the contracts, where city offered to buy the revenue bonds issued by the town. Code, 16–13–9, 16–13–19, 16–13–23a. City of Morgantown v. Town of Star City, 1973, 195 S.E.2d 166, 156 W.Va. 529. Municipal Corporations ⇐ 277

§ 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.

Acts 1933, Ex. Sess., c. 25, § 24.

Library References

Statutes ⇐235.
Westlaw Topic No. 361.
C.J.S. Statutes § 376.

Notes of Decisions

In general 1

1. In general

Under contract between municipal sanitary board and contractor requiring contractor to bear cost and expense of damage to surface, overhead or subsurface structures in construction of sanitary sewer system, contractor was liable to water company for expense of removal of all water and other pipes under streets which interfered with construction of sewer system.

Note 1

Code, 16–13–1 et seq., 16–13–17, 16–13–24. West Virginia Water Service Co. v. Cunningham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Municipal Corporations ⇐ 400

West's

Annotated Code of West Virginia

Using the Classification and Numbering System of the 1931 Code of West Virginia, as Amended

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Chapter 16

2009
Cumulative Annual Pocket Part

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ARTICLE 13

SEWAGE WORKS AND STORMWATER WORKS

Section		Section	
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.	16–13–23a.	Additional powers of municipality to cease pollution.

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

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

§ 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

A governing body has the power and 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 or stormwater facilities constructed, owned 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. An entity providing stormwater service shall provide a tenant a report of the stormwater fee charged for the entire property and, if appropriate, that portion of the fee to be assessed to the tenant.

(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, service may not be reconnected or reinstated 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 they become due, the user of the services and facilities provided is delinquent. The user is liable 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, 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.

(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 rates, fees or charges, shall be given by publication as a Class II–0 legal advertisement in compliance with the provisions of article three, 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 the notice for the hearing.

(i) After the 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 the rates, fees and charges 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 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 the rates, fees or charges were originally established as hereinbefore provided: *Provided,* That if a 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 the expense of operation, repair and maintenance and for the 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 is not paid within twenty days after it 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. The lien may be foreclosed against such lot, parcel of land or building in accordance with the laws relating thereto. 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 they become due, 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 the 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 water, sewer or stormwater facilities and shall not restore either water facilities or sewer facilities to any delinquent user of any such facilities until all delinquent rates, fees or charges for water, sewer and stormwater facilities, including reasonable interest and penalty charges, have been paid in full, as long as such actions are not contrary to any rules or orders of the Public Service Commission.

Acts 1933, Ex. Sess., c. 25, § 16; Acts 1933, 2nd Ex. Sess., c. 48; Acts 1959, c. 125; Acts 1967, c. 105; Acts 2001, c. 212, eff. 90 days after April 14, 2001; Acts 2004, c. 185, eff. 90 days after March 12, 2004; Acts 2008, c. 202, eff. March 8, 2008.

16–13–23a. Additional powers of municipality to cease pollution

(a) Notwithstanding any other provision contained in this article, and in addition thereto, the governing body of any municipality which has received or which hereafter receives an

order issued by the Secretary of the Department of Environmental Protection or the Environmental Quality Board requiring the municipality to cease the pollution of any stream or waters is hereby authorized to establish and maintain, by ordinance, just and equitable rates, fees or charges for the use of the services and facilities of the existing municipal sewer system and/or stormwater system, 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.

(b) The rates, fees or charges shall be sufficient to all the proper and reasonable costs and expenses of the acquisition and construction of plants, machinery and works for the collection, 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 Secretary of the Department of Environmental Protection or the Environmental Quality Board, and for the operation, maintenance and repair of the entire works and system.

(c) 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.

(d) After the completion of the construction, the 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.

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

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

(g) After such hearing, which may be adjourned from time to time, the ordinance establishing the rates, fees or charges, either as originally introduced or as modified and amended, may be passed and put into effect. A copy of the schedule of the rates, fees and charges so established shall be kept on file in the office of the sanitary board having charge of the construction and operation of such works and in the office of the clerk of the municipality. The schedule of rates, fees and charges shall be open to inspection by all parties interested. The rates, fees or charges 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.

(h) Any change or readjustment of rates, fees or charges may be made in the same manner as 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 is required.

(i) If any rate, fee or charge is not paid within thirty days after it is due, the amount thereof, together with a penalty of ten percent and a reasonable attorney's fee, may be recovered by the sanitary board of the municipality in a civil action in the name of the municipality.

(j) Any municipality exercising the powers given herein has the authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery or works necessary to comply with the order of the Secretary of the Department of Environmental

Protection or the Environmental Quality Board and the authority provided herein to establish, maintain and collect rates, fees or charges is an additional and alternative method of financing such works and matters, and is independent of any other provision of this article insofar as the article provides for or requires the issuance of revenue bonds or the imposition of rates, fees and charges in connection with the bonds: *Provided*, That except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the Secretary of the Department of Environmental Protection or the Environmental Quality Board and the rights, powers and duties of the municipality and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article.

(k) The jurisdiction and authority provided by this section does not extend to highways, road and drainage easements and stormwater facilities constructed, owned 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.

(l) A municipality which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C.F.R. § 122.26, has the authority to enact ordinances or regulations which allow for the issuance of orders, the right to enter properties and the right to impose reasonable fines and penalties regarding correction of violations of municipal stormwater ordinances or regulations within the municipal watershed served by the municipal stormwater system, as long as such rules, regulations, fines or actions are not contrary to any rules or orders of the Public Service Commission.

(m) Notice of a violation of a municipal stormwater ordinance or regulation shall be served on person to the alleged violator or by certified mail, return receipt requested. The notice shall state the nature of the violation, the potential penalty, the action required to correct the violation and the time limit for making the correction. Should a person, after receipt of proper notice, fail to correct the violation of the municipal stormwater ordinance or regulation, the municipality may make or have made the corrections of the violation and bring the party into compliance with the applicable stormwater ordinance or regulation. The municipality may collect the costs of correcting the violation from the person by instituting a civil action, as long as such actions are not contrary to any rules or orders of the Public Service Commission.

(n) A municipality which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall prepare an annual report detailing the collection and expenditure of rates, fees or charges and make it available for public review at the place of business of the governing body and the stormwater utility main office.

Acts 1955, c. 135; Acts 1967, c. 105; Acts 1994, c. 61; Acts 2001, c. 212, eff. 90 days after April 14, 2001; Acts 2008, c. 202, eff. March 8, 2008.

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

Section
16–13A–9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.

16–13A–9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees

(a)(1) The board may make, enact and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district.

State of West Virginia

Certificate

I, Natalie E. Tennant, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 22C, ARTICLE 2 OF THE WEST VIRGINIA CODE, AND CHAPTER 22C ARTICLE 2 OF THE 2009 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

September 9, 2009

Natalie E Tennant

Secretary of State

ARTICLE 2

WATER POLLUTION CONTROL REVOLVING FUND ACT

Section

22C-2-1. Definitions.
22C-2-2. Designation of division of environmental protection as state instrumentality for purposes of capitalization agreements with the United States environmental protection agency.
22C-2-3. West Virginia water pollution control revolving fund; disbursement of fund moneys; administration of the fund.
22C-2-4. Annual audit.
22C-2-5. Collection of money due to the fund.
22C-2-6. State construction grants program established; special fund.
22C-2-7. Environmental review of funded projects.
22C-2-8. Conflicting provisions.

§ 22C-2-1. Definitions

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

(a) "Authority" means the water development authority provided for in section four, article one of this chapter.

(b) "Cost" as applied to any project financed under the provisions of this article means the total of all costs incurred by a local entity that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project including:

(1) Developmental, planning and feasibility studies, surveys, plans and specifications;

(2) Architectural, engineering, financial, legal or other special services;

(3) Acquisition of land and any buildings and improvements on the land or buildings, including the discharge of any obligations of the sellers of the land, buildings or improvements;

(4) Site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment;

(5) The reasonable costs of financing incurred by the local entity in the course of the development of the project, carrying charges incurred before placing the project in service, interest on funds borrowed to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service, and the funding of accounts and reserves which the authority may require; and

(6) Other items that the division of environmental protection determines to be reasonable and necessary.

(c) "Fund" means the state water pollution control revolving fund provided for in this article as it may be expanded or modified from time to time pursuant

to the clean water act, as amended, the federal safe drinking water act, as amended or by the executive order of the governor issued to comply with federal laws relating to the acts.

(d) "Instrumentality" means the division of environmental protection or the agency designated by an order of the governor as having the primary responsibility for administering the fund pursuant to the federal clean water act, as amended, and the federal safe drinking water act, as amended, or other federal laws.

(e) "Local entity" means any county, city, town, municipal corporation, authority, district, public service district, commission, banking institution or political subdivision in West Virginia.

(f) "Project" means any public water or wastewater treatment facility located or to be located in or outside this state by a local entity and includes:

(1) Sewage and wastewater collection, treatment and disposal facilities;

(2) Public water transportation, treatment and distribution facilities;

(3) Drainage facilities and projects;

(4) Administrative, maintenance, storage and laboratory facilities related to the facilities delineated in subdivisions (1), (2) and (3) of this subsection;

(5) Interests in land related to the facilities delineated in subdivisions (1), (2), (3) and (4) of this subsection; and

(6) Other projects allowable under federal law.

Acts 1994, c. 61; Acts 1996, c. 257, eff. 90 days after March 8, 1996.

United States Code Annotated

Water Pollution Prevention and Control,
Generally, see 33 U.S.C.A. § 1251 et seq.
Effluent limitations, see 33 U.S.C.A. § 1311 et seq.
Water Pollution, Waste Treatment Management, grants, see 33 U.S.C.A. § 1281 et seq.

§ 22C-2-2. Designation of division of environmental protection as state instrumentality for purposes of capitalization agreements with the United States environmental protection agency

The division of environmental protection shall act as the instrumentality that is empowered to enter into capitalization agreements with the United States environmental protection agency, to accept capitalization grant awards made under the federal clean water act, as amended, the safe drinking water act, as amended, and other federal laws and to otherwise manage the fund provided for in this article in accordance with the requirements of said federal laws.

Acts 1994, c. 61.

Library References

Environmental Law ⇐216.
Westlaw Topic No. 149E.
C.J.S. Health and Environment §§ 130, 172.

§ 22C–2–3. West Virginia water pollution control revolving fund; disbursement of fund moneys; administration of the fund

(a) Under the direction of the division of environmental protection, the water development authority shall establish, administer and manage a permanent and perpetual fund, to be known as the "West Virginia Water Pollution Control Revolving Fund." The fund shall be comprised of moneys appropriated to the fund by the Legislature, moneys allocated to the state by the federal government expressly for the purposes of establishing and maintaining a state water pollution control revolving fund, all receipts from loans made from the fund to local entities, all income from the investment of moneys held in the fund, and all other sums designated for deposits to the fund from any source, public or private. Moneys in the fund shall be used solely to make loans to local entities to finance or refinance the costs of a project: Provided, That moneys in the fund shall be utilized to defray the costs incurred by the authority and the division of environmental protection in administering the provisions of this article: Provided, however, That moneys in the fund shall be used to make grants for projects to the extent allowed or authorized by federal law.

(b) The director of the division of environmental protection, in consultation with the authority, shall promulgate legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code, to:

(1) Govern the disbursement of moneys from the fund; and

(2) Establish a state water pollution control revolving fund program to direct the distribution of grants or loans from the fund to particular local entities and establish the interest rates and repayment terms of the loans.

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

(d) The authority shall promulgate legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to govern the pledge of loans to secure bonds of the authority.

(e) All moneys belonging to the fund shall be kept in appropriate depositories and secured in conformance with this code. Disbursements from the fund shall be authorized for payment by the director of the authority or the director's designee. Any depository or officer of the depository to which moneys of the fund are paid shall act as trustee of the moneys and shall hold and apply them solely for the purposes for which the moneys are provided under this article. Moneys in the fund shall not be commingled with other money of the authority. If not needed for immediate use or disbursement, moneys in the fund may be invested or reinvested by the authority in obligations or securities which are considered lawful investments for public funds under this code.

Acts 1994, c. 61; Acts 1996, c. 257, eff. 90 days after March 8, 1996.

Administrative Code References

Program rules, see W. Va. Code St. R. § 47-31-1 et seq.

Library References

Environmental Law ⇐179, 180, 216.
States ⇐127.
Westlaw Topic Nos. 149E, 360.
C.J.S. Health and Environment §§ 130, 172.
C.J.S. States §§ 386 to 387.

§ 22C-2-4. Annual audit

The authority shall cause an audit of its books and accounts to be made at least once each fiscal year by certified public accountants, and the cost thereof may be defrayed as a part of the cost of construction of a project or as an administrative expense under the provisions of subsection (a), section three of this article.

Acts 1994, c. 61.

Library References

Environmental Law ⇐179, 180, 216.
States ⇐121.
Westlaw Topic Nos. 149E, 360.
C.J.S. Health and Environment §§ 130, 172.
C.J.S. States §§ 322 to 323, 372.

§ 22C-2-5. Collection of money due to the fund

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

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

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

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

(1) The adjustment of service charges as required to repay the loan or otherwise satisfy the terms of the loan agreement;

(2) The enforcement and collection of service charges; and

(3) The enforcement by the local entity of all rights and remedies conferred by statute, rule, regulation or judicial decision.

The rights and remedies enumerated in this section are in addition to rights and remedies conferred upon the authority by law or pursuant to the loan agreement.

Acts 1994, c. 61; Acts 1996, c. 257, eff. 90 days after March 8, 1996.

Library References

Environmental Law ⇐221.
Westlaw Topic No. 149E.

C.J.S. Health and Environment §§ 130, 150, 172.

§ 22C–2–6. State construction grants program established; special fund

(a) The director of the division of environmental protection shall promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code to establish a state construction grants program that is designed to complement and supplement the state water pollution control revolving fund program established pursuant to subsection (b), section three of this article.

(b) The special fund designated "The West Virginia Construction Grants Fund" established in the state treasury is continued. The special fund shall be comprised of moneys appropriated to said fund by the Legislature, assessments on existing wastewater treatment facilities, and all other sums designated for deposit to the special fund from any source, public or private: Provided, That such assessments shall be made and collected in accordance with fee schedules to be established by legislative rules promulgated by the director of the division of environmental protection, in accordance with chapter twenty-nine-a of this code. Moneys in the special fund shall be used solely for the state construction grants program established under subsection (a) of this section: Provided, however, That moneys in the special fund may be utilized to defray the costs incurred by the division of environmental protection in administering the provisions of this section.

Acts 1994, c. 61.

Administrative Code References

Construction grants program rules, see W. Va. Code St. R. § 47–33–1 et seq.

Library References

Environmental Law ⇐180, 217.
States ⇐127.
Westlaw Topic Nos. 149E, 360.

C.J.S. Health and Environment §§ 130, 133, 172.
C.J.S. States §§ 386 to 387.

§ 22C–2–7. Environmental review of funded projects

(a) The division of environmental protection shall conduct an environmental review on each project funded under this article. The director of the division of environmental protection shall promulgate legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the environmental review of funded projects: Provided, That the rules shall be

consistent with the regulations promulgated by the United States environmental protection agency pursuant to the federal clean water act, as amended.

(b) The director of the division of environmental protection is authorized to direct a local entity, or its agent, to implement all measures that, in the judgment of the director, are necessary in order to mitigate or prevent adverse impacts to the public health, safety or welfare or to the environment that may result from a project funded under this article. The director is further authorized to require all projects to comply with all other appropriate federal laws and regulations that are required of the projects under the federal clean water act, as amended.

Acts 1994, c. 61; Acts 1996, c. 257, eff. 90 days after March 8, 1996.

Library References

Environmental Law ⇐179, 180, 574, 595(3). Westlaw Topic No. 149E.

C.J.S. Health and Environment §§ 105 to 106, 111, 113 to 114, 116, 125, 172.

§ 22C–2–8. Conflicting provisions

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

Acts 1994, c. 61.

Library References

Environmental Law ⇐167, 170, 575. Westlaw Topic No. 149E.

C.J.S. Health and Environment §§ 106, 111, 172.

West's

Annotated Code of West Virginia

Using the Classification and Numbering System of the 1931 Code of West Virginia, as Amended

Chapters 22B to 23

2009
Cumulative Annual Pocket Part

Replacing 2008 Pocket Part supplementing 2006 Main Volume

Includes laws through the 2009 Second Extraordinary Session

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discretion determines to be appropriate, but subject to the provisions of any resolution authorizing the issuance of water development revenue bonds or notes or water development revenue refunding bonds of the authority or any trust agreement securing the same. Any governmental agency which has power to construct, operate and maintain public water facilities, stormwater systems or wastewater facilities may enter into a contract or lease with the authority whereby the use or services of any water development project of the authority will be made available to such governmental agency and pay for such use or services such rentals or other charges as may be agreed to by such governmental agency and the authority.

Any governmental agency or agencies or combination thereof may cooperate with the authority in the acquisition or construction of a water development project and shall enter into such agreements with the authority as are necessary, with a view to effective cooperative action and safeguarding of the respective interests of the parties thereto, which agreements shall provide for such contributions by the parties thereto in such proportion as may be agreed upon and such other terms as may be mutually satisfactory to the parties, including, without limitation, the authorization of the construction of the project by one of the parties acting as agent for all of the parties and the ownership and control of the project by the authority to the extent necessary or appropriate for purposes of the issuance of water development revenue bonds by the authority. Any governmental agency may provide such contribution as is required under such agreements by the appropriation of money or, if authorized by a favorable vote of the electors to issue bonds or notes or levy taxes or assessments and issue notes or bonds in anticipation of the collection thereof, by the issuance of bonds or notes or by the levying of taxes or assessments and the issuance of bonds or notes in anticipation of the collection thereof and by the payment of such appropriated money or the proceeds of such bonds or notes to the authority pursuant to such agreements.

Any governmental agency, pursuant to a favorable vote of the electors in an election held for the purpose of issuing bonds to provide funds to acquire, construct or equip, or provide real estate and interests in real estate for a public water facility, stormwater system or wastewater facility, whether or not the governmental agency at the time of such an election had the authority to pay the proceeds from such bonds or notes issued in anticipation thereof to the authority as provided in this section, may issue such bonds or notes in anticipation of the issuance thereof and pay the proceeds thereof to the authority in accordance with an agreement between such governmental agency and the authority: *Provided*, That the legislative authority of the governmental agency finds and determines that the water development project to be acquired or constructed by the authority in cooperation with such governmental agency will serve the same public purpose and meet substantially the same public need as the facility otherwise proposed to be acquired or constructed by the governmental agency with the proceeds of such bonds or notes.

Acts 1994, c. 61; Acts 2008, c. 203, eff. June 5, 2008.

ARTICLE 2

WATER POLLUTION CONTROL REVOLVING FUND ACT

Section

22C–2–1. Definitions.
22C–2–5. Collection of money due to the fund.

§ 22C–2–1. Definitions

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

(a) "Authority" means the Water Development Authority provided for in section four article one of this chapter.

(b) "Cost" as applied to any project financed under the provisions of this article means the total of all costs incurred by a local entity that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project including:

(1) Developmental, planning and feasibility studies, surveys, plans and specifications;

(2) Architectural, engineering, financial, legal or other special services;

(3) Acquisition of land and any buildings and improvements on the land or buildings, including the discharge of any obligations of the sellers of the land, buildings or improvements;

(4) Site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment;

(5) The reasonable costs of financing incurred by the local entity in the course of the development of the project, carrying charges incurred before placing the project in service, interest on funds borrowed to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service and the funding of accounts and reserves which the authority may require; and

(6) Other items that the Department of Environmental Protection determines to be reasonable and necessary.

(c) "Fund" means the State Water Pollution Control Revolving Fund provided for in this article as it may be expanded or modified, from time to time, pursuant to the Clean Water Act, 33 U.S.C. § 1251, *et seq.*, as amended, the Federal Safe Drinking Water Act 42 U.S.C. § 300f through § 300j–26, inclusive, as amended, or by the executive order of the Governor issued to comply with federal laws relating to the acts.

(d) "Instrumentality" means the Department of Environmental Protection or the agency designated by an order of the Governor as having the primary responsibility for administering the fund pursuant to the Clean Water Act, 33 U.S.C. § 1251, *et seq.*, as amended, and the Federal Safe Drinking Water Act 42 U.S.C. § 300f through § 300j–26, inclusive, as amended, or other federal laws.

(e) "Local entity" means any county, city, town, municipal corporation, authority, district, public service district, commission, banking institution, political subdivision, regional governmental authority, state government agency, interstate agency or not-for-profit association or corporation in West Virginia.

(f) "Project" means any water or wastewater treatment facility located or to be located in or outside this state by a local entity and includes:

(1) Sewage and wastewater collection, treatment and disposal facilities;

(2) Public water transportation, treatment and distribution facilities;

(3) Drainage facilities and projects;

(4) Administrative, maintenance, storage and laboratory facilities related to the facilities delineated in subdivisions (1), (2) and (3) of this subsection;

(5) Interests in land related to the facilities delineated in subdivisions (1), (2), (3) and (4) of this subsection; and

(6) Other projects allowable under federal law.

Acts 1994, c. 61; Acts 1996, c. 257, eff. 90 days after March 8, 1996; Acts 2007, c. 132, eff. June 8, 2007.

United States Supreme Court

Environmental law,
Clean water, dams, discharge potential, state certification requirement under Clean Water Act, see S.D. Warren Co. v. Maine Bd. of Environmental Protection, 2006, 126 S.Ct. 1843.

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 ir 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.

[The next page is 71]

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

I certify that the foregoing is a true and accurate copy of the current Charter of the City of Beckley that is in effect, having neither been repealed or revoked, as of March 18, 1997.

Date:

3-18-98

Emmett S. Pugh III
Mayor
City of Beckley

[The next page is 81]

Oath of Office

CITY OF BECKLEY

BECKLEY, WEST VIRGINIA

Date: June 30, 2003

I, Emmett S. Pugh III, who was duly elected Mayor of the City of Beckley at an election held on May 27, 2003, and duly certified by the Common Council of the City of Beckley, acting as a Board of Canvassers at a meeting held June 27, 2003 as Mayor of the City of Beckley for a four year term beginning July 1, 2003, do hereby solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Mayor of the City of Beckley to the best of my ability and judgement and as required by law.

WITNESS my hand and seal this the 30th day of June, 19 2003

(SEAL)

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

Taken, subscribed and sworn to before me this the 30th day of June, 19 2003

(SEAL)
CITY of BECKLEY

Oath of Office

CITY OF BECKLEY
BECKLEY, WEST VIRGINIA

Date:

I, Gary R. Sutphin, who was duly appointed Recorder-Treasurer for the City of Beckley by Emmett S. Pugh III, Mayor, effective March 6, 1989, do hereby solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Recorder-Treasurer for the City of Beckley to the best of my ability and judgment and as required by law.

WITNESS my hand and seal this the 6th day of March, 19 89.

_____ (SEAL)

STATE OF WEST VIRGINIA

COUNTY OF RALEIGH, TO-WIT:

Taken and sworn to before me this 6th day of March, 19 89.

_____ (SEAL)

CITY of BECKLEY

Oath of Office

CITY OF BECKLEY

BECKLEY, WEST VIRGINIA

Date: June 30, 2003

I, Robert R. Rappold, who was duly elected Councilman-at-Large of the City of Beckley at an election held on May 27, 2003, and duly certified by the Common Council of the City of Beckley, acting as a Board of Canvassers at a meeting held June 2, 2003 as Councilman-at-Large of the City of Beckley for a four year term beginning July 1, 2003, do hereby solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Councilman-at-Large of the City of Beckley to the best of my ability and judgement and as required by law.

WITNESS my hand and seal this the 30th day of June, ~~19~~ 2003

Robert R. Rappold (SEAL)

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

Taken, subscribed and sworn to before me this the 30th day of June, ~~19~~ 2003

(SEAL)
CITY of BECKLEY
Circuit Judge

Oath of Office

CITY OF BECKLEY

BECKLEY, WEST VIRGINIA

Date: June 30, 2003

I, A. Lee Leftwich, who was duly elected Councilman - Ward V of the City of Beckley at an election held on May 27, 2003, and duly certified by the Common Council of the City of Beckley, acting as a Board of Canvassers at a meeting held June 2, 2003 as Councilman - Ward V of the City of Beckley for a four year term beginning July 1, 2003, do hereby solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Councilman - Ward V of the City of Beckley to the best of my ability and judgement and as required by law.

WITNESS my hand and seal this the 30th day of June, ~~19~~ 2003

A. Lee Leftwich (SEAL)

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

Taken, subscribed and sworn to before me this the 30th day of June, ~~19~~ 2003

(SEAL)
CITY of BECKLEY
Circuit Judge

Oath of Office

CITY OF BECKLEY

BECKLEY, WEST VIRGINIA

Date: June 30, 2003

I, Stephen B. Nickell, who was duly elected Councilman - Ward III of the City of Beckley at an election held on May 27, 2003, and duly certified by the Common Council of the City of Beckley, acting as a Board of Canvassers at a meeting held June 2, 2003 as Councilman - Ward III of the City of Beckley for a four year term beginning July 1, 2003, do hereby solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Councilman - Ward III of the City of Beckley to the best of my ability and judgement and as required by law.

WITNESS my hand and seal this the 30th day of June, ~~19~~ 2003

Stephen B. Nickell (SEAL)

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

Taken, subscribed and sworn to before me this the 30th day of June, ~~19~~ 2003

(SEAL)
CITY of BECKLEY

Oath of Office

CITY OF BECKLEY

BECKLEY, WEST VIRGINIA

Date: June 30, 2003

I, Howard L. Mollohan, who was duly elected Councilman-at-Large of the City of Beckley at an election held on May 27, 2003, and duly certified by the Common Council of the City of Beckley, acting as a Board of Canvassers at a meeting held June 2, 2003 as Councilman-at-Large of the City of Beckley for a four year term beginning July 1, 2003, do hereby solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Councilman-at-Large of the City of Beckley to the best of my ability and judgement and as required by law.

WITNESS my hand and seal this the 30th day of June, XX 2003

(SEAL)

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

Taken, subscribed and sworn to before me this the 30th day of June, XX 2003

(SEAL)

CITY of BECKLEY
Circuit Judge

Oath of Office

CITY OF BECKLEY

BECKLEY, WEST VIRGINIA

Date: June 30, 2003

I, A. K. Minter, Jr., who was duly elected Councilman - Ward I of the City of Beckley at an election held on May 27, 2003, and duly certified by the Common Council of the City of Beckley, acting as a Board of Canvassers at a meeting held June 2, 2003 as Councilman - Ward I of the City of Beckley for a four year term beginning July 1, 2003, do hereby solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Councilman - Ward I of the City of Beckley to the best of my ability and judgement and as required by law.

WITNESS my hand and seal this the 30th day of June, XX 2003

A. K. Minter (SEAL)

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

Taken, subscribed and sworn to before me this the 30th day of June, XX 2003

(SEAL)
CITY of BECKLEY
Circuit Judge

Oath of Office

CITY OF BECKLEY

BECKLEY, WEST VIRGINIA

Date: June 30, 2003

I, Tim R. Berry, who was duly elected Councilman - Ward IV of the City of Beckley at an election held on May 27, 2003, and duly certified by the Common Council of the City of Beckley, acting as a Board of Canvassers at a meeting held June 2, 2003, as Councilman - Ward IV of the City of Beckley for a four year term beginning July 1, 2003, do hereby solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Councilman - Ward IV of the City of Beckley to the best of my ability and judgement and as required by law.

WITNESS my hand and seal this the 30th day of June, ~~19~~ 2003

(SEAL)

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

Taken, subscribed and sworn to before me this the 30th day of June, ~~19~~ 2003

(SEAL)

CITY of BECKLEY

Oath of Office

CITY OF BECKLEY
BECKLEY, WEST VIRGINIA

Date: August 24, 2004

I, Ann W. Worley, who was duly appointed Councilwoman - Ward II for the City of Beckley by Emmett S. Pugh III, Mayor, effective August 24, 2004, do hereby solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Councilwoman - Ward II for the City of Beckley to the best of my ability and judgment and as required by law.

WITNESS my hand and seal this the 24th day of August, 19 2004

Ann W. Worley (SEAL)

STATE OF WEST VIRGINIA

COUNTY OF RALEIGH, TO-WIT:

Taken and sworn to before me this 24th day of August, 19 2004

S. Pugh III (SEAL)

CITY of BECKLEY

The Sanitary Board of said city presented the following request:

"G. C. Hedrick, Mayor and Members of the Common Council of The City of Beckley;

We, the undersigned, appointed by your Honorable Body as Sanitary Board for the City of Beckley, do hereby petition to your Honorable Body to enact ordinances in connection with the Act under which we are operating, setting forth a brief and general description of the works we are to take over, as well as the extensions and improvements that you anticipate.

(a) Set forth in your ordinance the estimated cost of the project.

(b) Taking over the present sewer system by the Sanitary Board.

(c) Direct that revenue bonds of the municipality be issued pursuant to the act creating said Board, being House Bill No. 29, passed, effective from passage May 11th, 1933, and such amount as may be found necessary to pay the cost of the works; also such other provisions as may be necessary in the premises.

G. C. HEDRICK
E. C. MINTER
E. S. PUGH "

SECTION NO. 223: AN ORDINANCE AMENDING PARAGRAPH FIVE OF SECTION 186 OF THE ORDINANCES OF SAID CITY:

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY: That paragraph 5 of Section No. 186 of the ordinances of said city be amended as follows: No person, firm or corporation shall park any motor vehicle or other vehicle on the east side of South Heber Street, but parking shall be allowed parallel with the curb of the west side thereof and within one foot thereof, from Earwood Street to the south end thereof. The same panalties shall be applicable to the violation of this ordinance as are prescribed under sub-section 19 of the Parking Ordinance of this city.

On motion duly made, seconded and carried, the said ordinance is approved and passed to take effect from date of passage.

SECTION No. 224: AN ORDINANCE AMENDING THE PARKING ORDINANCE OF THE CITY OF BECKLEY BY REGULATING THE PARKING OF MOTOR VEHICLES AND OTHER VEHICLES ON THIRD AVENUE:

BE IT ORDANCED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY: That the parking ordinanee thereof be amended as follows: No person, firm or corporation shall park any motor vehicle or other vehicle on the west side of Third Avenue between Neville Street and a point opposite the Dunn Feed Store building; that parking is allowed for thirty minutes on the west side of said Third Avenue from a point opposite the Dunn Feed Store building to a point opposite the mouth of Second Street, but there shall be a driveway left for vehicles at each

SECTION NO. 227: AN ORDINANCE CREATING A SEWAGE UTILITH TO BE KNOWN AS SMOKELESS COAL CAPITAL SEWAGE SYSTEM, and providing for the taking over of the present sewerage system in the City of Beckley, Raleigh County, West Virginia, and the operation of the same as a Public Service, or Public Utility Company, to be municipally owned and controlled providing for replacements, betterments, improvements and extensions, including garbage disposal and if and when found necessary, the erection of the sewage treatment works; under and by the direction of the Sanitary Board hereinbefore created and named as the Sanitary Board of said City.

WHEREAS, it is necessary for the preservation of the public health and for compliance with orders of the State Board of Health, that a sewage system, and/or said sewage treatment works, and/or garbage disposal be provided, properly maintained, operated and controlled, and

WHEREAS, Funds for the maintenance, operation and control of said sewerage system and sewage treatment works and garbage disposal system will not be available from the current operating revenue of the City, and

WHEREAS, The Legislature of the State of West Virginia, in its extraordinary session 1933, known as House Bill No. 29, enacted the law authorizing and empowering municipal corporations, and/or sanitary districts, to construct, own, equip, operate, maintain and improve works for the collection, and/or treatment, purification and disposal of sewage, authorizing the municipality to enter a charge against owners of premises for the use of such works, and to provide for the collection of same; also authorizing municipal corporations and/or sanitary districts to issue revenue bonds payable solely from the revenue of such works and make such bonds exempt from taxation; to authorize contracts for the use of such works by other municipal corporations and political sub-divisions, and charges against owners of premises therein served thereby and a lien against such premises.

THEREFORE, be it ordained by the Council of the City of Beckley, Raleigh County, West Virginia:

Section 1. That the Sewerage System of Beckley, West Virginia, be and is hereby converted into a Public Utility, municipally owned by said City of Beckley, Raleigh County, West Virginia, and to be known and hereby named "SMOKELESS COAL CAPITAL SEWAGE SYSTEM", and the Sanitary Board of said city is hereby authorized and directed to manage and control the said sewerage system, and all additions, replacements, betterments and extensions as hereinafter provided, in a safe and economical manner, maintaining and extending such service to its citizenship as fully and completely as conditions will permit, however, in full compliance with the Act of the Legislature of West Virginia providing for such.

Section 2. It is also ordered and decreed that such replacements, betterments, extensions, improvements, additions be made to the present system as may be found necessary, consistent to safe and economical management, including if found necessary and advisable, a sewage disposal or treatment plant and garbage disposal system.

Section 3. That the Sanitary Board is hereby authorized and directed to make such By-Laws and regulations as may be deemed necessary for the safe, economical and efficient management and protection of the sewerage system, and/or sewage treatment works, and/or garbage disposal system, and for the construction and use of house sewers and connections to the sewerage system; that such by-laws and regulations shall have the same force and effect as ordinances when not repugnant thereto nor to the constitution or laws of the State, or the Act creating the same.

In compliance with the Act empowering the Council to create this Utility and agreeable to the Sanitary Board's request, we submit the following estimates of the cost of the things proposed to be done:

(a) Extensions to the present system so as to more effectively serve the present and future needs of its citizenry, three (3) miles of lines and connections of various sizes. Estimated cost of ($30,000.00) Thirty Thousand Dollars.

(b) To extend the sewer line ending just below what is known as Beckley Junction three and six tenths (3.6) miles down Whitestick and Piney Creeks, ending about one mile below Raleigh, West Virginia, said line to be of sufficient size to amply accommodate the sewage collection from the various lines serving the water shed of that section of the City, with future anticipations, including all necessary "manholes", at an estimated cost of Sixty Thousand ($60,000.00) Dollars.

(c) Connect all lines extending in direction of the main provided in (b) to said main, requiring about two (2) miles of line of various sizes and including the placing of additional "manholes" that may be needed, at an estimated cost of Ten Thousand ($10,000.00) Dollars.

(d) To erect, if found necessary, a sewage disposal plant, or sewage treatment works, at an estimated cost of Thirty Thousand ($30,000.00) Dollars.

(e) To establish and maintain a garbage disposal system, including trucks, other equipment, garages and other things necessary for operating such system, at an estimated cost of Ten Thousand ($10,000.00) Dollars.

(f) Also to provide over-head expenses, such as engineering, attorney fees, books, stationery, and all the expenses incident and necessary in connection with the taking over, extending and developing the said sewerage system, at an estimated cost of Twenty Thousand ($20,000.00) Dollars.

BE IT FURTHER ORDAINED and decreed by the said Council of the City of Beckley, West Virginia, that revenue bonds of this municipality be issued pursuant to Act of the Legislature of West Virginia, enabling the creation of the sewerage system, as herein set out; be issued not in excess of the amount of Two Hundred Thousand ($200,000.00) Dollars, as may be found necessary and convenient to pay the costs thereof as herein provided, and on such time and at such rate of interest as may be found expedient.

ALSO BE IT FURTHER ORDAINED, that the said Council of the City of Beckley, West Virginia, pass immediately a supporting ordinance to the ordinance providing a sewer rental fixing a charge against owners of premises for the use of said system, or works, with methods of collecting for a sufficient amount to maintain said "Smokeless Coal Capital Sewage System" herein and hereby established, including all costs in connection therewith, and to provide for the payment of interest and retirement of any and all bonds issued hereunder.

Upon motion, duly made, seconded and carried the foregoing was proposed as an ordinance of said city, to be finally voted upon by the Common Council of said city at its regular meeting on the 12th day of September, 1933.

SECTION NO. 228: AN ORDINANCE TO PROVIDE FUNDS FOR THE MAINTENANCE, OPERATION AND CONTROL OF THE SEWERAGE SYSTEM AND SEWERAGE TREATMENT WORKS AND GARBAGE DISPOSAL SYSTEM FOR THE CITY OF BECKLEY, RALEIGH COUNTY, WEST VIRGINIA.

WHEREAS, The City of Beckley has an inadequate sewerage system and desires to extend, develop and rebuild said system so as to more adequately meet the demands of the City, and if found necessary to install a sewage treatment works, and establish a garbage disposal system, and

WHEREAS, it is necessary for the preservation of the public health and for compliance with orders of the State Department of Health, that said sewerage system and sewerage treatment works, if found necessary, be properly installed, maintained, operated and controlled, and

WHEREAS, Funds for the maintenance, operation and control of said sewerage system and said sewerage treatment works and a garbage disposal system will not be available from the current operating revenue of the City, and

WHEREAS, The Legislature of the State of West Virginia has enacted a law authorizing municipalities, corporations, sanitary districts to construct, own, operate, maintain and

improve works for the collection and/or treatment, purification and disposal of sewage; and empowering said municipalities to fix charges against owners of premises for the use of such works, and to provide for the collection of same;also authorizing municipal corporations and/or sanitary districts to issue revenue bonds payable solely from the revenues of such works and to do other things necessary in carrying out the purpose of said Act, which Act is known as House Bill No. 29, passed by the Legislature May 11th, 1933, effective from passage and approved by Governor Kump.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY, STATE OF WEST VIRGINIA:

Section 1. That a Sewerage Commission is hereby created in compliance with said Act to consist of three (3) members as provided by said Act, and they are hereby authorized and directed to build, extend and relay the said sewerage system of Beckley and to build such sewerage disposal or sewage treatment plants that may be necessary, and to create and operate a garbage disposal system and to manage and control said sewerage system and said sewage system and said sewage treatment works, if such are created, and said garbage system, in an economical and efficient manner.

Section 2. That the Sanitary Commission be, and is hereby authorized and directed to make such by-laws and regulations as may be deemed necessary for the safe, economical and efficient management and protection of the sewerage system, and sewage treatment works, garbage disposal system, and for the construction and use of house sewers and connections to the sewage system; that such by-laws and regulations shall have the same force and effect as ordinances when not repugnant thereto nor to the constitution or laws of the State, or the Act under which said system is to be operated.

Section 3. That the terms and conditions upon which the owners of lots and lands within the corporate limits of the City of Beckley, may connect to the sewage system either directly or indirectly, shall be as follows:

Article 1. Charges shall be paid at the office of the Treasurer and for each calendar year, or part thereof they shall be in accordance with the following schedule of rates:

DWELLINGS AND APARTMENTS:
One-family (one connection) $4.00 per annum.
Two-family (one connection) $7.50 per annum.
Two-family (two connections) $8.00 per annum.
Four-family (two connections) $15.00 per annum.
Others (for each family) $4.00 per annum.
For each additional family on same connection $3.75 per annum.

HOTELS:
For each room with bath $1.75 per annum.
For each room without bath $1.00 per annum.

ROOMING HOUSES AND CLUBS:
Four dollars ($4.00) per annum plus One Dollar ($1.00) per annum for each person renting a room therein.

STORES, RESTAURANTS, OFFICES AND MERCANTILE ESTABLISHMENTS:
Private toilets, each $4.00 per annum.
Public toilets, each $8.00 per annum.
Kitchen sinks, each $4.00 per annum.
Slop sinks, each$2.00 per annum.

FACTORIES AND SHOPS:
For each and every person employed or engaged in services on the premises, in accordance with the following schedule:
Ten persons or less, each $1.00 per annum.
More than ten and not over 25, 90¢ per annum.
More than 25 and not over 50, 80 cents per annum.
More than fifty and not over 100, 70 cents per annum.
All over 100, 60 cents per annum.

CHURCHES:
For each toilet $2.00 per annum.

SCHOOLS AND COLLEGES:
All schools, college buildings and dormitories not subject to taxation shall be grouped and the sewer rental fixed on a per capita student population:
For each registered student 75 cents per annum.

HOSPITALS AND SANITARIUMS:
Beckley Hospital $100.00 per annum.
Raleigh General Hospital $75.00 per annum.

MISCELLANEOUS:
For special cases which are not clearly defined in the above schedule, rates shall be established by Council upon the recommendation of the Sanitary Board.

Article 2. Charges shall become due and payable in advance on the first day of January, April, July and October. All bills not paid by the fifteenth of the month in which same becomes due shall be subject to a ten per cent penalty.

Article 3. Charges shall constitute a lien upon the property served by such connections, and if not paid within ninety days, shall be collected in the same manner as other city taxes.

Article 4. Charges for discharging industrial wastes into the sewerage system shall be fixed by the Sanitary Board and approved by the Council.

Section 4. That the funds received from the use of sewers shall be deposited with the Treasurer of the City and monies so deposited shall be kept in a separate and distinct

fund and shall be known as SEWER RENTAL FUND. When appropriated by the Council it shall be s ubject to the order of the Sanitary Board, through the Mayor, who is ex-officio chairman of the Sanitary Board, who shall sign all orders drawn on the Treasury of the City against such fund.

Section 5. Funds received from the use of sewers shall be used for the payment of the costs and expenses of the management, maintenance, operation and repair of the sewerage system, sewage treatment works, garbage disposal system, and for the payment of interest and retirement of the principal and interest on any outstanding bonds issued in connection with the system, and any surplus in such fund shall be used for the enlargement or replacement of the same or for the retirement of any debts, bonded or otherwise incurred for the construction of such sewerage system, sewage treatment works, garbage disposal system, or for the creation of a Sinking Fund for the payment of such debts, but shall not be used for the extension of the sewerage system to serve unsewered areas nor for any other purpose whatsoever.

Section 6. That this ordinance constitutes a part of an emergency measure and shall take effect and be in force from and after its passage, subject to change or amendment when deemed necessary.

Upon motion duly made, seconded and carried the foregoing was proposed as an ordinance of said city to be finally voted upon by the Common Council of said city at its regular meeting on the 12th day of September, 1933.

There being no further business to come before the meeting, upon motion duly made and seconded, it was adjourned.

MAYOR

RECORDER-TREASURER

FIRST READING

6-12-07

SECOND READING

6-26-07

AN ORDINANCE AMENDING CHAPTER 9, ARTICLE II, DIVISION 2, SECTION 9-227 OF THE BECKLEY CITY CODE BY ADDING A NEW SECTION 9-227(b) AS THE SAME APPLY TO STORMWATER MANAGEMENT AND CONTROL BY THE BECKLEY SANITARY BOARD.

WHEREAS, Beckley Common Council desires to amend Chapter 9 of the Beckley City Code so as to clearly state that the Beckley Sanitary Board has the authority to manage and control stormwater.

NOW, THEREFORE, the City of Beckley ordains that Chapter 9 is amended by adding a new subsection 9-227(b) which shall read as follows (new matter underlined, deleted matter struck through):

Sec. 9-227. Powers, duties; limitations thereon; obligation and expenditure of funds; employees.

(a) The sanitary board shall have the supervision and control of the custody, administration, operation and maintenance of all works for the collection, treatment and disposal of sewage which are now owned or may hereafter be acquired by the city. The sanitary 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 the powers granted to it by law, and shall have all of the powers granted to such sanitary board under and by virtue of the W. Va. Code, ch. 16, art. 13, and shall be subject to all restrictions and limitations contained therein as well.

(b) The management, control, and operation of the stormwater drainage and sewer system of the City shall be vested in the Beckley Sanitary Board. The Board shall have full and complete supervision, management, and control of the stormwater drainage system, including the maintenance, operations, improvements, and extension thereof. All assets and liabilities of the stormwater system, including accounts receivable and accounts payable, shall be under the management and control of the Board.

(b)(c) The sanitary board may employ engineers, architects, inspectors, 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 W. Va. Code, ch. 16, art. 13 shall be paid solely from funds provided under the authority of that article, and the sanitary board shall not exercise or carry out any authority or power given it so as to bind the board of the city beyond the extent to which money shall have been or may be provided under the authority of the aforesaid article 13.

This Ordinance shall become effective upon passage.

Oath of Office

CITY OF BECKLEY

BECKLEY, WEST VIRGINIA

Date: June 30, 2003

I, Emmett S. Pugh III, who was duly elected Mayor of the City of Beckley at an election held on May 27, 2003, and duly certified by the Common Council of the City of Beckley, acting as a Board of Canvassers at a meeting held June 27, 2003 as Mayor of the City of Beckley for a four year term beginning July 1, 2003, do hereby solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Mayor of the City of Beckley to the best of my ability and judgement and as required by law.

WITNESS my hand and seal this the 30th day of June, 19 2003

(SEAL)

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

Taken, subscribed and sworn to before me this the 30th day of June, 19 2003

(SEAL)

CITY of BECKLEY

Oath of Office

CITY OF BECKLEY
BECKLEY, WEST VIRGINIA

Date: July 1, 2004

I, Thomas Keyser, who was duly appointed Member of the Sanitary Board for the City of Beckley by Emmett S. Pugh III, Mayor, effective July 1, 2004, do hereby solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Member of the Sanitary Board for the City of Beckley to the best of my ability and judgment and as required by law.

WITNESS my hand and seal this the 1st day of July, 2004.

(SEAL)

STATE OF WEST VIRGINIA

COUNTY OF RALEIGH, TO-WIT:

Taken and sworn to before me this 1st day of July, 2004.

(SEAL)

CITY of BECKLEY

Oath of Office

CITY OF BECKLEY
BECKLEY, WEST VIRGINIA

Date: July 1, 2002

I, John M. Sadowski, who was duly appointed Member of the Sanitary Board for the City of Beckley by Emmett S. Pugh III, Mayor, effective July 1, 2002, do hereby solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Member of the Sanitary Board for the City of Beckley to the best of my ability and judgment and as required by law.

WITNESS my hand and seal this the 1st day of July, 19 2002

John M. Sadowski (SEAL)

STATE OF WEST VIRGINIA

COUNTY OF RALEIGH, TO-WIT:

Taken and sworn to before me this 1st day of July, 19 2002

(SEAL)

CITY of BECKLEY

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: July 17, 2009

FINAL
8/6/2009

CASE NO. 09-0728-S-SCN

CITY OF BECKLEY SANITARY BOARD,
a municipal utility, Beckley, Raleigh County.
Application for a certificate of convenience and necessity to install, rebuild, and replace certain wastewater monitoring and treatment facilities.

RECOMMENDED DECISION

On May 8, 2009, the City of Beckley Sanitary Board (Board or City) filed an application for a certificate of convenience and necessity, pursuant to W.Va. Code §24-2-11, to install an effluent flow meter to measure discharges from the City's wastewater treatment plant facilities; rebuild a primary clarifier at the Plant; and replace a chlorinator at the Whitestick Combined Sewer Overflow (CSO) (Project). The City noted that the project had been approved by the West Virginia Infrastructure and Jobs Development Council (IJDC), and was designated as Project No. 2007S-993(b). The Board operates a wastewater collection system and treatment plant facilities which serve approximately 7,611 customers in and around the city of Beckley. The plant is comprised of a 3.5 million-gallon-per-day conventional activated sludge wastewater treatment facility and a 4.5 million-gallon-per-day sequential batch reactor wastewater treatment facility. Treated effluent from the plant discharges via a single permitted outfall to Piney Creek. The instant Project is the second phase of a three-phase project. The first phase of the Project involves the replacement of a deteriorated sewer line known as the Whitestick Force Main. By Commission Order entered in Case No. 07-2250-S-PC on March 26, 2008, the Commission determined that the first phase of the Project did not require certification. That phase of the Project is currently under construction.

The Project phase at issue in this filing consists of three improvements: (1) the removal of existing components of a primary clarifier, cleaning and repair of the clarifier structure and installation, connection and testing of new clarifier equipment; (2) the installation of a flume structure, known as a "Parshall Flume," to enable the proper measurement and sampling of effluent flow; and (3) the removal of the existing tablet chlorination equipment at the Whitestick CSO site and the installation, connection and testing of a new programmable tablet chlorinator. In addition to those capital improvements, the Board also plans to purchase a vehicle and equip it with a camera or camera-related equipment that will enable the Board to perform remote visual inspections of the inside of sewer mains to detect sources of infiltration and

inflow. The vehicle and related equipment will also enable the Board to map existing sewer lines and connections. The estimated cost of the vehicle is $171,122.00. The estimated total cost of the project is $1,475,500.00. The Board is pursuing funding for the project via economic stimulus funds that may be available under The American Recovery and Reinvestment Act of 2009 (ARRA). The instant Project is included on the Division of Environmental Protection's (DEP's) list of projects that it intends to fund with stimulus dollars. If ARRA funds are approved for the Project, the funding will be in the form of an SRF loan with a term of 38 years, at an annual interest rate of minus three percent and a one percent annual administrative fee. The Board anticipated that a letter from DEP confirming the eligibility of the Project for ARRA funding and the terms of that funding would be filed in the near future.

To generate the additional revenue necessary to meet the anticipated debt service requirements for the current project and for the other phases of the larger project, the City of Beckley implemented a three-step rate increase. The first step, a 9.5% rate increase, took effect in January 2008. The second step, an additional 9.5% increase, took effect in January 2009. The third and final step, representing an increase of 7.6%, will be implemented on January 1, 2010. The Board attached a Rule 42 exhibit to its application.

Plans for the Project were submitted to the DEP for review and approval and the Board expected to receive DEP approval of those plans in May 2009. The Board represented that no other permit or authorization was required for the Project.

The Board noted that ARRA funding is being made available on a "first come, first served" basis for eligible projects that are ready to proceed to construction. In order to be considered ready to proceed, a project needs to have plans approved by DEP; an NPDES permit or modification; a preliminary title opinion; and any required Commission approval. No modification of the Board's existing NPDES is required to construct the Project. A preliminary title opinion was attached to the application. The Board intends to advertise for bids as soon as possible and award a contract upon closing of the financing.

The application asserted that the estimate cost of construction of the project is reasonable and that neither the public generally, nor the Board's existing customers, would be adversely affected by the construction of the Project. The Board further asserted that the Project was necessary to insure compliance with applicable wastewater treatment standards and permit requirements. The Board went on to represent that no other public utility was affected or would be affected, financially or otherwise, by the certification and construction of the Project, and the Project would not infringe on the service territory of any other public utility. Accordingly, the Board requested that the Commission grant the Board a certificate of convenience and necessity to construct the Project in accordance with the application and provide such other relief as the Commission may deem appropriate.

In addition to the information provided with the application already referenced, the Board provided its current tariff; two copies of the facilities plan for its wastewater system improvements prepared by the engineering firm of Burgess and Niple, Inc.; two copies of the engineer-

ing report; two sets of plan drawings for the Project; two sets of plan specifications; and a copy of the IJDC's technical feasability letter.

On May 11, 2009, the Commission issued a Notice of Filing Order in this matter, requiring that the Board give notice of the filing of its application by publishing a copy of the Commission's Notice of Filing Order one time in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Raleigh County, making due return to the Commission of proper certification of publication immediately thereafter. The Order provided that anyone desiring to protest or intervene should file a written protest or intervention within thirty (30) days following the date of the publication unless otherwise modified by Commission order. The Order noted that failure to timely protest or intervene could affect one's right to participate in the certificate case, including any associated rate increases, or to participate in further proceedings. Finally, the Order provide that, if there were no substantial protests to the application filed within said thirty-day period, the Commission may waive formal hearing and grant the relief based on the evidence submitted with the application and its review thereof.

On May 14, 2009, the Board filed a copy of a letter dated May 12, 2009, from DEP to the Board, stating that the City of Beckley is eligible to be considered for ARRA funding for the instant Project. Specifically, the DEP determined that the City appeared to be eligible to be considered for a $1,475,500 loan, at a -3% interest rate for a term of 38 years, which equaled an approximately 50% debt forgiveness. The annual administrative fee will be 1% for the amount of the loan to be repaid. Those rates and terms were based upon the proposed average monthly user rate being less than 1.5% of the median household income, i.e. $35.15, upon completion of the Project. The letter noted that ARRA funds must be obligated to projects that are ready to proceed to construction, and that several requirements must be satisfied prior to actual loan closing.

Also on May 14, 2009, the Board filed a different letter from the DEP dated May 11, 2009, approving the plans and specifications for the Project.

On May 19, 2009, Staff Attorney Chris Howard filed the Initial Joint Staff Memorandum herein, attached to which was the Initial Staff Internal Memorandum prepared by Utilities Analyst Karen Buckley and Pamela Latocha, of the Commission's Water and Wastewater Division, and Technical Analyst Joe Marakovits of the Commission's Engineering Division. After relating the particulars of the Project, Staff stated that its initial review indicated that all required financing and engineering information had been submitted with the City's application. Staff would issue its final recommendation within the time frame set forth in the Commission's recently issued General Order No. 182.09.

By Referral Order entered on May 21, 2009, the Commission referred this matter to the Division of Administrative Law Judges for a decision to be rendered on or before July 17, 2009.

On May 21, 2009, the Board filed an affidavit of publication from the Beckley Newspapers, verifying that the Notice of Filing issued by the Commission on May 11, 2009, was published in the Register-Herald, a

newspaper published and generally circulated in Raleigh County, on May 18, 2009. The thirty-day protest period expired on June 17, 2009, with no protests having been filed either as of that date or as of the issuance of this decision.

On June 12, 2009, Staff Attorney Howard filed the Final Joint Staff Memorandum in this matter, attached to which was the Final Internal Memorandum prepared by Ms. Buckley, Ms. Latocha and Mr. Marakovits. The Project included in this case is Phase II of the Board's overall Wastewater System Improvements Project. In March of 2009, the Board commenced construction of Phase I which was the Whitestick Pump Station Force Main Project. In April of 2009, in order to increase the probability of receiving stimulus funds, the Board divided what would have been the remaining Phase II into two separate phases. Phase II now represents the instant Project, while Phase III will include replacement of existing sanitary sewers in the areas of Springdale, Piney Oaks and Koch Avenue and the extension of new sewer lines into the Redbush area. Phase III is still in the design phase.

The revised construction and vehicle/software cost for the current Phase II is estimated as $975,422. However, the Project has not yet been put out to bid. Commission Staff believes the estimated construction costs appear reasonable for the proposed Project. The total Project cost of $1,475,500 calculates to a cost of $193 per customer, based on the Board's approximately 7,636 total customers, which Staff noted was very reasonable for a sewer project. The clarifier improvements are necessary to replace old equipment, which is in poor condition and non-operational. The new flow metering station is necessary to accurately measure effluent flows from the existing treatment facility. The existing tablet-type chlorinator at the Whitestick CSO needs to be replaced with a more modern unit capable of feeding flow-variable quantities of chlorine. Finally, the purchase of the new vehicle and the GIS software will enable the Board to digitally map existing sewer lines and connections as part of its inflow and infiltration (I/I) reduction program.

Staff noted that alternatives to the instant Project were not evaluated by the engineers, since this Project deals primarily with replacement of existing equipment and the purchase of a vehicle and software for I&I work. Technical Staff concluded that the Project is feasible from a technical and economic standpoint. Staff pointed out that the original plans and specification for the Project were approved by the DEP on May 11, 2009. Technical Staff's own review of the plans and specification did not reveal any conflicts with the Commission's Rules for the Government of Sewer Utilities (Sewer Rules) concerning engineering requirements. Technical Staff also noted that operation and maintenance expenses are not expected to increase as a result of the Project, since much of the work is replacement of existing facilities and equipment.

Financial Staff related the information regarding the proposed financing for the Project. On May 14, 2009, Staff received a letter from the DEP stating that the City appeared to be eligible for a $1,475,500 loan, with a -3% interest rate, for a term of 38 years, which represents approximately a 50% debt forgiveness. The annual administrative fee will be 1% for the amount of the loan to be repaid. The annual payment on the loan will be $20,362. The DEP will require a bond reserve of 10% of the

annual payment. However, in this case, that reserve is being prefunded. The Board will also have to establish a depreciation/renewal and replacement reserve equal to 2.5% of operating revenues.

To generate the additional revenues necessary to meet the anticipated debt service requirements for the Project, and for other phases of the larger project, the City implemented a three (3) step rate increase. The first step, representing an increase of 9.5%, took effect in January 2008. The second step of the increase, also representing a 9.5% increase, took effect in January 2009. The final step, representing an increase of 7.6%, will become effective in January 2010. As noted previously, the City's annual operation and maintenance expenses are not expected to increase as a result of the project. The City's ordinance containing the three-step rate increase was filed with the Commission in November 2007. The ordinance was reviewed by the Commission's Legal Division and found to be properly passed. Based upon the Rule 42 Exhibit submitted with the application, Step 1 of the rate ordinance generated $276,950 in annual revenues; Step 2 of the rate ordinance should generate additional revenue in the amount of $408,333; and Step 3 of the rate ordinance should generate further additional revenues in the amount of $191,369 annually. Commission Staff concluded that the additional revenues generated by the rate ordinance are sufficient to cover the City's going-level expenses and the project-related expenses, debt service and reserve requirements. At the completion of the project, the City should have a cash flow surplus of $295,567, and a debt service coverage of 137.52%. Financial Staff concluded that the Project as proposed, with the adopted rates, is financially feasible and should be approved.

Accordingly, Commission Staff recommended that a certificate of convenience and necessity be granted to the City of Beckley Sanitary Board for the construction of the improvements to its wastewater collection and treatment system, known as Phase II of the City's Wastewater System Improvements Project, at a total cost of $1,475,500, be approved, and that the proposed financing of the loan, utilizing funds provided by The American Recovery and Reinvestment Act of 2009, consisting of a $1,475,500 loan at a -3% interest rate for a term of 30 years also be approved. Staff made further recommendations regarding conditions for approval of the project.

By letter date June 12, 2009, the Commission's Executive Secretary served a copy of the Final Joint Staff Memorandum and attachment upon the City of Beckley Sanitary Board, providing the Board with ten (10) days in which to respond, in writing, to the Staff recommendations. The Order also noted that the Board's failure to respond in writing to the Staff recommendations could result in a decision in the case based on the documents in the case file, without further notice or hearing. As of the date of this Order, no response or objection to any of the Staff's recommendations has been filed by the Board.

DISCUSSION

The Project at issue herein, in and of itself, is not remarkable and appears to be well-justified. There is more than ample proof of need to support the conclusion that the public convenience and necessity require

the Project and that the Project appears to be economically and financially viable, based upon the proposed ARRA funding and the City's recently enacted revised sewer rates and charges. This Project is remarkable because it is one of the first of the so-called SCN applications to be approved at the Public Service Commission since the creation of that designation by the Public Service Commission in General Order No. 182.09, issued on April 16, 2009. In that General Order, the Commission discussed the process to be followed for water and sewer certificate projects that are to be funded with stimulus funds under the ARRA.[1] The Commission noted that the State Bureau for Public Health will have approximately 19.5 million dollars in federal stimulus funds for water projects, while the DEP will have approximately 61 million dollars for sewer projects. Those projects have to be bid by August 2009 and the contracts awarded by October 2009. The economic stimulus projects are made more complicated by the fact that the funding agencies overseeing the distribution of economic stimulus funds will not be finally awarding those funds through a traditional commitment letter until approximately August or September of 2009. Economic stimulus money is awarded on a "first come, first served" basis and there is no guarantee that any project which received a letter from either DEP or the Bureau for Public Health, indicating that a project was eligible for certain level of ARRA funding, will actually receive the originally specified level of ARRA funding, or any ARRA funding at all.

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

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

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

so that changes to an ARRA funding package do not require additional review, unless rates have to be increased.

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

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

As with all certificate applications filed with the Commission, in the event that the project scope changes, or changes in project cost and/or financing require a further rate increase, or if the City ultimately receives no ARRA funding, the City will be required to file a petition to reopen this matter, to allow the Commission to assess the nature of the project changes, both to determine if they are adequately funded and to determine if those changes are appropriate and not in conflict with any state laws or Commission rules, and to insure that funding package and associated rates support the economic feasibility and financial viability of the project.

FINDINGS OF FACT

1. On May 8, 2009, the City of Beckley Sanitary Board filed an application with the Public Service Commission for a certificate of public convenience and necessity for a project designated as Phase II of

its overall Wastewater System Improvement Project, to completely rehabilitate one of the treatment plant's primary clarifiers; to construct a new Parshall Flume, with flow metering equipment; to replace the existing tablet chlorination system at the Whitestick Combined Sewer Overflow; and to purchase a new camera, van and GIS software to use in the elimination of inflow and infiltration on the City's system. The project has been approved by the West Virginia Infrastructure and Jobs Development Council. (See, application filed May 8, 2009; Final Joint Staff Memorandum and attachment filed June 12, 2009).

2. By Notice of Filing Order entered on May 8, 2009, the City of Beckley Sanitary Board was required to publish a Notice of Filing one time in a newspaper, published and generally circulated in Raleigh County, providing anyone affected by the application thirty (30) days in which to file written protests with the Public Service Commission. No protests were filed within the thirty-day protest period or as of the date of this Order. (See, Notice of Filing Order entered May 8, 2009; affidavit of publication filed May 21, 2009; case file generally).

3. The City has received a letter from the West Virginia Department of Environmental Protection, informing it that the Project is eligible to be considered for an award of economic stimulus funds, under The American Recovery and Reinvestment Act of 2009, with said funding to be in the form of a $1,475,500 loan, with a -3% interest rate for a term of 38 years, which equals an approximate 50% debt forgiveness. There will also be an annual administrative fee in the amount of 1% for the amount of the loan to be repaid. (See, DEP letter dated May 12, 2009, filed May 14, 2009).

4. DEP has reviewed and approved the plans and specifications for the Project. (See, DEP letter dated May 11, 2009, and filed May 14, 2009).

5. The Project will not require an additional rate increase. In 2007 the City enacted a 3-step rate increase to become effective in January 2008, January 2009 and January 2010. Based upon the rates to be in effect at the time the project is expected to be completed, and with adjustment by Commission Staff for difference expenses, the City should experience a cash flow surplus of $295,567, with debt service coverage of 137.52%. (See, Final Joint Staff Memorandum and attachment filed June 12, 2009).

6. Commission Technical Staff has reviewed the original plans and specifications for the Project and has concluded that there are no conflicts with the Commission's Sewer Rules concerning engineering requirements. (See, Final Joint Staff Memorandum and attachment filed June 12, 2009).

7. One of the existing primary clarifiers at the City's treatment plant is old, in poor condition and non-operational. Additionally, the new flow metering station should enable the Board to accurately measure effluent flows from the existing treatment facility. The existing tablet-type chlorinator at the Whitestick CSO should be replaced with a more modern unit capable of feeding flow-variable quantities of chlorine. Finally, the purchase of a new vehicle and GIS software should enable the Board to digitally map existing sewer lines and connections as part of

its inflow and infiltration reduction program. (See, Final Joint Staff Memorandum and attachment filed June 12, 2009).

8. After concluding its review, Commission Staff recommended that a certificate of convenience and necessity be granted to the City of Beckley Sanitary Board, that the proposed ARRA financing be approved and that various other conditions with regard to certification of the project be adopted. (See, Final Joint Staff Memorandum and attachment filed June 12, 2009).

CONCLUSIONS OF LAW

1. The Public Service Commission is empowered to require all public utilities, including municipally-operated public utilities, to demonstrate that a proposed water or sewer project is economically feasible and financially viable by demonstrating that they have secured adequate funding to cover all project costs, as those project costs are determined to be at the conclusion of the bidding process, and that the resulting rates are just, reasonable, applied without unjust discrimination or preference and based primarily on the cost of providing service. See, W. Va. Code §24-2-4b; State ex. rel. Public Service Commission v. Town of Fayetteville, 212 W. Va. 427, 573 S.E.2d 338 (2002); Town of Man and Man Water Works, Inc., Case No. 81-433-W-PC, Order Affirming Hearing Examiner's Decision, April 16, 1982, 69 ARPSCWV 1893; Ohio County Public Service Commission, Case No. 82-482-S-CN, Order Affirming Hearing Examiner's Decision Without Prejudice, April 8, 1983, 70 ARPSCWV 2049. See also, Sexton v. Public Service Commission, 188 W. Va. 305, 423 S.E.2d 914, (1992).

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

3. The public convenience and necessity require the proposed project.

4. The rates and charges enacted by the City of Beckley appear to be sufficient to cover all project-related costs, as well as the City's going-level operation and maintenance expenses.

5. The proposed funding package for the project, consisting of the DEP loan of ARRA funds in the amount of $1,475,500, at an interest rate of negative 3% with a 1% annual administrative fee, is reasonable and is sufficient to cover the cost of the project, at its current cost estimates.

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

7. A certificate of convenience and necessity should be granted to the City of Beckley Sanitary Board for the project specified herein, without specifically approving the project's plans and specifications.

ORDER

IT IS, THEREFORE, ORDERED that the application filed by the City of Beckley Sanitary Board on May 8, 2009, for a certificate of convenience and necessity to construct improvements to its wastewater facilities and purchase a camera, van and GIS software, all as more particularly described in the plans and specifications filed with the application, at a total cost of approximately $1,475,500, be, and it hereby is, granted, without specifically approving the plans and specifications filed herein.

IT IS FURTHER ORDERED that the proposed project financing package, consisting of a loan in the amount of $1,475,500 from the Department of Environmental Protection, at an interest rate of negative 3%, and a 1% annual administrative fee, using funds provided by *The American Recovery and Reinvestment Act of 2009*, be, and it hereby is, approved. Upon finalization of the funding package, the City of Beckley Sanitary Board shall file a letter with the Commission detailing the specifics of that funding package, including the terms and conditions of any loans awarded. If the funding package is revised, but still includes ARRA funds, the City is not required to petition the Commission for approval of that revised project financing, as long as the revised ARRA funding package does not require an additional rate increase. It will be sufficient for the City to file the revised funding commitment documentation, along with a certification from its certified public accountant or bond counsel that the revised funding package is adequate to cover all project costs and will not require any additional rate increase.

IT IS FURTHER ORDERED that, if the project scope changes, if project costs or financing require a further rate increase beyond any reviewed in this application, or if, ultimately, the City of Beckley Sanitary Board does not receive any ARRA funding, the City of Beckley Sanitary Board petition the Commission for approval of such change(s) prior to commencing construction.

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

IT IS FURTHER ORDERED that the City of Beckley Sanitary Board provide a copy of the engineer's certified tabulation of bids, within ten (10) days of the bid opening date, for each construction contract or vendor contract to be awarded for this project.

IT IS FURTHER ORDERED that the City of Beckley Sanitary Board provide a copy of the certification of substantial completion for each contract associated with this project, within ten (10) days of issuance.

IT IS FURTHER ORDERED that, if this project requires the use of Division of Highways' rights-of-way, the City of Beckley Sanitary Board comply with all rules and regulations of the Division of Highways regarding the use of those rights-of-way.

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

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

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

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

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

Melissa K. Marland
Chief Administrative Law Judge

MKM:bam
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PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 26th day of March, 2008.

CASE NO. 07-2250-S-PC

CITY OF BECKLEY SANITARY BOARD
Petition for consent and approval to determine whether a certificate of convenience and necessity is necessary for the Whitestick Force Main Replacement project and for the installation of a flow meter near the treatment plant's effluent discharge to Piney Creek.

COMMISSION ORDER

BACKGROUND

On November 26, 2007, the City of Beckley Sanitary Board (City) filed a petition for consent and approval to determine what part of a $6,972,500 project requires a Certificate of Convenience and Necessity.

The City is proposing an overall project that consists of the following:

1. Replacement of the existing Whitestick Force Main, since these have been over a dozen breaks in the last year in this approximately 3,100 foot area. The estimated cost of this part of the overall project is $672,635 and the City considers this to be their first priority due to problems in this area;

2. Installation of a flow meter near the Wastewater Treatment Plant's effluent discharge to Piney Creek. The estimated cost of this part of the overall project is $149,570;

3. Overhauling of two clarifiers at an estimated cost of $910,990. One of the existing clarifiers has been taken out of service and the other clarifier is in need of work as well;

4. Replacement of the existing manually operated chlorine-tablet chlorinator at an estimated cost of $62,785;

5. Line replacements and sewer extensions in the Redbrush and Piney Oaks areas at an estimated cost of $2,673,300;

6. Replacement of sewer in the Koch Avenue area at an estimated cost of $527,090;

7. Replacement of sewer in the Springdale area at an estimated cost of $737,090; and

8. Construction of a new maintenance garage at an estimated cost of $604,850.

On December 7, 2007, Staff filed its Initial and Final Joint Staff Memorandum in this case recommending that this project not be considered an ordinary extension of existing systems in the usual course of business for the following reasons:

1. The total project cost of $6,972,500 represents 157.76% of the City's current annual operating revenues of $4,419,583 based upon the City's Annual Report for the Fiscal Year Ended June 30, 2006. The June 30, 2007, Annual Report has not been filed with the Commission.

2. The project will be funded by a $1,500,000 Small Cities Block Grant (SCBG), a $955,600 Special Appropriation Program (SAP) Grant, and a $4,516,900 Clean Water State Revolving Fund (CWSRF) loan at 3% for 20 years.

3. The project requires significant engineering design.

Staff concluded that a Certificate of Convenience and Necessity is required for the project except for the Whitestick Force Main Replacement part of the project, which should be considered in the usual course of business due to the emergency repairs needed in that area. Expending SAP grant funds for that part of the overall project will allow for the necessary work to commence immediately.

On December 12, 2007, the City responded to the Initial and Final Joint Staff Memorandum and requested Staff reconsider its recommendation. Staff reviewed the City's reconsideration request, but, in a further memorandum filed January 30, 2008, Staff recommends that certificate of convenience and necessity be required for the project with the exception of the replacement of the existing Whitestick Force Main.

DISCUSSION

W.Va. Code §24-2-11 provides, in pertinent part, as follows:

> (a) states that no public utility...shall begin the construction of any plant..., except ordinary extensions of existing systems in the usual course of business, unless and until it shall obtain from the public service commission a certificate of convenience and necessity...

The Commission has reviewed the high cost of the project in comparison to the City's annual operating revenues, the large amount of loan dollars proposed, which may affect rates, and the significant complexity of the engineering design necessary to complete the project. The Commission concludes that the City's project is not an ordinary extension of existing systems in the usual course of business, with the exception of the Whitestick Force Main replacement. The City, therefore, must obtain a Certificate of Convenience and Necessity prior to constructing the project.

FINDINGS OF FACT

1. This project should not be considered an ordinary extension of existing systems in the usual course of business due to (i) the cost of the project in relation to the City's annual operating revenues, (ii) the funding sources for the project, and (iii) the significant engineering design necessary to complete the project.

2. Since the Whitestick Force Main needs emergency repair and involves replacement of an existing main, it should be considered an ordinary extension of an existing system in the usual course of business.

CONCLUSIONS OF LAW

1. With the exception of the Whitestick Force Main replacement, construction of this project is not an ordinary extension of existing systems in the usual course of business and, therefore, requires a Certificate of Convenience and Necessity.

2. The Whitestick Force Main replacement is an ordinary extension of existing. systems . in the usual course of business and, therefore, a Certificate of Convenience and Necessity is not required to construct this portion of the project.

ORDER

IT IS ORDERED that the City shall obtain a Certificate of Convenience and Necessity prior to beginning construction on the project, except for the Whitestick Force Main replacement part of the project.

IT IS FURTHER ORDERED that this matter is removed from the Commission's open docket of active cases.

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

A True Copy, Teste:

Sandra Squire
Executive Secretary

MEB/las
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WEST VIRGINIA

Infrastructure & Jobs Development Council

Gov. Joe Manchin, III
Chairman

Kenneth Lowe, Jr.
Public Member

Dwight Calhoun
Public Member

David "Bones" McComas
Public Member

Ron Justice
Public Member

Angela K. Chestnut, P.E.
Executive Director

Barbara J. Pauley
Administrative Secretary

June 11, 2009

Luke Richmond, Manager
Beckley Sanitary Board
301 South Heber Street
Beckley, WV 25802

Re: Beckley Sanitary Board
Sewer Project 2007S-993c – Phase III

Dear Mr. Richmond:

The West Virginia Infrastructure and Jobs Development Council (Council) has reviewed the Beckley Sanitary Board's (Board) preliminary application to replace existing sewers to reduce infiltration/inflow and extend sewer service to the Redbrush area (Project).

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

Upon consideration of the revised preliminary application, the Council recommends that the Board pursue a $4,212,100 Clean Water State Revolving Fund loan to fund this project. Please contact the West Virginia Division of Environmental Protection office at (304) 926-0499 X1611 for specific information on the steps the Board needs to follow to apply for these funds. **Please note that this letter does not constitute funding approval from this agency.**

If you have any questions regarding this matter, please contact the Angela Chestnut at (304) 558-4607 (Ext. 201).

Sincerely,

Kenneth Lowe, Jr.

Enclosure

cc: Mike Johnson, P.E., DEP (w/o enclosure) (via e-mail)
Region I Planning & Development Council
Craig Richards, P.E., Burgess & Niple, Inc.

WEST VIRGINIA
Infrastructure & Jobs Development Council

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Public Member

Angela K. Chestnut, P.E.
Executive Director

Barbara J. Pauley
Administrative Secretary

June 11, 2009

Luke Richmond, Manager
Beckley Sanitary Board
301 South Heber Street
Beckley, WV 25802

Re: Beckley Sanitary Board
Sewer Project 2007S-993a – Phase I (Revised)

Dear Mr. Richmond:

The West Virginia Infrastructure and Jobs Development Council (Council) has reviewed the Beckley Sanitary Board's (Board) revised preliminary application to replace the existing 16" Whitestick force main with 7,200 LF of HDPE and 964 LF of 12" HDPE force main (Project).

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

Upon consideration of the revised preliminary application, the Council recommends that the Board utilize a $955,600 Special Appropriations Grant, a $55,100 Bond Anticipation Note, and pursue a $781,855 Clean Water State Revolving Fund loan to fund this $1,792,555 project. Please contact the West Virginia Division of Environmental Protection office at (304) 926-0499 X1611 for specific information on the steps the Board needs to follow to apply for these funds. **Please note that this letter <u>does not</u> constitute funding approval from this agency.**

If you have any questions regarding this matter, please contact the Angela Chestnut at (304) 558-4607 (Ext. 201).

Sincerely,

Kenneth Lowe, Jr.

Enclosure

cc: Mike Johnson, P.E., DEP (w/o enclosure) (via e-mail)
Debbie Legg, WVDO (w/o enclosure) (via e-mail)
Chris Jarrett, WDA (w/o enclosure)
Region I Planning & Development Council
Craig Richards, P.E., Burgess & Niple, Inc.

WEST VIRGINIA

Infrastructure & Jobs Development Council

Gov. Joe Manchin, III
Chairman

Kenneth Lowe, Jr.
Public Member

Dwight Calhoun
Public Member

David "Bones" McComas
Public Member

Ron Justice
Public Member

Angela K. Chestnut, P.E.
Executive Director

Barbara J. Pauley
Administrative Secretary

June 11, 2009

Luke Richmond, Manager
Beckley Sanitary Board
301 South Heber Street
Beckley, WV 25802

Re: Beckley Sanitary Board
Sewer Project 2007S-993b – Phase II (Revised)

Dear Mr. Richmond:

The West Virginia Infrastructure and Jobs Development Council (Council) has reviewed the Beckley Sanitary Board's (Board) revised preliminary application to replace the chlorinator at the Whitestick CSO, install a parshall flume at the WWTP and replace a primary clarifier at the WWTP (Project).

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

Upon consideration of the revised preliminary application, the Council recommends that the Board pursue $1,475,500 Clean Water State Revolving Fund American Recovery and Reinvestment Act assistance to fund this project. Please contact the West Virginia Division of Environmental Protection office at (304) 926-0499 X1611 for specific information on the steps the Board needs to follow to apply for these funds. **Please note that this letter does not constitute funding approval from this agency.**

If you have any questions regarding this matter, please contact the Angela Chestnut at (304) 558-4607 (Ext. 201).

Sincerely,

Kenneth Lowe, Jr.

Enclosure

cc: Mike Johnson, P.E., DEP (w/o enclosure) (via e-mail)
Region I Planning & Development Council
Craig Richards, P.E., Burgess & Niple, Inc.

SRF-ARRA/M
(08/09)

ARRA ASSISTANCE AGREEMENT

THIS WATER POLLUTION CONTROL REVOLVING FUND ARRA ASSISTANCE AGREEMENT (the "ARRA Assistance Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), the WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (the "DEP"), and the local government designated below (the "Local Government").

CITY OF BECKLEY
(Local Government)

W I T N E S S E T H:

WHEREAS, the United States Congress under Title VI of the federal Clean Water Act, as amended (the "Clean Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining state water pollution control revolving funds for the planning, design, construction, acquisition and/or improvement of wastewater treatment facilities;

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

WHEREAS, pursuant to the provisions of Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to direct the distribution of loans to particular local governments pursuant to the Clean Water Act and the ARRA;

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

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

WHEREAS, under the Act and under the direction of DEP, the Authority has established a permanent perpetual fund known as the "West Virginia Water Pollution Control Revolving Fund" (hereinafter the "Fund");

WHEREAS, pursuant to the Act, the Authority and DEP are empowered to make loans from the Fund to local governments for the acquisition or construction of wastewater treatment projects by such local governments, all subject to such provisions and limitations as are contained in the Clean Water Act, the ARRA and the Act;

WHEREAS, the Local Government constitutes a local government as defined by the Act;

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

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

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

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

WHEREAS, having reviewed the Application and the Fund having available sufficient funds therefor, the Authority and DEP are willing to lend the Local Government the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Government with

moneys held in the Fund, subject to the Local Government's satisfaction of certain legal and other requirements of the Program.

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

ARTICLE I

Definitions

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

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

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

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

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

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

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

1.8 "Program" means the wastewater treatment facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Clean Water Act and administered by DEP.

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

1.10 "SRF Regulations" means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

1.11 "System" means the wastewater treatment facility owned by the Local Government, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

ARTICLE II

The Project and the System

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

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

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

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

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

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

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

2.8 The Local Government shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and DEP and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Local Government, the Local Government or (at the option of the Local Government) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent

(100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Government, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Government on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Government must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Local Government shall provide and maintain competent and adequate engineering services satisfactory to the Authority and DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, DEP and the Local Government at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Government shall require the Consulting Engineers to submit Record Drawing, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Local Government shall notify DEP in writing of such receipt. The Local Government shall submit a Performance Certificate, the form of which is attached hereto as Exhibit A, and being incorporated herein by reference, to DEP within 60 days of the end of the first year after the Project is completed.

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

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

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

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

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

2.15 The Governmental Agency shall perform an annual maintenance audit which maintenance audit shall be submitted to the WDA and the Public Service Commission of West Virginia.

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

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

(f) The Local Government shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") and the West Virginia Infrastructure and Jobs Development Council necessary for the construction of the Project and operation of the System, with all requisite appeal periods having expired without successful appeal and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

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

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

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

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

3.2 Subject to the terms and provisions of this ARRA Assistance Agreement, the rules and regulations promulgated by the Authority and DEP, including the SRF Regulations, or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government including rules, regulations and procedures promulgated under the Clean Water Act and/or the ARRA, it is hereby agreed that the Authority shall make the Loan to the Local Government and the Local Government shall accept the Loan from the Authority, and in furtherance thereof it is agreed that the Local Government shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

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

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

execution of this ARRA Assistance Agreement by the Authority or such later date as is agreed to in writing by DEP.

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

3.6 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions regarding the public release and audit requirements established by federal and State regulations as set forth in Exhibit E-1 attached hereto at such times as are set forth therein with respect to the Series 2009 A Bonds.

3.7 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions regarding the public release and audit requirements established by federal and State regulations as set forth in Exhibit E-2 attached hereto at such times as are set forth therein with respect to the Series 2009 B-1 Bonds and the Series 2009 C Bonds.

ARTICLE IV

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

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

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

(i) to pay Operating Expenses of the System;

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

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

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

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

(b) Covenants substantially as follows:

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

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

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

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

(v) That the Local Government shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds and with the prior written consent of the Authority and DEP; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

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

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

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

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

(xi) That the Local Government shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and DEP, which report shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Local Government's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

(xii) That the Local Government shall annually adopt a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding fiscal year and shall submit a copy of such budget to the Authority and DEP within 30 days of adoption thereof;

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

(xiv) That the proceeds of the Local Bonds, advanced from time to time, except for accrued interest and capitalized interest, if any, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Local Government

and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim financing of such Local Government, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and DEP, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

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

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

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

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

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

(xx) That the Local Government shall, to the full extent permitted by applicable law and the rules and regulations of the PSC, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Local Government, then the Local Government shall enter into a termination agreement with the water provider; and

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

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

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

4.3 At least five percent (5%) of the proceeds of the Local Bonds will be advanced on the Date of Loan Closing. The remaining proceeds of the Local Bonds shall be advanced by the DEP monthly as required by the Local Government to pay Costs of the Project, provided, however, if the proceeds of the Local Bonds will be used to repay an interim financing, the proceeds will be advanced on a schedule mutually agreeable to the Local Government, the DEP and the Authority. The Local Bonds shall not bear interest during the construction period but interest shall commence accruing on the completion date as defined in the SRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on the Local Bonds shall be as set forth on Schedule Y hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

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

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

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

ARTICLE V

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

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

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the required sums set forth in the Local Act and this ARRA Assistance Agreement, the Local Government hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges (or where applicable, immediately file with the PSC

for a rate increase) and take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and this ARRA Assistance Agreement.

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

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

ARTICLE VI

Other Agreements of the Local Government

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

6.2 The Local Government hereby warrants and represents that all information provided to the Authority and DEP in this ARRA Assistance Agreement, in the Application or in any other application or documentation with respect to financing the Project was at the time, and now is, true, correct and complete, and such information does not omit any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Prior to the Authority's making the Loan and receiving the Local Bonds, the Authority and DEP shall have the right to cancel all or any of their obligations under this ARRA Assistance Agreement if (a) any representation made to the Authority and DEP by the Local Government in connection with the Loan shall be incorrect or incomplete in any material respect or (b) the Local Government has violated any commitment made by it in its Application or in

any supporting documentation or has violated any of the terms of the Act, the SRF Regulations or this ARRA Assistance Agreement.

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

ARTICLE VII

Miscellaneous

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

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

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

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

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

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

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

(i) written notice of termination to the Local Government from either the Authority or DEP;

(ii) the end of ninety (90) days after the date of execution hereof by the Authority or such later date as is agreed to in writing by DEP if the Local Government has failed to deliver the Local Bonds to the Authority;

(iii) termination by the Authority and DEP pursuant to Section 6.2 hereof; or

(iv) unless waived or modified by Schedule X, payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Local Government to the Authority or DEP; provided that the amount of the Loan made under this ARRA Assistance Agreement in any succeeding fiscal year is contingent upon funds being appropriated by the State legislature or otherwise being available to make the Loan. In the event funds are not appropriated or otherwise available to make all of the Loan, the responsibility of the Authority and DEP to make all the Loan is terminated; provided further that the obligation of the Local Government to repay the outstanding amount of the Loan made by the Authority and DEP is not terminated due to such non-funding on any balance of the Loan. The DEP agrees to use its best efforts to have the amount contemplated under this ARRA Assistance Agreement included in its budget. Non-appropriation or non-funding of the Loan shall not be considered an event of default under this ARRA Assistance Agreement.

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

CITY OF BECKLEY

(SEAL)

By: _____
Its: Mayor
Date: September 18, 2009

Attest:

_____
Its: City Recorder

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF WATER AND WASTE MANAGEMENT

By: _____
Its: Acting Director
Date: September 18, 2009

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: _____
Its: Executive Director
Date: September 18, 2009

Attest:

_____
Its: Secretary-Treasurer

{C1593612.1}

EXHIBIT A

FORM OF PERFORMANCE CERTIFICATE

[To Be Provided By DEP]

EXHIBIT B

MONTHLY FINANCIAL REPORT

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

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

_____
Name of Person Completing Form

_____
Address

_____
Telephone

INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

Item 1 You will need a copy of the current fiscal year budget adopted by the Local Government to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of $1,200 are anticipated to be received for the year, each month the base would be increased by $100 ($1,200/12). This is the incremental amount for the Budget Year-to-Date column.

Item 2 Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of $900 are anticipated to be incurred for the year, each month the base would be increased by $75 ($900/12). This is the incremental amount for the Budget Year-to-Date column.

Item 3 Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Local Government according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.

Item 4 Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are $1,200, then $30 (2.5% of $1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Local Government.

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

EXHIBIT C

PAYMENT REQUISITION FORM

(All Copies to Be Provided by DEP for Each Project)

EXHIBIT D

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____

(Issuer)

(Name of Bonds)

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

1. My firm is engineer for the acquisition and construction of _____ to the _____ system (the "Project") of _____ (the "Issuer"), to be constructed primarily in _____County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the same meaning set forth in the bond _____ adopted or enacted by the Issuer on _____, and the ARRA Assistance Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection (the "DEP"), dated _____.

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

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

A, and my firm[1] has ascertained that all successful bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the DEP and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) the Issuer has received the Buy American Certificate from each contractor; (x) as of the effective date thereof[2], the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the ARRA Assistance Agreement; (xi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the DEP; and (xii) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

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

By _____
West Virginia License No.

[SEAL]

---

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

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

EXHIBIT E-1

SPECIAL CONDITIONS

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

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

EXHIBIT E-2

SPECIAL CONDITIONS

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

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

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

D. ASSET MANAGEMENT – The Local Government shall develop and implement an asset management plan in accordance with guidelines issued by DEP and is approved by DEP. New systems shall submit the asset management plan to DEP when the Project is complete. Existing systems shall submit the asset management plan to DEP within six months following completion of the Project.

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

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

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

H. PURCHASING REQUIREMENTS – The Local Government shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42

U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds $10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was $10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

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

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

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

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

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

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

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

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

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

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

S. USER RATES – The Local Government shall covenant that it will not reduce its approved or enacted customer rates for at least eighteen months after completion of the Project or until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses.

EXHIBIT F

MONTHLY PAYMENT FORM

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

Re: [Name of bond issue]

Ladies and Gentlemen:

The following deposits were made to the West Virginia Municipal Bond Commission on behalf of [Name of Local Government] on [Date].

Sinking Fund:

Interest	$
Principal	$
Total:	$
Reserve Account:	$

Witness my signature this ___ day of_____.

[Name of Local Government]

By: _____
Authorized Officer

Enclosure: copy of check(s)

EXHIBIT G

OPINION OF BOND COUNSEL FOR LOCAL GOVERNMENT

[To Be Dated as of Date of Loan Closing]

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

West Virginia Department of Environmental Protection
601 57th Street
Charleston, WV 25304

Ladies and Gentlemen:

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

We have examined a certified copy of proceedings and other papers relating to the authorization of (i) a ARRA assistance agreement dated _____, ____, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), among the Local Government, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and (ii) the issue of a series of revenue bonds of the Local Government, dated _____, ____ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Local Bonds are issued in the principal amount of $_____, in the form of one bond, registered as to principal and interest to the Authority, with principal and interest payable quarterly on March 1, June 1, September 1, and December 1 of each year, beginning _____ 1, ____, and ending _____ 1, ____, all as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Local Bonds.

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

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond duly adopted or enacted by the Local Government on _____, as supplemented by the supplemental

resolution duly adopted by the Local Government on _____ (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the ARRA Assistance Agreement has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the ARRA Assistance Agreement.

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

1. The ARRA Assistance Agreement has been duly authorized by and executed on behalf of the Local Government and is a valid and binding special obligation of the Local Government, enforceable in accordance with the terms thereof.

2. The ARRA Assistance Agreement inures to the benefit of the Authority and the DEP and cannot be amended so as to affect adversely the rights of the Authority or the DEP or diminish the obligations of the Local Government without the consent of the Authority and the DEP.

3. The Local Government is a duly organized and validly existing , with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt or enact the Local Act and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Act and all other necessary orders and resolutions have been legally and effectively adopted or enacted by the Local Government and constitute valid and binding obligations of the Local Government, enforceable against the Local Government in accordance with their terms. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

5. The Local Bonds have been duly authorized, issued, executed and delivered by the Local Government to the Authority and are valid, legally enforceable and binding special obligations of the Local Government, payable from the net or gross revenues of the System set forth in the Local Act and secured by a first lien on and pledge of the net or gross revenues of the System, all in accordance with the terms of the Local Bonds and the Local Act.

6. The Local Bonds are, by statute, exempt _____, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is excludable from the gross income of the recipients thereof for federal income tax purposes.

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

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

Very truly yours,

SCHEDULE X

DESCRIPTION OF LOCAL BONDS

A. Series A Bonds (CWSRF Base Program)
Principal Amount of Local Bonds $679,316
Purchase Price of Local Bonds $679,316

The Local Bonds shall bear interest at a rate of 2% per annum. Commencing June 1, 2010, principal of the Local Bonds is payable quarterly, with an administrative fee of 1%. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

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

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

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

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

B. Series B-1 Bonds (ARRA)
Principal Amount of Local Bonds $396,484
Purchase Price of Local Bonds $396,484

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

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

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

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

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

C. Series C Bonds (CWSRF Base Program)
Principal Amount of Local Bonds $1,035,783
Purchase Price of Local Bonds $1,035,783

The Local Bonds shall bear no interest. Commencing March 1, 2011, principal of the Local Bonds is payable quarterly, with an administrative fee of 1%. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

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

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

The Local Government may prepay the Local Bonds in full at any time at the price of par upon 30 days' written notice to the Authority and DEP. The Local Government

shall request approval from the Authority and DEP in writing of any proposed debt which will be issued by the Local Government on a parity with the Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

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

As of the date of the Loan Agreement, the Local Bonds (consisting of the Series A Bonds, the Series B-1 Bonds and the Series C Bonds) are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Government:

(i) City of Beckley Sewer Revenue Bonds, Series 1998 A, dated March 17, 1998, issued in the original aggregate amount of $11200,000;

(ii) City of Beckley Sewer Revenue Bonds, Series 2004 A, dated September 28, 2004, issued in the original aggregate amount of $9,039,000; and

(iii) City of Beckley Sewerage System Refunding Revenue Bonds, Series 2005, dated July 20, 2005, issued in the original aggregate amount of $2,405,000.

SCHEDULE Y
DEBT SERVICE SCHEDULE

City of Beckley

2% Interest Rate, 1% Administrative Fee

20 Years

Dated Date			9/18/09	
Delivery Date			9/18/09	
				Series A
Period Ending	**Principal**	**Coupon**	**Interest**	**Debt Service**
9/18/09				
6/1/10	6,927	2.000%	3,396.58	10,323.58
9/1/10	6,962	2.000%	3,361.95	10,323.95
12/1/10	6,997	2.000%	3,327.14	10,324.14
3/1/11	7,031	2.000%	3,292.15	10,323.15
6/1/11	7,067	2.000%	3,257.00	10,324.00
9/1/11	7,102	2.000%	3,221.66	10,323.66
12/1/11	7,137	2.000%	3,186.15	10,323.15
3/1/12	7,173	2.000%	3,150.47	10,323.47
6/1/12	7,209	2.000%	3,114.60	10,323.60
9/1/12	7,245	2.000%	3,078.56	10,323.56
12/1/12	7,281	2.000%	3,042.33	10,323.33
3/1/13	7,318	2.000%	3,005.93	10,323.93
6/1/13	7,354	2.000%	2,969.34	10,323.34
9/1/13	7,391	2.000%	2,932.57	10,323.57
12/1/13	7,428	2.000%	2,895.61	10,323.61
3/1/14	7,465	2.000%	2,858.47	10,323.47
6/1/14	7,502	2.000%	2,821.15	10,323.15
9/1/14	7,540	2.000%	2,783.64	10,323.64
12/1/14	7,578	2.000%	2,745.94	10,323.94
3/1/15	7,616	2.000%	2,708.05	10,324.05
6/1/15	7,654	2.000%	2,669.97	10,323.97
9/1/15	7,692	2.000%	2,631.70	10,323.70
12/1/15	7,730	2.000%	2,593.24	10,323.24
3/1/16	7,769	2.000%	2,554.59	10,323.59
6/1/16	7,808	2.000%	2,515.74	10,323.74
9/1/16	7,847	2.000%	2,476.70	10,323.70
12/1/16	7,886	2.000%	2,437.47	10,323.47
3/1/17	7,926	2.000%	2,398.04	10,324.04
6/1/17	7,965	2.000%	2,358.41	10,323.41
9/1/17	8,005	2.000%	2,318.58	10,323.58
12/1/17	8,045	2.000%	2,278.56	10,323.56
3/1/18	8,085	2.000%	2,238.33	10,323.33
6/1/18	8,126	2.000%	2,197.91	10,323.91
9/1/18	8,166	2.000%	2,157.28	10,323.28
12/1/18	8,207	2.000%	2,116.45	10,323.45
3/1/19	8,248	2.000%	2,075.41	10,323.41
6/1/19	8,289	2.000%	2,034.17	10,323.17

City of Beckley

2% Interest Rate, 1% Administrative Fee

20 Years

Period Ending	Principal	Coupon	Interest	Debt Service
9/1/19	8,331	2.000%	1,992.73	10,323.73
12/1/19	8,373	2.000%	1,951.07	10,324.07
3/1/20	8,414	2.000%	1,909.21	10,323.21
6/1/20	8,457	2.000%	1,867.14	10,324.14
9/1/20	8,499	2.000%	1,824.85	10,323.85
12/1/20	8,541	2.000%	1,782.36	10,323.36
3/1/21	8,584	2.000%	1,739.65	10,323.65
6/1/21	8,627	2.000%	1,696.73	10,323.73
9/1/21	8,670	2.000%	1,653.60	10,323.60
12/1/21	8,713	2.000%	1,610.25	10,323.25
3/1/22	8,757	2.000%	1,566.68	10,323.68
6/1/22	8,801	2.000%	1,522.90	10,323.90
9/1/22	8,845	2.000%	1,478.89	10,323.89
12/1/22	8,889	2.000%	1,434.67	10,323.67
3/1/23	8,933	2.000%	1,390.22	10,323.22
6/1/23	8,978	2.000%	1,345.56	10,323.56
9/1/23	9,023	2.000%	1,300.67	10,323.67
12/1/23	9,068	2.000%	1,255.55	10,323.55
3/1/24	9,113	2.000%	1,210.21	10,323.21
6/1/24	9,159	2.000%	1,164.65	10,323.65
9/1/24	9,205	2.000%	1,118.85	10,323.85
12/1/24	9,251	2.000%	1,072.83	10,323.83
3/1/25	9,297	2.000%	1,026.57	10,323.57
6/1/25	9,344	2.000%	980.09	10,324.09
9/1/25	9,390	2.000%	933.37	10,323.37
12/1/25	9,437	2.000%	886.42	10,323.42
3/1/26	9,484	2.000%	839.23	10,323.23
6/1/26	9,532	2.000%	791.81	10,323.81
9/1/26	9,579	2.000%	744.15	10,323.15
12/1/26	9,627	2.000%	696.26	10,323.26
3/1/27	9,676	2.000%	648.12	10,324.12
6/1/27	9,724	2.000%	599.74	10,323.74
9/1/27	9,773	2.000%	551.12	10,324.12
12/1/27	9,821	2.000%	502.26	10,323.26
3/1/28	9,870	2.000%	453.15	10,323.15
6/1/28	9,920	2.000%	403.80	10,323.80
9/1/28	9,969	2.000%	354.20	10,323.20
12/1/28	10,019	2.000%	304.36	10,323.36
3/1/29	10,069	2.000%	254.26	10,323.26
6/1/29	10,120	2.000%	203.92	10,323.92
9/1/29	10,170	2.000%	153.32	10,323.32
12/1/29	10,221	2.000%	102.47	10,323.47
3/1/30	10,272	2.000%	51.36	10,323.36
	679,316		**146,571.09** *	**825,887.09**

*Plus a quarterly Administrative fee of $916.07 for a total Administrative expense of $73,285.06

City of Beckley			
10 Years			
	Dated Date	9/18/09	
	Delivery Date	9/18/09	
			Series B-1 Bond
Period Ending	Debt Service		Principal Forgiveness
9/18/09			
3/1/11	-9,913		-9,913
6/1/11	-9,913		-9,913
9/1/11	-9,913		-9,913
12/1/11	-9,912		-9,912
3/1/12	-9,912		-9,912
6/1/12	-9,912		-9,912
9/1/12	-9,912		-9,912
12/1/12	-9,912		-9,912
3/1/13	-9,912		-9,912
6/1/13	-9,912		-9,912
9/1/13	-9,912		-9,912
12/1/13	-9,912		-9,912
3/1/14	-9,912		-9,912
6/1/14	-9,912		-9,912
9/1/14	-9,912		-9,912
12/1/14	-9,912		-9,912
3/1/15	-9,912		-9,912
6/1/15	-9,912		-9,912
9/1/15	-9,912		-9,912
12/1/15	-9,912		-9,912
3/1/16	-9,912		-9,912
6/1/16	-9,912		-9,912
9/1/16	-9,912		-9,912
12/1/16	-9,912		-9,912
3/1/17	-9,912		-9,912
6/1/17	-9,912		-9,912
9/1/17	-9,912		-9,912
12/1/17	-9,912		-9,912
3/1/18	-9,912		-9,912
6/1/18	-9,912		-9,912
9/1/18	-9,912		-9,912
12/1/18	-9,912		-9,912
3/1/19	-9,912		-9,912
6/1/19	-9,912		-9,912
9/1/19	-9,912		-9,912
12/1/19	-9,912		-9,912
3/1/20	-9,912		-9,912
6/1/20	-9,912		-9,912
9/1/20	-9,912		-9,912
12/1/20	-9,913		-9,913
	-396,484		**-396,484**

	City of Beckley				
	0% Interest Rate, 1% Administrative Fee				
	40 Years from Closing Date				
		Dated Date		9/18/09	
		Delivery Date		9/18/09	
					Series C Bond
	Period Ending	**Principal**		**Interest**	**Debt Service**
	9/18/09				
	3/1/11	6,683			6,683
	6/1/11	6,683			6,683
	9/1/11	6,683			6,683
	12/1/11	6,683			6,683
	3/1/12	6,683			6,683
	6/1/12	6,683			6,683
	9/1/12	6,683			6,683
	12/1/12	6,683			6,683
	3/1/13	6,683			6,683
	6/1/13	6,683			6,683
	9/1/13	6,683			6,683
	12/1/13	6,683			6,683
	3/1/14	6,683			6,683
	6/1/14	6,683			6,683
	9/1/14	6,683			6,683
	12/1/14	6,683			6,683
	3/1/15	6,683			6,683
	6/1/15	6,683			6,683
	9/1/15	6,683			6,683
	12/1/15	6,683			6,683
	3/1/16	6,683			6,683
	6/1/16	6,683			6,683
	9/1/16	6,683			6,683
	12/1/16	6,683			6,683
	3/1/17	6,683			6,683
	6/1/17	6,683			6,683
	9/1/17	6,683			6,683
	12/1/17	6,683			6,683
	3/1/18	6,683			6,683
	6/1/18	6,683			6,683
	9/1/18	6,683			6,683
	12/1/18	6,683			6,683
	3/1/19	6,683			6,683
	6/1/19	6,683			6,683

	City of Beckley			
	0% Interest Rate, 1% Administrative Fee			
	40 Years from Closing Date			
Period Ending	Principal		Interest	Debt Service
9/1/19	6,683			6,683
12/1/19	6,683			6,683
3/1/20	6,683			6,683
6/1/20	6,683			6,683
9/1/20	6,683			6,683
12/1/20	6,683			6,683
3/1/21	6,683			6,683
6/1/21	6,683			6,683
9/1/21	6,683			6,683
12/1/21	6,683			6,683
3/1/22	6,683			6,683
6/1/22	6,683			6,683
9/1/22	6,683			6,683
12/1/22	6,683			6,683
3/1/23	6,683			6,683
6/1/23	6,683			6,683
9/1/23	6,683			6,683
12/1/23	6,683			6,683
3/1/24	6,683			6,683
6/1/24	6,683			6,683
9/1/24	6,683			6,683
12/1/24	6,683			6,683
3/1/25	6,683			6,683
6/1/25	6,683			6,683
9/1/25	6,683			6,683
12/1/25	6,683			6,683
3/1/26	6,683			6,683
6/1/26	6,683			6,683
9/1/26	6,683			6,683
12/1/26	6,683			6,683
3/1/27	6,683			6,683
6/1/27	6,683			6,683
9/1/27	6,683			6,683
12/1/27	6,683			6,683
3/1/28	6,683			6,683
6/1/28	6,683			6,683
9/1/28	6,683			6,683
12/1/28	6,683			6,683
3/1/29	6,682			6,682
6/1/29	6,682			6,682

City of Beckley			
0% Interest Rate, 1% Administrative Fee			
40 Years from Closing Date			
Period Ending	**Principal**	**Interest**	**Debt Service**
9/1/29	6,682		6,682
12/1/29	6,682		6,682
3/1/30	6,682		6,682
6/1/30	6,682		6,682
9/1/30	6,682		6,682
12/1/30	6,682		6,682
3/1/31	6,682		6,682
6/1/31	6,682		6,682
9/1/31	6,682		6,682
12/1/31	6,682		6,682
3/1/32	6,682		6,682
6/1/32	6,682		6,682
9/1/32	6,682		6,682
12/1/32	6,682		6,682
3/1/33	6,682		6,682
6/1/33	6,682		6,682
9/1/33	6,682		6,682
12/1/33	6,682		6,682
3/1/34	6,682		6,682
6/1/34	6,682		6,682
9/1/34	6,682		6,682
12/1/34	6,682		6,682
3/1/35	6,682		6,682
6/1/35	6,682		6,682
9/1/35	6,682		6,682
12/1/35	6,682		6,682
3/1/36	6,682		6,682
6/1/36	6,682		6,682
9/1/36	6,682		6,682
12/1/36	6,682		6,682
3/1/37	6,682		6,682
6/1/37	6,682		6,682
9/1/37	6,682		6,682
12/1/37	6,682		6,682
3/1/38	6,682		6,682
6/1/38	6,682		6,682
9/1/38	6,682		6,682
12/1/38	6,682		6,682
3/1/39	6,682		6,682
6/1/39	6,682		6,682
9/1/39	6,682		6,682

City of Beckley				
0% Interest Rate, 1% Administrative Fee				
40 Years from Closing Date				
Period Ending	**Principal**		**Interest**	**Debt Service**
12/1/39	6,682			6,682
3/1/40	6,682			6,682
6/1/40	6,682			6,682
9/1/40	6,682			6,682
12/1/40	6,682			6,682
3/1/41	6,682			6,682
6/1/41	6,682			6,682
9/1/41	6,682			6,682
12/1/41	6,682			6,682
3/1/42	6,682			6,682
6/1/42	6,682			6,682
9/1/42	6,682			6,682
12/1/42	6,682			6,682
3/1/43	6,682			6,682
6/1/43	6,682			6,682
9/1/43	6,682			6,682
12/1/43	6,682			6,682
3/1/44	6,682			6,682
6/1/44	6,682			6,682
9/1/44	6,682			6,682
12/1/44	6,682			6,682
3/1/45	6,682			6,682
6/1/45	6,682			6,682
9/1/45	6,682			6,682
12/1/45	6,682			6,682
3/1/46	6,682			6,682
6/1/46	6,682			6,682
9/1/46	6,682			6,682
12/1/46	6,682			6,682
3/1/47	6,682			6,682
6/1/47	6,682			6,682
9/1/47	6,682			6,682
12/1/47	6,682			6,682
3/1/48	6,682			6,682
6/1/48	6,682			6,682
9/1/48	6,682			6,682
12/1/48	6,682			6,682
3/1/49	6,682			6,682
6/1/49	6,682			6,682
9/1/49	6,683			6,683
	1,035,783	*		**1,035,783**
*Plus a quarterly Administrative fee of $1,303.04 for a total				
Administrative fee of $201,971.20				

SRF-ARRA (GREEN RESERVE)
(09/09)

ARRA ASSISTANCE AGREEMENT
(GREEN RESERVE)

THIS WATER POLLUTION CONTROL REVOLVING FUND ARRA ASSISTANCE AGREEMENT (the "ARRA Assistance Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), the WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (the "DEP"), and the local government or other eligible recipient designated below (the "Local Government").

CITY OF BECKLEY
(Local Government)

W I T N E S S E T H:

WHEREAS, the United States Congress under Title VI of the federal Clean Water Act, as amended (the "Clean Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining state water pollution control revolving funds for the planning, design, construction, acquisition and/or improvement of wastewater treatment facilities;

WHEREAS, the United States Congress has provided additional capitalization grant funding under the Clean Water Act through the American Recovery and Reinvestment Act of 2009 (the "ARRA") for projects that address energy efficiency, water efficiency, green infrastructure and environmentally innovative processes as well as wastewater and stormwater treatment facilities (the "ARRA Project");

WHEREAS, pursuant to the provisions of Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to direct the distribution of loans to particular Local Governments pursuant to the Clean Water Act and the ARRA;

WHEREAS, under the Act the DEP is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection

Agency ("EPA") to accept capitalization grant awards (U.S. General Services Administration; Catalog of Federal Domestic Assistance, 32nd Edition § 66.458 (1998)) and DEP has been awarded capitalization grants to partially fund the Program;

WHEREAS, under the Act and under the direction of DEP, the Authority has established a permanent perpetual fund known as the "West Virginia Water Pollution Control Revolving Fund" (hereinafter the "Fund");

WHEREAS, pursuant to the Act, the Authority and DEP are empowered to make loans (the "Loans") from the Fund to local governments for the acquisition or construction of wastewater treatment projects by such local governments, all subject to such provisions and limitations as are contained in the Clean Water Act, the ARRA and the Act;

WHEREAS, the Local Government constitutes a local government as defined by the Act;

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

WHEREAS, the Local Government intends to construct, is constructing or has constructed an ARRA Project;

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

ARTICLE I

1.1 The Local Government has submitted an application to DEP for the ARRA Project more specifically described in Exhibit A hereto.

1.2 The ARRA Project has been designated as a project eligible for the Green Project Reserve as approved by United States Environmental Protection Agency (the "USEPA").

1.3 The Local Government shall covenant and agree to the terms and conditions with respect to the ARRA Project as set forth on Exhibit B hereto.

1.4 DEP has instructed the Authority to make a forgivable loan to the Local Government with the financial terms and conditions set forth in Exhibit C hereto.

1.5 DEP shall advance the proceeds of the loan for costs incurred with respect to the ARRA Project only upon receipt of invoices approved by DEP.

ARTICLE II

2.1 The Local Government hereby warrants and represents that all information provided to the Authority and DEP in this ARRA Assistance Agreement, in the application or in any other application or documentation with respect to financing the ARRA Project was at the time, and now is, true, correct and complete, and such information does not omit any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Prior to the Authority's making the Loan and receiving the Local Bonds, the Authority and DEP shall have the right to cancel all or any of their obligations under this ARRA Assistance Agreement if (a) any representation made to the Authority and DEP by the Local Government in connection with the Loan shall be incorrect or incomplete in any material respect or (b) the Local Government has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of the Act, the SRF Regulations or this ARRA Assistance Agreement.

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

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

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

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

2.6 This ARRA Assistance Agreement shall terminate upon the earlier of: (i) written notice of termination to the Local Government from either the Authority or DEP; or (ii) February 17, 2010, if the ARRA Project is not under construction.

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

CITY OF BECKLEY

(SEAL)

By: _____
Its: Mayor
Date: September 18, 2009

Attest:

_____
Its: Recorder/Treasurer

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF WATER AND WASTE MANAGEMENT

By: Scott G. Mandirola
Its: Acting Director
Date: September 18, 2009

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: _____
Its: Executive Director
Date: September 18, 2009

Attest:

Carol A. Cummings
Its: Secretary-Treasurer

{C1593526.1}

EXHIBIT A

ARRA PROJECT DESCRIPTION

The Project consists of upgrades to the stormwater utility.

EXHIBIT B

TERMS AND CONDITIONS

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

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

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

D. ASSET MANAGEMENT – The Local Government shall develop and implement an asset management plan in accordance with guidelines issued by DEP and is approved by DEP. New systems shall submit the asset management plan to DEP when the Project is complete. Existing systems shall submit the asset management plan to DEP within six months following completion of the Project.

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

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

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

H. PURCHASING REQUIREMENTS – The Local Government shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of

an item where the purchase price exceeds $10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was $10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

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

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

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

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

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

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

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

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

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

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

S. USER RATES – The Local Government shall covenant that it will not reduce its approved or enacted customer rates for at least eighteen months after completion of the Project or until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses.

EXHIBIT C

DESCRIPTION OF LOCAL BONDS

A. Series B-2 Bonds (ARRA)

Principal Amount of Local Bonds $296,952
Purchase Price of Local Bonds $296,952

The Local Bonds shall bear no interest. The Authority at the direction of the DEP shall forgive the principal amount of the Local Bonds. Principal forgiveness shall begin on March 1, 2010 and shall be made quarterly thereafter (March 1, June 1, September 1 and December 1 of each year) as set forth on Schedule Y attached hereto and incorporated herein by reference for a period of ten years.

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

The Local Government shall make monthly payments into the Renewal and Replacement Fund as required for at least the term of the Local Bonds.

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

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

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

SCHEDULE Y
DEBT SERVICE SCHEDULE

	City of Beckley		
	10 Years		
	Dated Date		9/18/09
	Delivery Date		9/18/09
			Series B-2
Period Ending	**Debt Service**		**Principal Forgiveness**
9/18/09			
6/1/10	-7,424		-7,424
9/1/10	-7,424		-7,424
12/1/10	-7,424		-7,424
3/1/11	-7,424		-7,424
6/1/11	-7,424		-7,424
9/1/11	-7,424		-7,424
12/1/11	-7,424		-7,424
3/1/12	-7,424		-7,424
6/1/12	-7,424		-7,424
9/1/12	-7,424		-7,424
12/1/12	-7,424		-7,424
3/1/13	-7,424		-7,424
6/1/13	-7,424		-7,424
9/1/13	-7,424		-7,424
12/1/13	-7,424		-7,424
3/1/14	-7,424		-7,424
6/1/14	-7,424		-7,424
9/1/14	-7,424		-7,424
12/1/14	-7,424		-7,424
3/1/15	-7,424		-7,424
6/1/15	-7,424		-7,424
9/1/15	-7,424		-7,424
12/1/15	-7,424		-7,424
3/1/16	-7,424		-7,424
6/1/16	-7,424		-7,424
9/1/16	-7,424		-7,424
12/1/16	-7,424		-7,424
3/1/17	-7,424		-7,424
6/1/17	-7,424		-7,424
9/1/17	-7,424		-7,424
12/1/17	-7,424		-7,424
3/1/18	-7,423		-7,423
6/1/18	-7,423		-7,423
9/1/18	-7,423		-7,423
12/1/18	-7,423		-7,423
3/1/19	-7,423		-7,423
6/1/19	-7,423		-7,423
9/1/19	-7,423		-7,423
12/1/19	-7,423		-7,423
3/1/20	-7,424		-7,424
	-296,952		**-296,952**

FIRST READING
10-23-07

SECOND READING
11-13-07

AN ORDINANCE AMENDING SECTION 9-240 OF THE CODE OF THE CITY OF BECKLEY SETTING FORTH SEWER RATE CHARGES AND PENALTIES FOR SERVICE TO CUSTOMERS OF THE SEWAGE SYSTEM OF THE CITY OF BECKLEY

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that:

1. The findings and recommendations of the Beckley Sanitary Board regarding sewer rate charges for service to customers of the sewage system of the City of Beckley have been received and reviewed by Common Council.

2. Be it further ordained that the following Beckley City Code Sections are hereby revised establishing the following rate structure for the treatment of sewage applicable within the entire territory served:

Sec. 9-240. Schedules for Services inside City.

(a)(1) Initial Rates and Charges (January 1, 2008 through December 31, 2008). There is established a schedule of just and equitable rates or charges, exclusive of industrial waste or unusual user charges, for the use of, and service rendered by, the municipal sewer system which shall be paid by the owner of each lot, parcel of real estate, or building connected with, or using, such sewer system which schedule shall be in effect from January 1, 2008 and expire December 31, 2008. Sewer charges, based upon water consumption, shall be as follows:

1) First two thousand (2,000) gallons used per month, $7.60 per 1,000 gallons.

2) Next three thousand (3,000) gallons used per month, $7.13 per 1,000 gallons.

3) Next twenty thousand (20,000) gallons used per month, $6.52 per 1,000 gallons.

4) All over twenty-five thousand (25,000) gallons used per month, $5.85 per 1,000 gallons.

5) Minimum Charge – No bill will be rendered for less than $15.20 per month.

6) Unmetered Users Residential – A flat rate of $33.03 based on 4,500 gallons of water usage per month will be charged for all unmetered customers.

(a)(2) Rates and Charges (January 1, 2009 through December 31, 2009). There is established a schedule of just and equitable rates or charges, exclusive of industrial waste or unusual user charges, for the use of, and service rendered by, the municipal sewer system which shall be paid by the owner of each lot, parcel of real estate, or building connected with, or using, such sewer system which schedule shall be in effect from January 1, 2009 and expire December 31, 2009. Sewer charges, based upon consumption, shall be as follows:

1) First two thousand (2,000) gallons used per month, $8.32 per 1,000 gallons.

2) Next three thousand (3,000) gallons used per month, $7.81 per 1,000 gallons.

3) Next twenty thousand (20,000) gallons used per month, $7.14 per 1,000 gallons.

4) All over twenty-five thousand (25,000) gallons used per month, $6.41 per 1,000 gallons.

5) Minimum Charge – No bill will be rendered for less than $16.64 per month.

6) Unmetered Users Residential – A flat fee of $36.17 based on 4,500 gallons of water usage per month will be charged for all unmetered customers.

(b) Final Rates and Charges (January 1, 2010 and thereafter). There is established a schedule of just and equitable rates or charges, exclusive of industrial waste or unusual user charges, for the use of, and service rendered by, the municipal sewer system which shall be paid by the owner of each lot, parcel of real estate, or building connected with, or using, such sewer system which schedule shall be in effect on and after January 1, 2010. Sewer charges, based upon water consumption, shall be as follows:

1) First two thousand (2,000) gallons used per month, $8.95 per 1,000 gallons.

2) Next three thousand (3,000) gallons used per month, $8.40 per 1,000 gallons.

3) Next twenty thousand (20,000) gallons used per month, $7.68

per 1,000 gallons.

4) All over twenty-five thousand (25,000) gallons used per month, $6.90 per 1,000 gallons.

5) Minimum Charge – No bill will be rendered for less than $17.90 per month.

6) Unmetered Users Residential – A flat fee of $38.90 based on 4,500 gallons of water usage per month will be charged for all unmetered customers.

3. It is further ordained that all remaining paragraphs and subsections of Section 9-240 not specifically amended herein are in full force and effect.

4. It is further ordained that all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. It is further ordained that if any section, subsection, sentence, clause, or phase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity or the remaining portions of this ordinance. The Common Council hereby declares that it would have passed this ordinance, and each section, subsection, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

6. That it is hereby ordered and directed to cause this ordinance to be published in accordance with State law.

7. That this ordinance and the rules, regulations, provisions, requirements, orders, rates, charges, schedules, and matters established and adopted hereby shall take effect and be in full force effective January 1, 2008.

I certify that the foregoing is a true and accurate copy of an Ordinance duly passed by the Common Council at its regular meeting held on November 13, 2007.

8/13/09

Date

Emmett S. Pugh III

Emmett S. Pugh III
Mayor

FIRST READING

6-12-07

SECOND READING

6-26-07

AN ORDINANCE AMENDING THE BECKLEY CITY CODE, AS THE SAME APPLIES TO STORMWATER MANAGEMENT AND SURFACE WATER DISCHARGE CONTROL AND APPLICABLE RATES AND FEES.

WHEREAS, the 2001 West Virginia Legislature amended sections 8-16-1 et seq., and 16-13-1 et seq., of the West Virginia Code so as to authorize municipalities to regulate stormwater management and surface water discharge, as part if its public works program and sanitary sewerage system; and,

WHEREAS, there is a public need to protect life, property and the water environment from loss, injury and damage caused by storm and surface water, and a responsibility of the City as a trustee of the water environment for future generations; and,

WHEREAS, the City of Beckley, and its contiguous urban watershed, has been designated by Federal Law as a regulated municipal separate storm sewer system, and, such, must comply with the regulatory requirements established under the Clean Water Act; and,

WHEREAS, accordingly, it is necessary for the City of Beckley to enact rules and regulations, as well as service fees, pertaining to stormwater management and surface water discharge control in its urban watershed.

NOW, THEREFORE, the City of Beckley hereby ordains that Chapter 9, Article V, addressing stormwater management and surface water drainage control is added to its City Code and reads as follows:

CHAPTER 9, ARTICLE V

Stormwater Management and Surface Water Discharge Control

Sec. 9-600. Definitions:

Unless the context specifically indicates otherwise, the meaning of the terms used herein shall be as follows:

(a) **"Best Management Practices (BMPs)"** are physical, structural and/or managerial practices that, when used singly or in combination, control site run-off, spillage and leaks, waste disposal and drainage from raw material storage and prevent or reduce the discharge of pollutants directly or indirectly to waters of the state. BMPs may include schedules of activities, prohibition of practices, design standards, educational activities and treatment requirements.

(b) **"City watershed"** are those areas within the corporate limits of the City of Beckley, and designated areas outside of those limits, over which surface water naturally drains into the City. Designation of areas outside of the corporate limits of the City of Beckley shall be made by the Director.

(c) **"Director"** is the General Manager of the Beckley Sanitary Board.

(d) **"Facility"** for purposes of this Article is a building, structure, installation or construction site in which pollutants are produced and/or generated as a result of a process or processes, conducted within the building, structure or installation.

(e) **"Flat rate charge"** is the charge applicable to a single-family dwelling per dwelling unit.

(f) **"Footing drain"** is a pipe or conduit which is placed around the perimeter of a building foundation or other structures for the purpose of admitting ground water.

(g) **"Illicit connection"** means any physical connection to a publicly maintained storm drain system which has not been permitted allowed by the Beckley Sanitary Board from the date of enactment of this ordinance.

(h) **"Illicit discharge"** means any discharge to a storm drain or into the stormwater collection system that is not composed entirely of stormwater, except discharges pursuant to a NPDES permit, discharges resulting from firefighting activities, and other discharges exempted in this Article.

(i) **"Impervious area"** is land area covered by buildings, pavement, gravel or other material that significantly inhibits stormwater from penetrating the soil.

(j) **"Industrial sites"** are those sites that contain industrial activities which require NPDES stormwater permits as set forth in 40 CFR 122.26(a)(6).

(k) **"Multi-unit property"** is a residential, non-residential or commercial property of any size that has located upon the property two or more tenants, at least one of which having no ownership interest in the property.

(l) **"Non-stormwater"** is all flows to the stormwater system not defined as stormwater in this Article or as determined by the Director. This includes, but is not limited to, cooling water, process water, ground water from a purge well and swimming pool discharge.

(m) **"Pervious area"** is all land area that is not impervious.

(n) **"Pollutant"** means objects including, but not limited to, dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, grease, petroleum products, munitions,

chemical waste, detergents, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, dirt, industrial, municipal and agricultural waste, gasses entrained in water, paints, oil and other automotive fluids, soil, rubbish, debris, materials containing fecal coliform, fecal streptococcus, and enterococcus, heavy metals, hazardous wastes, yard waste from commercial landscaping operations, animal waste, materials that result from the process of building, and offensive matter of any kind, which, when discharged to water, cause or contribute to water pollution.

(o) **"Pollution"** is the degradation of the physical, thermal, chemical, biological or radioactive properties of the waters of the state and/or the discharge of any pollutant to the waters of the state which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare or to the beneficial use of the water and/or the water environment.

(p) **"Public facility"** is a stormwater facility that serves two or more properties, including, but not limited to, main pipelines that collect and transmit stormwater from and/or across two or more properties, and all taps or other connections onto a public facility. Public facilities that are privately owned upon enactment of this Article shall become publicly owned facilities, and thus the responsibility of the stormwater utility, only upon conveyance by the private owner and acceptance by the Director.

(q) **"Private facility"** is a stormwater facility not otherwise classified as a public facility as defined in paragraph (p), above.

(r) **"Service area"** is all areas within the political boundaries of the City of Beckley and those areas outside of said boundaries that naturally drain into the City, also called the "City Watershed", and as designated in the operating permit issued under the provisions of the Clean Water Act.

(s) **"Stormwater"** is atmospheric precipitation, surface runoff water, ground water discharge, water used in fire fighting, runoff from street sweeping, flows from footing drains and all other discharge sources identified in the City of Beckley stormwater NPDES permit, except as may be defined as non-stormwater by this Article.

(t) **"Stormwater management"** is the process of collection, conveyance, storage, treatment and disposal of stormwater to ensure control of the magnitude and frequency of runoff to minimize the impact of the runoff upon the water quality of the receiving stream and the other hazards associated with flooding.

(u) **"Stormwater service charge"** is a flat rate charge, a charge based on land area, and/or a non-stormwater user charge.

(v) **"Stormwater system"** is public and private stormwater sewers, drains, ditches, streets, retention/detention structures, dams, river impoundments and flood control facilities used for collecting and transporting stormwater and non-stormwater.

(w) **"User"** is a firm, person or property which is the legal owner or occupant of a property that directly or indirectly contributes stormwater or non-stormwater flows to the stormwater system, whether within or outside the corporate limits of the City of Beckley.

Sec. 9-601. General:

(a) This article has been enacted to protect and enhance the water quality of our watercourses, water bodies, groundwater and wetlands in a manner pursuant to and consistent with the Clean Water Act and associated federal and state stormwater regulations.

(b) The intent of this article is:

(1) To control non-stormwater discharges to storm drain systems.

(2) To reduce pollutants in stormwater discharges.

(3) To control stormwater runoff by providing design, construction and maintenance criteria for permanent and temporary stormwater facilities.

(4) To maintain and improve the stormwater collection system in order to protect and improve water quality in the receiving streams and to reduce or eliminate local flooding resulting from stormwater accumulation.

(5) To fully comply with federal and state statutory and regulatory requirements and schedules regarding stormwater management and the water quality of the receiving streams.

State law references: W. Va. Code §§ 8-16-1, 16-13-1, 16-13-2.

Sec. 9-602. Stormwater User Fees and Service Charges:

(a) Users connected to or draining into the public storm drainage system shall pay an equitable share of the actual cost of the operation, maintenance of, improvements to, and necessary additions to the stormwater system. Therefore, all owners or tenants of real property in the City of Beckley and the City watershed shall be charged for the use of the stormwater system based on the amount of stormwater and rate of flow of stormwater which is projected to discharge into the stormwater system from the property.

(b) The City Council shall, by ordinance, set user fees which will recover from users their fair share of costs for use of the stormwater system by property within and outside the corporate limits of the City of Beckley and within the City watershed. Such user fees will be for the operation and maintenance of, improvements to, necessary additions to, and environmental compliance programs for the stormwater system.

(c) The Director may establish and enforce service fees to be charged and collected for services rendered by the stormwater utility or by agents of the utility, including, but not limited to, fees for permit application, stormwater management plan review, inspection, and other services.

State law reference: W. Va. Code §§ 8-16-18, 8-16-21, 16-13-22.

Sec. 9-603. Property Affected:

Except as provided in this Article and/or by regulation, all real property shall be subject to the stormwater user fee and service charges regardless of whether privately or publicly owned.

State law reference: W. Va. Code §§ 8-16-18, 8-16-21, 16-13-16, 16-13-17, 16-13-22.

Sec. 9-603. Flat Rate Charges:

The monthly fee for users occupying a single-family residential dwelling, as defined by the Director, shall be $ 3.75. After July 1, 2008, the monthly service charge for a single-family residential dwelling shall be $3.75. The City Council may, from time to time, by ordinance, change this user fee.

State law reference: W. Va. Code §§ 8-16-18, 16-13-16, 16-13-17, 16-17-23(a).

Sec. 9-604. Charges Based on Land Area:

The monthly fee for properties other than described in Section 9-603 (above) shall be $10.00 per drinking water service. If an improved property does not contain a water service, the service fee shall be $10.00 per parcel. After July 1, 2008, the monthly fee for properties other than described in Section 9-603 shall be computed in the following manner: $1.25 per 1,000 square feet of impervious area upon the property, as determined by the Director.

User fees for a multi-unit property shall be billed to each individual tenant upon the property in a fair and proportionate share of the total property fee, if said tenant has an individual drinking water service meter. At the discretion of the property owner, or if the individual tenants do not have individual drinking water service meters, fees for a multi-unit property may be billed to the property owner. A property owner exercising this choice must complete a written agreement as required by the Director.

The Director shall assign discount credits to those newly constructed properties employing volumetric flow reduction facilities. The Director may further assign discount credits to those existing properties employing rate of flow reduction practices.

The City Council may, from time to time, by ordinance, change these user fees.

State law reference: W. Va. Code §§ 8-16-18, 16-13-16, 16-13-17, 16-13-23(a).

Sec. 9-605. Billing:

The billing for stormwater service may be combined with the billing for other utility services provided by the Beckley Sanitary Board.

State law reference: W. Va. Code §§ 8-16-18, 16-13-16

Sec. 9-606. Collection:

The Director is authorized to assess interest and penalties upon unpaid and past due stormwater user fees and service charges, and to act as deemed appropriate to enforce collection of unpaid fees and charges. Unpaid stormwater fees and charges shall constitute just cause for disconnection of public water service to the non-paying property. The Director shall ensure sufficient notice of disconnection is issued no later than thirty (30) days prior to the scheduled disconnection and that notice of disconnection is posted on the affected property no later than five (5) days prior to the scheduled disconnection. Water service shall be reactivated only upon full payment of the stormwater service charges or other payment arrangements approved by the Director. The Director may also take appropriate legal action to collect unpaid charges, including, but not limited to, placing a lien upon the subject property and/or bringing a civil action in a court of competent jurisdiction to recover unpaid charges and fees.

State law reference: W. Va. Code §§ 8-16-18, 16-13-16.

Sec. 9-607. Use of Funds:

All funds collected for stormwater service shall be accounted for separately and shall be used solely for the construction, operation and maintenance of the stormwater system and stormwater environmental compliance programs.

State law reference: W. Va. Code §§ 16-13-16, 16-13-23(a).

Sec. 9-608. General Requirements and Prohibitions:

(a) The use of the stormwater collection system shall be the collection and transportation of stormwater.

(b) No person shall place or cause to be placed any pollutant into the stormwater system other than stormwater, unless written approval has been granted by the Director. The Director may refuse to grant approval to discharge non-stormwater into the stormwater system for any reason or combination of reasons.

(c) The Beckley Sanitary Board shall administer use of the stormwater system to all users within the City watershed, whether located within or outside City limits.

(d) No person shall cause or permit the introduction of any pollutant into the stormwater system, whether solid, liquid or gaseous, that will cause:

(1) Chemical reaction, either directly or indirectly with the materials of construction used in the stormwater system or that will impair the strength or durability of sewers or structures;

(2) Mechanical action that will destroy or damage sewers or structures;

(3) Restriction of the normal maintenance and inspection of sewers;

(4) Danger to public health and safety or to the environment;

(5) Conditions that create a public nuisance;

(6) An oil sheen or unusual color;

(7) Abnormal demand on the stormwater system capacity; or,

(8) The stormwater system to violate its NPDES permit or applicable receiving water standards and all other Federal, State, and local regulations.

(e) Any person or entity engaged in activities which will or may result in pollutants entering the storm drain system shall undertake best management practices to reduce such pollutants. Examples of such activities include, but are not limited to, compliant operation of facilities that may be a source of pollutants, such as paved parking lots, gasoline stations, industrial facilities, and private roads/streets.

(f) No person shall throw, deposit, leave, maintain or cause to be thrown, deposited, left or maintained any refuse, rubbish, garbage, grease, petroleum products, or other discarded or abandoned objects, articles and accumulations in or upon any street, alley, sidewalk, storm drain inlet, catch basin, conduit or other drainage structures, parking area, or upon any private or public plot of land so that the same might become a pollutant, except where the pollutant is being temporarily stored in properly contained waste receptacles or is part of a well defined compost system.

(g) No person shall cause or permit any dumpster, solid waste bin, or similar container to leak such that any pollutant is discharged into any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structure, or upon any public or private plot of land in the urban watershed.

(h) No person shall use the stormwater system for discharge from any environmental cleanup that is regulated under federal or state law unless approved by the Director. Approval by the Director must be conditioned upon the discharge meeting all criteria for discharge under this chapter. Approval conditions may provide for measures appropriate to prevent harm due to

possible exfiltration into the ground adjacent to the system or failure of any pretreatment system for the discharge.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-609. Illicit Connections:

It is prohibited to establish, use, maintain or continue illicit connections to the municipal stormwater system, or to commence or continue any illicit discharges to the municipal stormwater system.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-610. Outdoor Storage Areas:

In outdoor areas, no person shall store grease, oil or other hazardous substances in a manner that will or may result in such substances entering the stormwater system. In outdoor areas, no person shall store motor vehicles, machine parts, or other objects in a manner that may leak grease, oil, or other hazardous substances to the stormwater system. To prevent the discharge of hazardous substances to the stormwater system, the Director may require the installation of a spill containment system. Spill containment systems may consist of a system of dikes, walls, barriers, berms, or other devices as required. No person shall operate a spill containment system such that it allows incompatible liquids to mix and thereby create a hazardous condition.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-611. Construction Sites:

Any person performing construction work in the city watershed of the City of Beckley shall comply with the provisions of this Article and shall provide erosion and sediment controls that effectively prevent discharges of pollutants to the storm drain system and/or receiving stream. The Director shall establish by regulation standards and guidelines for the implementation and maintenance of best management practices designed to provide erosion and sediment control from construction sites. At a minimum, these regulations shall address:

(1) Erosion controls through the protection and preservation of the soil at an active construction site to prevent off-site sedimentation.

(2) Sediment controls to remove sediment from runoff before the runoff is discharged from an active construction site.

(3) Stabilization and structural practices to prevent sedimentation and erosion.

(4) Stormwater management measures to be installed before, coincident with and upon completion of construction activities. These measures shall be designed to reduce or

eliminate pollutants discharged from the site and to promote flood control objectives designated by the Director.

(5) Construction site housekeeping best management practices, including, but not limited to, equipment maintenance, repair and cleaning, waste management and collection, storage of materials and chemicals, and sanitary facilities.

(6) Compliance with any and all other requirements imposed under the provisions of the Clean water Act.

No landowner or land operator shall receive any building, grading or other land development permit or administrative authorization/license required for building or land disturbance activities without first meeting the requirement of this section.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-612. Discharge of Pollutants:

Discharges from the following activities will not be considered a regulated source of pollutants to the municipal separate storm sewer and waters of the state when properly managed: water line flushing and uncontaminated discharges from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising ground waters, groundwater infiltration to separate storm drains, uncontaminated pumped ground water, foundation and footing drains, roof drains, water from crawl space pumps, residential air conditioning condensation, springs, individual residential car washes, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges or flows from fire fighting activities and training.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-613. Discharge in Violation of Permit:

Any discharge that would cause a violation of a Municipal NPDES Permit and any amendments, revisions or reissuance thereof, either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge, including, but not limited to, the cost of remedial activity, shall be the responsibility of the person(s) causing or responsible for the discharge, and the City shall seek to have such persons defend, indemnify and hold harmless the City in any administrative or judicial enforcement action against the City of Beckley and/or the Beckley Sanitary Board relating to such discharge as provided by applicable rules of law.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-614. Notification of Spills:

All persons in charge of a facility or responsible for emergency response for a facility are responsible to train facility personnel, maintain records of such training and maintain notification procedures to assure that immediate notification is provided to the Director upon becoming aware of any suspected, confirmed or unconfirmed release of material, pollutants or waste creating a risk of discharge into the municipal stormwater system or into a receiving stream.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-615. Construction:

(a) Only designated Beckley Sanitary Board employees or parties authorized by the Director may perform construction upon the public facilities of the stormwater system. Public facilities of the system shall include:

(1) Those facilities that serve two or more properties, including, but not limited to, main pipelines that collect and transmit stormwater from and/or across two or more properties; and,

(2) All taps or other connections from a private lateral to a public facility of the system.

(b) All public costs and expenses of and incidental to the installation of private stormwater facilities, connections to public facilities, and installation of public facilities to facilitate and convey flows from a specific private facility shall be borne by the owner(s) of the private facility. Payment terms for these costs and expenses shall be designated by the Director.

(c) Parties authorized by the Director to perform construction of or upon the public facilities of the stormwater system shall comply with the design and construction standards promulgated by the Director. These parties shall allow for inspection of the construction by the Director at all times, and construction shall only occur during normal working hours of the Sanitary Board. No facility constructed by an authorized party may be covered or connected to a public facility without specific authorization of the Director. This authority shall be granted by the Director upon satisfaction of the announced design and construction standards.

(d) All public facilities shall, upon authorized completion, be property of the City of Beckley.

(e) A party authorized by the Director to perform construction upon the public facilities of the stormwater system shall meet the following requirements prior to and throughout construction:

(1) Compliance with all relevant Federal and State labor, employment and environmental laws; and,

(2) Compliance with all relevant and applicable state laws regarding government construction contracts, including, but not limited to, WV Code §§ 5-22-1, et seq. And 21-5A-1, et seq.; and,

(3) Full and active policy coverage as certified by the West Virginia Bureau of Employment Programs, Workers' Compensation Division; and,

(4) Contractor's liability insurance, issued by an insurance company with a Best's rating of no less than "A" and certified to the satisfaction of the Director, which may include commercial general, automobile, umbrella and builders risk policies, naming the City of Beckley and the Beckley Sanitary Board as additional insureds. Policies and coverage limits and terms required shall be appropriate to the subject construction and shall be designated by the Director; and,

(5) A construction bond, issued by an insurance company with a Best's rating of no less than "A" and certified to the satisfaction of the Director, equal to the estimated cost of the construction and for a term equal to the duration of the construction project. At the discretion of the Director, a bonded party may provide a cumulative general construction bond in satisfaction of this requirement; and,

(6) A repair bond, issued by an insurance company with a Best's rating of no less than "A" and certified to the satisfaction of the Director, in an amount no more than the reasonable estimate of repair costs, as determined by the Director, and for a term of no longer than five years, beginning on the date of substantial project completion. At the discretion of the Director, a bonded party may provide a cumulative general construction bond in satisfaction of this requirement; and,

(7) Certification of full compliance with all relevant state and local permitting and tax rules and regulations, certification of appropriate property rights to perform the construction, and conveyance to the City of Beckley of appropriate property rights for the completed public facilities.

(8) Nothing in sub-paragraphs 2, 3, 4, 5 and 6 shall apply to any situation where the Director shall come to an agreement with volunteer or a volunteer group doing work for a qualified not-for-profit entity, whereby the Director will provide engineering, technical or other services and the volunteers will provide the necessary labor without charge to, or liability upon, the City of Beckley or the Beckley Sanitary Board. The not-for-profit entity shall be responsible for all costs to the utility associated with such a project.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-616. Stormwater Taps:

(a) The Director or a party authorized by the Director will furnish and install stormwater system taps of the size and at the location requested in writing by an applicant upon a form to be provided by the Director. The applicant shall pay the full cost of the tap installation.

(b) The Director may deny a tap application when the requested tap is proposed to an inadequate public facility.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-617. Enforcement:

(a) No person shall construct or maintain any property, residence or business not in compliance with the standards of this Article.

(b) The Director and other authorized employees of the City bearing proper credentials and identification shall be permitted, after reasonable notice, to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Article.

(c) No person or firm shall fail to provide any report or other information or perform any duty required by this Article.

(d) The Director is authorized to take appropriate legal action to require compliance with this Article.

(e) The Director is authorized to enforce and collect upon the terms of a construction and/or repair bond in the event of default of the conditions described therein.

(f) If, after reasonable notice, a person fails to comply with this Article, the Director may cause the work to be done to obtain compliance and shall charge the cost of that work to the person responsible. The responsible person shall pay in full the charged amount within thirty (30) days of the invoice date, or otherwise make arrangements, acceptable to the Director, for full payment of the invoiced amount.

(g) The Director is authorized to take all steps necessary to immediately halt any discharge of pollutants which reasonably appear to present an imminent danger to the health or welfare of persons or to the environment.

(h) Persons aggrieved by any determination of the Director in enforcing this Article may appeal that determination to the Beckley Sanitary Board or a court of proper jurisdiction. Prosecution shall be stayed pending such an appeal.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-618. Stormwater Management and Comprehensive Drainage Plans:

(a) Upon the effective date of this Article, the Director shall enact regulations providing for specific requirements and standards for stormwater management and drainage upon all new developments and redevelopment projects. These regulations shall be written to minimize the discharge and transport of pollutants to storm drain systems and prevent the deterioration of water quality. At a minimum, these regulations shall address:

(1) Prevention of any direct discharge of untreated stormwater, either on or off-site.

(2) Prevention of increased post-development discharge rates.

(3) Removal of a designated amount, determined by the percentage of impervious parcel area, of annual total load of pollutants generated from development or redevelopment runoff prior to any off-site discharge.

(4) Description and implementation of best management practices, and the continuation of those BMPs for appropriate periods of time.

(5) Protection of ground water from instances of polluted runoff infiltration.

(6) Protection and preservation of the stormwater collection system, including, but not limited to, open natural drainage ways and riparian areas, which together function to attenuate runoff volumes, peak discharges and pollutant loading to the water environment.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-619. Drainage System Standards:

Drainage systems shall comply with the standards established by the Director.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-620. Plan Submission and Review Process:

(a) Upon the effective date of this Article, and following the enactment of regulations providing for specific requirements and standards for stormwater management and drainage upon all new developments and redevelopment projects, stormwater management plans and comprehensive drainage plans for any new construction or reconstruction within the city watershed shall be submitted to the Director. The plans shall be reviewed by the Director or his/her designated representative for compliance with the applicable rules and standards. Plans developed to meet federal or state requirements may be submitted, and will be approved if they conform to the requirements of this Article. If the Director employs outside services for plan review, the cost of that review shall be paid by the Applicant.

(b) The plan submission and review process shall be coordinated with and integrated into the City planning and permitting process. Following the effective date of this section, no building permit shall be issued without an approved stormwater management plan if required under this Article.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-621. Maintenance of Stormwater Facilities:

(a) Private stormwater facilities located in private property and within the City watershed shall be maintained by the owner or other responsible party and shall be repaired and/or replaced by such person when such facilities are no longer functioning as designed.

(b) Disposal of waste from maintenance of private facilities shall be conducted in accordance with applicable federal, state and local laws and regulations.

(c) Records of installation and maintenance and repair shall be retained by the owner or other responsible party for a period of five (5) years and shall be made available to the Director upon request.

(d) The Director may perform corrective or maintenance work, which shall be at the owner's expense, upon any failure to maintain facilities or correct problems with facilities after receiving due reasonable notice from the Director.

(e) Routine maintenance of detention/retention facilities shall be conducted by the owner of the facility in accordance with this Article and guidance of the Director.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-622. Inspection:

(a) Stormwater systems within the City watershed shall be inspected by the Director during and after construction to assure consistency with the approved stormwater management plan.

(b) All stormwater systems within the City watershed shall be subject to the authority of the Director to ensure compliance with this Article and may be inspected when deemed necessary.

(c) The owner of a private stormwater system, or other responsible party designated by the owner, shall make annual inspections of the facilities, including any detention/retention facility, and maintain records of such inspections for a period of five (5) years.

(d) Whenever necessary to make an inspection to enforce any of the provisions of this Article, or whenever the Director has reasonable cause to believe that there exists in any building or upon any premises any condition which may constitute a violation of the provisions of this Article, the Director may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed by this Article; provided that (1) if such building or premises is occupied, he or she first shall present proper credentials and request entry; and (2) if such building or premises is unoccupied, he or she first shall make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

(e) The property owner or occupant has the right to refuse entry but, in the event such entry is refused, the Director is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry and performing such inspection.

(f) Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this Article, including but not limited to, random sampling and/or sampling in areas with evidence of stormwater pollution, illicit discharges, or similar factors.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-623. Sampling:

With the consent of the owner or occupant or with Court order, the Director may establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the Director may take any samples deemed necessary to aid in the pursuit of the inquiry or to record the on-site activities, provided that owners or occupants shall be entitled to split samples.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-624. Testing and Monitoring:

(a) Whenever the Director determines that any person engaged in any activity and/or owning or operating any facility may cause or contribute to stormwater pollution or illicit discharges to the stormwater system, the Director may, by written notice, order that such person undertake such monitoring activities and/or analyses and furnish such reports as the Director may require. The written notice shall be served either in person or by certified or registered mail, return receipt requested, and shall set forth the basis for such order and shall particularly describe the monitoring activities and/or analyses and reports required. The burden to be borne by the owner or operator, including costs of these activities, analyses and reports, shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained. The recipient of such order shall undertake and provide the monitoring, analyses and reports within the time frames set forth in the Order.

(b) Within twenty (20) days of the date of receipt of the order notice, the recipient shall respond personally or in writing advising the Director of the recipient's position with respect to the Order's requirements. Thereafter, the recipient shall be given the opportunity to meet with the Director to review the Order's requirements and revise the Order as the Director may deem necessary. Within ten (10) days of such meeting, the Director shall issue a final written order. Final Orders issued pursuant to this Section may be appealed to the Beckley Sanitary Board by the filing of a written appeal with the Sanitary Board within ten (10) days of receipt of the final Order. The appeal notice shall set forth the particular Order requirements or issues being appealed. The Sanitary Board shall hear the appeal at its earliest practical date and may either affirm, revoke or modify the Order. The decision of the Sanitary Board shall be final, but may be subject to review by a Court of competent jurisdiction.

(c) In the event the owner or operator of a facility or property fails to conduct the monitoring and/or analyses and furnish the reports required by the Order in the time frames set forth therein, the Director may cause such monitoring and/or analyses to occur. If a violation is found, the Director may assess all costs incurred, including reasonable administrative costs and attorney's fees, to the owner or operator. The Director may pursue judicial action to enforce the Order and recover all costs incurred.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-625. Concealment:

Causing, permitting, aiding, abetting or concealing a violation of any provision of this Article shall constitute a violation of such provision.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec.9-626. Acts Resulting in Violation of Federal Clean Water Act:

Any person who violates any provision of this Article, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, also may be in violation of the federal Clean Water Act and may be subject to the sanctions of that Act including civil and criminal penalties.

Sec. 9-627. Violations Deemed a Public Nuisance:

(a) In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this Article shall be considered a threat to the public health, safety, welfare and the environment, may be declared and deemed a nuisance by the Director and may be summarily abated and/or restored by the Director and/or civil action taken to abate, enjoin or otherwise compel the cessation of such nuisance

(b) The cost of such abatement and/or restoration shall be borne by the owner of the property and the cost thereof shall be a lien upon and against the property and such lien shall continue in existence until the same shall be paid.

(c) If any violation of this Article constitutes a seasonal and recurrent nuisance, the Director shall so declare. Thereafter such seasonal and recurrent nuisance shall be abated every year without the necessity of any further declaration.

(d) In any administrative or civil proceeding under this Article in which the City or its agent prevails, the City or its agent may be awarded all costs of investigation, administrative overhead, out-of-pocket expenses, costs of administrative hearings, costs of suit and reasonable attorneys' fees.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-628. Administrative Enforcement Powers:

(a) In addition to the other enforcement powers and remedies established by this Article, the Director has the authority to utilize the following administrative remedies.

(1) Cease and Desist Orders. When the Director finds that a discharge has taken place or is likely to take place in violation of this Article, the Director may issue an order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct that those persons not complying shall: (a) comply with the requirement; (b) comply with a time schedule for compliance, and/or (c) take appropriate remedial or preventive action to prevent the violation from recurring. The Director may refer the violation to the West Virginia Department of Environmental Protection for further civil and/or criminal prosecution in accordance with the Clean Water Act. The Director may, in any case, assess a charge to the violator to recover the cost of response/remediation incurred by the utility. If the invoice is not paid within sixty (60) days, a lien shall be placed upon and against the property. The Director may also bring a civil action in a court of competent jurisdiction to recover unpaid costs and fees.

(2) Notice to Clean. Whenever the Director finds any oil, earth dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or any other material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds or in close proximity to any open drain or ditch channel, which may result in an increase in pollutants entering the storm drain system or a non-stormwater discharge to the storm drain system, he or she may give notice to the property owner remove and lawfully dispose of such material in any manner that he or she reasonably may provide. The recipient of such notice shall undertake the activities as described in the notice within the time frames set forth therein.

(3) In the event the owner or operator of a facility fails to conduct the activities as described in the notice, the Director may cause such required activities as described in the notice to be performed, and the cost thereof shall be assessed and invoiced to the owner of the property. If the invoice is not paid within sixty (60) days, a lien shall be placed upon and against the property. The Director may also

bring a civil action in a court of competent jurisdiction to recover unpaid costs and fees.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-629. Nonexclusivity of Remedies:

Remedies under this Article are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

State law reference: W. Va. Code §§ 8-16-5, 16-13-2, 16-13-22.

Sec. 9-630. Appeal:

Any person, firm, corporation or organization notified of non-compliance with this Article or required to perform monitoring, analyses, reporting and/or corrective activities who is aggrieved by the decision of the Director may appeal such decision in writing to the Beckley Sanitary Board within ten (10) days following the effective date of the decision. Upon receipt of such request, the Sanitary Board shall request a report and recommendation from the Director and shall set the matter for administrative hearing at the earliest practical date. At said hearing, the Sanitary Board may hear additional evidence, and may revoke, affirm or modify the earlier decision. Such decision shall be final, subject to appeal to a Court of competent jurisdiction.

State law reference: W. Va. Code §§ 16-13-2, 16-13-22.

Sec. 9-631. Disclaimer of Liability:

The degree of protection required by this Article is considered reasonable for regulatory purposes. The standards set forth herein are minimum standards and this Article does not imply that compliance will ensure that there will be no unauthorized discharge of pollutants into the waters of the State. This Article shall not create liability on the part of the City, any agent or employee thereof for any damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

_____
Mayor

ADOPTED:

FILED:

_____
City Clerk

RECORDED:

I certify that the above is a true and accurate copy of an Ordinance duly adopted by the Common Council of the City of Beckley at its regular meeting held on June 26, 2007.

8/13/09
Date

Emmett S. Pugh III - Mayor

A REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF BECKLEY CONVENED AT 7:30 P.M., NOVEMBER 13, 2007 IN COUNCIL CHAMBERS OF BECKLEY CITY HALL.

THOSE PRESENT: Mayor Emmett S. Pugh III; Council Members A. K. Minter, Jr., Ann Worley, Frank Williams, Mike Atterson, Lee Leftwich, Robert Rappold, and Cedric Robertson; Recorder-Treasurer Gary Sutphin; and Secretary Linda Carr.

THOSE ABSENT: City Attorney William H. File III.

ALSO PRESENT: Fire Chief Kevin Taylor, Police Chief Tim Deems, Director of Human Rights Commission Elmer Day, Street Commissioner Robert Robinson, Director of Housing and Community Development Manuel Cartelle, Director of Exhibition Mine Renda Morris, and Director of Beckley Renaissance Jill Moorefield.

The Mayor called the meeting to order with Bishop Sims leading those present in a word of prayer followed by the Pledge of Allegiance to the Flag.

Council dispensed with reading of the minutes of the previous meeting which had been made available to each member and adopted the minutes as written on a motion by Councilman Rappold and seconded by Councilman Robertson.

The Mayor presented Jill Moorefield with the framed picture and article recently written in the Divine paper which recognized her as their Woman of the Year. The Mayor commended Mrs. Moorefield on her accomplishments with all the projects and activities she organizes for the citizens of the City.

Councilman Rappold stated that it is recommended that the bid award for the purchase of equipment to renovate the filtering system for the New River Park Pool be given to Off the Deep End, Inc. which was in the form of a motion, seconded by Councilman Robertson, and unanimously approved by Council.

Ms. Molly Davis of Parsons Brinckerhoff presented Council with the following list of bidders recently received for the Beckley Exhibition Coal Mine Interpretive Elements:

1. 1220 Exhibits, Inc.
   3801 Vulcan Drive
   Nashville, TN 37211

   Bid: $208,532.89

2. H.B. Stubbs
   27027 Mound Road
   Warren, MI 48092-2699

   Bid: $309,876.00

3. Expographiq
   65 Adrien Robert
   Gatineau, Quebec, Canada J8Y2S3

   Bid: $351,862.03

4. Capitol Exhibit Services, Inc.
   1229 Livingston Road
   Manassas, VA 20109

   Bid: $198,686.00

5. Mystic Scenic Studios
   293 Lenox Street
   Norwood, MA 02062

   Bid: $286,377.00

6. Design Craftsmen
   2200 James Savage Road
   Midland, MI 48642

   Bid: $$343,025.00

7. Murphy Catton, Inc.
   115 Bessmer Lane
   Walton, KY 41094

   Bid: $317,358.00

8. Taylor Studios, Inc.
   1320 Harmon Drive
   Rantoul, IL 61866

   Bid: $278,233.00

9. Pacific Studio
   5311 Shilshole Ave., NW
   Seattle, WA 98107

   Bid: $231,961.27

10. Malone Design and Fabrication
    5403 Dividend Drive
    Decatur, GA 30035

    Bid: $178,198.00

11. Explus Inc.
    44156 Mercure Circle
    Dulles, VA 20166

    Bid: $261,771.00

The Mayor asked Ms. Davis if it is the recommendation of Parsons Brinckerhoff that the City take the low bidder which is Malone Design and Fabrication and if they do meet all the qualifications of what was put out on the street to bid on. She stated it is recommended that the bid be awarded to Malone Design and Frabrication. Following discussion and on a motion by Councilman Rappold and seconded by Councilwoman Worley, this bid award was unanimously accepted by Council.

The Mayor presented the following Proclamation for Christian Heritage Week:

PROCLAMATION

WHEREAS, Thanksgiving marks the sixteenth consecutive *Christian Heritage Week in West Virginia;* continuing a tradition of proclamations beginning with Governor Gaston Caperton in 1992 through 1996, Governor Cecil Underwood from 1997 through 2000, and Governor Bob Wise from 2001 through 2004; and

WHEREAS, Mayors from at least 68 cities, towns, and villages throughout West Virginia have proclaimed Christian Heritage Week; and

WHEREAS, voluntarily applying one's Christian faith to daily life contributes to keeping our families secure, communities safe, and Mountaineers free; and

WHEREAS, area churches are encouraged to participate with relevant Sunday School lessons, sermons, readings of proclamations, youth programs, patriotic song services, and prayer.

NOW, THEREFORE, I, Emmett S. Pugh III, Mayor of the City of Beckley, do hereby proclaim November 18 - 24, 2007 as

CHRISTIAN HERITAGE WEEK

in the City of Beckley and invite all citizens to join in this local event each in their own way.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Beckley to be affixed this 18th day of November, 2007.

Emmett S. Pugh III

MAYOR
CITY OF BECKLEY

The Mayor presented for second reading and public hearing an Ordinance amending Section 9-240 of the City Code setting forth sewer rate charges and penalties for services to customers of the City of Beckley. Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS INC.

BECKLEY, WEST VIRGINIA 25801

November 08, 2007

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 Advertising Manager for Beckley Newspapers, Inc., a corporation, 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 two successive weeks (Class 2), commencing with the issue of the 1st day of November, 2007, and ending with the issue of the 8th day of November, 2007, (and was posted at the Raleigh County Courthouse on the 8th day of November, 2007); that said annexed notice was published on the following dates:

11/01/07,11/08/07

and that the cost of publishing said annexed notice as aforesaid was $ 143.62

Signed: Tara Meyer
Tara Meyer
Legal Advertising Manager
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
8th day of November, 2007

My commission expires March 27, 2011

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
D L CHAMBERS
HC 69 BOX 208
BECKLEY, WV 25801
My commission expires March 27, 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 Common Council on Tuesday, November 13, 2007, in Council Chambers of Beckley City Hall. All interested parties are urged to attend.

AN ORDINANCE AMENDING SECTION 9-240 OF THE CODE OF THE CITY OF BECKLEY SETTING FORTH SEWER RATE CHARGES AND PENALTIES FOR SERVICE TO CUSTOMERS OF THE SEWAGE SYSTEM OF THE CITY OF BECKLEY

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that:

1. The findings and recommendations of the Beckley Sanitary Board regarding sewer rate charges for service to customers of the sewage system of the City of Beckley have been received and reviewed by Common Council.

2. Be is further ordained that the following Beckley City Code Sections are hereby revised establishing the following rate structure for the treatment of sewage applicable within the entire territory served:

Section 9-240 Schedules for Services Inside City.

(a)(1) Initial Rates and Charges (January 1, 2008 through December 31, 20081. There is established a schedule of just and equitable rates or charges, exclusive of industrial waste or unusual user charges, for the use of, and service rendered by, the municipal sewer system which shall be paid by the owner of each lot, parcel of real estate, or building connected with, or using, such sewer system which schedule shall be in effect from January 1, 2008 and expire December 31, 2008. Sewer charges, based upon water consumption, shall be as follows:

1) First two thousand (2,000) gallons used per month, $ 7.60 per 1, 0000 gallons.

2) Next three thousand (3,000) gallons used per month, $7.13 per 1,000 gallons.

3) Next twenty thousand (20,000) gallons used per month, $6.52 per 1,000 gallons

4) All over twenty-five thousand (25,000) gallons used per month, $5.85 per 1,000 gallons.

5) Minimum Charge No bill will be rendered for less than $15.20 per month.

The public hearing was opened for comments. Mr. and Mrs. Charles Earehart of 126 Ford Street, Gary Parker of 209 4th Street, Judly Patterson of 706 Spangler Street, Tom Rapp of 1209 Maxwell Hill Road, and Ron Booker of 133 Ringleben Street spoke in opposition to passage of this Ordinance. With no further comments, the public hearing was closed. Councilman Robertson stated he was in opposition to this Ordinance as was Councilman Williams. Following discussion and on a motion by Councilman Rappold and seconded by Councilman Leftwich, the following Ordinance was passed by Council with Councilmen Robertson and Leftwich in opposition, and the remaining Council members voting in favor of passage of this Ordinance:

RESOLUTION

WHEREAS, the United Neighborhood Crime and Improvement Watch, Inc. has received a grant for $2,400 through the local Economic Development Assistance Grant Program; and

WHEREAS, these funds will be used to purchase school supplies; and

WHEREAS, the City of Beckley will be the conduit for these funds.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the Mayor is hereby authorized to execute the attached contract with the West Virginia Development Office.

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on November 13, 2007 on a motion by Councilman Frank Williams and seconded by Councilwoman Ann Worley.

Gary R. Sutphin – Recorder-Treasurer

The Mayor informed Council that six new police officers will be sworn in on Thursday, November 15, 2007, at 10:00 a.m. in Council Chambers if they would like to attend. He also informed Council that Councilwoman Worley will have a Ward II meeting Thursday, November 15, 2007, beginning at 7:00 p.m. in the Park Middle School Cafeteria.

With no further business to be addressed, the meeting was adjourned at 8:30 p.m. on a motion by Councilman Minter and seconded by Councilman Williams.

MAYOR

RECORDER-TREASURER

I certify that the foregoing is a true and accurate copy of the minutes of the regular meeting of Common Council of the City of Beckley held on November 13, 2007.

8/13/09
Date

Emmett S. Pugh III
Mayor

A REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF BECKLEY CONVENED AT 7:30 P.M. JUNE 26, 2007 IN COUNCIL CHAMBERS OF BECKLEY CITY HALL.

THOSE PRESENT: Mayor Emmett S. Pugh III; Council Members A. K. Minter, Jr., Ann Worley, Tim Berry, Lee Leftwich, and Robert Rappold; Recorder-Treasurer Gary Sutphin; City Attorney William H. File III, and Secretary Linda Carr.

THOSE ABSENT: Councilmen Pete Francesa and Howard Mollohan.

ALSO PRESENT: Fire Chief Kevin Taylor, Acting Police Chief Tim Deems, Director of Housing and Community Development Manuel Cartelle, Director of Human Rights Commission Elmer Day, Director of IT Department Bill Kelly, Street Commissioner Robert Robinson, 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 which had been made available to each member and adopted the minutes as written on a motion by Councilman Rappold and seconded by Councilman Berry.

The Mayor presented plaques to former Councilman Nickell and Councilman Berry thanking them for their years of service to the citizens of Beckley.

The Police Chief of Lewisburg and President of the West Virginia Police Chiefs Association Tim Stover presented Chief Cole with a plaque recognizing his 42 years of service as a police officer. The Mayor presented Chief Cole with a plaque also commending him for his years of service to the citizens of Beckley.

The Mayor presented the name of Lt. Tim Deems for appointment as the City's Police Chief. On a motion by Councilman Rappold and seconded by Councilman Worley, Lt. Tim Deems was unanimously approved as the City's new Police Chief.

Mr. File presented for second reading and public hearing an Ordinance adding Section 227(b) to the City Code as the same applies to storm water management and control by the Beckley Sanitary Board. Affidavit of Publication is hereinafter incorporated:

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 Rappold and seconded by Councilman Leftwich, the following Ordinance was unanimously approved by Council:

FIRST READING	SECOND READING
6-12-07	6-26-07

AN ORDINANCE AMENDING CHAPTER 9, ARTICLE II, DIVISION 2, SECTION 9-227 OF THE BECKLEY CITY CODE BY ADDING A NEW SECTION 9-227(b) AS THE SAME APPLY TO STORMWATER MANAGEMENT AND CONTROL BY THE BECKLEY SANITARY BOARD.

WHEREAS, Beckley Common Council desires to amend Chapter 9 of the Beckley City Code so as to clearly state that the Beckley Sanitary Board has the authority to manage and control stormwater.

NOW, THEREFORE, the City of Beckley ordains that Chapter 9 is amended by adding a new subsection 9-227(b) which shall read as follows (new matter underlined, deleted matter struck through):

Sec. 9-227. Powers, duties; limitations thereon; obligation and expenditure of funds; employees.

(a) The sanitary board shall have the supervision and control of the custody, administration, operation and maintenance of all works for the collection, treatment and disposal of sewage which are now owned or may hereafter be acquired by the city. The sanitary 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 the powers granted to it by law, and shall have all of the powers granted to such sanitary board under and by virtue of the W. Va. Code, ch. 16, art. 13, and shall be subject to all restrictions and limitations contained therein as well.

(b) The management, control, and operation of the stormwater drainage and sewer system of the City shall be vested in the Beckley Sanitary Board. The Board shall have full and complete supervision, management, and control of the stormwater drainage system, including the maintenance, operations, improvements, and extension thereof. All assets and liabilities of the stormwater system, including accounts receivable and accounts payable, shall be under the management and control of the Board.

~~(b)~~(c) The sanitary board may employ engineers, architects, inspectors, 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 W. Va. Code, ch. 16, art. 13 shall be paid solely from funds provided under the authority of that article, and the sanitary board shall not exercise or carry out any authority or power given it so as to bind the board of the city beyond the extent to which money shall have been or may be provided under the authority of the aforesaid article 13.

This Ordinance shall become effective upon passage.

Mr. File then presented for second reading and public hearing an Ordinance amending the City Code as it applies to storm water management and surface water discharge control and applicable rates and fees. Affidavit of Publication is hereinafter incorporated:

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 Rappold and seconded by Councilwoman Worley, the following Ordinance was unanimously approved by Council:

FIRST READING

6-12-07

SECOND READING

6-26-07

AN ORDINANCE AMENDING THE BECKLEY CITY CODE, AS THE SAME APPLIES TO STORMWATER MANAGEMENT AND SURFACE WATER DISCHARGE CONTROL AND APPLICABLE RATES AND FEES.

WHEREAS, the 2001 West Virginia Legislature amended sections 8-16-1 et seq., and 16-13-1 et seq., of the West Virginia Code so as to authorize municipalities to regulate stormwater management and surface water discharge, as part if its public works program and sanitary sewerage system; and,

WHEREAS, there is a public need to protect life, property and the water environment from loss, injury and damage caused by storm and surface water, and a responsibility of the City as a trustee of the water environment for future generations; and,

WHEREAS, the City of Beckley, and its contiguous urban watershed, has been designated by Federal Law as a regulated municipal separate storm sewer system, and, such, must comply with the regulatory requirements established under the Clean Water Act; and,

WHEREAS, accordingly, it is necessary for the City of Beckley to enact rules and regulations, as well as service fees, pertaining to stormwater management and surface water discharge control in its urban watershed.

NOW, THEREFORE, the City of Beckley hereby ordains that Chapter 9, Article V, addressing stormwater management and surface water drainage control is added to its City Code and reads as follows:

CHAPTER 9, ARTICLE V

Stormwater Management and Surface Water Discharge Control

Sec. 9-600. Definitions:

Unless the context specifically indicates otherwise, the meaning of the terms used herein shall be as follows:

(a) **"Best Management Practices (BMPs)"** are physical, structural and/or managerial practices that, when used singly or in combination, control site run-off, spillage and leaks, waste disposal and drainage from raw material storage and prevent or reduce the discharge of pollutants directly or indirectly to waters of the state. BMPs may include schedules of activities, prohibition of practices, design standards, educational activities and treatment requirements.

Lastly, Mr. File presented for second reading and public hearing an Ordinance establishing a storm water utility and delegating responsibility of said utility to the Beckley Sanitary Board. Affidavit of Publication is hereinafter incorporated:

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 Rappold and seconded by Councilman Leftwich, the following Ordinance was unanimously approved by Council:

FIRST READING

6-12-07

SECOND READING

6-26-07

AN ORDINANCE ESTABLISHING A STORMWATER UTILITY AND DELEGATING RESPONSIBILITY OF SAID UTILITY TO THE BECKLEY SANITARY BOARD.

WHEREAS, the West Virginia Legislature amended sections 8-20-1 et seq. and 16-13-1 et seq. of the West Virginia Code in 2001 so as to authorize municipalities to include the operation and management of stormwater systems as part of a municipal combined waterworks and sewerage system; and,

WHEREAS, there is a public need to protect life, property and the water environment from loss, injury and damage caused by storm and surface water, and a responsibility of the City as a trustee of the water environment for future generations; and,

WHEREAS, there is a public need to establish a single authority for planning, acquisition, improvement, construction, inspection, development, installation, modification, management, operation, maintenance, repair, replacement, control, demolition, abandonment, regulation and funding of storm and surface water drainage services, systems and facilities; and,

WHEREAS, the City of Beckley, and its contiguous urban watershed, has been designated by Federal Law as a regulated municipal separate storm sewer system, and, as such, must comply with the regulatory requirements established under the Clean Water Act; and,

WHEREAS, it is in the public interest to transfer all storm, flood and surface water drainage responsibility, management, interest and authority to the Beckley Sanitary Board and empower and authorize and approve the Sanitary Board in providing storm, flood and surface water drainage services to all real property located within the corporate limits of the City of Beckley and in its adjacent watershed drainage area, as now or in the future may exist, and for the Sanitary Board to charge service fees for storm, flood and surface drainage services rendered by the Sanitary Board.

NOW, THEREFORE, the City of Beckley hereby ordains that:

1. There is hereby established the Beckley Stormwater Utility. This utility shall serve the Beckley urban watershed, which shall include all areas within the corporate boundaries of the City of Beckley and all adjacent and contiguous areas over and through which surface and stormwater flows into the City of Beckley. The Stormwater Utility shall provide storm, flood and

Mr. File presented for first reading an Ordinance re-zoning property adjacent to City Avenue from "M", Manufacturing, to "B-1", Neighborhood Highway Business District. On a motion by Councilman Rappold and seconded by Councilwoman Worley, the first reading of this proposed Ordinance was unanimously approved by Council.

Mr. File presented for first reading an Ordinance closing a public right-of-way that runs north of Carter 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 a Resolution granting longevity raises to full-time City employees. On a motion by Councilman Rappold and seconded by Councilwoman Worley, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, the Common Council wants to recognize the hard work and dedication of its employees; and

WHEREAS, the Common Council is responsible for the financial soundness of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY THAT:

1. As of July 1, 1993, the annual across-the-board longevity increase for the employees of the City of Beckley was suspended.

2. That as of July 1, 1993, all longevity increases for the employees of the City of Beckley shall be approved by the Common Council the last Council meeting in June of each year.

3. That for the Fiscal Year July 1, 2007 to June 30, 2008, the longevity pay increase for the employees of the City of Beckley, except for Civil Service employees with fewer than six years of experience which shall remain the same as was prior to the enactment of this Resolution, shall be:

(a) For employees who will reach their 6th month of employment during FY 2007-08, the longevity increase will be $265.00 per year.

(b) For employees who will reach their 1st, 2nd, or 3rd anniversary date during FY 2007-08, the longevity increase will be $265.00 per year.

(c) For employees who will reach their 4th, 5th, or 6th anniversary date during FY 2007-08, the longevity increase will be $333.00 per year.

(d) For employees who will reach their 7th, 8th, or 9th anniversary date during FY 2007-08, the longevity increase will be $396.00 per year.

The Mayor stated this is the date advertised for the second public hearing concerning applying for Small Cities Block Grant Funds. The public hearing was opened for comments. There being none, the public hearing was closed. The Mayor then presented for Council approval a Resolution to apply for Small Cities Block Grant Funds for the East Beckley Sewage System Upgrade. On a motion by Councilman Rappold and seconded by Councilwoman Worley, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, the City of Beckley wishes to submit an application to the State of West Virginia HUD Small Cities Block Grant program to request funding for construction of the Redbrush/Piney Oaks Sewer Improvements Project, and

WHEREAS, the City of Beckley must give assurance that all Small Cities Block Grant program regulations related to grant administration, civil rights and other applicable State and Federal Laws will be followed, and

WHEREAS, the City of Beckley must designate an official representative to act on its behalf in connection with the application and execute all necessary program documents.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City of Beckley authorized the submission of an application with the State of West Virginia HUD Small Cities Block Grant Program for funding for the construction of the Redbrush/Piney Oaks Sewer Improvements Project.

2. The City of Beckley will comply with all laws and regulations pertaining to the program.

3. Emmett S. Pugh, III, Mayor of the City of Beckley, is designated as the authorized official to act in connection with the application.

Emmett S. Pugh, III, Mayor

I, Gary R. Sutphin, Clerk of the City of Beckley, certify that the above is a true copy of a Resolution adopted the 26th day of June, 2007 at a meeting of the Beckley City Council. I further certify that a quorum of the Council were present and a majority of its members voted affirmatively for this Resolution.

Clerk

Mr. Cannon presented reports to Council on Notices of Intent to Apply for a Private Club License. The first establishment was Fahrenheit located at 200 South Heber Street. It is in an area properly zoned for this intended use and is not in an area designated for Community Development Block Grant Funds. The next business is DeSoto's located at 306 Beckley Plaza. This club is in an area properly zoned for this use and is not in an area designated for Community Development Block Grant Funds. These applications will be forwarded to the West Virginia Alcohol Beverage Control Commission.

Councilman Leftwich asked whose responsibility it is to pick up dead animals on State rights-of-way. The Mayor stated it is the State's responsibility, but they won't pick up dead animals. If anyone calls the Board of Public Works, the City will try to pick up these dead animals.

The Mayor announced to those present that the Oaths of Office will be administered to the Mayor and Council Members on Friday, June 29, 2007, beginning at 7:00 p.m.

Mr. Wayne Rebich of ACT addressed Council on the current status of the litigation concerning prevailing wages on the Neville Street property.

With no further business to be addressed, the meeting adjourned at 7:58 p.m. on a motion by Councilman Rappold and seconded by Councilman Leftwich.

MAYOR

RECORDER-TREASURER

I certify that the above is a true and accurate copy of the minutes of the Common Council of the City of Beckley at its regular meeting held on June 26, 2007.

8/13/09
Date

Emmett S. Pugh III - Mayor

PETITION OF THE SANITARY BOARD OF THE CITY OF BECKLEY
TO THE COUNCIL OF THE CITY OF BECKLEY

Whereas, the City of Beckley (the "City") owns a wastewater collection and treatment system, which system is under the operation and control of the City of Beckley Sanitary Board (the "Sanitary Board"); and

Whereas, the City issued its Series 2008 A Notes in an aggregate principal amount of $1,000,000 in or to temporarily finance a portion of the cost of the Project (as defined below); and

Whereas, pursuant to the provisions of Chapter 16, Article 13, Section 5 of the West Virginia Code of 1932, as amended, the Sanitary Board of the City hereby petitions the Council of the governing body of the City (the "Council") to enact an ordinance to authorize the issuance of not more than $6,000,000 of the City's Sewerage System Revenue Bonds, Series 2009 (the "Series 2009 Bonds") in one or more series, to pay the costs of acquisition and construction of certain additions, betterments and improvements to the sewerage system of the City (the "System"), consisting of the construction of Phase I and Phase II of the Redbrush and Other Wastewater Improvements Projects and related facilities and the emergency repair of certain pipes located in the System (the "Project"); and

Whereas, it has been determined by the Sanitary Board that it is necessary and desirable to pay the Series 2008 A Notes and to pay for a portion of the costs of the Project, and such costs will not exceed $6,000,000; and

Whereas, the Sanitary Board has determined that the costs of paying the Series 2008 A Note and a portion of the costs of the Project should be paid from the issuance of bonds payable from the revenues of the system to be purchased by the West Virginia Department of Environmental Protection through the State Revolving Fund.

Now Therefore Be It Resolved By the Sanitary Board of the City of Beckley;

1. That the City Council is requested to issue its sewer system revenue bonds in one or more series in an amount not to exceed $6,000,000.00 in order to pay the Series 2008 A Notes and to finance a portion of the costs of the Project as the same will be later more specifically defined by the ordinance authorizing the issuance of the Series 2009 Bonds.

2. That the City Council take such other action as may be required in order to issue the Series 2009 Bonds in one or more series for the benefit of the City and the users of the system.

Witness our signatures on this the 15th day of July, 2009.

Chairman, Sanitary Board of the City of Beckley

Member

Member

Accepted by the City Council of the City of Beckley, West Virginia

Mayor

DATED: _____

Following discussion, on a motion by Chairman Pugh, seconded by Mr. Keyser, followed by unanimous vote, the Board approved the Petition from the Sanitary Board to Common Council, City of Beckley to allow the issuance of revenue bonds not to exceed $600,000.00 to pay for the Tanglewood/Witherspoon/Circle Green Infrastructure and Stormwater Upgrade Project. This is a Stimulus 100% funded project but still requires for revenue bonds to be issued and that Council accept this Petition and issue the necessary documentation to allow closing in the future. The Petition of the Sanitary Board to Common Council is as follows:

PETITION OF THE SANITARY BOARD OF THE CITY OF BECKLEY
TO THE COUNCIL OF THE CITY OF BECKLEY

Whereas, the City of Beckley (the "City") owns a stormwater system, which system is under the operation and control of the City of Beckley Sanitary Board (the "Sanitary Board"); and

Whereas, pursuant to the provisions of Chapter 16, Article 13, Section 5 of the West Virginia Code of 1932, as amended, the Sanitary Board of the City hereby petitions the Council of the governing body of the City (the "Council") to enact an ordinance to authorize the issuance of not more than $600,000 of the City's Stormwater System Revenue Bonds, Series 2009 (the "Series 2009 Bonds"), to pay the costs of acquisition and construction of certain additions, betterments and improvements to the stormwater system of the City (the "System"); and

Whereas, it has been determined by the Sanitary Board that certain additions, improvements and betterments consisting of the Tanglewood/Witherspoon/Circle Green Infrastructure and Stormwater Upgrade Project (the "Project") to the System are necessary and desirable, and the costs of such additions, improvements and betterments will not exceed $600,000; and

Whereas, the Sanitary Board has determined that the costs for the Project should be paid from the issuance of bonds payable from the revenues of the system to be purchased initially by the West Virginia Department of Environmental Protection through the State Revolving Fund.

Now Therefore Be It Resolved By the Sanitary Board of the City of Beckley;

1. That the City Council is requested to issue its sewer system revenue bonds in an amount not to exceed $600,000.00 in order to finance certain costs of the Project as the same will be later more specifically defined by the ordinance authorizing the issuance of the Series 2009 Bonds.

2. That the City Council take such other action as may be required in order to issue the Series 2009 Bonds for the benefit of the City and the users of the System.

Witness our signatures on this the 15th day of July, 2009.

Chairman, Sanitary Board of the City of Beckley

Member

{C1567789.1}

Member

Accepted by the City Council of the City of Beckley, West Virginia

Mayor

DATED: _____

Board Members were also provided copies of financial reports from April 2009 and May 2009.

With no further business to be discussed, the meeting adjourned at 10:04 a.m.

CHAIRMAN

SECRETARY

CITY OF BECKLEY

SEWERAGE SYSTEM
BOND AND NOTE ORDINANCE

THE CITY OF BECKLEY

SEWERAGE SYSTEM
BOND AND NOTE SUPPLEMENTAL ORDINANCE

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CITY OF BECKLEY
BOND AND NOTES ORDINANCE

AN ORDINANCE AUTHORIZING THE DESIGN, ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWERAGE SYSTEM OF THE CITY OF BECKLEY; AUTHORIZING THE ISSUANCE OF NOT MORE THAN $9,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, IN ONE OR MORE SERIES AS DESIGNATED IN A SUPPLEMENTAL RESOLUTION, OF THE CITY OF BECKLEY, THE PROCEEDS OF WHICH, SHALL BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE CITY OF BECKLEY WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO PERMANENTLY FINANCE THE COST OF SUCH DESIGN, ACQUISITION AND CONSTRUCTION, TO FUND RESERVE ACCOUNTS FOR SUCH BONDS AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; AUTHORIZING THE ISSUANCE OF NOT MORE THAN $1,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM BOND ANTICIPATION NOTES, TO TEMPORARILY FINANCE A PORTION OF THE COST OF SUCH DESIGN, ACQUISITION AND CONSTRUCTION; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

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

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01. Authority of this Ordinance. This Ordinance is enacted pursuant to the provisions of Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act).

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

A. The City of Beckley, West Virginia (the "City" or the "Issuer"), now owns a sewerage system (the "System"), both within and without the corporate limits of the City, consisting of a 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 collection, treatment, purification and disposal in a sanitary manner of liquid and solid waste, sewage and industrial waste.

B. In accordance with Section 2 of the Act, the System is under the supervision and control of the Sanitary Board of the City (the "Sanitary Board").

C. The Sanitary Board has presented a petition to the City for the design, acquisition and construction of certain extensions, additions, betterments and improvements to the System (the "Project") as more fully described on Exhibit A, the enactment of this Ordinance and the issuance of the Sewerage System Revenue Bonds (the "Bonds") and the Sewerage System Bond Anticipation Notes (the "Notes").

D. The estimated maximum cost of design, acquisition and construction of the Project is $9,000,000, which will be obtained from the proceeds of the Bonds and the Notes herein authorized.

E. The acquisition and construction of the System were financed or refinanced with proceeds of certain obligations of the City, which obligations are designated and have lien positions with respect to the Bonds as follows:

	Designation	Lien Position
1.	$11200,000 Sewer Revenue Bonds, Series 1998 A, dated March 17, 1998 (the "Series 1998 A Bonds").	First Lien
2.	$9,039,000 Sewer Revenue Bonds, Series 2004 A, dated September 28, 2004 (the "Series 2004 A Bonds").	First Lien
3.	$2,405,000 Sewerage System Refunding Revenue Bonds, Series 2005, dated July 20, 2005 (the "Series 2005 Bonds").	First Lien

The Series 1998 A Bonds, the Series 2004 A Bonds and the Series 2005 Bonds, are collectively referred to as the "Prior Bonds."

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

G. It is necessary and essential to design, acquire and construct the Project, generally described on Exhibit A hereto and incorporated herein by reference, in order to preserve the public health, to be financed through the issuance of the Bonds, in the aggregate principal amount not to exceed $9,000,000. The period of usefulness of the System after completion of the Project is not less than 40 years.

H. The estimated revenues to be derived in each year after the enactment of this Ordinance from the operation of the System will be sufficient to pay all Operating Expenses of the System, the principal of and interest on the Prior Bonds and the Bonds and all funds and accounts and other payments provided for in this Ordinance and the Prior Ordinances.

I. The Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the form set forth in Exhibit B attached hereto and incorporated herein by reference 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.

J. All things necessary to make the 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 Bonds, will be timely done and duly performed.

K. The enactment of this Ordinance, and the execution and issuance of the 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.

L. The City is a governmental unit which has general taxing powers to finance operations of or facilities of the nature of the Project and the System; 95% or more of the Net Proceeds of the Bonds are to be used for local government activities of the City (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the City).

M. It is deemed necessary for the City to issue the Bonds in the aggregate principal amount of not more than $9,000,000, to permanently finance the costs of design, acquisition and construction of the Project and to issue the Notes in the aggregate principal amount of not more than $1,500,000, to temporarily finance the costs of design, acquisition and construction of the Project. Such costs shall be

deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; repayment of any interim financing notes; interest on the Bonds prior to and during construction or acquisition and for six months after completion of construction of the Project; engineering and legal expenses; expenses for estimates of cost and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, any fees or expenses of the Original Purchaser or DEP, commitment fees, discount, initial fees for the service of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the City for any amounts expended by it for allowable costs prior to the issuance of the Bonds or the repayment of the indebtedness incurred by the City for such purposes shall be deemed part of the Cost of the Project.

N. It is in the best interests of the City that the Bonds be sold to the Original Purchaser pursuant to the terms and provisions set forth in the Supplemental Resolution.

O. Prior to the issuance of the Bonds, the City shall obtain (i) a certificate from an independent certified public accountant stating that the coverage and parity 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 Bonds on a parity with the Prior Bonds. The Bonds shall be issued with a lien on the Net Revenues on a parity with the lien held by the registered owners of the Prior Bonds. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the City which are secured by revenues or assets of the System.

The Notes shall be issued junior and subordinate to the Bonds and the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects payable from Surplus Revenues, if any. The Notes shall be payable solely from and secured by the proceeds of the Bonds to be sold to the Authority and the Surplus Revenues (as defined herein) of the System.

P. The City has complied with all requirements of West Virginia law relating to the authorization of the design, acquisition, construction and operation of Project and the System and issuance of the Bonds and the Notes, or will have so complied prior to the issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity, if required, from the Public Service Commission of West Virginia by final order not subject to appeal or rehearing.

Q. The City will not permit, at any time, any of the proceeds of the 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 Bonds from the treatment afforded by Section 103(a) of the Code.

R. The Project has been approved by the West Virginia Infrastructure and Jobs Development Council as required under Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended.

Section 1.03. Ordinance Constitutes Contract. In consideration of the acceptance of the Bonds authorized to be issued hereunder by those who shall own the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the City and such Registered Owners, and the covenants and agreements herein set forth to be performed by the City shall be for the equal benefit, protection and security of the Registered Owners 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. Except as provided below, terms used in this Supplemental Ordinance have the meanings set forth in the Prior Ordinances, as supplemented by this Supplemental Ordinance, unless the context expressly requires otherwise.

"Act" shall mean Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended and in effect on the date of enactment of this Ordinance.

"Authority" shall mean the West Virginia Water Development Authority, which may be one of the original purchasers and Registered Owners of the Bonds and the Notes on behalf of the SRF Program and the WDA Program, or any other agency of the State of West Virginia that succeeds to the function of the Authority.

"Bond Counsel" shall mean any law firm having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds, appointed by the City or the Sanitary Board, and shall initially mean Vaughan Law Firm and Jackson Kelly PLLC, Charleston, West Virginia.

"Bond Insurer" shall mean any entity which shall insure all or any portion of the payment of principal of and interest on the Bonds and which shall be designated as such in the Supplemental Resolution, and in the event no such entity is so designated, all references in this Ordinance to the Bond Insurer shall be null and void and have no force and effect.

"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 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.

"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 Bond as hereinafter defined.

"Bonds" shall mean the not more than $9,000,000 in aggregate principal amount of Sewerage System Revenue Bonds of the City, authorized by this Ordinance to be issued in one or more series as designated in the Supplemental Resolution.

"Bonds Construction Trust Fund" shall mean the Bonds Construction Trust Fund created by Section 4.01 D hereof.

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

"Closing Date" shall mean the date or dates upon which there is an exchange of the Bonds and the Notes for all or a portion of the proceeds of the Bonds and the Notes from the Original Purchaser.

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

"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.

"Completion Date" shall mean the completion date of the Project as defined in the SRF Regulations.

"Consulting Engineers" shall mean Burgess & Niple, Parkersburg, West Virginia, or any engineer or firm of engineers, licensed by the State, which shall at any time hereafter be retained by the City as Consulting Engineers for the System in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended.

"Costs of the Project" shall mean those costs described in Section 1.02(M) hereof to be a part of the cost of the design, acquisition and construction of the Project.

"Council" or "City Council" shall mean the Council of the City.

"DEP" shall mean the West Virginia Department of Environmental Protection or any other agency of the State of West Virginia that succeeds to the function of the DEP.

"Depository Bank" shall mean the bank or banks to be designated as such in the Supplemental Resolution, and its successors and assigns.

"DTC" shall mean The Depository Trust Company, New York, New York.

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

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

"Loan Agreement" shall mean, collectively, the Loan Agreement by and between the Authority and the City and the Loan Agreement by and among the Authority, the DEP and the City, providing for the purchase of all or a part of the Bonds from the City by the Authority, the forms of which are attached as exhibits in the Supplemental Resolution.

"Mayor" shall mean the Mayor of the City.

"Municipal Bond Insurance Policy" shall mean the municipal bond insurance policy, if any, issued by the Bond Insurer simultaneously with the delivery of the Bonds, insuring the payment of the principal of and interest on all or any of the Bonds in accordance with the terms thereof.

"Ordinance" shall mean the Prior Ordinances, as previously defined, as supplemented by this Supplemental Ordinance and as further amended or supplemented. Unless the context clearly requires a different meaning, reference to "this Ordinance" in the Prior Ordinances shall mean the Ordinance.

"Original Purchaser" shall mean, collectively, either the Authority and/or the Underwriter which are expected to be the purchasers of the Bonds and/or the Notes directly from the City, as determined by a resolution supplemental hereto.

"Outstanding" when used with reference to Bonds, as of any particular date, describes all such Bonds theretofore and thereupon being authenticated and delivered, except (i) any such Bond canceled by the Registrar, at or prior to said date; (ii) any such Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such Bond, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any such Bond deemed to have been paid as provided in Section 6.13 hereof; and

(iv) for purposes of consents or other action by a specified percentage of Bondholders, any such Bond registered to the City.

"Paying Agent" shall mean the West Virginia Municipal Bond Commission or other entity designated as such for the Bonds in the Supplemental Resolution.

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

"Project" shall mean the extensions, additions, betterments and improvements to the existing sewerage system of the City described in Exhibit A attached hereto.

"Purchase Price," for the purpose of computation of the Yield of the 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 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 Bonds of each maturity is sold or, if the Bonds are privately placed, the price paid by the first buyer of the 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 Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Bonds.

"Rebate Fund" shall mean the Rebate Fund created by Section 6.11 hereof.

"Redemption Account" shall mean the Redemption Account for the Bonds created by Section 4.03 hereof.

"Redemption Date" shall mean, collectively, the dates fixed for the redemption of the Bonds called for redemption.

"Redemption Price" shall mean, collectively, the prices at which the Bonds may be called for redemption and includes the principal amount of the Bonds to be redeemed, plus the interest and premium, if any, required to be paid to effect such redemption.

"Registrar" shall mean the entity named as such in the Supplemental Resolution.

"Regulations" shall mean the temporary and permanent regulations promulgated under the Code.

"Reserve Account" shall mean, collectively, one or more reserve accounts for the Bonds created by Section 4.03 hereof.

"Reserve Accounts" shall mean, collectively, the respective Reserve Accounts created for the Prior Bonds and the Bonds.

"Reserve Requirement" shall mean, as of any date of calculation, the lesser of (i) 10% of the original stated principal amount of the Bonds; (ii) the maximum amount of principal and interest which will become due on the Bonds in any year; or (iii) 125% of the average amount of principal and interest which will become due on the Bonds or if sold to the SRF Program the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year.

"Sinking Fund" shall mean, collectively, one or more Sinking Funds for the Bonds created by Section 4.03 hereof.

"Sinking Funds" shall mean, collectively, the respective Sinking Funds created for the Prior Bonds and the Bonds.

"SRF Program" shall mean the West Virginia Water Pollution Control Revolving Fund Program, under which the Authority purchases the water pollution control revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of a capitalization grant award from the United States Environmental Protection Agency and funds of the State.

"SRF Regulations" shall mean the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

"State" shall mean the State of West Virginia.

"Supplemental Ordinance" or "this Ordinance" shall mean this ordinance as hereafter amended or supplemented.

"Supplemental Resolution" shall mean any resolution, ordinance or order of the City supplementing or amending this Ordinance and, when preceded by the article "the", refers specifically to the supplemental resolutions authorizing the sale of one or more series of the Bonds or the Notes; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Bonds or the Notes and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" shall mean the Net Revenues not required by the Prior Ordinances and this Ordinance, as supplemented and amended, to be set aside and held in, including but not limited to, any sinking funds, reserve accounts and renewal and replacement funds.

"System" shall mean the complete existing sewerage system now owned by the City and managed by the Sanitary Board, consisting of a sewerage treatment and collection system, and shall include any extensions, additions, betterments and improvements thereto, including the Project, hereafter acquired or constructed for the sewerage system from any sources whatsoever, both within and without the City.

"Term Bonds" shall mean the Bonds subject to mandatory sinking fund redemption as described in Section 3.12 hereof.

"Underwriter" shall mean one or more underwriting firms or purchasing bank designated as such in the Supplemental Resolution.

"WDA Program" shall mean 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 the water development revenue bonds of the Authority.

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations. Words importing the masculine gender include all other genders.

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

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

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

ARTCLE II
AUTHORIZATION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO SYSTEM; AUTHORIZATION OF THE NOTES

Section 2.01. Authorization of Extensions, Additions, Betterments and Improvements. There is hereby authorized and ordered the design, acquisition and

construction of the Project at an estimated cost of not to exceed $9,000,000, in accordance with plans and specifications prepared by the Consulting Engineers, approved by the DEP and the City, and on file in the office of the Sanitary Board.

The City has received bids and will enter into contracts for the design, acquisition and construction of the Project which are in an amount and otherwise compatible with the financing plan submitted to the Original Purchaser.

Section 2.02. Authorization of the Notes. To provide funds for a portion of the cost of design, acquisition and construction of the Project, subject to the receipt of a commitment from the SRF Program, there shall be and hereby are authorized to be issued "Sewerage System Bond Anticipation Notes," of the City in an aggregate principal amount of not to exceed $1,500,000. The exact amount and terms of the Notes shall be approved by the Council of the City in a resolution supplemental hereto. The text of the Notes shall be in substantially the form set forth in a resolution supplemental hereto.

Section 2.03. Security for the Notes. The principal of and interest on the Notes shall be payable solely from and secured by the proceeds of the Bonds to be sold to the Authority on behalf of the SRF Program or any other WDA Program. The Notes shall not, in any event, be or constitute a corporate indebtedness of the City within the meaning of any statutory or constitutional limitations, but shall be payable solely from the proceeds of the Bonds to be sold to the Authority on behalf of the SRF Program or any other WDA Program. No Owner of the Notes shall ever have the right to compel the exercise of the taxing power of the City to pay the Notes or any interest thereon.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

Section 3.01. Authorization and Terms of Bonds. For the purposes of capitalizing interest on the Bonds, funding the Reserve Account for the Bonds, paying Costs of the Project not otherwise provided for, paying costs of issuance of the Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the Bonds of the City. The Bonds shall be issued in one or more series as set forth in the Supplemental Resolution, designated as "Sewerage System Revenue Bonds", in an aggregate principal amount of not more than $9,000,000. The Bonds shall be issued in such principal amounts, shall have the series designation, shall be dated as of the date of delivery thereof, shall bear interest at such rate or rates, not exceeding the then legal maximum rate, and shall mature at such times and in such amounts as shall be set forth in the Supplemental Resolution. The repayment of principal, interest and the SRF Administrative Fee, if any, on the Bonds shall be as set forth in the Supplemental Resolution. The Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Ordinance and as the Council of the City shall prescribe by resolution (or by supplemental or amendatory ordinance of said Council as said Council shall determine) adopted in connection with the sale of such Bonds.

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 mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar.

Each series of Bonds shall be issued in fully registered form, in such denominations and shall have such terms as set forth in the Supplemental Resolution. The Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bonds in aggregate principal amount equal to the amount of the Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of the Bonds.

Section 3.02. Execution of Bonds. The Bonds shall be executed in the name of the City by the Mayor and attested by the City Recorder, and the seal of the City shall be affixed thereto or imprinted thereon. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the City before the Bonds so signed and sealed have been sold and

delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the City by such person as, at the actual time of the execution of such Bonds, shall hold the proper office in the City, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

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

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

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

Bonds shall be transferable only upon the books of the Registrar, by the Registered Owner thereof in person or by the Registered Owner's attorney duly authorized in writing, upon surrender thereto, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or the Registered Owner's duly authorized attorney.

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, Bonds shall be delivered in accordance with the provisions of this Ordinance. All Bonds surrendered in any such exchanges or transfers shall

forthwith be canceled by the Registrar. For every such exchange or transfer of Bonds, the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Registrar incurred in connection therewith, which sum or sums shall be paid by the City. The Registrar shall not be obliged to make any such exchange or transfer of Bonds during the 15 days preceding an interest payment date on the Bonds, or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed.

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the City may, in its discretion, issue and deliver a new Bond in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Registered Owner's furnishing the City proof of 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 and the Registrar shall authenticate the new Bond. All Bonds so surrendered shall be canceled by the Registrar and held for the account of the City. If such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the City may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen, or destroyed, without surrender therefor.

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

Section 3.06. Bonds not to be Indebtedness of the City. The Bonds shall not, in any event, be or constitute a corporate indebtedness of the City within the meaning of any statutory or constitutional limitations, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided on a parity with the Prior Bonds. No Registered Owner of the Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay the Bonds or any interest thereon.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all the Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System on a parity with the Prior Bonds. Such Net Revenues in an amount sufficient to pay

the principal of and interest on and other payments for the Bonds and the Prior Bonds and to make the payments into the sinking funds and the reserve accounts therein and in the Renewal and Replacement Fund established herein or in the Prior Ordinances are hereby irrevocably pledged to the payment of the principal of and any interest on the Bonds and the Prior Bonds as the same become due.

Section 3.08. Form of Bonds. The text of the Bonds shall be substantially as set forth in Exhibit B, 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.

Section 3.09. Sale of Bonds. The Bonds shall be sold pursuant to the terms and conditions of a loan agreement or bond purchase agreement as set forth in a resolution supplemental hereto.

Section 3.10. Bonds are Issued as Parity Bonds. The Bonds are issued as and shall constitute additional Parity Bonds in accordance with the Prior Ordinances. Prior to the issuance of the Bonds, the following must occur:

A. The City must receive the written consent of the Authority for the issuance of parity bonds.

B. The coverage and parity requirements of the Prior Ordinances must be satisfied.

C. Unless waived in writing by the Authority, the City or the Sanitary Board must enter into written contracts for the immediate design, acquisition or construction of the Project not later than simultaneously with the delivery of the Bonds.

D. The Bonds shall not be issued unless all the payments into the respective funds and accounts provided for in the Prior Ordinances on account of the Prior Bonds and any other payments provided for in the Prior Ordinances, shall have been made in full as required to the date of delivery of the Bonds.

Section 3.11. Term Bonds. In the event Term Bonds are issued pursuant to this Ordinance, the following provisions shall apply:

A. The amounts to be deposited, apportioned and set apart by the City from the Revenue Fund and into the Redemption Account for the Bonds in accordance with Section 4.03 hereof shall include (after credit as provided below) on the first of each month, beginning on the first day of that month which is 12 months prior to the first mandatory Redemption Date of said Term Bonds, a sum equal to

1/12th of the amount required to redeem the principal amount of such Term Bonds which are to be redeemed as of the next ensuing mandatory Redemption Date, which amounts and dates, if any, with respect to a series of Bonds shall be set forth in the Supplemental Resolution relating thereto.

B. At its option, to be exercised on or before the 60th day next preceding any such mandatory Redemption Date, the City may (a) deliver to the Registrar for cancellation such Term Bonds in any aggregate principal amount desired or (b) receive a credit in respect of its mandatory redemption obligation for any such Term Bonds which prior to said date have been redeemed (otherwise than pursuant to this section) and canceled by the Registrar and not theretofore applied as a credit against any such mandatory redemption obligation. Each Term Bond so delivered or previously redeemed shall be credited by the Registrar at 100% of the principal amount thereof against the obligation of the City on such mandatory Redemption Date, and Term Bonds delivered in excess of such mandatory redemption obligation shall be credited against future mandatory redemption obligations in the order directed by the City, and the principal amount of such Term Bonds to be redeemed pursuant to mandatory sinking fund redemption shall be accordingly reduced.

C. The City shall on or before the 60th day next preceding each mandatory Redemption Date furnish the Registrar and the Commission with its certificate indicating whether and to what extent the provisions of (a) and (b) of the preceding paragraph are to be utilized with respect to such mandatory redemption payment and stating, in the case of the credit provided for in (b) of the preceding paragraph, that such credit has not theretofore been applied against any mandatory redemption obligation.

D. After said 60th day but prior to the date on which the Registrar selects the Term Bonds to be redeemed, the Bond Commission may use the moneys in the Redemption Account for the Bonds to purchase Term Bonds at a price less than the par value thereof and accrued interest thereon. The Bond Commission shall advise the City and the Registrar of any Term Bonds so purchased, and they shall be credited by the Registrar at 100% of the principal amount thereof against the obligation of the City on such mandatory Redemption Date, and any excess shall be credited against future mandatory redemption obligations in the order directed by the City, and the principal amount of such Term Bonds to be redeemed pursuant to mandatory sinking fund redemption shall be accordingly reduced.

E. The Registrar shall call for redemption, in the manner provided herein, an aggregate principal amount of such Term Bonds, at the principal amount thereof plus interest accrued to the Redemption Date (interest to be paid from the Sinking Funds of the Bonds), as will exhaust as nearly as practicable the Redemption Account payment designated to be made in accordance with paragraph (A) of this section. Such redemption shall be by random selection made on the 45th day preceding the mandatory Redemption Date, in such manner as may be determined by

the Registrar. For purposes of this section, "Term Bonds" shall include any portion of a fully registered Term Bond, in integrals of $5,000.

Section 3.12. Notice of Redemption. Unless waived by any Registered Owner of the Bonds to be redeemed, official notice of any redemption shall be given by the Registrar on behalf of the City by mailing a copy of an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the Bond Insurer, if any, the Original Purchaser and the Registered Owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such Registered Owner to the Bond Registrar.

So long as DTC (as CEDE & CO.) is the Registered Owner of the Bonds, the Registrar shall send all notices of redemption to DTC and shall verify that DTC has received notice. Copies of all redemption notices relating to optional redemption of the Bonds shall also be sent to registered securities depositories.

All official notices of redemption shall be dated and shall state:

(1) The Redemption Date,

(2) The Redemption Price,

(3) If less than all outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed,

(4) That on the Redemption Date the Redemption Price and interest accrued will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date,

(5) The place where such Bonds are to be surrendered for payment of the Redemption Price, which place of payment shall be the principal office of the Paying Agent, and

(6) Such other information, if any, as shall be required for DTC-eligible Bonds.

If funds sufficient to redeem all Bonds called for optional redemption have not been deposited with the Paying Agent at the time of mailing any notice of optional redemption, such notice shall also state that such optional redemption is subject to the deposit of such moneys with the Paying Agent on or before the Redemption Date. If such moneys are not so deposited, the Registrar shall notify all Registered Owners of such Bonds called for redemption of such fact.

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the City shall default in the payment of the Redemption Price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Paying Agent at the Redemption Price. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Registered Owner a new Bond or Bonds of the same maturity in the amount of the unredeemed principal of such Bond. All Bonds which have been redeemed shall be canceled and destroyed by the Registrar and shall not be reissued.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of Bonds, and failure to mail or otherwise send such notice shall not affect the validity of proceedings for the redemption of any portion of Bonds for which there was no such failure.

Section 3.13. Persons Treated as Owners. The City, the Registrar, the Paying Agent and any agent of the City, the Registrar or the Paying Agent may treat the person in whose name any Bond is registered as the Registered Owner of such Bond for the purpose of receiving payment of the principal of and interest on such Bond and for all other purposes, whether or not such Bond is overdue.

Section 3.14. Book Entry System for Bonds Sold to the Underwriter. A. Each series of the Bonds sold to the Underwriter shall initially be issued in the form of one fully-registered bond for the aggregate principal amount of the Bonds of each maturity, registered in the name of CEDE & CO., as nominee of DTC. Except as provided in paragraph E below, all of the Bonds shall be registered in the registration books kept by the Registrar in the name of CEDE & CO., as nominee of DTC; provided that if DTC shall request that the Bonds be registered in the name of a different nominee, the Registrar shall exchange all or any portion of the Bonds registered in the name of such nominee or nominees. No person other than DTC or its nominee shall be entitled to receive from the City or the Registrar either a Bond or any other evidence of ownership of the Bonds, or any right to receive any payment in respect thereof unless DTC or its nominee shall transfer record ownership of all or any portion of the Bonds on the registration books maintained by the Registrar, in connection with discontinuing the book entry system as provided in paragraph E below.

B. At or prior to settlement for the Bonds, the City and the Registrar shall execute or signify their approval of a representation letter addressed

to DTC in a form satisfactory to DTC (the "Representation Letter"). Any successor Registrar shall, in its written acceptance of its duties under this Ordinance, agree to take any actions necessary from time to time to comply with the requirements of the Representation Letter.

C. So long as the Bonds or any portion thereof are registered in the name of DTC or any nominee thereof, all payments of the principal or Redemption Price of or interest on such Bonds shall be made to DTC or its nominee at the addresses set forth in the Representation Letter in New York Clearing House or equivalent next day funds on the dates provided for such payments to be made to any Registered Owner under this Ordinance. Each such payment to DTC or its nominee shall be valid and effective to fully discharge all liability of the City and the Registrar with respect to the principal or Redemption Price of or interest on the Bonds to the extent of the sum or sums so paid. In the event of the redemption of less than all of the Bonds Outstanding of any maturity, the Registrar shall not require surrender by DTC of the Bonds so redeemed, but DTC may return such Bonds and make an appropriate notation on the Bond certificate as to the amount of such partial redemption; provided that DTC shall deliver to the Registrar, upon request, a written confirmation of such partial redemption. The records maintained by the Registrar shall be conclusive as to the amount of the Bonds of such maturity which have been redeemed.

D. The City, the Paying Agent and the Registrar may treat DTC as the sole and exclusive owner of the Bonds registered in its name or the name of its nominee for the purposes of payment of the principal or Redemption Price of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to the Registered Owners under this Ordinance, registering the transfer of Bonds, obtaining any consent or other action to be taken by the Registered Owners and for all other purposes whatsoever; and neither the City nor the Registrar shall be affected by any notice to the contrary. Neither the City nor the Registrar shall have any responsibility or obligation to any direct or indirect participant in DTC, any person claiming a beneficial ownership interest in the Bonds under or through DTC or any such participant, or any other person which is not shown on the registration books of the Registrar as being a Registered Owner with respect to (i) the Bonds, (ii) the accuracy of any records maintained by DTC or any such participant, (iii) the payment by DTC or any such participant of any amount in respect of the principal or Redemption Price of or interest on the Bonds, (iv) any notice which is permitted or required to be given to the Registered Owners under this Ordinance, (v) the selection by DTC or any such participant of any person to receive payment in the event of a partial redemption of the Bonds or (vi) any consent given or other action taken by DTC as Registered Owner.

E. The book entry system for registration of the ownership of the Bonds may be discontinued at any time if either: (i) DTC determines to resign as securities depository for the Bonds; or (ii) the City determines that continuation of

the system of book entry transfers through DTC (or through a successor securities depository) is not in the best interest of the beneficial owners of the Bonds. In either of such events (unless in the case described in clause (ii) above, the City appoints a successor securities depository), the Bonds shall be delivered in registered certificate form to such persons, and in such maturities and principal amounts, as may be designated by DTC, but without any liability on the part of the City or the Registrar for the accuracy of such designation. Whenever DTC requests the City and the Registrar to do so, the City and the Registrar shall cooperate with DTC in taking appropriate action after reasonable notice to arrange for another securities depository to maintain custody of certificates evidencing the Bonds.

Section 3.15. Delivery of Bonds. The City shall execute and deliver the Bonds to the Registrar, and the Registrar shall authenticate, register and deliver the Bonds to the Original Purchaser upon receipt of the documents set forth below:

(A) A request and authorization to the Registrar on behalf of the City, signed by an Authorized Officer, to authenticate and deliver the Bonds to the Original Purchaser;

(B) Copies of this Ordinance and the Supplemental Resolution certified by the City Recorder; and

(C) The unqualified approving opinion of Bond Counsel regarding the Bonds.

ARTICLE IV
APPLICATION OF BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. Application of Bond Proceeds. From the moneys received from the sale of the Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. All interest accrued on the Bonds from the date thereof to the date of delivery thereof shall be deposited with the Commission in the Sinking Fund and applied to payment of interest on the Bonds on the first interest payment date.

B. From the proceeds of the Bonds, there shall be deposited with the Commission in the Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest.

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

D. There is hereby created and established with the Depository Bank a special fund, designated the "Bonds Construction Trust Fund". The remaining moneys derived from the sale of the Bonds shall be deposited by the City in the Bonds Construction Trust Fund. Moneys in the Bonds Construction Trust Fund shall be used solely to pay Costs of the Project and costs of issuance of the Bonds and until so transferred or expended, are hereby pledged as additional security for the Bonds. All costs of issuance shall be paid within 60 days of the Closing Date.

E. After completion of acquisition and construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, the City shall (i) expend any remaining proceeds of the Bonds as provided in the Supplemental Resolution and (ii) file a schedule with the Authority and the DEP, setting forth the actual costs of the Project and sources of funds used therefor.

Section 4.02. Disbursements From the Bond Construction Trust Fund. Except as provided in Section 4.01 hereof, disbursements from the Bonds Construction Trust Fund shall be made only after submission to, and approval from, the Sanitary Board of the following:

A certificate, signed by the general manager of the Sanitary Board and the Consulting Engineers, stating that:

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

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

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

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

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

The City shall expend all proceeds of the Bonds within 3 years of the date of issuance of the Bonds.

Section 4.03. Funds and Accounts; Flow of Funds. The funds and accounts established by the Prior Ordinances are hereby continued. In addition to the funds and accounts established by the Prior Ordinances, there are hereby created at the Commission the Sinking Fund, the Reserve Account and the Redemption Account with respect to the Bonds as further described in the Supplemental

Resolution. Following the monthly payment of Operating Expenses, the City shall make monthly payments to the Commission for the Prior Bonds as required under the Prior Ordinances. The monthly payments to the Commission for the Bonds shall be set forth in the Supplemental Resolution.

Moneys in the respective Sinking Funds shall be used only for the purposes of paying principal of and interest on the respective series of Bonds as the same shall become due. Moneys in the respective Reserve Accounts shall be used only for the purposes of paying principal of and interest on the respective series of Bonds as the same shall become due, when other moneys in the respective Sinking Funds are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the respective Reserve Accounts shall be transferred, not less than once each year, to the Bonds Construction Trust Fund prior to completion of the Project and thereafter, to the respective Sinking Funds.

Any withdrawals from the respective Reserve Accounts which result in a reduction in the balance therein to below the applicable reserve requirement shall be subsequently restored from the first Net Revenues available after all required payments to the respective Sinking Funds for payment of debt service on the Bonds have been made in full.

Moneys in the Sinking Funds and the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 4.04 hereof.

If, on any monthly payment date, the revenues are insufficient to place the required amount in any of the funds or accounts as provided herein and in the Prior Ordinances, the deficiency shall be made up in subsequent payments, in addition to the payments which would otherwise be required to be made into the funds and accounts on subsequent payment dates.

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

The City shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payments.

Except as provided above and in the Supplemental Resolution, all sinking fund, reserve account, and renewal and replacement fund payments shall remain as governed by the Prior Ordinances.

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

Section 4.04. Investments. Any moneys held as a part of the funds and accounts created by this Ordinance, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank or such other bank or national banking association holding such fund or account, as the case may be, at the direction of the City in any Qualified Investments to the fullest extent possible under applicable laws, this Ordinance, the Prior Ordinances, the need for such moneys for the purposes set forth herein and the specified restrictions and provisions set forth in this Section 4.04.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount. The Commission, the Depository Bank or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss of such liquidation. The Depository Bank or such other bank or national banking association may make any and all investments permitted by this section through its own investment or trust department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the City, at least once each year (or more often if reasonably requested by the City), a summary of such funds, accounts and investment earnings. The City 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 and as long thereafter as necessary to comply with the Code and assure the exclusion of interest on the Bonds from gross income for federal income tax purposes.

ARTICLE V

DEFAULT AND REMEDIES

Section 5.01. Events of Default. 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 the Bonds; or

(2) If default occurs in the City's observance of any of the covenants, agreements or conditions on its part relating to the Bonds set forth in this Ordinance, any 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 Commission, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Registered Owner of a Bond; or

(3) 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; or

(4) If default occurs with respect to the Prior Bonds or the Prior Ordinances.

Section 5.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond or any Bond Insurer if the Bonds are insured 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 the Ordinance relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon 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 Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holders of the Bonds shall be on a parity with those of the Registered Owners of the Prior Bonds.

Section 5.03. Appointment of Receiver. Any Registered Owner of a Bond or any Bond Insurer if the Bonds are insured may, by proper legal action, compel the performance of the duties of the City under the Ordinance and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to the Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the City, with the 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 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 the 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 exercise.

Whenever all that is due upon the Bonds 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 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 City and for the joint protection and benefit of the City and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System

for the sole purpose of the protection of both the City 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 Ordinance, and the title to and ownership of the 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, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE VI

ADDITIONAL COVENANTS OF THE CITY

All the covenants, agreements and provisions of the Prior Ordinances shall remain in full force and effect as long as the Prior Bonds and the Bonds are outstanding and shall apply to the Bonds as if fully set out herein. The following covenants are supplemental and in addition to the covenants set forth in the Prior Ordinances.

Section 6.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Registered Owner of the Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Registered Owner of the Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 6.02. Bonds not to be Indebtedness of the Issuer. The Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Registered Owner 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, if any, thereon.

Section 6.03. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Bonds shall be secured by a first lien on the Net Revenues derived from the System, on a parity with the lien on the Net Revenues in favor of the Registered Owners of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on the Prior Bonds and the Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation, are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 6.04. Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreement. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the sewer rate ordinance of the Issuer enacted on April 11, 2006, and the water rate ordinance of the Issuer enacted April 11, 2006, which rates are incorporated herein by reference as a part hereof.

So long as the Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the Loan Agreement. In the event the schedule of rates and charges initially established for the System in connection with the Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement.

Section 6.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of or encumber the System, or any part thereof, except as provided in the Prior Ordinances. Additionally, so long as the Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the DEP, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Bonds, immediately be remitted to the Commission for deposit in the Bonds Sinking Fund and the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Bonds. Any balance remaining after the payment of the Bonds and the interest, if any, thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or

other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $10,000 but not in excess of $50,000, the Issuer shall first, determine, upon consultation with the Consulting Engineers, that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property, 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 Funds and shall be applied only to the purchase or redemption of Bonds of the last maturities then Outstanding at prices not greater than the applicable redemption price of such Bonds. Such payment of such proceeds into the Sinking Funds or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Bond Legislation.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $50,000 and insufficient to pay all Bonds then Outstanding, without the prior approval and consent in writing of the Registered Owners of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Registered Owners of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 6.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 7.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds. 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 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and

accounts established by this Bond Legislation have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Bonds, and the interest, if any, 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.

The Issuer shall give the Authority and the DEP prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants for the Project, or any other obligations related to the Project or the System.

Section 6.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinances shall be applicable. Additionally, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Bonds pursuant to this Bond Legislation, without the prior written consent of the Authority and the DEP and without complying with the conditions and requirements herein provided (unless less restrictive than the provisions of the Prior Ordinances).

All Parity Bonds issued hereunder shall be on a parity in all respects with the Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of design, acquisition or construction of additions, extensions, improvements or betterments to the System or refunding any Bonds outstanding or both such purposes.

No Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Recorder a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall be not less than 120% (when the Series 2005 Bonds are no longer outstanding this amount shall be 115%) of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

(1) The Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Bond Legislation then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the improvements to be financed by such Parity Bonds and any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the date of issuance of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Recorder prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12 consecutive month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to issuance of such Parity Bonds.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Registered Owners of the Bonds and the Registered Owners of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section and the Prior Ordinances. All such Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Net Revenues of the System, and their source of and security for payment from the Net Revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in

this section, equally, as to lien on and source of and security for payment from such revenues, with the Bonds.

No Parity Bonds shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Bond Legislation and the Prior Ordinances with respect to the Bonds then Outstanding, and any other payments provided for in this Bond Legislation and the Prior Ordinances, shall have been made in full as required to the date of delivery of the Parity Bonds, and the Issuer then be in full compliance with all the covenants, agreements and terms of this Bond Legislation and the Prior Ordinances and every ordinance supplemental thereto, or shall have fully corrected any delinquency or deficiency in such payments and compliance.

Section 6.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the DEP such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Registered Owner of the Bonds issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the PSC. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the 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 Authority and the DEP, or any other original purchaser of the Bonds, and shall mail in each year to any Registered Owner of the Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation and the status of all said funds and accounts.

(C) The amount of any Bonds, notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto, to the extent legally required, and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Registered Owner of the Bonds and shall submit said report to the Authority and the DEP, or any other original purchaser of the Bonds. Such audit report submitted to the Authority and the DEP shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Loan Agreement and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in the Loan Agreement or as promulgated from time to time.

The Issuer shall permit the Authority or the DEP, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Authority and the DEP, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the DEP with respect to the System pursuant to the Act.

Section 6.09. Rates. Prior to the issuance of the Bonds, 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 the rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the Reserve Requirements are on deposit in the Reserve Accounts and any reserve accounts for obligations on a parity with the Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each Fiscal Year need only equal at least 110% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2007 A Bonds, including the Prior Bonds.

The Issuer hereby covenants to commence enactment of such ordinance or ordinances as shall be required to increase the rates and charges for the services and facilities of the System within 60 days following a determination of the Issuer that less than the above-required coverage exists or in the event that the annual audit report shows less than the above-required coverage, such increase to provide rates and charges sufficient to produce such required coverage.

Section 6.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and the DEP within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate by a professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority, the DEP and to any Registered Owner of any Bonds, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the DEP, the Authority and any Registered Owner of any Bonds, or anyone acting for and on behalf of such Registered Owner.

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

Section 6.11. Completion of Project; Permits and Orders. The City shall complete the Project as promptly as possible and operate and maintain the System as a revenue-producing enterprise in good condition and in compliance with all federal and state requirements and standards.

The City has obtained all permits required by state and federal laws for the acquisition and construction of the Project, all orders and approvals from the Public Service Commission of West Virginia and the West Virginia Infrastructure and Jobs Development Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for the issuance of the Bonds required by state law, with all requisite appeal periods having expired without successful appeal.

Section 6.12. Insurance and Construction Bonds. The City hereby covenants and agrees that so long as the Bonds remain Outstanding, the City 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. The City will require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Original Purchaser. Such insurance shall be made payable to the order of the Registered Owners, the City, the prime contractor and all subcontractors, as their interests may appear. The City will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, to protect the interests of the City, the Registered Owners, the prime contractor and all subcontractors as their interests may appear during construction of the Project in the full insurable value thereof. 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 the Ordinance and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for the 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. The City shall carry such other insurance as is required by the Original Purchaser, including but not limited to flood insurance and business interruption insurance, to the extent available at reasonable cost to the City. The City shall verify all such insurance prior to commencement of construction.

The City shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The City shall verify such bonds prior to commencement of construction.

Section 6.13. Issuance of Other Obligations Payable Out of Revenues. In addition to the limitations on the issuance of parity obligations set forth in the Prior Ordinances, no parity obligations payable out of revenues of the System shall be issued after the issuance of the Bonds without the prior written consent of the Registered Owner of the Prior Bonds then Outstanding and without complying with the parity requirements of the Prior Ordinance and the Supplemental Resolution.

Section 6.14. Engineering Services and Operating Personnel. Prior to the issuance of the Bonds, the City shall obtain the certificate of the Consulting Engineers, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the DEP, the Project is

adequate for the purposes for which it was designed, the funding plan as submitted to the DEP is sufficient to pay the costs of acquisition and construction of the Project and all permits required by federal and state laws for construction of the Project have been obtained.

The City shall provide and maintain competent and adequate engineering services satisfactory covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the City at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

Section 6.15. Compliance With Law. The City hereby covenants and agrees to perform, satisfy and comply with all terms, conditions and requirements of all applicable laws, rules and regulations issued by the Authority, the DEP or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

Section 6.16. Books; Records and Audit. The City shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The City shall permit the Original Purchaser, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The City shall submit to the Original Purchaser such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of any state and federal grants or other sources of financing for the Project.

All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the City.

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 Registered Owner of the Bonds issued pursuant to the Ordinance shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the City relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards 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 such agent of the City as the Council shall direct.

The City shall file with the Original Purchaser, and shall mail in each year to any Registered Owner or Owners of Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses and Net 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 Ordinance and the status of all said funds and accounts.

(C) The amount of any bonds, notes or other obligations Outstanding.

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 in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto, to the extent legally required, and, shall mail upon request, and make available generally, the report of the Independent Accountants, or a summary thereof, to any Registered Owner or Owners of Bonds. The report of said audit shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the revenues of the System are adequate to meet its Operating Expenses and debt service and reserve requirements.

Section 6.17. Operating Budget. The Sanitary Board shall annually prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for the operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Original Purchaser within 30 days of the adoption thereof.

Section 6.18. Tax Covenants. The City hereby further covenants and agrees as follows:

A. PUBLIC PURPOSE BONDS. The City shall use the Bond proceeds solely for the Project and as otherwise set forth herein, and the Project will be operated solely for as a public purpose and as local governmental activity of the City.

B. PRIVATE ACTIVITY BOND COVENANT. The City shall not permit at any time or times any of the proceeds of the 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 Bonds from the treatment afforded by Section 103(a) of the Code by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The City will take all actions necessary to comply with the Code in order to assure the tax-exempt status of the Bonds.

C. PRIVATE LOAN LIMITATION. The City shall assure that not in excess of the lesser of 5% of the proceeds of the Bonds or $5,000,000 are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

D. FEDERAL GUARANTEE PROHIBITION. The City 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.

E. INFORMATION RETURN. The City shall 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.

F. FURTHER ACTIONS. The City shall 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 deemed necessary by the Authority) which would adversely affect such exclusion.

Section 6.19. Rebate Covenant. The City is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the Project and the System. As covenanted above, the Bonds are not private activity bonds within the meaning of the Code, and ninety-five percent (95%) or more of the net proceeds (as defined in the Code) of the Bonds will be used for local governmental activities of the City (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the City). The City reasonably expects to expend the proceeds of the Bonds within the time period that would provide an exception from the rebate requirements of Section 148(f) of the Code. Notwithstanding the foregoing, if the City is in fact subject to such rebate requirements, the City hereby covenants to rebate to the United States the amounts required by the Code and to take all steps necessary to make such rebates. In the event the City fails to make such rebates as required, the City shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the tax-exempt status of interest on the Bonds.

Section 6.20. Arbitrage. The City covenants that (i) it will not take, or permit or suffer to be taken, any action with respect to the proceeds of the Bonds which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the 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 6.21. Tax Certificate and Rebate. The City shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the Bonds. In addition, the City covenants to comply with all Regulations from time to time in effect and applicable to the Bonds as may be necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds and fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of the Ordinance.

If it is determined that the City does not quality for an exception to Section 148 of the Code or the City is otherwise subject to rebate in connection with the Bonds, the City shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Authority, the City shall deposit, or cause to be deposited, with the Depository Bank in a separate fund designated the Rebate Fund, such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder, if any, and used only for payment of rebatable arbitrage to the United States. The City shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the City to be used for any lawful purpose of the System. The City shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the City shall assure that such payments are made by the City to the

United States, on a timely basis, from any funds lawfully available therefor. In addition, the City 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 City. The City may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the City may deem appropriate in order to assure compliance with this Section 6.11. The City shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 6.11 in accordance with the requirements of Section 148(f) of the Code. In the event the City fails to make such rebates as required, the City shall pay the required rebate amount and all interest, penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, and take any other actions necessary, in order to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes.

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

Section 6.22. Securities Laws Compliance. The City will provide the Original Purchaser, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Original Purchaser may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240). The City will also deliver a continuing disclosure agreement or certificate in form acceptable to the Original Purchaser sufficient to ensure compliance with SEC Rule 15c2-12, as amended from time to time.

Section 6.23. Defeasance of Bonds. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the Registered Owners of the 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 Registered Owners shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest on the Bonds from gross income for federal income tax purposes.

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 respective principal of and interest on such Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or an escrow trustee 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 or said escrow trustee at the same or earlier time shall be sufficient, to pay when due the principal of, any redemption premium on and interest due and to become due on said Bonds on and prior to the maturity date thereof, or if the City irrevocably determines to redeem any of said Bonds prior to the maturity thereof, on and prior to said redemption date. Neither securities nor moneys deposited with the Commission or an escrow trustee 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 of and interest on said Bonds; provided, that any cash received from such principal, redemption premium, if any, and interest payments on such securities deposited with the Commission or said escrow trustee, 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 any, and interest to become due on said Bonds on and prior to such maturity or redemption dates thereof, and interest earned from such reinvestments shall be paid over to the City as received by the Commission or said escrow trustee, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations or such additional securities as shall be set forth in the Supplemental Resolution.

Section 6.24. Rates and Charges. The City has obtained any and all approvals of rates and charges required by state law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreement. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the sewer rate ordinance of the City duly enacted on November 13, 2007, which rates are incorporated herein by reference as a part hereof.

So long as the Bonds are outstanding, the City covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Ordinance. In the event the schedule of rates, fees and charges initially established for the System in connection with the Bonds shall prove to be insufficient to produce the required sums set forth in this Ordinance, the City hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase

such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Ordinance. In any event, subject to any requirements of law, the City shall not reduce the rates or charges for services set forth in the rate ordinance described above.

The City shall 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 20 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the 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 City 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 City, 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. If the waterworks facilities are not owned by the City, the City will, to the extent allowed by law, use diligent efforts to enter into a termination agreement with the provider of such water, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

Section 6.25. Contracts. The City shall, simultaneously with the delivery of the Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

Section 6.26. Covenants Regarding the Municipal Bond Insurance Policy. The City may obtain a Municipal Bond Insurance Policy for the Bonds. In the event such a Municipal Bond Insurance Policy is obtained, certain additional covenants of the City may be required by the Bond Insurer as a condition to insuring the Bonds. These additional covenants shall be set forth in full in the Supplemental Resolution, shall apply to the Bonds and shall be controlling in the event any other provisions of this Ordinance may be in conflict therewith.

ARTICLE VII

REGISTRAR

Section 7.01. Appointment of Registrar. The Registrar for the Bonds shall be appointed pursuant to the Supplemental Resolution. The City is hereby authorized and directed to enter into an agreement with the Registrar, the substantial form of which agreement is to be approved by Supplemental Resolution.

Section 7.02. Responsibilities of Registrar. The recitals of fact in the Bonds shall be taken as statements of the City, and the Registrar shall not be responsible for their accuracy. The Registrar shall not be deemed to make any representation as to, and shall not incur any liability on account of, the validity of the execution of any Bonds by the City. Notwithstanding the foregoing, the Registrar shall be responsible for any representation in its Certificate of Authentication and Registration on the Bonds. The Registrar and any successor thereto shall agree to perform all the duties and responsibilities spelled out in this Ordinance and any other duties and responsibilities incident thereto, all as provided by said agreement described above.

Section 7.03. Evidence on Which Registrar May Act. Except as otherwise provided herein, the Registrar shall be protected in acting upon any notice, resolution, request, consent, order, certificate, opinion or other document believed by it to be genuine and to have been signed or presented by the proper party or parties. Whenever the Registrar shall deem it necessary or desirable that a fact or matter be proved or established prior to taking or suffering any action, such fact or matter, unless other evidence is specifically prescribed, may be deemed to be conclusively proved and established by a certificate of an Authorized Officer of the City, but in its discretion the Registrar may instead accept other evidence of such fact or matter.

Section 7.04. Compensation and Expenses. The City shall pay to the Registrar from time to time reasonable compensation for all services, including the transfer of registration of Bonds, the first exchange of Bonds and the exchange of Bonds in the event of partial redemption, incurred in the performance of its duties hereunder.

Section 7.05. Certain Permitted Acts. The Registrar may become the owner of or may deal in Bonds as fully and with the same rights it would have if it were not Registrar. To the extent permitted by law, the Registrar may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of the Registered Owners or effect or aid in any reorganization growing out of the enforcement of the Bonds or this Ordinance, whether or not any such committee shall represent the Registered Owners of a majority in principal amount of the Bonds Outstanding.

Section 7.06. Resignation of Registrar. The Registrar may at any time resign and be discharged of its duties and obligations under this Ordinance by giving not less than 60 days' written notice to the City. A copy of such notice shall also be mailed to each Registered Owner of a fully registered Bond or a coupon Bond registered as to principal (other than to bearer). Such resignation shall take effect upon the day specified in such notice unless a successor shall have been previously appointed by the City or the Registered Owners, in which event such resignation shall take effect immediately; provided that, in no event shall such resignation take effect until a successor has been appointed and has accepted its duties as Registrar.

Section 7.07. Removal. The Registrar may be removed at any time by the City, the Bond Insurer or the Registered Owners of a majority in principal amount of the Bonds then Outstanding by an instrument or concurrent instruments in writing signed and duly acknowledged by the City, the Bond Insurer or by such Registered Owners or their attorneys duly authorized in writing and delivered to the City, as the case may be. Copies of each such instrument shall be delivered by the City to the Registrar. Such removal shall take effect upon the date stated in such instrument; provided that, in no event shall such removal take effect until a successor has been appointed and has accepted its duties as Registrar.

Section 7.08. Appointment of Successor. In case at any time the Registrar shall resign or shall be removed or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or if a receiver, liquidator or conservator of the Registrar or of its property shall be appointed, or if any public officer or court shall take charge or control of the Registrar or of its property or affairs, a successor may be appointed by the Registered Owners of a majority in principal amount of the Bonds then Outstanding by an instrument or concurrent instruments in writing signed by such Registered Owners or their attorneys duly authorized in writing and delivered to the City and such successor Registrar, notification thereof being given to the predecessor Registrar. Pending such appointment, the City shall forthwith appoint a Registrar to fill such vacancy until a successor Registrar shall be appointed by such Registered Owners. A copy of such notice shall also be mailed to each Registered Owner of a fully registered Bond or a coupon Bond registered as to principal (other than to bearer). Any successor Registrar appointed by the City shall, immediately and without further act, be superseded by a Registrar appointed by such Registered Owners. If in a proper case no appointment of a successor Registrar shall be made within 45 days after the Registrar shall have given to the City written notice of resignation or after the occurrence of any other event requiring such appointment, the Registrar or any Registered Owner may apply to any court of competent jurisdiction to appoint a successor. Any Registrar appointed under the provisions of this section shall be a bank, trust company or national banking association authorized to perform the duties imposed upon it by this Ordinance.

Section 7.09. Transfer of Rights and Property to Successor. Any predecessor Registrar shall pay over, assign and deliver any moneys, books and records held by it to its successor.

Section 7.10. Merger or Consolidation. Any company into which the Registrar may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party, or any company to which the Registrar or any public officer or court may sell or transfer all or substantially all of its corporate trust business, shall be the successor to such Registrar without the execution or filing of any paper or the performance of any further act; provided, however, that such company shall be a bank, trust company or national banking association meeting the requirements set forth in Section 7.08 hereof.

Section 7.11. Adoption of Authentication. In case any of the Bonds shall have been authenticated but not delivered, any successor Registrar may adopt a Certificate of Authentication and Registration executed by any predecessor Registrar and deliver such Bonds so authenticated, and, in case any Bonds shall have been prepared but not authenticated, any successor Registrar may authenticate such Bonds in the name of the predecessor Registrar or in its own name.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Modification or Amendment. Prior to the issuance of the Bonds, this Ordinance may be amended or supplemented in any way by a Supplemental Resolution. All provisions required by the Bond Insurer, if any, shall be set forth in the Supplemental Resolution and to the extent they constitute an amendment or modification of this Ordinance, shall be controlling. Following issuance of the Bonds, 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 Registered Owners shall be made without the consent in writing of the Registered Owners of the Bonds then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any 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 Registered Owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds required for consent to the above permitted amendments or modifications. Notwithstanding the foregoing, this Ordinance may be amended without the consent of any Registered Owner as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest on the Bonds from gross income of the Registered Owners thereof.

Section 8.02. 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, the Supplemental Resolution or the Bonds.

Section 8.03. Repeal of Conflicting Ordinances. All ordinances, resolutions and orders, or parts thereof, other than the Prior Ordinances, in conflict with this Ordinance are, to the extent of such conflict, repealed.

Section 8.04. 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 happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the City Recorder and members of Council and the Sanitary Board 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 8.05. Statutory Notice and Public Hearing. Upon adoption hereof, the abstract of this Ordinance in the form set forth in Exhibit C attached hereto and incorporated herein by reference, shall be published once a week for two successive weeks, with at least 6 full days intervening between each publication, in the Register Herald, a qualified newspaper published and of general 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 Council upon a certain date, not less than 10 days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the City for review by interested persons during office hours of the City. The Council hereby determines that the abstract contains sufficient information as to give notice of the contents hereof. At such hearing, all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

Section 8.06. Effective Date. This Ordinance shall take effect immediately following public hearing and final reading hereof.

EXHIBIT A

DESCRIPTION OF PROJECT

The design, acquisition and construction of certain extensions, additions, betterments and improvements to the existing sewerage system of the City.

EXHIBIT B

FORM OF BOND

[Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to City or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.]

No. _R-_____ $_____

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BECKLEY (WEST VIRGINIA)
SEWERAGE SYSTEM REVENUE BOND,
SERIES _____

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NO.

REGISTERED OWNER:

PRINCIPAL AMOUNT:

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF BECKLEY (WEST VIRGINIA), a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the City shall default in the payment of interest on any Interest Payment Date,

then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on _____1 and _____1, in each year, beginning _____1, ____(each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the same meanings ascribed thereto in the hereinafter described Ordinance.

Interest accruing on this Bond on and prior to the Maturity Date hereof shall be payable by check or draft mailed by the West Virginia Municipal Bond Commission, Charleston, West Virginia, as paying agent (in such capacity, the "Paying Agent"), to the Registered Owner hereof as of the applicable Record Date (each _____ 15 and _____ 15) or, in the event of a default in the payment of Bonds, that special record date to be fixed by the hereinafter named Registrar by notice given to the Registered Owners not less than 10 days prior to said special record date at the address of such Registered Owner as it appears on the registration books of the City maintained by _____, _____, West Virginia, as registrar (in such capacity, the "Registrar"), or, at the option of any Registered Owner of at least $500,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to a domestic bank account specified in writing by the Registered Owner to the Paying Agent at least 5 days prior to such Record Date. Principal and premium, if any, shall be paid when due upon presentation and surrender of this Bond for payment at the office of the Paying Agent, in Charleston, West Virginia.

This Bond is one of a series of bonds, in the aggregate principal amount of $_____ (the "Bonds"), of like date, tenor and effect, except as to number, denomination, date of maturity and interest rate, the proceeds of which are to be used, together with other funds of the City, (i) to pay the cost of design, acquisition and construction of certain additions, betterments and improvements to the existing sewerage system of the City (the "Project"); (ii) to fund a reserve account for this Bond; and (iii) to pay certain costs of issuance hereof and related costs. The existing sewerage system of the City, the Project and any further additions, betterments and improvements thereto are herein called the "System." 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 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and an ordinance duly enacted by the City Council of the City on _____, _____, and supplemented by a supplemental resolution duly adopted by the City Council of the City on _____, _____(collectively, the "Ordinance"), and is subject to all the terms and conditions of the Ordinance. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance. Reference is hereby made to the Ordinance, as the same may be amended and

supplemented from time to time, for a description of the rights, limitations of rights, obligations, duties and immunities of the City, the Registrar, the Paying Agent, the Registered Owners of the Bonds and the Registered Owners of any subsequently issued additional bonds. Executed counterparts or certified copies of the Ordinance are on file at the office of the City Recorder of the City.

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 CITY'S PRIOR BONDS AND THE SEWERAGE SYSTEM REVENUE BONDS, SERIES _____, ISSUED CONCURRENTLY HEREWITH (THE "SERIES _____BONDS") (COLLECTIVELY, THE "PRIOR BONDS"), ALL AS DEFINED IN THE ORDINANCE.

[This Bond is additionally secured, but only to the extent described in the Statement of Insurance printed on the Bonds, by a policy of municipal bond insurance issued by _____.]

The Bonds of this issue are subject to redemption prior to their stated maturity dates, as provided in the Ordinance and as set forth in the following lettered paragraphs:

(A) Optional Redemption. The Bonds maturing on or after _____, _____ are subject to redemption prior to maturity at the option of the City on and after _____, _____, in whole at any time and in part on any Interest Payment Date, as directed by the City, at the following redemption prices (expressed as percentages of the principal amount of Bonds to be redeemed), plus interest accrued thereon to the date fixed for redemption:

Period During Which Redeemed (Dates Inclusive)	Redemption Price

(B) Mandatory Sinking Fund Redemption. The Bonds maturing _____, are subject to annual mandatory redemption prior to maturity by random selection on _____ of the years and in the principal amounts set forth below, at the redemption price of 100% of the principal amount of each Bond so called for redemption plus interest accrued to the date fixed for redemption:

Bonds Maturing _____

Year (___) Principal Amount

Bonds Maturing

Year (___) Principal Amount

* Final Maturity

In the event of any redemption of less than all outstanding Bonds, Bonds shall be selected for redemption by lot or in such other manner deemed appropriate by the Paying Agent. If less than all the Bonds are to be redeemed, the Bonds to be redeemed shall be identified by reference to the Series designation, date of issue, CUSIP numbers and Maturity Dates.

Notice of any redemption of this Bond, unless waived, shall be given by the Registrar on behalf of the City by mailing an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the Registered Owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such Registered Owner to the Registrar. Notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of this Bond.

The Bonds and the interest hereon are payable only from and are secured by (1) the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the registered owners of the Prior Bonds and the Series _____Bonds, (2) all moneys in the Series _____ Bonds Sinking Fund and the Series _____ Bonds Reserve Account established for the Bonds under the Ordinance, and (3) the unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose and to make the other payments required by the Ordinance. This Bond does not constitute a corporate indebtedness of the City within the meaning of any statutory or constitutional 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, the moneys in the Series _____Bonds Sinking Fund and the Series _____ Bonds Reserve Account and any unexpended Bond proceeds. Pursuant to the Ordinance, the City 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 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 obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds and the Series _____ Bonds; provided however, that so long as there exists in the Series _____ 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 obligations outstanding on a parity with the Bonds, including the Prior Bonds and the Series ____ Bonds, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The City has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

All moneys received from the sale of the Bonds, except for accrued interest thereon, shall be applied solely to pay the costs of the Project, to fund the Series _____ Bonds Reserve Account and to pay all costs of issuance of the Bonds, and there shall be, and hereby is, created and granted a lien upon such moneys, until so applied, in favor of the registered owners of the Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the 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 Net Revenues of the System has been pledged to and will be set aside into said special fund by the City for

the prompt payment of the principal of and interest on the Bonds of which this Bond is one.

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may be transferred only upon the surrender hereof at the office of the Registrar and otherwise as provided by the within-described Ordinance.

This Bond is, under the Act, exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

This Bond shall not be entitled to any benefit under the Ordinance, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon shall have been signed by the Registrar.

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

IN WITNESS WHEREOF, THE CITY OF BECKLEY (WEST VIRGINIA) has caused this Bond to be signed by its Mayor, and its corporate seal to be imprinted hereon and attested by its City Recorder, and has caused this Bond to be dated as of the Bond Date specified above.

[SEAL]

(Manual or Facsimile Signature)
Mayor

ATTEST:

(Manual or Facsimile Signature)
City Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the fully registered Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the Registered Owner on the date set forth below. Attached hereto is the complete text of the opinion of Vaughan Law Firm and Jackson Kelly PLLC, bond counsel, signed originals of which are on file with the Registrar, delivered and dated on the date of the original delivery of and payment for the Bonds.

Dated: _____.

_____,
as Registrar

By_____
Its Authorized Officer

ASSIGNMENT

Social Security or Other Identifying Number of Assignee

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

_____

_____

the within Bond and does hereby irrevocably constitute and appoint

_____

to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____, _____.

_____

SIGNATURE GUARANTEED:

_____

(Bank, Trust Company or Firm)

_____

(Authorized Officer)

NOTICE: The Assignor's signature to this Assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

STATEMENT OF INSURANCE

EXHIBIT C

CITY OF BECKLEY, WEST VIRGINIA

NOTICE OF PUBLIC HEARING AND ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on _____, 200_, the Common Council of the City of Beckley, West Virginia (the "City") adopted an ordinance which, among other things:

1. Authorized the design, acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the City's existing sewerage system (the "System"), the temporary financing of such costs thereof through the issuance of not more than $1,500,000 in aggregate principal amount of Sewerage System Bond Anticipation Notes (the "Notes"), and the permanent financing of such costs thereof through the issuance of not more than $9,000,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more series (the "Bonds").

2. Directed that the Notes and the Bonds be issued in such principal amounts, bear interest at such rate or rates, not exceeding the then legal maximum rate, mature on such dates and in such amounts and redeemable, in whole or in part, as prescribed in a supplemental resolution.

3. Directed the continuation of the revenue fund and the disposition of the System revenues; provided for the payment of operating expenses of the System and debt service on the Bonds; directed the creation of a sinking fund and a reserve account for the Bonds and continuation of the renewal and replacement fund; and directed the creation of a bond construction trust fund and the disbursement of Bond proceeds.

4. Provided that the Bonds shall not be or constitute a corporate indebtedness of the City within the meaning of any statutory or constitutional limitations, but shall be payable solely from the Net Revenues of the System; pledged the Net Revenues of the System to payment of the Bonds and established the rights of the registered owners of the Bonds to such Net Revenues; provided certain conditions for the issuance of additional bonds.

5. Provided that the Notes shall not be or constitute a corporate indebtedness of the City within the meaning of any statutory or constitutional limitations, but shall be payable solely from the proceeds of the Bonds to be sold to the Water Development Authority on behalf of the SRF Program or any other WDA Program.

6. Provided for insurance coverage on the Project and the System, enforcement of collection of fees, rates or other charges for the System and other covenants in favor of the registered owners; established the events of default and the

remedies of the registered owners; and provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The City contemplates the issuance of the Notes and the Bonds described in, and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of the City of Beckley at a _____ meeting on _____, 200_, at _____p.m., in the Council Chambers, City Hall, Beckley, West Virginia, and present protests and be heard as to whether the above-described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of City on _____, 200_, is on file with the City Recorder for review by interested persons at the City Hall during regular office hours, to-wit: 8:00 a.m. to 4:00 p.m., Monday through Friday.

/s/_____
City Recorder of the City of Beckley,
West Virginia

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as City Recorder of the City of Beckley, Raleigh County, West Virginia, do hereby certify that the foregoing document is a true and accurate copy of the official record of the City of Beckley, such records being in the custody of the undersigned and maintained at the City of Beckley, City Hall, Beckley, Raleigh County, West Virginia, and that the action taken by the Council in the foregoing document remains in full force and effect and has not been amended.

Dated this 5th day of June, 2008.

City Recorder

[SEAL]

CITY OF BECKLEY

STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA SRF PROGRAM/ARRA GREEN)

BOND ORDINANCE

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CITY OF BECKLEY

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC STORMWATER DRAINAGE SYSTEM OF THE CITY OF BECKLEY AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $600,000 IN AGGREGATE PRINCIPAL AMOUNT OF STORMWATER REVENUE BONDS, SERIES 2009 B-2 (WEST VIRGINIA SRF PROGRAM/ARRA GREEN); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING ARRA ASSISTANCE AGREEMENTS 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 COMMON COUNCIL OF THE CITY OF BECKLEY:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

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

A. The City of Beckley, West Virginia (the "Issuer") now owns a stormwater drainage system (the "System").

B. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed improvements and extensions to the existing public stormwater drainage system of the Issuer, consisting of approximately 720 lf of dry swale and/or bio-retention areas; approximately sq ft of landscaped bio-infiltration; approximately 930 ft of corrugated HDPE storm pipe installation; approximately 520 ft of sanitary sewer upgrade/relocation (collectively, the "Project"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the issuer.

C. The Issuer intends to permanently finance the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), in connection with the West Virginia Water Pollution Control Revolving Fund pursuant to the Act.

D. It is deemed necessary for the Issuer to issue its Stormwater Revenue Bonds in an amount not to exceed $600,000, in one series being the Stormwater Revenue Bonds, Series 2009 B-2 (West Virginia SRF Program/ARRA Green), (the "Series 2009 B-2 Bonds" or the "Series 2009 Bonds"), to permanently finance the costs of acquisition and construction 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, if any, upon the Series 2009 Bonds prior to and during acquisition and construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Reserve Accounts (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority, discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2009 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2009 Bonds or the repayment of indebtedness incurred by the issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

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

F. It is in the best interests of the Issuer that its Series 2009 Bonds be sold to the Authority pursuant to the terms and provisions of an ARRA assistance agreements by and among the Issuer, the Authority and the West Virginia Department of Environmental Protection (the "DEP"), the agreement in form satisfactory to the respective parties (the "ARRA Assistance Agreement"), approved hereby if not previously approved by resolution of the Issuer.

G. There are no outstanding obligations of the Issuer which will rank on a parity with the Series 2009 Bonds.

H. The estimated revenues to be derived in each year following completion of the Project from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System and the principal of and interest, if any, on the Series 2009 Bonds and to make payments into all funds and accounts and other payments provided for herein.

I. The Issuer has complied with all requirements of West Virginia law and the ARRA Assistance Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2009 Bonds, or will have so complied prior to issuance of any thereof.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2009 Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 2009 Bonds, 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, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

"Act" means, collectively, Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

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

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

"Authorized Officer' means the Mayor of the Issuer.

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

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

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

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

"Bond Year" means the 12-month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year, except that the first Bond Year shall begin on the Closing Date.

"City Council" shall mean the Common Council of the Issuer.

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

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

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

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

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

"DEP" means the West Virginia Department of Environmental Protection or any other agency, board or department of the State that succeeds to the functions of the DEP.

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

"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 City Council, as it may now or hereafter be constituted.

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

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, purchased pursuant to Article 8.01 hereof).

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

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

"Issuer" means the City of Beckley, a municipal corporation organized and existing under the laws of the State of West Virginia in Raleigh County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Mayor" means the Mayor of the Issuer.

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

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

"Operating Expenses" means the reasonable, proper and necessary costs of repair, 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, the Registrar and the Paying Agent (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, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

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

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

"Paying Agent" means the Commission or other entity designated as such for the Series 2009 Bonds in the Supplemental Resolution.

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

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

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

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

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

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

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

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Recorder" means the Recorder/Treasurer of the Issuer.

"Registrar' means the Bond Registrar.

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

"Renewal and Replacement Fund" means the Renewal and Replacement Fund created by Section 5.01 hereof.

"Reserve Accounts" means the reserve account established for the Series 2009 Bonds.

"Reserve Requirement" means the amount required to be on deposit in the Reserve Account of the Series 2009 Bonds, if any.

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

"Series 2009 Bonds" means the Stormwater Revenue Bonds, Series 2009 B-2 (West Virginia SRF Program/ARRA Green), of the Issuer, authorized by this Ordinance.

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

"Series 2009 Bonds Reserve Account" means the Series 2009 B-2 Bonds Reserve Account established by Section 5.02 hereof

"Series 2009 B-2 Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2009 B-2 Bonds in the then current year or any succeeding year.

"Series 2009 B-2 Bonds Sinking Fund" means the Series 2009 B-2 Bonds Sinking Fund established by Section 5.02 hereof.

"Sinking Funds" means the Sinking Fund established for the Series 2009 Bonds.

"SRF Program" means the State's Water Pollution Control Revolving Fund Program, under which the Authority purchases the water pollution control revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of a capitalization grant award from the United States Environmental Protection Agency and funds of the State.

"SRF Regulations" means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolution or resolutions authorizing the sale of the Series 2009 Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2009 Bonds, and not so included, may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Series 2009 Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Sinking Funds and the Reserve Accounts.

"System" means the Issuer's stormwater drainage system as presently existing in its entirety or any integral part, and shall include the Project and any additions, improvements, and extensions constructed or acquired for said system from any source whatsoever.

Additional terms and phrases are defined in this Ordinance as they are used. Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition, Construction and Installation of the Project. There is hereby authorized and ordered the acquisition, construction and installation of the Project, at an estimated cost of not to exceed $600,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2009 Bonds hereby authorized shall be applied as provided in Article VI hereof The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, in an amount and otherwise compatible with the financing plan submitted to the Authority, the DEP and the Council.

The cost of the Project is estimated not to exceed $600,000, which will be obtained from proceeds of the Series 2009 Bonds.

ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest, if any, on the Series 2009 Bonds, funding the respective Reserve Accounts for the Series 2009 Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2009 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued negotiable Series 2009 Bonds of the Issuer. The Series 2009 Bonds shall be issued in one series, as a single bond, designated as "Stormwater Revenue Bonds, Series 2009 B-2 (West Virginia SRF Program/ARRA Green)," in the principal amount not to exceed $600,000, and shall have such terms as are set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2009 Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalizing interest, if any, on the Series 2009 Bonds, if any, shall be deposited in or credited to the respective Bond Construction Trust Funds established by Section 5.01 hereof and applied as set forth in Article VI hereof

Section 3.02. Terms of Bonds. The Series 2009 Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the ARRA Assistance Agreement. The Series 2009 Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 2009 Bonds, if any, shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2009 Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 2009 Bonds. The Series 2009 Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

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

Section 3.03. Execution of Bonds. The Series 2009 Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed the Series 2009 Bonds shall cease to be such officer of the Issuer before the Series 2009 Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2009 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. The Bond Registrar for the Series 2009 Bonds shall be the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns. No Series 2009 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 3.10 hereof shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2009 Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability. Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2009 Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 2009 Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that such Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2009 Bonds remain outstanding, the Issuer, through the Bond Registrar as its agent, shall keep and maintain books for the registration and transfer of the Bonds.

The registered Series 2009 Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Series 2009 Bonds or transferring the registered Series 2009 Bonds are exercised, all Series 2009 Bonds shall be

delivered in accordance with the provisions of this Bond Legislation. All Series 2009 Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of Series 2009 Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2009 Bonds or, in the case of any proposed redemption of Series 2009 Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated. Destroyed. Stolen or Lost. In case any Series 2009 Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2009 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No holder or holders of the Series 2009 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2009 Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues: Lien Positions with Respect to Prior Bonds. The payments required by the Series 2009 Bonds shall be secured by a first lien on the Net Revenues derived from the System. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2009 Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2009 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2009 Bonds to the original purchasers upon receipt of the documents set forth below:

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

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

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

D. An executed copy of the ARRA Assistance Agreement; and

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

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

(FORM OF SERIES 2009 B-2 BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BECKLEY
STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA SRF PROGRAM/ARRA GREEN)

No. BR-1 $_____

KNOW ALL MEN BY THESE PRESENTS: The _____ of _____, 2009 , that THE CITY OF BECKLEY, a municipal corporation organized and existing under the laws of the State of West Virginia in Raleigh County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ DOLLARS ($_____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly forgiveness of principal on March 1, June 1, September 1 and December I of each year, commencing _____ 1, _____ to and including _____ 1, 20, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and among the Issuer, the Authority and the DEP, dated _____, 2009.

This Bond is issued (i) to pay the costs of acquisition and construction of improvements and extensions to the existing public stormwater 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 public stormwater system of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted

by the Issuer on _____, 2009, and a Supplemental Resolution duly adopted by the Issuer on _____, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THERE ARE NO OUTSTANDING OBLIGATIONS OF THE ISSUER PAYABLE FROM THE NET REVENUES OF THE SYSTEM.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System and from monies in the reserve account created under the Bond Legislation for the Bonds (the "Series 2009 B-2 Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2009 B-2 Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with or junior to the Bonds; provided however, that so long as there exists in the Series 2009 B-2 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with or junior to the Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof. The Issuer shall make the payments into the Renewal and Replacement Fun as required by the Bond Legislation.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of United Bank, Inc., 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 Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

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

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

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, THE CITY OF BECKLEY 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 the day and year first written above.

[SEAL]

_____
Mayor

ATTEST:

_____
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 B-2 Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2009.

UNITED BANK, INC.,
as Registrar

_____
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL $_____

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

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

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created (or continued) and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

(1) Revenue Fund;

(2) Renewal and Replacement Fund; and

(3) Series 2009 Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with and shall be held by the Commission separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

(1) Series 2009 B-2 Bonds Sinking Fund; and

(2) Series 2009 B-2 Bonds Reserve Account.

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

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

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2009 Bonds, for deposit in the Series 2009 B-2 Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal, if any, which will mature and become due on the Series 2009 B-2 Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 B-2 Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date;.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2009 B-2 Bonds, if not fully funded upon issuance of the Series 2009 Bonds, for deposit in the Series 2009 B-2 Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 B-2 Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 B-2 Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2009 B-2 Bonds Reserve Requirement.

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

Monies in the Series 2009 B-2 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2009 Bonds, as the same shall become due. Monies in the Series 2009 B-2 Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Series 2009 Bonds as the same shall come due, when other monies in the Series 2009 B-2 Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2009 B-2 Bonds Sinking Fund and the Series 2009 B-2 Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2009 Bond Construction Trust Funds, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2009 Bonds and then to the next ensuing principal payment, if any, due thereon, all on a pro rata basis.

Any withdrawals from the Series 2009 B-2 Bonds Reserve Account which result in a reduction in the balance therein to below the respective Reserve Requirements shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Series 2009 Bonds are issued, provision shall be made for additional payments into the respective sinking funds

sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate reserve account in an amount equal to the requirement thereof.

The Issuer shall not be required to make any further payments into the Series 2009 B-2 Bonds Sinking Fund and the Series 2009 B-2 Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the respective aggregate principal amount of the Series 2009 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2009 B-2 Bonds Sinking Fund and the Series 2009 B-2 Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority at anytime, the Issuer shall make the necessary arrangements whereby required payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the Series 2009 B-2 Bonds Sinking Fund and the Series 2009 B-2 Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof

The Series 2009 B-2 Bonds Sinking Fund and the Series 2009 B-2 Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2009 Bonds under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest and reserve account payments, if any, with respect to the Series 2009 Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

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

D. 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 the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

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

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

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

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

A. From the proceeds of the Series 2009 B-2 Bonds, there shall first be deposited with the Commission in the Series 2009 B-2 Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 2009 B-2 Bonds for the period commencing on the date of issuance of the Series 2009 B-2 Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 2009 Bonds, there shall be deposited with the Commission in the Series 2009 B-2 Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding the Series 2009 B-2 Bonds Reserve Account.

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

D. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2009 Bonds shall be applied as directed by the DEP.

Section 6.02. Disbursements From the Bond Construction Trust Fund.

On or before the Closing Date, the Issuer shall have delivered to the DEP and the Authority a report listing the specific purposes for which the proceeds of the Series 2009 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments of all Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 2009 Bonds Construction Trust Fund shall be made only after submission to and approval from the DEP, of a completed and signed "Payment Requisition Form," a form of which is attached to the ARRA Assistance Agreement for the Series 2009 Bonds, in compliance with the construction schedule.

Pending such application, monies in the Bond Construction Trust Funds shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2009 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2009 Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The payments required by the Series 2009 Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2009 Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Positions with Respect to Bonds. The payments required by the Series 2009 Bonds shall be secured by a first lien on the Net Revenues derived from the System. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2009 Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal and shall provide an opinion of counsel to the Issuer of such effect. Such rates and charges shall be sufficient to comply with the requirements of the ARRA Assistance Agreement and the Issuer shall supply a certificate of certified public accountant to such effect.

So long as the Series 2009 Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the ARRA Assistance Agreement. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2009 Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the ARRA Assistance Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient

to produce the required sums set forth in this Bond Legislation and the ARRA Assistance Agreement.

Section 7.05. Sale of the System. So long as the Series 2009 Bonds and the Prior Bonds are outstanding and except as otherwise required by law or with the written consent of the DEP, the Authority and the Council, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2009 Bonds, immediately be remitted to the Commission for deposit in the Renewal and Replacement Fund, and, with the written permission of the DEP and the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 2009 Bonds. Any balance remaining after the payment of the Series 2009 Bonds and interest, if any, thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $10,000 but not in excess of $50,000, the Issuer shall first, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. The payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amount required to be paid into said fund 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 of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2009 Bonds. All obligations issued by the Issuer after the issuance of the Series 2009 Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2009 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all finds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2009 Bonds, and the interest thereon, if any, upon any or all of the income and revenues of the System pledged for payment of the Series 2009 Bonds and the interest thereon, if any, in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the DEP and the Authority prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants, or any other obligations related to the Project or the System.

Section 7.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinance shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2009 Bonds pursuant to this Bond Legislation, without the prior written consent of the Authority and the DEP and without complying with the conditions and requirements herein provided.

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

No such Parity Bonds shall be issued except for the purpose of financing the costs of the acquisition or construction of additions extensions, improvements or betterments to the System or refunding any outstanding Bonds, or both such purposes.

No Parity Bonds shall be issued at any time, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues expected to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds,

if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest, if any, on the following:

(1) The Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Ordinance then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues expected to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the improvements to be financed by such Parity Bonds and any increase in rates adopted by the Issuer, the time for appeal of which shall have expired prior to the issuance of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period herein above referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the time for appeal of which shall have expired prior to issuance of such Parity Bonds.

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. All 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 Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Series 2009 Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2009 Bonds.

No Parity Bonds shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Bond Legislation with respect to the Bonds then Outstanding, and any other payments provided for in this Bond Legislation, shall have been made in full as required to the date of delivery of the Parity Bonds, and the Issuer then be in full compliance with all the covenants, agreements and terms of this Bond Legislation.

Section 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the DEP and the Authority, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the DEP, the Authority and the Council such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the DEP, the Authority and the Council, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the 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 DEP, the Authority, or any other original purchaser of the Series 2009 Bonds, and shall mail in each year to any Holder or Holders of the Series 2009 Bonds, requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation, and the status of all said funds and accounts.

(C) The amount of any Bonds, notes or other obligations outstanding.

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

Subject to the terms, conditions and provisions of the ARRA Assistance Agreement and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall permit the DEP and the Authority, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction of the Project, the Issuer shall also provide the DEP and the Authority, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the DEP and the Authority with respect to the System pursuant to the Act.

The Issuer shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in EXHIBIT E of the ARRA Assistance Agreement for the Series 2009 Bonds or as promulgated from time to time.

Section 7.09. Rates. Prior to the issuance of the Series 2009 Bonds, equitable rates or charges for the use of and service rendered by the System shall be established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be

sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2009 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with or junior to the Series 2009 Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirements are on deposit respectively in the Series 2009 B-2 Bonds Reserve Account and the reserve accounts for obligations on a parity with or junior to the Series 2009 Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2009 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with or junior to the Series 2009 Bonds, including the Prior Bonds. In any event, the Issuer shall not reduce the rates or charges for services described in Section 7.04.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the DEP and the Authority within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of a professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the DEP and the Authority and to any Holder of any Bonds, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the DEP and the Authority and to any Holder of any Bonds, or anyone acting for and in behalf of such Holder of any Bonds.

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

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers in the form attached to the ARRA Assistance

Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the DEP and the Authority, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the DEP and the Authority is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the DEP and the Authority covering the supervision and inspection of the development and construction of the Project, and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the DEP and the Authority, the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit Record Drawings, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a "Performance Certificate," a form of which is attached to the ARRA Assistance Agreement for the Series 2009 Bonds as Exhibit A, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the Site Regulations, to the DEP when the Project is 90% completed. The Issuer shall at all times provide operation and maintenance of the System in compliance with all State and federal standards.

The Issuer shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator to operate the System during the entire term of the ARRA Assistance Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 50% completion stage.

Section 7.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 20 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. 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 sewer or 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 any 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. If the water or sewer facilities are not owned by the Issuer, the Issuer shall enter into a termination agreement with the water and sewer providers, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

Section 7.14. No Free Services. Except as required by law, 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 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(I) FIRE, LIGHTNING, VANDALISM. MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and

all subcontractors as their respective interests may appear, in accordance with the ARRA Assistance Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than $1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than $500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(4) FLOOD INSURANCE, if the facilities of the System are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Issuer.

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

(6) FIDELITY BONDS will be provided as to every officer, member and employee of the Issuer or the Governing Body having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

B. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction.

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided that the amounts and terms of such coverage are satisfactory to the Authority and the DEP and the Issuer shall verify such insurance prior to commencement of construction. In the event the ARRA Assistance Agreement so requires, such

insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

Section 7.16. Reserved.

Section 7.17. Completion and Operation of Project; Permits and Orders. The Issuer will complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and state requirements and standards.

The Issuer has obtained all permits required by State and federal laws for the acquisition and construction of the Project and all orders and approvals, if required, from the Public Service Commission of West Virginia and the Council necessary for the acquisition and construction of the Project, the operation of the System and all approvals for issuance of the Bonds required by State law, with all requisite appeal periods having expired without successful appeal and the Issuer shall provide an opinion of counsel to such effect.

Section 7.18. Reserved.

Section 7.19. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2009 Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2009 Bonds.

Section 7.20. Compliance with ARRA Assistance Agreement and Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the ARRA Assistance Agreement and the Act. Notwithstanding anything herein to the contrary, the issuer will provide the DEP and the Council with copies of all documents submitted to the Authority.

The Issuer also agrees to comply with all applicable laws, rules and regulations issued by the DEP, the Authority or other state, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.21. Reserved.

Section 7.22. Contracts; Change Orders, Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2009 Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the DEP for written approval. The Issuer shall obtain the written approval of the DEP before expending any proceeds of the Series 2009 Bonds held in "contingency" as set forth in the respective schedules attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the DEP before expending any proceeds of the Series 2009 Bonds made available due to bid or construction or project underruns.

C. The Issuer shall list the funding provided by the DEP and the Authority in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any ground breaking or dedication of the Project.

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investments. Any monies held as a part of the funds and accounts created by this Bond Legislation other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bath or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such monies for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such monies were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bath, 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 Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2009 Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest, if any, on the Series 2009 Bonds from gross income for federal income tax purposes.

Section 8.02. Certificate as to Use of Proceeds; Covenants as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2009 Bonds as a condition to issuance of the Series 2009 Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2009 Bonds as may be necessary in order to maintain the status of the Series 2009 Bonds as public purpose bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2009 Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority, the Council or the DEP, as the case may be, from which the proceeds of the Series 2009 Bonds are derived, to lose their status as tax-exempt

bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority or the DEP, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Ordinance.

The Issuer shall annually furnish to the Authority information with respect to the Issuer's use of the proceeds of the Series 2009 Bonds and any additional information requested by the Authority.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2009 Bonds:

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

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2009 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2009 Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, 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 Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might exercise.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Bond Legislation for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of the System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holders of the Series 2009 Bonds, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2009 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2009 Bonds from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2009 Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2009 Bonds, no material modification or amendment of this Ordinance, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2009 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2009 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest, if any, out of the funds herein respectively pledged therefore without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds, required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest, if any, on the Series 2009 Bonds from gross income of the holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2009 Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution, or the Series 2009 Bonds.

Section 11.04. Headings. 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 orders or resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairman, Secretary 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. Statutory Notice and Public Hearing. Upon adoption hereof, the abstract of this Ordinance in the form set forth in Exhibit C attached hereto and incorporated herein by reference, shall be published once a week for two successive weeks, with at least 6 full days intervening between each publication, in the Register Herald, a qualified newspaper published and of general circulation in the City of Beckley, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Series 2009 Bonds, and that any person interested may appear before the Council upon a certain date, not less than 10 days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Issuer for review by interested persons during office hours of the Issuer. The Council hereby determines that the abstract contains sufficient information as to give notice of the contents hereof. At such hearing, all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

Section 11.08. Effective Date. This Ordinance shall take effect immediately following the public hearing and final reading.

First Reading:	July 28, 2009
Second Reading	August 11, 2009
Final Reading/Public Hearing:	August 25, 2009

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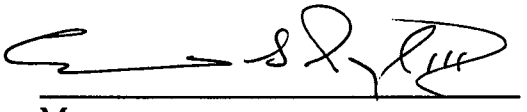
Enacted this 25th day of August, 2009.



Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly adopted by the Common Council of CITY OF BECKLEY on the 25th day of August, 2009.

Dated: September 18, 2009.

[SEAL]

Recorder

EXHIBIT A

ARRA Assistance Agreement included in bond transcript as Tab No. 8.

EXHBIT B

CITY OF BECKLEY, WEST VIRGINIA

NOTICE OF PUBLIC HEARING AND ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on August 11, 2009, the Common Council of the City of Beckley, West Virginia (the "City") adopted an ordinance which, among other things:

1. Authorized the design, acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the City's existing stormwater drainage system (the "System"), the permanent financing of such costs thereof through the issuance of not more than $600,000 in aggregate principal amount of Stormwater Revenue Bonds (the "Bonds").

2. Directed that the Bonds be issued in such principal amounts, bear interest at such rate or rates, not exceeding the then legal maximum rate, mature on such dates and in such amounts and redeemable, in whole or in part, as prescribed in a supplemental resolution.

3. Directed the creation of the revenue fund and the disposition of the System revenues; provided for the payment of operating expenses of the System and debt service on the Bonds; directed the creation of a sinking fund and a reserve account for the Bonds and creation of the renewal and replacement fund; and directed the creation of a bond construction trust fund and the disbursement of Bond proceeds.

4. Provided that the Bonds shall not be or constitute a corporate indebtedness of the City within the meaning of any statutory or constitutional limitations, but shall be payable solely from the Net Revenues of the System; pledged the Net Revenues of the System to payment of the Bonds and established the rights of the registered owners of the Bonds to such Net Revenues; provided certain conditions for the issuance of additional bonds.

5. Provided for insurance coverage on the Project and the System, enforcement of collection of fees, rates or other charges for the System and other covenants in favor of the registered owners; established the events of default and the remedies of the registered owners; and provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The City contemplates the issuance of the Bonds described in, and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of the City of Beckley at a regular meeting on August 25, 2009, at 7:30 p.m., in the Council Chambers, City Hall, Beckley, West Virginia, and present protests and be heard as to whether the above-described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of City on August 11, 2009, is on file with the City Recorder for review by interested persons at the City Hall during regular office hours, to-wit: 8:30 a.m. to 4:30 p.m., Monday through Friday.

/s/ Gary Sutphin
City Recorder/Treasurer of the City of Beckley, West Virginia

CITY OF BECKLEY 2.9
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM)
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF/ARRA),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE CITY OF BECKLEY SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA CWSRF PROGRAM), SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1(WEST VIRGINIA CWSRF/ARRA), SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA CWSRF PROGRAM); AUTHORIZING THE PAYMENT OF THE ISSUER'S BOND ANTICIPATION NOTES, SERIES 2008 A; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; MAKING OTHER PROVISIONS AS TO THE BONDS; ESTABLISHING A BONDS CONSTRUCTION TRUST FUND, A REVENUE FUND, SINKING FUNDS AND RESERVE ACCOUNTS FOR THE BONDS; PROVIDING FOR THE FLOW OF FUNDS FOR THE BONDS; AND SPECIFYING THE PROJECTS FOR THE BONDS.

WHEREAS, the Common Council (the "Governing Body") of the City of Beckley (the "Issuer") has duly and officially passed a Bond and Note Ordinance on April 22, 2008, effective May 27, 2008 (the "Ordinance"), entitled:

AN ORDINANCE AUTHORIZING THE DESIGN, ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWERAGE SYSTEM OF THE CITY OF BECKLEY; AUTHORIZING THE ISSUANCE OF NOT MORE THAN $9,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE

SYSTEM REVENUE BONDS, IN ONE OR MORE SERIES AS DESIGNATED IN A SUPPLEMENTAL RESOLUTION, OF THE CITY OF BECKLEY, THE PROCEEDS OF WHICH, SHALL BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE CITY OF BECKLEY WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO PERMANENTLY FINANCE THE COST OF SUCH DESIGN, ACQUISITION AND CONSTRUCTION, TO FUND RESERVE ACCOUNTS FOR SUCH BONDS AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; AUTHORIZING THE ISSUANCE OF NOT MORE THAN $1,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM BOND ANTICIPATION NOTES, TO TEMPORARILY FINANCE A PORTION OF THE COST OF SUCH DESIGN, ACQUISITION AND CONSTRUCTION; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

WHEREAS, the capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Ordinance when used herein;

WHEREAS, the Ordinance provides for the issuance of the Sewerage System Revenue Bonds, of the Issuer, in an aggregate principal amount not to exceed $9,000,000 (the "Bonds"), all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (collectively, the "Act"); and in the Ordinance it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of each series of the Bonds should be established by a supplemental resolution, and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Issuer desires to issue its Sewerage System Revenue Bonds, Series 2009 A (West Virginia CWSRF Program) (the "Series 2009 A Bonds"), Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF/ARRA) (the "Series 2009 B-1 Bonds"), and Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program) (the "Series 2009 C Bonds") (collectively, the "Bonds") pursuant to the Ordinance;

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the ARRA Assistance Agreement to be entered into among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP") (the "ARRA Assistance Agreement") be approved, executed and ratified by the Issuer, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Governing Body desires to establish the funds and accounts for the Bonds and provide for the flow of funds for the Bonds in this Supplemental Resolution;

WHEREAS, the Governing Body desires to provide a description of the Project for the Bonds; and

WHEREAS, the ARRA Assistance Agreement has been presented to the Issuer at this meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY, WEST VIRGINIA, AS FOLLOWS:

Section 1. The Issuer shall sell the Bonds to the Authority on behalf of the DEP pursuant to the ARRA Assistance Agreement.

Section 2. Pursuant to the Ordinance, there are hereby authorized to issue the following Bonds of the Issuer:

A. Series 2009 A Bonds. The City of Beckley Sewerage System Revenue Bonds, Series 2009 A (West Virginia CWSRF Program), shall be in the form of a single bond, shall be issued in the principal amount of $679,316, shall be dated such date, shall finally mature no later than March 1, 2030, shall bear interest at a rate of 2% per annum. The principal and interest of the Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2010, in the amounts as set forth in the Schedule Y attached to the ARRA Assistance Agreement and incorporated in and made a part of the Series 2009 A Bonds. The Series 2009 A Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2009 A Bonds. The Issuer does hereby approve and shall pay the SRF

Administrative Fee equal to 1% of the principal amount of the Series 2009 A Bonds set forth in the "Schedule Y" attached to the ARRA Assistance Agreement.

B. Series 2009 B-1 Bonds. The City of Beckley Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF/ARRA) shall be in the form of a single bond, numbered BR-l, in the principal amount of $396,484. The Series 2009 B-1 Bonds shall be dated the date of delivery thereof, shall finally mature December 1, 2020, and shall bear no interest. The principal of the Series 2009 B-1 Bonds shall be payable quarterly by forgiveness of principal on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, to and including December 1, 2020, and in the amounts as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Series 2009 B-1 Bonds. The Series 2009 B-1 Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Series 2009 B-1 Bonds.

C. Series 2009 C Bonds. The City of Beckley Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program), shall be n the form of a single bond, shall be issued in the principal amount of $1,035,783, shall be dated such date, shall finally mature no later than September 1, 2049, shall bear no interest. The principal and interest of the Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, in the amounts as set forth in the Schedule Y attached to the ARRA Assistance Agreement and incorporated in and made a part of the Series 2009 C Bonds. The Series 2009 C Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2009 C Bonds. The Issuer does hereby approve and shall pay the SRF Administrative Fee equal to .25% of the principal amount of the Series 2009 C Bonds set forth in the "Schedule Y" attached to the ARRA Assistance Agreement.

Section 3. The Issuer hereby appoints and designates JPMorgan Chase Bank, NA, Beckley, West Virginia, to serve as Depository Bank for the Bonds under the Ordinance.

Section 4. There is hereby created and established with the Depository Bank, to be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from all other funds or accounts of the Issuer, the Bonds Construction Trust Fund. The monies derived from the sale of the Bonds shall be deposited with the Depository Bank in the Bonds Construction Trust Fund and applied solely to the payment of the costs of design, acquisition and construction of the Project

and the costs of issuance of the Bonds and related costs, and until so expended, are hereby pledged as additional security for the Bonds.

Section 5. There is hereby created and established with the Depository Bank the Revenue Fund (the "Revenue Fund") to be held separate and apart from all other funds or accounts of the Commission or the Issuer.

Section 6. The Municipal Bond Commission (the "Commission") is appointed as Paying Agent for the Bonds. There is hereby created and established with the Commission, the Series 2009 A Bonds Sinking Fund, the Series 2009 B-1 Bonds Sinking Fund, the Series 2009 C Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account, the Series 2009 B-1 Bonds Reserve Account and the Series 2009 C Bonds Reserve Account to be held by the Commission separate and apart from all other funds or accounts of the Commission and the Issuer from each other.

Section 7. The aggregate gross operating and non-operating revenues of the System determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectable accounts, not including any gains from the sale or other disposition of, or from any increase of capital assets or any fees paid by prospective customers of the System in order to connect thereto (the "Gross Revenues") shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order of priority:

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

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously: remit to (i) the appropriate party the amounts required to pay interest on the Prior Bonds, as required by the Ordinances enacted by the Issuer authorizing the Prior Bonds (the "Prior Ordinances"); and (ii) the Commission commencing 4 months prior to the first date of payment of interest of the Series 2009 A Bonds, for deposit in the Series 2009 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of interest which will become due on the Series 2009 A Bonds on the next ensuing quarterly interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 A Bonds Sinking Fund and the next quarterly interest payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly interest payment date, the required amount of interest coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously: (i) remit to the appropriate party the amounts required to pay principal of the Prior Bonds, as required by the Prior Ordinances; (ii) remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2009 A Bonds, for deposit in the Series 2009 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2009 A Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date; (iii) remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2009 B-1 Bonds, if any, for deposit in the Series 2009 B-1 Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal, if any, which will mature and become due on the Series 2009 B-1 Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 B-1 Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date; and (iv) remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2009 C Bonds, for deposit in the Series 2009 C Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2009 C Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 C Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously: (i) remit to the appropriate party the amounts required by the Prior Ordinances for deposit in the respective Reserve Accounts for the Prior Bonds; (ii) remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2009 A Bonds, if not fully funded upon issuance of the Series 2009 A Bonds, for deposit in the Series 2009 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2009 A Bonds Reserve Requirement; (iii) remit to the Commission, commencing 4 months prior to the first date of payment of principal of

the Series 2009 B-1 Bonds, if not fully funded upon issuance of the Series 2009 B-1 Bonds, for deposit in the Series 2009 B-1 Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 B-1 Bonds Reserve Requirement, if any; provided that, no further payments shall be made into the Series 2009 B-1 Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2009 B-1 Bonds Reserve Requirement; and (iv) remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2009 C Bonds, if not fully funded upon issuance of the Series 2009 C Bonds, for deposit in the Series 2009 C Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 C Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 C Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2009 C Bonds Reserve Requirement.

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

Section 8. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the forms attached as Exhibit A, B and C. The execution of the Bonds by the Mayor shall be conclusive evidence of any approval required by this Section.

Section 9. The ARRA Assistance Agreement and the execution and delivery by the Mayor thereof shall be and the same are hereby authorized, approved, and directed. The Mayor shall execute and deliver the ARRA Assistance Agreement with such changes, insertions and omissions as may be approved by the Mayor. The execution of the ARRA Assistance Agreement by the Mayor shall be conclusive evidence of any approval required by this Section, and authorization of any action required by the ARRA Assistance Agreement relating to the issuance and sale of the Bonds, including the payment of all necessary fees and expenses in connection therewith.

Section 10. The Issuer hereby appoints and designates United National Bank, Inc., to serve as Registrar (the "Registrar") for the Bonds under the Ordinance and approves and accepts the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 11. The Mayor and Recorder/Treasurer 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 Ordinance approved and provided for, to the end that the Bonds may be delivered to Chase pursuant to the ARRA Assistance Agreement on or about September 18, 2009.

Section 12. The acquisition and construction of the Project, more particularly described as Phase I: replacement of approximately 7,000 lf of Whitestick Force Main; Phase II: Pine Creek WWTP and Whitestick combined sewer overflow modifications, and replace approximately 5,900 lf of existing transite pressurized sewer line from Airport Road lift station to the dissipater box and the financing thereof in part with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 13. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Ordinance held by the Depository Bank until expended, in money market accounts secured by a pledge of direct obligations of, or obligations the timely payment of principals of and interest on which is guaranteed by, the United States of America, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer.

Section 14. The Issuer hereby authorizes the payment of its Sewerage System Bond Anticipation Notes, Series 2008 A (the "Note") from the proceeds of the Series 2009 A Bonds. The Issuer shall pay the sum of $1,001,240 to JPMorgan Chase Bank, NA as registered owner of the Note from the proceeds of the Series 2009 A Bonds to pay in full the outstanding balance of the Note.

Section 15. The Issuer shall serve the additional customers at the location(s) as set forth in Certificate of Engineer. The Issuer shall not reduce the amount of additional customers served by the project without the prior written approval of the Board of the Water Development Authority (the "Authority"). Following completion of the Project the Issuer shall certify to the Authority the number of customers added to the System.

Section 16. The Issuer shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia.

Section 17. The Special Conditions of the ARRA Assistance Agreement are attached as Exhibit D and are incorporated into this Supplemental Resolution.

Section 18. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

Section 19. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 20. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 8th day of September, 2009.

Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the CITY OF BECKLEY on the 8th day of September, 2009.

Dated this 18th day of September, 2009.

[SEAL]

Recorder/Treasurer

EXHIBIT A

FORM OF SERIES 2009 A BOND
UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM)

No. AR-1 $_____

KNOW ALL MEN BY THESE PRESENTS: The _____ day of _____, 2009, that the CITY OF BECKLEY, a municipal corporation organized and existing under the laws of the State of West Virginia in Raleigh County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ DOLLARS ($_____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 20__, to and including _____ 1, 20__, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The SRF Administrative Fee of 1.0% (as defined in the hereinafter described Bond Legislation) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 20__, as set forth on said EXHIBIT B.

This Bond shall bear interest at the rate of 2% per annum. Principal and interest installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and among the Issuer, the Authority and the DEP, dated _____, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and installation of improvements and extensions to the existing public 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 of the Bonds and related costs. The existing public sewerage system of the Issuer, the Physical Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on July 25, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on July 25, 2009 (the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS (EXCEPT FOR DESIGNATED TRUST FUNDS AND ACCOUNTS), WITH THE ISSUER'S: (1) SEWER REVENUE BONDS, SERIES 1998 A, DATED MARCH 17, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $11,000,000; (2) SEWER REVENUE BONDS, SERIES 2004 A, DATED SEPTEMBER 28, 2004, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $9,039,000; (3) SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2005, DATED JULY 20, 2005, IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,405,000; (THE "PRIOR BONDS"); (4) SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1 (WEST VIRGINIA CWSRF/ARRA), DATED JULY 21, 2009, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____ (THE "SERIES 2009 B-1 BONDS"); AND (5) SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA CWSRF PROGRAM), DATED JULY 21, 2009, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____ (THE "SERIES 2009 C BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the holders of the Series 2009 B-1 Bonds, the Series 2009 C Bonds and the Prior Bonds and from monies in the reserve account created under the Bond Legislation for the Bonds (the "Series 2009 A Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and

shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2009 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Series 2009 B-1 Bonds, the Series 2009 C Bonds and the Prior Bonds. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the 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 United Bank, Inc., 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 Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution

or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of 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 BECKLEY has caused this Bond to be signed by its Mayor and its corporate seal, if any, to be hereunto affixed and attested by its Recorder/Treasurer, and has caused this Bond to be dated the day and year first written above.

[SEAL]

_____
Mayor

ATTEST:

_____
Recorder/Treasurer

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2009.

UNITED BANK, INC.,
as Registrar

_____
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL $_____

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

EXHIBIT B

FORM OF SERIES 2009 B-1 BOND
UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF/ARRA)

No. BR-I $_____

KNOW ALL MEN BY THESE PRESENTS: The _____ of _____, 2009, that the CITY OF BECKLEY, a municipal corporation organized and existing under the laws of the State of West Virginia in Raleigh County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ DOLLARS ($_____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly forgiveness of principal on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 20__, to and including _____ 1, 20__, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and among the Issuer, the Authority and the DEP, dated _____, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and installation of improvements and extensions to the existing public 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 of the Bonds and related costs. The

existing public sewerage system of the Issuer, the Physical Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on July 25, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on July 25, 2009 (the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS (EXCEPT FOR DESIGNATED TRUST FUNDS AND ACCOUNTS), WITH THE ISSUER'S: (1) SEWER REVENUE BONDS, SERIES 1998 A, DATED MARCH 17, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $11,000,000; (2) SEWER REVENUE BONDS, SERIES 2004 A, DATED SEPTEMBER 28, 2004, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $9,039,000; (3) SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2005, DATED JULY 20, 2005, IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,405,000; (THE "PRIOR BONDS"); (4) SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA CWSRF PROGRAM), DATED JULY 21, 2009, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____ (THE "SERIES 2009 A BONDS"); AND (5) SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA CWSRF PROGRAM), DATED JULY 21, 2009, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____ (THE "SERIES 2009 C BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the holders of the Series 2009 A Bonds, the Series 2009 C Bonds and the Prior Bonds, from any monies in the reserve account authorized to be created under the Bond Legislation for the Bonds (the "Series 2009 B-1 Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies

in the Series 2009 B-1 Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Series 2009 A Bonds, Series 2009 C Bonds and the Prior Bonds. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the 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 United Bank, Inc., 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 Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Physical 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 monies, until so applied, in favor of the registered owner of this Bond.

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

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

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the CITY OF BECKLEY has caused this Bond to be signed by its Mayor and its corporate seal, if any, to be hereunto affixed and attested by its Recorder/Treasurer, and has caused this Bond to be dated the day and year first written above.

[SEAL]

_____

Mayor

ATTEST:

_____

Recorder/Treasurer

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 B-1 Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2009.

UNITED BANK, INC.,
as Registrar

_____
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL $_____

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

EXHIBIT C

FORM OF SERIES 2009 C BOND

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

No. CR-1 $_____

KNOW ALL MEN BY THESE PRESENTS: The ____ day of _____ 2009, that CITY OF BECKLEY, a municipal corporation organized and existing under the laws of the State of West Virginia in Raleigh County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ DOLLARS ($_____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 20__, to and including _____ 1, 20__, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The SRF Administrative Fee of 1.0% (as defined in the hereinafter described Bond Legislation) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 20__, as set forth on said EXHIBIT B.

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

This Bond is issued (i) to pay a portion of the costs of acquisition and installation of improvements and extensions to the existing public 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 of the Bonds and related costs. The existing public sewerage system of the Issuer, the Physical Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued

under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on July 25, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on July 25, 2009 (the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS (EXCEPT FOR DESIGNATED TRUST FUNDS AND ACCOUNTS), WITH THE ISSUER'S: (1) SEWER REVENUE BONDS, SERIES 1998 A, DATED MARCH 17, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $11,000,000; (2) SEWER REVENUE BONDS, SERIES 2004 A, DATED SEPTEMBER 28, 2004, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $9,039,000; (3) SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2005, DATED JULY 20, 2005, IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,405,000; (THE "PRIOR BONDS"); (4) SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA CWSRF PROGRAM), DATED JULY 21, 2009, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____ (THE "SERIES 2009 A BONDS"); AND (5) SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1 (WEST VIRGINIA CWSRF/ARRA), DATED JULY 21, 2009, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____ (THE "SERIES 2009 B-1 BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the holders of the Series 2009 A Bonds, the Series 2009 B-1 Bonds and the Prior Bonds and from monies in the reserve account created under the Bond Legislation for the Bonds (the "Series 2009 C Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2009 C Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the

Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Series 2009 A Bonds, the Series 2009 B-1 Bonds and the Prior Bonds. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the 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 United Bank, Inc., 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 Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

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

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

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the CITY OF BECKLEY has caused this Bond to be signed by its Mayor and its corporate seal, if any, to be hereunto affixed and attested by its Recorder/Treasurer, and has caused this Bond to be dated the day and year first written above.

[SEAL]

_____

Mayor

ATTEST:

_____

Recorder/Treasurer

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 C Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2009.

UNITED BANK, INC.,
as Registrar

_____
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL $_____

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

EXHIBIT D

SPECIAL CONDITIONS

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

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

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

D. ASSET MANAGEMENT – The Local Government shall develop and implement an asset management plan in accordance with guidelines issued by DEP and is approved by DEP.

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

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

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

H. PURCHASING REQUIREMENTS – The Local Government shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds $10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was $10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of

specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

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

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

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

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

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

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

O. OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE – The Local Government acknowledges and agrees that this ARRA Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American

Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on www.recovery.gov, and any subsequent guidance documents issued by OMB.

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

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

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

S. USER RATES – The Local Government shall covenant that it will not reduce its approved or enacted customer rates for at least eighteen months after completion of the Project or until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses.

CITY OF BECKLEY
STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA CWSRF PROGRAM/ARRA GREEN)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE STORMWATER REVENUE BONDS, SERIES 2009 B-2 (WEST VIRGINIA CWSRF PROGRAM/ARRA GREEN), OF THE CITY OF BECKLEY; APPROVING AND RATIFYING THE ARRA ASSISTANCE AGREEMENTS RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Common Council (the "Governing Body") of City of Beckley (the "Issuer") has duly and officially passed a bond ordinance on August 11, 2009, effective August 25, 2009 (the "Bond Ordinance" or the "Ordinance"), entitled:

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC STORMWATER DRAINAGE SYSTEM OF THE CITY OF BECKLEY AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $600,000 IN AGGREGATE PRINCIPAL AMOUNT OF STORMWATER REVENUE BONDS, SERIES 2009 B-2 (WEST VIRGINIA SRF PROGRAM/ARRA GREEN); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE

ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING ARRA ASSISTANCE AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Ordinance when used herein;

WHEREAS, the Bond Ordinance provides for the issuance of Stormwater Revenue Bonds, Series 2009 B-2 (West Virginia CWSRF Program/ARRA Green), of the Issuer (the "Bonds" or the "Series 2009 B-2 Bonds"), in the aggregate principal amount not to exceed $600,000, and has authorized the execution and delivery of the ARRA assistance agreements relating to the Series 2009 B-2 Bonds, by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP") (the "ARRA Assistance Agreement"), all in accordance with Chapter 16, Article I3, and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the form of the ARRA Assistance Agreements and the exact principal amounts, dates, maturity dates, redemption provisions, 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 ARRA Assistance Agreement has been presented to the Issuer at this meeting;

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

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the ARRA Assistance Agreement be approved and ratified by the Issuer, that the exact principal amounts, the dates, the maturity dates, the redemption provisions, the interest rates, the interest and principal payment dates, the sale prices and other terms of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF BECKLEY:

Section 1. It is hereby found and determined that:

(A) The Notice of Public Hearing and Abstract of Bond Ordinance (the "Notice") was duly published in The Register Herald, a qualified newspaper of general circulation in the Issuer, with the first publication thereof being not less than 10 days before the day set by the Bond Ordinance and the Notice for the public hearing at which interested persons may appear before the Council and present protests and suggestions and with the last publication thereof being prior to said date set by the Bond Ordinance and the Notice for the public hearing, and a copy of the Affidavit of Publication reflecting such publications is incorporated herein by reference;

(B) In accordance with the Bond Ordinance and the Notice, the Recorder/Treasurer has maintained in his or her office a certified copy of the Bond Ordinance for review by interested persons during the regular office hours of such office;

(C) In Council chambers, City Hall, Beckley, West Virginia, on August 25, 2009, at 7:30 p.m., prevailing time, in accordance with the Bond Ordinance and the Notice, the Council met for the purpose of hearing protests and suggestions regarding whether the Bond Ordinance should be put into effect and heard all protests and suggestions with regard thereto;

(D) At the public hearing, no significant reasons were presented that would require modification or amendment of the Bond Ordinance and no written protest with regard thereto was filed by 30 percent or more of the freeholders of the Issuer; and

(E) The Bond Ordinance shall be put into effect as of the date hereof and the Bonds contemplated thereby shall be issued, all as provided in the Bond Ordinance and this Supplemental Resolution.

Section 2. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued: Sewer Revenue Bonds, Series 2009 B-2 (West Virginia CWSRF Program/ARRA Green), of the Issuer, originally represented by a single Bond, numbered B2R-l, in the principal amount of $296,952. The Series 2009 B-2 Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2020, and shall bear no interest. The principal of the Series 2009 B-2 Bonds shall be payable by forgiveness quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2010, to and including March 1, 2020, and in the amounts as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Series 2009 B-2 Bonds. The Series 2009 B-2 Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2009 B-2 Bonds.

Section 3. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Ordinance.

Section 4. The Issuer does hereby authorize, approve, ratify and accept the ARRA Assistance Agreement, copies of which are incorporated herein by reference, and the execution and delivery of the ARRA Assistance Agreements by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the ARRA Assistance Agreement and in the applications to the DEP, the Council and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 5. The Issuer does hereby appoint and designate United Bank, Inc., Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 6. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Bond Ordinance.

Section 7. The Issuer does hereby appoint and designate JPMorgan Chase Bank NA, Beckley, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 8. Series 2009 B-2 Bonds proceeds in the amount of $-0- shall be deposited in the Series 2009 B-2 Bonds Sinking Fund, as capitalized interest.

Section 9. Series 2009 B-2 Bonds proceeds in the amount of $-0- shall be deposited in the Series 2009 B-2 Bonds Reserve Account to fund the Series 2009 B-2 Bonds Reserve Account.

Section 10. The balance of the proceeds of the Series 2009 B-2 Bonds shall be deposited in or credited to the Bond Construction Trust Fund for payment of the costs of the Project, including, without limitation, costs of issuance of the Series 2009 B-2 Bonds and related costs.

Section 11. The Mayor and Recorder/Treasurer are hereby authorized and directed to execute and deliver such other documents, agreements, instruments and certificates required or desirable in connection with the Bonds to be issued hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about September 18, 2009, to the Authority pursuant to the ARRA Assistance Agreement.

Section 14. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 15. 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 held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such repurchase agreements or time accounts, until further directed in writing by the Issuer. Moneys in the Sinking Funds and the Reserve Accounts shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 16. The Issuer shall serve the additional customers at the location(s) as set forth in the Certificate of Engineer. The Issuer shall not reduce the amount of additional customers served by the Project without the prior written approval of the Board of the Authority. Following completion of the Project, the Issuer shall certify to the Authority the number of customers added to the System.

Section 17. The Issuer shall perform an annual maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia.

Section 18. The Special Conditions of the ARRA Assistance Agreement are attached as Exhibit A and are incorporated into this Supplemental Resolution.

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

Adopted this 8th day of September, 2009.

CITY OF BECKLEY

By: _____

Its: Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Common Council of the City of Beckley on the 8th day of September, 2009.

Dated: September 18, 2009.

[SEAL]

Recorder/Treasurer

EXHIBIT A

SPECIAL CONDITIONS

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

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

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

D. ASSET MANAGEMENT – The Local Government shall develop and implement an asset management plan in accordance with guidelines issued by DEP and is approved by DEP.

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

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

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

H. PURCHASING REQUIREMENTS – The Local Government shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds $10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was $10,000 or more. RCRA Section

6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

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

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

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

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

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

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

O. OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE – The Local Government acknowledges and agrees that this ARRA Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of

Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on www.recovery.gov, and any subsequent guidance documents issued by OMB.

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

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

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

S. USER RATES – The Local Government shall covenant that it will not reduce its approved or enacted customer rates for at least eighteen months after completion of the Project or until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses.

A REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF BECKLEY CONVENED AT 7:30 P.M. SEPTEMBER 8, 2009 IN COUNCIL CHAMBERS OF BECKLEY CITY HALL.

THOSE PRESENT: Mayor Emmett S. Pugh III; Council Members A. K. Minter, Jr., Ann Worley, Mike Atterson, Lee Leftwich, Cedric Robertson, and Robert Rappold; Recorder-Treasurer Gary Sutphin; City Attorney William H. File III, and Secretary Linda Carr.

THOSE ABSENT: Councilman Frank Williams.

ALSO PRESENT: Fire Chief Kevin Taylor, Police Chief Tim Deems, Director of Housing and Community Development Manuel Cartelle, Chief of Code Enforcement Bob Cannon, General Manager of the Sanitary Board Luke Richmond, Director of the Human Rights Commission Elmer Day, Director of Exhibition Mine Renda Morris, and Street Commissioner Robert Robinson.

The Mayor called the meeting to order followed by a word of prayer by Councilman Leftwich and the Pledge of Allegiance to the flag.

Council dispensed with reading of the minutes of the previous meeting which had been made available to each member and approved the minutes as written on a motion by Councilman Rappold and seconded by Councilman Robertson.

Mr. File presented for first reading an Ordinance to sell certain personal property at a City auction to be held October 3, 2009 at 9:30 a.m. at New River Park. On a motion by Councilman Leftwich and seconded by Councilwoman Worley, the first reading of this proposed Ordinance was unanimously approved by Council.

Mr. File then presented for Council approval a Supplemental Resolution for Storm Water Bonds. On a motion by Councilman Rappold and seconded by Councilwoman Worley, the following Supplemental Resolution was unanimously approved by Council:

2.10

CITY OF BECKLEY
STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA CWSRF PROGRAM/ARRA GREEN)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE STORMWATER REVENUE BONDS, SERIES 2009 B-2 (WEST VIRGINIA CWSRF PROGRAM/ARRA GREEN), OF THE CITY OF BECKLEY; APPROVING AND RATIFYING THE ARRA ASSISTANCE AGREEMENTS RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Common Council (the "Governing Body") of City of Beckley (the "Issuer") has duly and officially passed a bond ordinance on August 11, 2009, effective August 25, 2009 (the "Bond Ordinance" or the "Ordinance"), entitled:

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC STORMWATER DRAINAGE SYSTEM OF THE CITY OF BECKLEY AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $600,000 IN AGGREGATE PRINCIPAL AMOUNT OF STORMWATER REVENUE BONDS, SERIES 2009 B-2 (WEST VIRGINIA SRF PROGRAM/ARRA GREEN); PROVIDING FOR THE RIGHTS AND REMEDIES OF

Next, Mr. File presented for Council approval a Supplemental Resolution for Sewer Bonds. On a motion by Councilwoman Worley and seconded by Councilman Rappold, the following Resolution was unanimously approved by Council:

CITY OF BECKLEY 2.9
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM)
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF/ARRA),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE CITY OF BECKLEY SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA CWSRF PROGRAM), SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1(WEST VIRGINIA CWSRF/ARRA), SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA CWSRF PROGRAM); AUTHORIZING THE PAYMENT OF THE ISSUER'S BOND ANTICIPATION NOTES, SERIES 2008 A; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; MAKING OTHER PROVISIONS AS TO THE BONDS; ESTABLISHING A BONDS CONSTRUCTION TRUST FUND, A REVENUE FUND, SINKING FUNDS AND RESERVE ACCOUNTS FOR THE BONDS; PROVIDING FOR THE FLOW OF FUNDS FOR THE BONDS; AND SPECIFYING THE PROJECTS FOR THE BONDS.

WHEREAS, the Common Council (the "Governing Body") of the City of Beckley (the "Issuer") has duly and officially passed a Bond and Note Ordinance on April 22, 2008, effective May 27, 2008 (the "Ordinance"), entitled:

AN ORDINANCE AUTHORIZING THE DESIGN, ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWERAGE SYSTEM OF THE CITY OF BECKLEY; AUTHORIZING THE ISSUANCE OF NOT MORE THAN $9,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE

Mr. File also presented for Council approval a Supplemental Resolution for Parking Revenue Bonds. On a motion by Councilman Rappold and seconded by Councilman Leftwich, the following Resolution was unanimously approved by Council:

CITY OF BECKLEY
PARKING SYSTEM REFUNDING REVENUE BONDS,
SERIES 2009 (BANK QUALIFIED)

SECOND SUPPLEMENTAL RESOLUTION

SECOND SUPPLEMENTAL RESOLUTION MODIFYING THE DEFINITION OF "RESERVE REQUIREMENT" PROVIDED IN THE BOND ORDINANCE ENACTED BY COMMON COUNCIL ON JULY 14, 2009, AS SUPPLEMENTED BY A FIRST SUPPLEMENTAL RESOLUTION ADOPTED BY COMMON COUNCIL ON JULY 14, 2009.

WHEREAS, the Common Council of the City of Beckley (the "City") has duly and officially adopted and enacted a bond ordinance, effective July 14, 2009 (the "Bond Ordinance"), entitled:

AN ORDINANCE AUTHORIZING THE REFUNDING OF THE CITY'S OUTSTANDING PARKING REVENUE BONDS, SERIES 1998 AND FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, AND PAYING COSTS OF ISSUANCE AND RELATED COSTS, THROUGH THE ISSUANCE OF PARKING SYSTEM REFUNDING REVENUE BONDS, SERIES 2009, OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED $2,000,000; PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A TAX AND NON-ARBITRAGE CERTIFICATE, AN OFFICIAL STATEMENT, A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT AND OTHER DOCUMENTS IN CONNECTION THEREWITH; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ENACTING OTHER PROVISIONS WITH RESPECT THERETO.

CH15244089 1

Lastly, Mr. File presented for Council approval the Sweep Resolution establishing the electronic transfer of funds to pay the Storm Water and Sewer Bond payments for the Sanitary Board. On a motion by Councilman Rappold and seconded by Councilwoman Worley, the following Resolution was unanimously approved by Council:

SWEEP RESOLUTION

WHEREAS, the City of Beckley (the "Issuer") is a governmental body and political subdivision of West Virginia;

WHEREAS, the Issuer has issued bonds, as more specifically set forth on Exhibit A, attached hereto and incorporated herein by reference (the "Bonds");

WHEREAS, the Issuer makes or will make monthly debt service payments on and transfers reserve funds for the Bonds by check to the West Virginia Municipal Bond Commission (the "MBC") which in turn pays the owners of the Bonds and deposits funds in the reserve accounts;

WHEREAS, the MBC may accept such monthly payments by electronic funds transfer, thereby eliminating delay in payments and lost checks;

WHEREAS, the Issuer finds and determines that it is in the best interest of the Issuer, its citizens and the owners of the Bonds that the monthly debt service and reserve fund payments be made by electronic funds transfer with the State Treasurer sweeping the Issuer's account.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1) The monthly debt service payments on the Bonds, as set forth in Exhibit A, shall be made to the MBC by an electronic transfer by the State Treasurer from the accounts set forth in Exhibit A in such form and at such directions as are provided by the MBC.

2) The Mayor and Recorder/Treasurer are hereby authorized to sign and execute all such documents as are necessary to facilitate the electronic transfer of the Bond debt service and reserve fund payments.

3) This resolution shall be effective immediately upon adoption.

Adopted this 8th day of September, 2009.

_____
(Authorized Officer)

{C1581841.1}

The Mayor presented for Council approval a Resolution adopting a Regional Hazard Mitigation Plan. On a motion by Councilman Rappold and seconded by Councilman Atterson, the following Resolution was unanimously approved by Council:

CITY OF BECKLEY

WHEREAS, the City of Beckley recognizes the threat that natural hazards pose to people and property; and

WHEREAS, undertaking hazard mitigation actions before disasters occur will reduce the potential for harm to people and property and save taxpayer dollars; and

WHEREAS, an adopted local hazard mitigation plan is required as a condition of future grant funding for mitigation projects; and

WHEREAS, the City of Beckley participated jointly in the planning process with the other local units of government within the Region to prepare a Regional Hazard Mitigation Plan.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Beckley hereby adopts the Regional Hazard Mitigation Plan as an official plan; and

BE IT FURTHER RESOLVED that the Region I Planning and Development Council will submit, on behalf of the participating municipalities and counties, the adopted Regional Hazard Mitigation Plan to Federal Emergency Management Agency officials for final review and approval.

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on September 8,.2009 on a motion by Councilman Robert Rappold and seconded by Councilman Mike Atterson.

Emmett S. Pugh III - Mayor

I, _____, Recorder-Treasurer for the City of Beckley, West Virginia, do hereby certify that the above Resolution was adopted by the Common Council of the City of Beckley at their meeting held on the 8th day of September, 2009, and that a quorum of the City Council members was present with a majority voting for the Resolution.

Gary R. Sutphin - Recorder-Treasurer

The Mayor also presented for Council approval a Resolution for a $9,000 grant for the Youth Museum. On a motion by Councilman Rappold and seconded by Councilwoman Worley, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, the City of Beckley has received a $9,000 grant through the West Virginia Community Participation Program; and

WHEREAS, these funds will be used by the Youth Museum for replacement of a deck and loading dock along with other repairs, if funding permits; and

WHEREAS, the City of Beckley has been designated by the State of West Virginia as the conduit for these grant funds.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the Mayor of the City of Beckley is authorized to enter into a Contract with the West Virginia Development Office to administer these grant funds in accordance with the attached contract.

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on September 8, 2009 on a motion by Councilman Robert Rappold and seconded by Councilwoman Ann Worley.

Gary R. Sutphin - Recorder-Treasurer

Next, the Mayor presented for Council approval a Resolution for a $5,000 grant for the YMCA. On a motion by Councilman Rappold and seconded by Councilman Leftwich, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, the Beckley-Raleigh County YMCA has received a grant in the amount of $5,000 through the West Virginia Community Participation Program; and

WHEREAS, these funds will be used by the Beckley-Raleigh County YMCA to purchase and install a security and surveillance system; and

WHEREAS, the City of Beckley has been designated by the State of West Virginia as the conduit for these grant funds.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the Mayor of the City of Beckley is authorized to enter into a Contract with the West Virginia Development Office to administer these grant funds in accordance with the attached contract.

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on September 8, 2009 on a motion by Councilman Robert Rappold and seconded by Councilman Lee Leftwich.

Gary R. Smith - Recorder-Treasurer

Lastly, the Mayor presented for Council approval a Resolution for a $1,000 grant for the YMCA. These monies will be used for construction of a fence. On a motion by Councilman Rappold and seconded by Councilman Atterson, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, the Beckley-Raleigh County YMCA has been awarded a grant in the amount of $1,000 through the Community Participation Program; and

WHEREAS, the City of Beckley has been designated as the conduit to administer this grant.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the Mayor is authorized to execute the attached Contract to administer grant funds on behalf of the Beckley-Raleigh County YMCA.

This Resolution is duly adopted by the Common Council of the City at its regular meeting held on September 8, 2009 on a motion by Councilman Robert Rappold and seconded by Councilman Mike Atterson.

Gary R. Sutphin – Recorder-Treasurer

Under old business, Mr. Cannon gave Council an update on the complaint of Carol Jones at the previous Council meeting. He stated that the neighbor has cut the grass, and the fence is not on Ms. Jones' property. Two boards need to be replaced, but Ms. Jones will not allow the property owner to come onto her property in order to replace these boards.

Councilman Robertson asked if an alternate parking plan has been decided for those who park in the Lewis Chevrolet Parking Lot when the BIG Project begins. The Mayor stated that plans for alternate parking are being considered and meetings are forthcoming concerning this matter.

Councilman Rappold asked about the traffic lights on Eisenhower Drive. The Mayor stated these lights are "fine tuned" and are working correctly. The Mayor explained that these lights are programmed to accommodate Woodrow Wilson High School and BARH traffic which could contribute to traffic backups.

Councilman Rappold also stated that citizens on Woodlawn Avenue have asked if a crosswalk could be placed at Second and Woodlawn Avenues for those going to Thornhill Courts Park. Mr. Robinson will check into matter. This is a State route, and the City will have to ask the State if this is possible.

Councilman Minter asked what can be done to clean up intersections from trash and gravel. Mr. Richmond and Mr. Robinson will coordinate this cleanup effort.

The Mayor presented information from Melvin Kessler concerning his opposition to the charge of the storm water fee for citizens outside City limits.

With no further business to be addressed, the meeting was adjourned at 8:00 p.m. on a motion by Councilman Minter and seconded by Councilwoman Worley.

I certify that the above is a true and accurate copy of the minutes of the Common Council of the City of Beckley at its regular meeting held on September 8, 2009.

9-11-09
Date

Emmett S. Pugh III - Mayor

MAYOR

A REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF BECKLEY CONVENED AT 7:30 P.M. AUGUST 25, 2009 IN COUNCIL CHAMBERS OF BECKLEY CITY HALL.

THOSE PRESENT: Mayor Emmett S. Pugh III; Council Members A. K. Minter, Jr., Ann Worley, Frank Williams, Mike Atterson, Lee Leftwich, and Robert Rappold; Recorder-Treasurer Gary Sutphin; City Attorney William H. File III, and Secretary Linda Carr.

THOSE ABSENT: Councilman Cedric Robertson.

ALSO PRESENT: Fire Chief Kevin Taylor, Police Chief Tim Deems, Director of Housing and Community Development Manuel Cartelle, Chief of Code Enforcement Bob Cannon, General Manager of the Sanitary Board Luke Richmond, Director of the Human Rights Commission Elmer Day, and Street Commissioner Robert Robinson.

The Mayor called the meeting to order followed by a word of prayer by Councilman Williams and the Pledge of Allegiance to the flag.

Council dispensed with reading of the minutes of the previous meeting which had been made available to each member and approved the minutes as written on a motion by Councilman Rappold and seconded by Councilwoman Worley.

Councilman Rappold announced that it is recommended that the bid for the purchase of the various components of a Target Control System to be used at the Police Department Shooting Range be awarded to Action Target which recommendation was in the form of a motion. This motion was seconded by Councilwoman Worley with unanimous Council approval.

The Mayor presented the name of Terry Miller for re-appointment to the Convention Center Board. On a motion by Councilman Rappold and seconded by Councilman Leftwich, the appointment of Mr. Miller, whose term will expire June 30, 2012, was unanimously approved by Council.

Next, the Mayor presented the name of Carolyn Lucas for re-appointment to the Library Board. Ms. Lucas' term will expire June 30, 2014. On a motion by Councilwoman Worley and seconded by Councilman Leftwich, the appointment of Ms. Lucas was unanimously approved by Council.

Next, Mr. File presented for third reading and public hearing an Ordinance authorizing the acquisition and construction of improvements and extensions to the existing public storm water drainage system of the City of Beckley and the financing of the cost, not otherwise provided, thereof through the issuance by the City of Beckley of not more than $600,000 in aggregate principal amount of Storm Water Revenue Bonds, Series 2009 B-2 (West Virginia SRF Program/ARRA Green); providing for the rights and remedies of, and security for, the registered owners of such bonds; authorizing execution and delivery of all documents relating to the issuance of such bonds; approving, ratifying, and confirming ARRA Assistance Agreements relating to such bonds; authorizing the sale and providing for the terms and provisions of such bonds and adopting other provisions relating thereto. Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS

BECKLEY, WEST VIRGINIA 25801

August 21, 2009

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 Advertising Manager for Beckley Newspapers, 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 & ABSTRACT
(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 August, 2009, and ending with the issue of the 21st day of August, 2009, that said annexed notice was published on the following dates:

08/14/09,08/21/09

and that the cost of publishing said annexed notice as aforesaid was $ 163.80

Signed Tara Meyer
Tara Meyer
Legal Advertising Manager
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
21st day of August, 2009

My commission expires March 27, 2011

Notary Public of Raleigh County, West Virginia

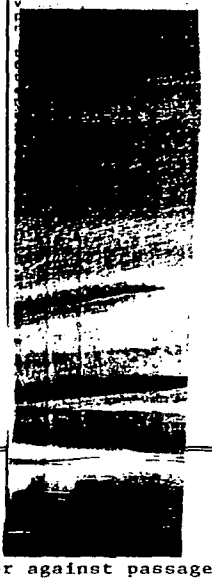
COPY OF PUBLICATION

CITY OF BECKLEY, WEST VIRGINIA

NOTICE OF PUBLIC HEARING AND ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on August 11, 2009, the Common Council of the City of Beckley, West Virginia (the "City") adopted an ordinance which, among other things:

1. Authorized the design, acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the City's existing stormwater drainage system (the "System"), the permanent financing of such costs thereof through the issuance of not more



The public hearing was opened for comments. There being none, either for or against passage of the Ordinance, the public hearing was closed. Mr. Richmond explained that the funding for this project involves the Tanglewood/Witherspoon/Circle Street areas which involves installing green infrastructure of less than 1,000 square feet and 1,000 linear feet of a storm water drainage system to help alleviate flooding and water quality problems in this area. On a motion by Councilman Williams and seconded by Councilwoman Worley, the following Ordinance was unanimously approved by Council:

CITY OF BECKLEY

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC STORMWATER DRAINAGE SYSTEM OF THE CITY OF BECKLEY AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $600,000 IN AGGREGATE PRINCIPAL AMOUNT OF STORMWATER REVENUE BONDS, SERIES 2009 B-2 (WEST VIRGINIA SRF PROGRAM/ARRA GREEN); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING ARRA ASSISTANCE AGREEMENTS 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 BECKLEY:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 16, Article 13, Chapter 22C and Article 2 and Chapter 31 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

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

A. The City of Beckley, West Virginia (the "Issuer") now owns a stormwater drainage system (the "System").

B. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed improvements and extensions to the existing public stormwater drainage system of the Issuer, consisting of

Mr. File then presented for Council approval the second reading and public hearing of an Ordinance re-zoning seven parcels in the North Vance Drive/Spring Street area from "B-1", Neighborhood Highway Business District, to "OR-1", Office-Residential Transitional District. Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS

BECKLEY, WEST VIRGINIA 25801

August 20, 2009

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 Advertising Manager for Beckley Newspapers, 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 20th day of August, 2009, and ending with the issue of the 20th day of August, 2009, that said annexed notice was published on the following dates:

08/20/09

and that the cost of publishing said annexed notice as aforesaid was $ 533.43

Signed Tara Meyer
Tara Meyer
Legal Advertising Manager
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
20th day of August, 2009

My commission expires March 27, 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 Cou
gust 25, 2009, in Council Chambers of Beckley City Hall. All interested parties are urged t

AN ORDINANCE AMENDING THE CITY OF BECKLEY ZONING ORDINANCE OF 1971 AND
OF THE CITY OF BECKLEY AND THE ZONE MAP OF THE CITY OF BECKLEY, AS FRON
AMENDED, TO PROVIDE FOR THE RE-ZONING OF ONE (1) PARCEL AT THE NORTHWES
DRIVE AND SPRING STREET, BEING WITHIN THE CITY OF BECKLEY, RALEIGH COUN
"R-1" ONE-FAMILY DISTRICT, TO "OR-1," OFFICE-RESIDENTIAL TRANSITIONAL DIST
THE RE-ZONING OF SEVEN (7) PARCELS ABUTTING NORTH VANCE DRIVE ALL WITH
RALEIGH COUNTY, WEST VIRGINIA, FROM "B-1," NEIGHBORHOOD HIGHWAY BUSIN
OFFICE-RESIDENTIAL TRANSITIONAL DISTRICT

WHEREAS, the City of Beckley Planning Commission, during it regular meeting held on
ful public hearing on the Petition to re-zone one (1) parcel on the northwest corner of North
(Tax Map 14, Parcel 149) from "R-1," One-Family District, to "OR-1," Office-Residential Tr
cels abutting North Vance Drive (Tax Map 14, Parcels 168.0, 145.0, 146.0, 147.0, and 148
Highway Business District, to "OR-1," Office-Residential Transitional District, which prope
bed on the attached map and legal description.

WHEREAS, at the conclusion of the public hearing held on May 5, 2009, the Planning Co
findings:

1. Planning Commission authority is found in West Virginia Code §8-A-2-11 and City of Br
5.
2. Public notice was published in The Register-Herald on or before April 17, 2009, not les
the public hearing as required by West Virginia Code §59-3-2(b).
3. Special notice was sent by regular mail to fifty-two (52) owners or residents within thr
24, 2009, not less than ten (10) days prior to the Public Hearing, as required by City of Bec
4. West Virginia Code §8-A-1, etc., The New Land Use Planning Act of 2004, prohibits zo
individual person, parcel or lot. This property is being re-zoned to "OR-1" simultaneously
5. The parcel located on the northwest corner of North Vance Drive and Spring Street
Family District.
6. The abutting property to the south (Tax Map 14, Parcel 168.0) contains two one famil
1," Neighborhood Highway Business District. This abutting property is being re-zoned
Transitional District.
7. The adjacent property to the east, across North Vance Drive (Tax Map 14, Parcels 145.0
tains four parcels currently zoned "B-1," Neighborhood Highway Business District and is
fice-Residential Transitional District. Three of the parcels contain one-family dwellings an
sional office building. The neighborhood is predominately residential.
8. The petition to re-zone is : (1) Consistent with the objectives of the Comprehensive Pl
of 50% or more of the property affected.
9. The recommendation to re-zone to Office Residential Transitional includes a requirem
tree shrubs and privacy fencing along the entire property line separating 114 and 116 Sp
Section 15-23(p) and 15-24(c)(1)(d).
10. The recommendation to re-zone to Office-Residential Transitional (OR-1) restricts
building including a private garage; accessory living quarters; guesthouse; recreation ro
single-family dwellings; offices for service, financial, or professional businesses; bed an
ten units and group residential facilities not occupied by more than six developmentally or
uals.
11. The recommendation to re-zone to Office-Residential Transitional (OR-1) restricts C
care, nursery school or adult day care centers, churches and accessory buildings used fo
RLUIPA, and home occupations subject to the provisions of Section 15-24(d).
12. The highest and best use of the six (6) parcels, considering the "B-1" and "R-1" zonin
erties, is OR-1, Office-Residential Transitional District.

WHEREAS, after due and careful consideration, the Planning Commission, on May 5,
adopted a Motion to recommend to Common Council an amendment to the Zoning Ordi
above findings to change the zoning classification of 116 Spring Street (Tax Map 14, Parcel
ty District, to "OR-1," Office-Residential Transitional District, and 117, 119, 126, 122, 120, a
Map 14, Parcels 145.0, 146.0, 147.0, 148.0, and 168.0) from "B-1," Neighborhood Highway
Office-Residential Transitional District. Common Council now accepts the report; and

WHEREAS, subsequent to the Planning Commission's recommendation to Common Co
that an unused alley in the middle of the subject property was closed by an Ordinance ado
the intent of this Ordinance to include this alley, which consists of Parcel 256.0 and 260.0,
ed.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY

Section 1. That the Zoning Ordinance of the City of Beckley, 1971 the Comprehensive Pl
the Zone Map of the City of Beckley, as amended, be amended to provide for the re-zo
Spring Street (Tax Map 14, Parcel 149) within the City of Beckley, Raleigh County, West Vir
District, to "OR-1," Office -Residential Transitional District, as more specifically described
description identified as Exhibit "A" and incorporated herein, and the re-zoning of the f
Vance Drive (Tax Map 14, Parcels 168.0, 145.0, 146.0, 147.0, 148.0, 256.0, and 260.0), all
leigh County, West Virginia, from "B-1," Neighborhood Highway Business District, to "Of
tional District, as more specifically described on the map and legal description identified
ed herein.

Section 2. That the Zoning Map of the City of Beckley, West Virginia, on file in the Off
amended, be, and the same is hereby amended in accordance with Section 1 of this Ordi

Section 3. That any Ordinance or Ordinances heretofore passed by the Common Counc
are in conflict with this Ordinance, are hereby repealed.

Section 4. This Ordinance shall become effective upon passage.

REZONING OF PARCELS 145.0 THROUGH 149.0, 168.0, 256.0, AND 260.0,
BECKLEY CORPORATION, RALEIGH COUNTY, WEST VIRGINI

Beginning at a point, said point being a common corner of Parcel 168.0, and 169.0, Tax
Raleigh County, West Virginia and a point in the western right-of-way line of North Vance
thence, leaving said North Vance Drive and in a western direction for approximately 165
of said Parcel 168.0 and Parcel 169.0, Tax Map 14, Beckley Corporation, Raleigh County,
point being a common corner to said Parcels 168.0 and 169.0 and a point in the eastern
Map 14, Beckley Corporation, Raleigh County, West Virginia;

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 Councilwoman Worley and seconded by Councilman Williams, the following Ordinance was unanimously approved by Council:

FIRST READING
8-11-09

SECOND READING
8-25-09

AN ORDINANCE AMENDING THE CITY OF BECKLEY ZONING ORDINANCE OF 1971 AND THE COMPREHENSIVE PLAN OF THE CITY OF BECKLEY AND THE ZONE MAP OF THE CITY OF BECKLEY, AS FROM TIME TO TIME HAS BEEN AMENDED, TO PROVIDE FOR THE RE-ZONING OF ONE (1) PARCEL AT THE NORTHWEST CORNER OF NORTH VANCE DRIVE AND SPRING STREET, BEING WITHIN THE CITY OF BECKLEY, RALEIGH COUNTY, WEST VIRGINIA, FROM "R-1" ONE-FAMILY DISTRICT, TO "OR-1", OFFICE-RESIDENTIAL TRANSITIONAL DISTRICT, AND TO PROVIDE FOR THE RE-ZONING OF SEVEN (7) PARCELS ABUTTING NORTH VANCE DRIVE ALL WITHIN THE CITY OF BECKLEY, RALEIGH COUNTY, WEST VIRGINIA, FROM "B-1", NEIGHBORHOOD HIGHWAY BUSINESS DISTRICT, TO "OR-1", OFFICE-RESIDENTIAL TRANSITIONAL DISTRICT

WHEREAS, the City of Beckley Planning Commission, during its regular meeting held on May 5, 2009 conducted a lawful public hearing on the Petition to re-zone one (1) parcel on the northwest corner of North Vance Drive and Spring Street (Tax Map 14, Parcel 149) from "R-1", One-Family District, to "OR-1", Office-Residential Transitional district and five parcels abutting North Vance Drive (Tax Map 14, Parcels 168.0, 145.0, 146.0, 147.0, and 148.0) from "B-1", Neighborhood Highway Business District, to "OR-1", Office-Residential Transitional District, which property is more specifically described on the attached map and legal description.

WHEREAS, at the conclusion of the public hearing held on May 5, 2009, the Planning Commission made the following findings:

1. Planning Commission authority is found in West Virginia Code §8-A-2-11 and City of Beckley Code §15-I-15-3 and 15-5.

Mr. File then presented for Council approval the second reading and public hearing of an Ordinance for the purchase of property located at 113 Graham Street for the Sanitary Board. Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS

BECKLEY, WEST VIRGINIA 25801

August 20, 2009

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 Advertising Manager for Beckley Newspapers, 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 20th day of August, 2009, and ending with the issue of the 20th day of August, 2009, that said annexed notice was published on the following dates:

08/20/09

and that the cost of publishing said annexed notice as aforesaid was $ 65.81

Signed Tara Meyer
Tara Meyer
Legal Advertising Manager
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
20th day of August, 2009

My commission expires March 27, 2011

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
Debra Sue Lowe
Beckley, WV 25801
My Commission Expires March 27, 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 Common Council on Tuesday, August 25, 2009, in Council Chambers of Beckley City Hall. All interested parties are urged to attend.

AN ORDINANCE AUTHORIZING THE PURCHASE OF REAL PROPERTY LOCATED AT 113 GRAHAM STREET, CITY OF BECKLEY, RALEIGH COUNTY, WEST VIRGINIA, IDENTIFIED AS PARCEL 196.1 ON TAX MAP 14 OF THE CITY OF BECKLEY AND FURTHER DESCRIBED AS SUR LOT 42-A, PINECREST ADDITION TO THE CITY OF BECKLEY

WHEREAS, the City of Beckley Sanitary Board has identified the need to purchase the real estate described herein in order to access and maintain its sewer lines; and

WHEREAS, Twenty SWV, LLC, the owner of 113 Graham Street, City of Beckley, Raleigh County, West Virginia, identified on City of Beckley Tax Map 14 as Parcel 196.1 and more particularly described as Sur Lot 42-A, Pinecrest Addition to the City of Beckley, has offered to sell and convey said real estate to the City of Beckley for the sum of Twenty Thousand Dollars ($20,000); and

WHEREAS, the City of Beckley Sanitary Board, on July 15, 2009, adopted a Resolution recommending to the City of Beckley Common Council that

Chris Browne

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 Leftwich and seconded by Councilwoman Worley, the following Ordinance was unanimously approved by Council:

FIRST READING
8-11-09

SECOND READING
8-25-09

AN ORDINANCE AUTHORIZING THE PURCHASE OF REAL PROPERTY LOCATED AT 113 GRAHAM STREET, CITY OF BECKLEY, RALEIGH COUNTY, WEST VIRGINIA, IDENTIFIED AS PARCEL 196.1 ON TAX MAP 14 OF THE CITY OF BECKLEY AND FURTHER DESCRIBED AS SUR LOT 42-A, PINECREST ADDITION TO THE CITY OF BECKLEY

WHEREAS, the City of Beckley Sanitary Board has identified the need to purchase the real estate described herein in order to access and maintain its sewer lines; and

WHEREAS, Twenty SWV, LLC, the owner of 113 Graham Street, City of Beckley, Raleigh County, West Virginia, identified on City of Beckley Tax Map 14 as Parcel 196.1 and more particularly described as Sur Lot 42-A, Pinecrest Addition to the City of Beckley, has offered to sell and convey said real estate to the City of Beckley for the sum of Twenty Thousand Dollars ($20,000); and

WHEREAS, the City of Beckley Sanitary Board, on July 15, 2009, adopted a Resolution recommending to the City of Beckley Common Council that this property be purchased by the City of Beckley for use by the Sanitary Board.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the City of Beckley purchase from Twenty SWV, LLC, for the consideration of Twenty Thousand Dollars ($20,000), the parcel of real estate described as Sur Lot 42-A, Pinecrest Addition to the City of Beckley, identified on City of Beckley Tax Map 14 as Parcel 196.1 and further identified as 113 Graham Street, City of Beckley, Raleigh County, West Virginia, this property to be used by the City of Beckley Sanitary Board to access and maintain its sewer lines.

The Mayor of the City of Beckley is hereby authorized to execute any and all documents required to facilitate this purchase.

This Ordinance shall become effective upon passage.

Under old business, Councilman Williams asked about the terms of members of the City's Boards and Commissions. The Mayor explained that there are certain terms for different Boards and Commissions, and a list can be obtained of each of these.

Under new business, information was provided concerned the upcoming Appalachian Arts and Crafts Festival as well as Kids Classic Festival.

The Mayor provided Council with an article concerning Cooper Land Development's violation of the Clean Water Act in Glade Springs Village in Daniels.

Councilman Minter brought up right-of-way concerns at the intersection of Pinewood Drive/Industrial Drive/Rt. 19 as well as the intersection of Robert C. Byrd Drive/Templeview Drive.

Ms. Carol Jones of 413 Larew Avenue came before Council complaining about her neighbor's high grass and privacy fence and the fact that it is constructed on the property line and not on the neighbor's property. Mr. Cannon will check into this matter.

Mr. Ethelbert Broadnax came before Council with complaints of police misconduct with regard to his May 13, 2009 arrest, and a request that Council pass an Ordinance requiring all police officers to turn on their vehicle cameras on every time they deal with a citizen.

With no further business to be addressed, the meeting was adjourned at 8:10 p.m. on a motion by Councilman Williams and seconded by Councilman Minter.

I certify that the above is a true and accurate copy of the minutes of the Common Council of the City of Beckley at its regular meeting held on August 25, 2009.

9-8-09
Date

Emmett S. Pugh III - Mayor

A REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF BECKLEY CONVENED AT 7:30 P.M. AUGUST 11, 2009 IN COUNCIL CHAMBERS OF BECKLEY CITY HALL.

THOSE PRESENT: Mayor Emmett S. Pugh III; Council Members A. K. Minter, Jr., Frank Williams, Mike Atterson, Lee Leftwich, Robert Rappold, and Cedric Robertson; Recorder-Treasurer Gary Sutphin; City Attorney Wiliam H. File III, and Secretary Linda Carr.

THOSE ABSENT: Councilwoman Ann Worley.

ALSO PRESENT: Captain Kevin Price on behalf of Fire Chief Kevin Taylor, Police Chief Tim Deems, Director of Housing and Community Development Manuel Cartelle, Chief of Code Enforcement Bob Cannon, General Manager of the Sanitary Board Luke Richmond, Director of Exhibition Mine Renda Morris, Director of IT Department Bill Kelly, and Street Commissioner Robert Robinson.

The Mayor called the meeting to order followed by a moment of silence for Pandora Harrah, a former Housing Authority employee who passed away recently, a word of prayer by Councilman Williams, and the Pledge of Allegiance to the flag.

Council dispensed with reading of the minutes of the previous meeting which had been made available to each member and approved the minutes as written on a motion by Councilman Rappold and seconded by Councilman Atterson.

The Mayor announced this as the date advertised for receipt of bids for the purchase of the various components of a Target Control System to be used at the Police Department Shooting Range. Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS

BECKLEY, WEST VIRGINIA 25801

August 07, 2009

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 Advertising Manager for Beckley Newspapers, 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 July, 2009, and ending with the issue of the 7th day of August, 2009, that said annexed notice was published on the following dates:

07/31/09,08/07/09 and that the cost of publishing said annexed notice as aforesaid was $ 61.43

Signed Tara Meyer
Tara Meyer
Legal Advertising Manager
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
7th day of August, 2009

My commission expires March 27, 2011

COPY OF PUBLICATION

NOTICE TO BIDDERS

The Common Council of the City of Beckley will accept sealed bids for the purchase of various components of a Target Control System to be used at the Beckley Police Department Shooting Range. The system includes a high-speed 90 degree target turning activator, a rail mounted track moving target system, range control software, remote command and target control system.

Detailed specifications, bid information and a complete listing of the equipment may be obtained from Sgt. J.R. Corey of the Beckley Police Department, 340 Prince Street, Beckley or by calling 304-256-1717.

Bids will be received until 7:30 p.m., Tuesday, August 11, 2009 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
8-7-FRI-2-RH; LG 8694

The Mayor opened and read the following bid:

ACTION TARGET
PO Box 636 • Provo, UT 84603 • (801) 377-8033 • (801) 377-8096 FAX

Quotation

Order: 35897
Date: 2008-Dec-12
Client: 14354
Sales: Jason Snell
PO:
Printed: 2009-Aug-10

Shipping Terms: Delivered	Payment Terms: See Schedule of Values	Installation Terms: N/A	Status: work

Bill To:	Ship To:
Sgt Jake Corey Beckley Police Department 340 Prince St Beckley, WV 25801 USA	Sgt Jake Corey Beckley Police Department 340 Prince St Beckley, WV 25801 USA

	Qnt	Description	Each	Price
	1	Complete Targetry Package 10 Deluxe 90 Turning Targets Includes: Smart Range Software w/Laptop Air Command/Wireless Control w/2 handsets Air Compressor w/Auto Drain Valve Jaw Clamp **Note** This item requires ballastic protection(i.e. ballastic shields or kneewall) that is not included in the price of this quote.	18,000.00	18,000.00
	1	Track Runner V2 System (40 ft.) **Note** This product requires a kneewall that is not included in the price of this quote	5,000.00	5,000.00
	1	Lead Man Install We provide: 1 lead Technician You Provide: 3 Workers for 4 days All necessary tools	5,500.00	5,500.00
	1	S&H	624.46	624.46

Comments:
Action Target drawings showing site preparation and equipment placement will be provided to Owner 15 days after receipt of purchase order. ATI install is not responsible for offloading of material upon arrival. Comes complete with all parts, pieces, air compressor, wiring and training. Exclusions: 1. Concrete work/Pad 2. Supplying of electrical services 3. Underground conduit and provision of a suitable air compressor location. 4. Kneewall (required for track runner). Action Target will detail in drawings all requirements to be supplied by Owner for site preparation. All steel surfaces shall be sand blasted according to surface preparation SSPC-SP6 prior to painting.
Proposal Prepared By: _____ (signature on file) Jason Snell

Shipping	0.00
Sales Tax	0.00
Total	29,124.46

Terms and Conditions:
You must reference the Order Number above on your purchase order to secure best price. Price will be honored for 60 days from the quotation date if no other date is specified herein. Action Target reserves the right to adjust installation costs based upon the actual site conditions encountered. Unless explicitly itemized, price does not include taxes, bonds, fees, assessments, licences, mandatory wage requirements or other regulatory costs which may be applicable to the job site.

The bid will be referred to Councilmen-at-Large Rappold and Robertson, as well as Chief Deems, Sgt. Corey, and Mr. Sutphin for review and possible award at a future meeting.

Mr. File presented for second reading and public hearing an Ordinance closing, vacating, and discontinuing an unused right-of-way/alley off of Ann Street. Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS

BECKLEY, WEST VIRGINIA 25801

August 06, 2009

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 Advertising Manager for Beckley Newspapers, 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 I), commencing with the issue of the 6th day of August, 2009, and ending with the issue of the 6th day of August, 2009, that said annexed notice was published on the following dates:

08/06/09

and that the cost of publishing said annexed notice as aforesaid was $ 473.46

Signed Tara Meyer
Tara Meyer
Legal Advertising Manager
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
6th day of August, 2009

My commission expires March 27, 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 ... gust 11, 2009, in Council Chambers of Beckley City Hall. All interested parties are urg...

AN ORDINANCE PERMANENTLY CLOSING, VACATING, AND DISCONTINUIN... RIGHT-OF-WAY; NAMELY, AN UNUSED RIGHT-OF-WAY / ALLEY OFF OF ANN STRE... 2, 3 AND 9 OF SOUTH BECKLEY ADDITION IN THE CITY OF BECKLEY, RALEIGH C... AUTHORIZING CONVEYANCE OF THIS UNUSED RIGHT-OF-WAY / ALLEY T... ADJACENT PROPERTIES

BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY:

1. That there is an unused right-of-way / alley that lies off of Ann Street in the City of ... ginia, said unused right-of-way / alley being located between Lots 1, 2, 3, and 9 of Sout... said parcels having requested the said right-of-way / alley be permanently closed, vac... right-of-way; and

2. The Common Council of the City of Beckley has determined to permanently close, ... lic right-of-way / alley described in the mates and bounds description attached hereto a... hereto; and

3. The landowners of the abutting property do not object to the closing of said right-... owning real estate will be deprived of ingress thereto or egress therefrom if said ri... closed by the City of Beckley, and such portion is conveyed to the immediately adjace...

4. Because of the foregoing findings, such right-of-way / alley is now incapable of bei... any value to the general public, the citizens of Beckley, or the City of Beckley as a mun...

5. That because of, and in conformity with, the foregoing findings and determinatio... above described right-of-way / alley is hereby abandoned, vacated, discontinued, and

8-6-THU-2-RH; LG 6888

By Order of the Raleigh County Commission, at 10:00 a.m. in the Courtroom of the Raleigh C... all persons desiring to comment on the propose... holder of tracts hereinabove to be incorporated... proper Order incorporated within the corporate...

LAW

NORTH SIDE

TO BE

M

...beginning, containing 0.699 acres, more or less.

...thence, with said northeast right-of-way line of U.S. 19 ... Pass/North Bypass (now or formerly Bellomy Gallerie, LLC (RS012/9852) C... being on the present Beckley Corporation Line,

...thence, leaving said right-of-way of North Bypass/North Bypass Drive and o... present Beckley Corporation Line, N 52°48' E - 272.34 feet to a p... common corner to said Gallerie, Southern Soil Conservation (R153 ... acre tract,

...thence, continuing with said present Beckley Corporation Line and ... of said Southern Soil Conservation and said 0.699 acre tract S 12°... point, said point being the common corner to said Southern Soil Co... acre tract and City of Beckley's Fire Station #3 (DB 531/PG 360).

...thence, continuing with said present Beckley Corporation Line and ... to a point on the aforementioned northeast right-of-way line of U.S. ... (Beckley By-Pass-North Eisenhower Drive).

PROPOSED ANNEXATION OF 0.699 ACRE TRACT ON NOR... DRIVE, LOCATION OF THE TACO BELL REST...

Beginning at a point on the northeast right-of-way line of U.S. 19 ... By-Pass-North Eisenhower Drive), said point being on the common ... and a tract now or formerly Beckley Gallerie, LLC (RS012/9852) C... being on the present Beckley Corporation Line,

...thence, leaving said right-of-way of North Bypass/North Eisenhower Drive and o... present Beckley Corporation Line, N 52°48' E - 272.34 feet to a p... common corner to said Gallerie, Southern Soil Conservation (R153 ... acre tract,

...thence, continuing with said present Beckley Corporation Line and ... of said Southern Soil Conservation and said 0.699 acre tract S 12°... point, said point being the common corner to said Southern Soil Co... acre tract and City of Beckley's Fire Station #3 (DB 531/PG 360).

...thence, continuing with said present Beckley Corporation Line and ... to a point on the aforementioned northeast right-of-way line of U.S. ... (Beckley By-Pass-North Eisenhower Drive).

PROPOSED ANNEXATION OF 0.699 ACRE TRACT ON NOR... DRIVE, LOCATION OF THE TACO BELL REST...

See Exhibit "A" attached hereto and made a p...

...certification Date 07-02-2009 Expiration Date 07-02-2011

West Virginia
WorkForce
...mmersville, WV 26651
6101 Webster Road
Technical College
ew River Community &
at the
...gust 12, 2009 at 8:30 a.m.
...ply in person Wednesday,
...ly Income Support Benefits
Paid Training, and
Relocation Allowances,
Job Search Assistance,
including
...RADE ACT BENEFITS
...AY BE ELIGIBLE FOR
...bster Springs, West Virginia
...im C. Hamer Company in
Hardwood Lumber at the
...gaged in the production of
05-18-2008
...l workers laid off on or after
NOTICE
...RK FORCE
...a copy of your
...vou, and to
...rowith served
...copy of which
...about vacation ope...
...ckills, 1-800-834-6145
www.
...tiraidachiata.com

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 Atterson and seconded by Councilman Leftwich, the following Ordinance was unanimously approved by Council:

FIRST READING 7-28-09

SECOND READING 8-11-09

AN ORDINANCE PERMANENTLY CLOSING, VACATING, AND DISCONTINUING SO MUCH OF A PUBLIC RIGHT-OF-WAY; NAMELY, AN UNUSED RIGHT-OF-WAY/ALLEY OFF OF ANN STREET LOCATED BETWEEN LOTS 1, 2, 3, AND 9 OF SOUTH BECKLEY ADDITION IN THE CITY OF BECKLEY, RALEIGH COUNTY, WEST VIRGINIA, AND AUTHORIZING CONVEYANCE OF THIS UNUSED RIGHT-OF-WAY/ ALLEY TO THE OWNERS OF THE ADJACENT PROPERTIES

BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY:

1. That there is an unused right-of-way/alley that lies off of Ann Street in the City of Beckley, Raleigh County, West Virginia, said unused right-of-way/alley being located between Lots 1, 2, 3, and 9 of South Beckley Addition, the owners of said parcels having requested the said right-of-way/alley be permanently closed, vacated, and discontinued as a public right-of-way; and

2. The Common Council of the City of Beckley has determined to permanently close, vacate, and discontinue the public right-of-way/alley described in the metes and bounds description attached hereto and as shown on the map attached hereto; and

3. The landowners of the abutting property do not object to the closing of said right-of-way/alley, and that no person owning real estate will be deprived of ingress thereto or egress therefrom if said right-of-way/alley is vacated and closed by the City of Beckley, and such portion is conveyed to the immediately adjacent property owners; and

4. Because of the foregoing findings, such right-of-way/alley is now incapable of being of any use and is no longer of any value to the general public, the citizens of Beckley, or the City of Beckley as a municipal corporation; and

5. That because of, and in conformity with, the foregoing findings and determinations, it is hereby declared that the above described right-of-way/alley is hereby abandoned, vacated, discontinued, and closed permanently as a public right-of-way, and from this date henceforth, it shall no longer be impressed with any public use, except as an easement for the City of Beckley and the Beckley

Mr. File then presented for second reading and public hearing an Ordinance re-zoning four parcels off Harper Road (Hooter's) from "B-1", Neighborhood Highway Business District, to "B-2", General Business District. Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS

BECKLEY, WEST VIRGINIA 25801

August 06, 2009

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 Advertising Manager for Beckley Newspapers, 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 6th day of August, 2009, and ending with the issue of the 6th day of August, 2009, that said annexed notice was published on the following dates:

08/06/09

and that the cost of publishing said annexed notice as aforesaid was $362.31

Signed Tara Meyer
Tara Meyer
Legal Advertising Manager
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
6th day of August, 2009

My commission expires March 27, 2011

Notary Public of Raleigh County, West Virginia

My commission expires March 27, 2011

COPY OF PUBLICATION

Public hearing for the following Ordinance will be held during the regular meetin
gust 11, 2009, in Council Chambers of Beckley City Hall. All interested parties are

AN ORDINANCE AMENDING THE CITY OF BECKLEY ZONING ORDINANCE OF 1
OF THE CITY OF BECKLEY AND THE ZONE MAP OF THE CITY OF BECKLEY, A
AMENDED, TO PROVIDE FOR THE RE-ZONING OF FOUR (4) PARCELS OFF HAR
54, PARCELS 33.0, 32.0, 31.1, AND 31.0, ALL WITHIN THE CITY OF BECKLEY F
FROM "B-1", NEIGHBORHOOD HIGHWAY BUSINESS DISTRICT, TO "B-2",

WHEREAS, the City of Beckley Planning Commission, during its regular meetin
ful public hearing on the Petition by Cornett Properties, owner of Hooter's, to re-z
shown on Tax Map 54, Parcels 33.0, 32.0, 31.1, and 31.0, which property is more
map and legal description, from "B-1", Neighborhood Highway Business District,

WHEREAS, at the conclusion of the public hearing held on May 5, 2009, the City
the following findings:

1. Planning Commission authority is found in West Virginia Code §8-A-2-11 and
5.
2. Public notice was published in the The Register-Herald on April 17, 2009, not
public hearing as required by West Virginia Code §59-3-2(b).
3. Special notice was sent by regular mail to the owners and residents within the
(10) days prior to the Public Hearing, as required by City of Beckley Code §15-I-1;
4. Cornett Properties has requested the re-zoning of Tax Map 54, Parcel 33.0 fro
ness District, to "B-2", General Business District, in order to apply for a Limited U
tionally permitted use in the "B-2" District.
5. The owners of three (3) adjacent parcels (Tax Map 54, Parcels 32.0, 31.1, and
ties be re-zoned from "B-1" to "B-2".
6. Approval of this zoning request will not harm any other property in the area
7. Approval will not change the land use characteristics, will not affect propert
crease traffic congestion.

WHEREAS, after due and careful consideration, the Planning Commission, on Ma
tion to recommend to Common Council an amendment to the Zoning Ordinance
to change the zoning classification from "B-1", Neighborhood Highway Busines
District. Common Council now accepts the report.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF

Section 1. That the Zoning Ordinance of the City of Beckley, 1971, the Compreh
the Zone Map of the City of Beckley, as amended, be amended to provide for the
Road (Tax Map 54, Parcels 33.0, 32.0, 31.1, and 31.0), including Hooter's and adj
Beckley, Raleigh County, West Virginia, said parcels of property being more speci
description identified as Exhibit "A" and attached hereto and made a part hereof
Business District, to "B-2", General Business District.

Section 2. That the Zoning Map of the City of Beckley, West Virginia, on file in
amended, is, and the same is hereby amended in accordance with Section 1 of th

Section 3. That any Ordinance or Ordinances heretofore passed by the Common
are in conflict with this Ordinance, are hereby repealed.

Section 4. This Ordinance shall become effective upon passage.

DESCRIPTION OF PARCELS 33.0, 32.0, 31.0 AND 31.

Beginning at a point, South
Section 4, South Beckle
ern right-of-way line of
thence, with said north
18, 2009, which is attach
more or less and as sho
thence, leaving said ce
thence, with said centa
in the centerline of said
thence, leaving said no
52° 46' E - 65.00 feet to a
thence, with said north
of-way line of a twelve (
2 (Worley, Terry L. and A
Beginning at a point, s
2, 3, & 9, Sec 4, South B
and place of beginning,
thence, leaving said ce
and the aforementioned
thence, with said centa
in the centerline of said
thence, leaving said no
(Worley, Terry L. and A
boundary of said Lot 1
southwest corner of Lot
thence, leaving said r
right-of-way line of a n
Beginning at a point, s

Apply in person Wednesday,
August 12, 2009 at 3:00 p.m.
at the
Academy of Careers and
Technology
390 Stanaford Road

MAY BE ELIGIBLE FOR
TRADE ACT BENEFITS
including
Job Search Assistance
Relocation Allowances,
Paid Training, and
Weekly Income Support Benefits

Hardwood Lumber at the
Jim C. Hamer Company
in Mt. Hope, West Virginia

engaged in the production of

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 Minter and seconded by Councilman Williams, the following Ordinance was unanimously approved by Council:

FIRST READING
7-14-09

SECOND READING
8-11-09

AN ORDINANCE AMENDING THE CITY OF BECKLEY ZONING ORDINANCE OF 1971 AND THE COMPREHENSIVE PLAN OF THE CITY OF BECKLEY AND THE ZONE MAP OF THE CITY OF BECKLEY, AS FROM TIME TO TIME HAS BEEN AMENDED, TO PROVIDE FOR THE RE-ZONING OF FOUR (4) PARCELS OFF HARPER ROAD AS SHOWN ON TAX MAP 54, PARCELS 33.0, 32.0, 31.1 AND 31.0, ALL WITHIN THE CITY OF BECKLEY, RALEIGH COUNTY, WEST VIRGINIA, FROM "B-1", NEIGHBORHOOD HIGHWAY BUSINESS DISTRICT, TO "B-2", GENERAL BUSINESS DISTRICT

WHEREAS, the City of Beckley Planning Commission, during its regular meeting held on May 5, 2009 conducted a lawful public hearing on the Petition by Cornett Properties, owner of Hooter's, to re-zone four (4) parcels off Harper Road as shown on Tax Map 54, Parcels 33.0, 32.0, 31.1, and 31.0, which property is more specifically described on the attached map and legal description, from "B-1", Neighborhood Highway Business District, to "B-2", General Business District.

WHEREAS, at the conclusion of the public hearing held on May 5, 2009, the City of Beckley Planning Commission made the following findings:

1. Planning Commission authority is found in West Virginia Code §8-A-2-11 and City of Beckley Code §15-I-15-3 and 15-5.

2. Public notice was published in the Beckley Register-Herald on April 17, 2009, not less than fifteen (15) days prior to the public hearing as required by West Virginia Code §59-3-2(b).

Next, Mr. File presented for second reading an Ordinance authorizing the acquisition and construction of improvements and extensions to the existing public storm water drainage system of the City of Beckley and the financing of the cost, not otherwise provided, thereof through the issuance by the City of Beckley of not more than $600,000 in aggregate principal amount of Storm Water Revenue Bonds, Series 2009 B-2 (West Virginia SRF Program/ARRA Green); providing for the rights and remedies of, and security for, the registered owners of such bonds; authorizing execution and delivery of all documents relating to the issuance of such bonds; approving, ratifying, and confirming ARRA Assistance Agreements relating to such bonds; authorizing the sale and providing for the terms and provisions of such bonds and adopting other provisions relating thereto. On a motion by Councilman Minter and seconded by Councilman Leftwich, the second reading of this proposed Ordinance was unanimously approved by Council. Councilman Minter wanted the minutes to reflect that these funds are a grant, and the City is not obligated financially.

Mr. File then presented for Council approval the first reading of an Ordinance re-zoning seven parcels in the North Vance Drive/Spring Street area from "B-1", Neighborhood Highway Business District, to "OR-1", Office-Residential Transitional District. On a motion by Councilman Minter and seconded by Councilman Williams, the first reading of this proposed Ordinance was unanimously approved by Council.

Lastly, Mr. File presented for Council approval the first reading of an Ordinance for the purchase of property located at 113 Graham Street for the Sanitary Board. On a motion by Councilman Minter and seconded by Councilman Leftwich, the first reading of this proposed Ordinance was unanimously approved by Council.

The Mayor read the following Proclamation for International Association of Fire Fighters Beckley Local #795 Fire Fighter Appreciation Month:

PROCLAMATION

WHEREAS, fighting fires is one of the most hazardous professions, requiring physical strength, stamina, extensive training, courage, and self-concern for the welfare of our citizens; and

WHEREAS, in addition to their daily service to communities, fire fighters throughout the State and across the nation have joined the Muscular Dystrophy Association for over 55 years in the fight against neuromuscular disease; and

WHEREAS, the International Association of Firefighters, Beckley Local # 795 collected $2,800 throughout the community with their 2008 Fill-the-Boot Campaign for MDA; and

WHEREAS, the Muscular Dystrophy Association is extremely grateful to the Beckley Local # 795 for their support and dedication; and

WHEREAS, the funds collected by the Beckley Local # 795 Fire Fighters assist MDA in providing medical services at local clinics and helps provide funding for summer camp, research grants, support groups, and public education seminars at no cost to local children and families; and

WHEREAS, in honor of the efforts of the Beckley Local # 795 Fire Fighters, the Muscular Dystrophy Association is sponsoring Beckley Fire Fighters Appreciation Month; and

WHEREAS, it is appropriate for all Beckley citizens to join the Muscular Dystrophy Association in this tribute to our fire fighters.

NOW, THEREFORE, I, Emmett S. Pugh III, Mayor of the City of Beckley, do here by proclaim the month of September 2009

INTERNATIONAL ASSOCIATION OF FIREFIGHTERS BECKLEY LOCAL # 795 FIRE FIGHTER APRECIATION MONTH

and commend the Beckley Fire Fighters for their efforts on behalf of the Muscular Dystrophy Association.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Beckley to be affixed this 11th day of August, 2009.

Emmett S. Pugh III

MAYOR
CITY OF BECKLEY

Under old business, Councilman Robertson asked about a pay raise for City employees. The Mayor explained that, at the present time, it is not feasible to give a pay raise to employees. This matter will be considered in the future.

Councilman Robertson asked Chief Deems if police officers have received diversity training. Chief Deems informed Council that every police officer has received diversity training. Mr. Bill Lang from the Federal Bureau of Prisons taught this class.

Councilman Robertson also asked what can be done about the loud music being played in vehicles. Chief Deems says it is hard to enforce unless the officer witnesses the violation. If this is witnessed, the officer can issue a citation.

Councilman Minter asked if the Police Department has a traffic control map. Chief Deems stated the Police Department does maintain an up-to-date file.

Councilman Leftwich asked about the request of Doris Miller of Mills Avenue to be annexed into City limits. Mr. File informed those present that the process has been started for this annexation, and he foresees no problems.

Councilman Leftwich asked Chief Deems about the speeding and parking problems Delores Kidd was having on Deegans Street. Chief Deems stated that officers have patrolled in this area and have witnessed no problems with speeding or parking violations.

Mr. Robinson reported that the Board of Public Works has demolished four houses this week - two on Smoot Avenue, one on Sour Street, and one on Hartley Avenue.

Councilman Robertson thanked Mr. Robinson for these demolitions.

Ms. Jeanette Hannah of 314 Russell Street came before Council complaining about the No Parking signs that have placed on Russell Street. These signs have been placed in the middle of her driveway. Mr. Robinson will check into this matter.

Mr. Larry Goins of 308 Massey Street also complained about loud music in vehicles.

With no further business to be addressed, the meeting was adjourned at 8:00 p.m. on a motion by Councilman Williams and seconded by Councilman Rappold.

I certify that the above is a true and accurate copy of the minutes of the Common Council of the City of Beckley at its regular meeting held on August 11, 2009.

9-8-09
Date

Emmett S. Pugh III - Mayor

A REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF BECKLEY CONVENED AT 7:30 P.M. JULY 28, 2009 IN COUNCIL CHAMBERS OF BECKLEY CITY HALL.

THOSE PRESENT: Mayor Emmett S. Pugh III; Council Members A. K. Minter, Jr., Ann Worley, Frank Williams, Mike Atterson, Lee Leftwich, Robert Rappold, and Cedric Robertson; Recorder-Treasurer Gary Sutphin; City Attorney William H. File III, and Secretary Linda Carr.

ALSO PRESENT: Fire Chief Kevin Taylor, Police Chief Tim Deems, Director of Housing and Community Development Manuel Cartelle, Director of Human Rights Commission Elmer Day, Director of Code Enforcement Bob Cannon, General Manager of the Sanitary Board Luke Richmond, and Street Commissioner Robert Robinson.

The Mayor called the meeting to order followed by a word of prayer by Councilman Williams and the Pledge of Allegiance to the flag.

Council dispensed with reading of the minutes of the previous meeting which had been made available to each member and approved the minutes as written on a motion by Councilman Rappold and seconded by Councilman Williams.

Mr. File presented for second reading and public hearing an Ordinance creating a "No Parking Zone" at the intersection of Russell and Lincoln Streets and rescinding the Ordinance adopted on May 26, 2009. This Ordinance is being presented again because the description and map provided with the prior Ordinance did not accurately reflect where the "No Parking Zone" would be located. Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS

BECKLEY, WEST VIRGINIA 25801

July 23, 2009

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 Advertising Manager for Beckley Newspapers, 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 23rd day of July, 2009, and ending with the issue of the 23rd day of July, 2009, that said annexed notice was published on the following dates:

07/23/09

and that the cost of publishing said annexed notice as aforesaid was $ 273.95

Signed Tara Meyer
Tara Meyer
Legal Advertising Manager
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
23rd day of July, 2009

My commission expires March 29, 2011

OFFICIAL SEAL
STATE OF WEST VIRGINIA
DIANA L. SLONE
BECKLEY, WV 25801
My commission expires March 29, 2011

Notary Public of Raleigh County,

COPY OF PUBLICATION

Public hearing for the following Ordinance will be held during the regular meeting of 28, 2009, in Council Chambers of Beckley City Hall. All interested parties are urged t

AN ORDINANCE TO PROVIDE FOR AN AMENDMENT TO THE TRAFFIC CONTRO TRAFFIC CONTROL FILE OF THE CITY OF BECKLEY TO CREATE A "NO PARKING OF RUSSELL AND LINCOLN STREETS, BECKLEY, WEST VIRGINIA AND RESCIND TITLE ADOPTED BY COMMON COUNCIL ON MAY 26,

WHEREAS, Chapter 14, Article III, of the Code of the City of Beckley, West Virginia, Traffic Control Map and Traffic Control File; and

WHEREAS, residents and property owners on Russell and Lincoln Streets have req City of Beckley to prohibit parking at the intersection of Russell and Lincoln Streets be drivers using this intersection and for safety concern; and

WHEREAS, Common Council adopted an Ordinance identified by the same title on accurate metes and bounds description of the portions of Russell and Lincoln Streets hibited; and

WHEREAS, it is the intent of this Ordinance to correct the metes and bounds descrip Lincoln Streets where street parking is to be prohibited; and

WHEREAS, it is now deemed necessary for the Common Council of the City of Be Map and Traffic Control File in the manner provided by 14-302 of the Code of the City

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF

That the Traffic Control Map - Parking Areas and Traffic Control File of the City of Be amended to provide for the establishment of a "No Parking Zone" on Russell Street Lincoln Streets and on Lincoln Street at the intersection of Russell and Lincoln Stre area subject to no parking is described in Exhibit "A" attached hereto and is shown o

It is further ordained that the erection of proper signs and markings giving notice th

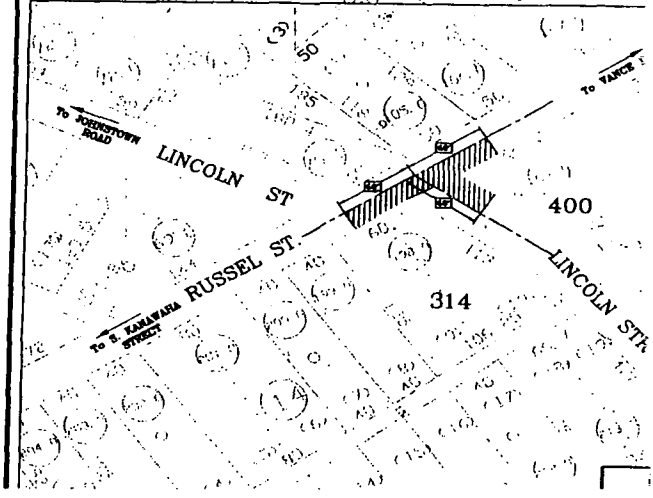
It is also further ordained that the Ordinance of the same title adopted by Common rescinded.

This Ordinance shall become effective upon passage.

REVISED

NO PARKING ZONE INTERSECTION OF RUSSELL AND LINCOI

Beginning at a point, said point being the intersection of the centerlines of Russell St ing Zone is designated 60 (sixty) feet southwest and 60 (sixty) feet northeast along the of Russell Street or the right lane going toward Vance Drive and also 60 (sixty) feet so the right-of-way of Lincoln Street or the left lane going toward Massey Street, as sho tached sketch entitled "No Parking Zone Intersection of Lincoln and Russell Street," da 12, 2009.



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 Williams and seconded by Councilman Rappold, the following Ordinance was unanimously approved by Council:

FIRST READING
7-14-09

SECOND READING
7-28-09

AN ORDINANCE TO PROVIDE FOR AN AMENDMENT TO THE TRAFFIC CONTROL MAP - PARKING AREAS AND TRAFFIC CONTROL FILE OF THE CITY OF BECKLEY TO CREATE A "NO PARKING ZONE" AT THE INTERSECTION OF RUSSELL AND LINCOLN STREETS, BECKLEY, WEST VIRGINIA AND RESCINDING THE ORDINANCE OF SAME TITLE ADOPTED BY COMMON COUNCIL ON MAY 26, 2009

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, residents and property owners on Russell and Lincoln Streets have requested the Common Council of the City of Beckley to prohibit parking at the intersection of Russell and Lincoln Streets because of the obstruction of view to drivers using this intersection and for safety concern; and

WHEREAS, Common Council adopted an Ordinance identified by the same title on May 26, 2009 which contained an inaccurate metes and bounds description of the portions of Russell and Lincoln Streets where street parking is to be prohibited; and

WHEREAS, it is the intent of this Ordinance to correct the metes and bounds description of the portions of Russell and Lincoln Streets where street parking is to be prohibited; 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:

Mr. File also presented for Council approval the first reading of an Ordinance closing, vacating, and discontinuing an unused right-of-way/alley off of Ann Street. On a motion by Councilwoman Worley and seconded by Councilman Rappold, the first reading of this proposed Ordinance was unanimously approved by Council.

Next, Mr. File presented for Council approval the first reading of an Ordinance authorizing the acquisition and construction of improvements and extensions to the existing public storm water drainage system of the City of Beckley and the financing of the cost, not otherwise provided, thereof through the issuance by the City of Beckley of not more than $600,000 in aggregate principal amount of Storm Water Revenue Bonds, Series 2009 B-2 (West Virginia SRF Program/ARRA Green); providing for the rights and remedies of, and security for, the registered owners of such bonds; authorizing execution and delivery of all documents relating to the issuance

of such bonds; approving, ratifying, and confirming ARRA Assistance Agreements relating to such bonds; authorizing the sale and providing for the terms and provisions of such bonds and adopting other provisions relating thereto. On a motion by Councilman Leftwich and seconded by Councilwoman Worley, the first reading of this proposed Ordinance was unanimously approved by Council.

Mr. File then presented for Council approval a Resolution authorizing a Right-of-Way Agreement between the City of Beckley and Cingular Wireless PCS, LLC. On a motion by Councilman Rappold and seconded by Councilman Williams, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, on July 26, 2005, the Common Council of the City of Beckley approved a Resolution authorizing the Mayor to enter into a Right-of-Way Agreement between the City of Beckley and Highland Cellular, LLC, in which the City granted to Highland Cellular, LLC the right to use a certain parcel of real estate in close proximity to the City's Police Shooting Range for the period of one (1) year ending July 31, 2006; and

WHEREAS, Common Council has granted previous requests by Highland Cellular, LLC for one-year extensions of the Right-of-Way Agreement; and

WHEREAS, New Cingular Wireless PCS, LLC, a Delaware limited liability company, successor in interest to Highland Cellular, LLC, is requesting a one (1) year extension of the Right-of-Way Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the Common Council hereby approves New Cingular Wireless PCS, LLC's request to extend the above described Right-of-Way Agreement for the period of one (1) year, said Right-of-Way Agreement to end on July 31, 2010. (A copy of the proposed extended Right-of-Way Agreement is attached hereto.)

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on the 28th day of July, 2009 on a motion by Councilman Robert Rappold and seconded by Councilman Frank Williams

Gary R. Sutphin – Recorder-Treasurer

Lastly, Mr. File presented for Council approval a Resolution authorizing the release of certain properties from the trust estate for the City of Beckley University Facilities Refunding Revenue Bonds, Series 2004. On a motion by Councilman Rappold and seconded by Councilman Atterson, the following Resolution was unanimously approved by Council:

CITY OF BECKLEY

University Facilities Refunding Revenue Bonds, Series 2004
(Mountain State University, Inc.)

RESOLUTION

A RESOLUTION AUTHORIZING THE RELEASE OF CERTAIN PARCELS OF REAL ESTATE SITUATE IN BECKLEY DISTRICT, RALEIGH COUNTY, WEST VIRGINIA FROM THE LIEN OF THAT CERTAIN DEED OF TRUST, ASSIGNMENT OF RENTS, FIXTURE FILING AND SECURITY AGREEMENT EFFECTIVE AS OF APRIL 15, 2004, BY AND AMONG THE CITY OF BECKLEY, MOUNTAIN STATE UNIVERSITY, INC. AND THE TRUSTEES NAMED THEREIN; AUTHORIZING THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS AND THE TAKING OF ALL OTHER ACTIONS RELATING TO SUCH RELEASE.

WHEREAS, pursuant to a bond ordinance (the "Ordinance") duly enacted by the Issuer on March 23, 2004, the Issuer has heretofore issued its University Facilities Refunding Revenue Bonds, Series 2004 (Mountain State University, Inc.) (the "Series 2004 Bonds"), the proceeds of which were used by Mountain State University, Inc. (the "University") to currently refund the Issuer's University Facilities Revenue Bonds, Series 2001 (Mountain State University, Inc.), the proceeds of which were used to finance the acquisition, construction and equipping of certain renovations, additions and improvements for various instructional and administrative buildings located on the campus of the University;

WHEREAS, capitalized terms used herein but not otherwise defined herein shall have the meanings set forth in the Ordinance;

WHEREAS, the Series 2004 Bonds are secured by a Deed of Trust, Assignment of Rents, Fixture Filing and Security Agreement (the "Deed of Trust"), by and between the Issuer, the University and the trustees named therein, granting a lien on the Facilities in favor of the Trustee;

Mr. Sutphin presented for Council approval a General Fund Budget Revision. On a motion by Councilman Rappold and seconded by Councilwoman Worley, the following General Fund Budget Revision was unanimously approved by Council:

LGSD BR 1180 (Rev. 2003)

Ora Ash, Director
West Virginia State Auditor's Office
200 West Main Street
Clarksburg, WV 26302

Phone: 627-2415 ext. 5114
Fax: 627-2417

Person To Contact Regarding Budget Revision:
Gary R. Sutphin
Phone: 304-256-1768
Fax: 304-256-1767

REQUEST FOR REVISION TO APPROVED BUDGET

Subject to approval of the state auditor, the governing body requests that the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists. (§ 11-8-26a)

City of Beckley
GOVERNMENTAL ENTITY

PO Box 2514
STREET OR P.O. BOX

Beckley, WV 25802-2514
CITY ZIP CODE

CONTROL NUMBER 2009-2010
FY 001
FUND 1
REV. NO. 1 of 3
PG. OF NO.

RECEIPTS: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	APPROVED AMOUNT	DEBIT (INCREASE)	CREDIT (DECREASE)	REVISED AMOUNT
299	Fund Balance	1,089,931	3,447,463		4,537,394

NET INCREASE/(DECREASE) Revenues 3,447,463

EXPENDITURES: (net each account category)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	APPROVED AMOUNT	DEBIT (DECREASE)	CREDIT (INCREASE)	REVISED AMOUNT
409	Mayor	128,815		9,350	138,165
411	Recorder-Treasurer	1,298,400		70,042	1,368,442
416	Police Judge	41,275		9,350	50,625
417	City Attorney	92,510		9,350	101,860
421	Housing	76,925		18,700	95,625
436	Code Enforcement	357,600		40,158	397,758
439	Data Processing	375,306		27,931	403,237

NET INCREASE/(DECREASE) Expenditures 3,447,463

APPROVED DATE: _____ BY: _____

POSTED: _____ BY: _____

APPROVED BY THE STATE AUDITOR

BY: _____
Local Government Services Division

AUTHORIZED SIGNATURE FOR GOVERNING BODY — ENTITY APPROVAL DATE

COUNTIES ONLY

TRANSFERR TO THE GENERAL FUND FROM SPECIAL FUNDS CREATED PURSUANT TO WEST VIRGINIA CODE §7-1-9, MUST BE ACCOMPANIED BY PRIOR WRITTEN APPROVAL FROM THE STATE AUDITOR

Under old business, the Mayor informed Council that the complaints of Mr. Dobson on South Fayette Street and Mr. Day on Caponiti Street have been addressed by the Sanitary Board.

Councilman Williams thanked the City for helping Eunice Jones with her project of having a worship service where book bags were given to the children.

Councilman Minter asked Councilman Williams if he has made any developments in a use for the East Park Pool. Councilman Williams is working on possible uses for this area.

Under new business, Councilwoman Worley thanked all those present for their thoughts and prayers during her husband's recent illness.

The Mayor announced that on August 4, 2009 at 12:00 noon in Council Chambers Ms. Sherry Wilkins of the Division of Environmental Protection will speak at the Storm Water Advisory Committee meeting and invited Council members to attend.

Councilman Robertson asked Chief Deems about problems with the new Mobile Data System the Police Department is now using. Chief Deems stated that the System is new, and the IT Department is working diligently to rectify these problems.

Councilman Rappold commended the City on the solvency of the Police and Fire Pension Funds.

Ms. Doris Miller came before Council asking if her mother's residence at 303 Mills Avenue can be annexed into City limits. The Mayor stated Mr. File is currently preparing the necessary paperwork for this annexation to take place.

With no further business to be addressed, the meeting was adjourned at 7:55 p.m. on a motion by Councilman Rappold and seconded by Councilwoman Worley.

I certify that the above is a true and accurate copy of the minutes of the Common Council of the City of Beckley at its regular meeting held on July 28, 2009.

9-8-09
Date

Emmett S. Pugh III - Mayor

THE CITY OF BECKLEY
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2008 A

MINUTES ON ADOPTION OF BOND AND NOTE
ORDINANCE AND SUPPLEMENTAL RESOLUTION

On this 27th day of May, 2008, the undersigned duly elected Recorder/Treasurer of The City of Beckley hereby certifies that the following is a true and correct excerpt of the minutes of a special meeting of the City Council:

*** *** ***

The City Council of The City of Beckley met in special session, pursuant to notice duly posted, on the 27th day of May, 2008, in Beckley, West Virginia, at the hour of 7:00 p.m.

PRESENT:	Emmett S. Pugh, III	-	Mayor
	Gary Sutphin	-	Recorder/Treasurer
	A. K. Minter, Jr.	-	Council Member
	Mike Atterson	-	Council Member
	Cedric Robertson	-	Council Member
	Frank Williams	-	Council Member
	Lee Leftwich	-	Council Member
	Robert Rappold	-	Council Member
ABSENT:	Ann Worley	-	Council Member

Emmett S. Pugh, III, Mayor, presided, and Gary Sutphin, acted as Recorder/Treasurer. The Mayor announced that a quorum of Council members was present and that the meeting was open for any business properly before it.

*** *** ***

Thereupon, the Mayor presented a proposed Bond and Note Ordinance in writing entitled:

AN ORDINANCE AUTHORIZING THE DESIGN, ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWERAGE SYSTEM OF THE CITY OF BECKLEY; AUTHORIZING

THE ISSUANCE OF NOT MORE THAN $9,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, IN ONE OR MORE SERIES AS DESIGNATED IN A SUPPLEMENTAL RESOLUTION, OF THE CITY OF BECKLEY, THE PROCEEDS OF WHICH, SHALL BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE CITY OF BECKLEY WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO PERMANENTLY FINANCE THE COST OF SUCH DESIGN, ACQUISITION AND CONSTRUCTION, TO FUND RESERVE ACCOUNTS FOR SUCH BONDS AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; AUTHORIZING THE ISSUANCE OF NOT MORE THAN $1,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM BOND ANTICIPATION NOTES, TO TEMPORARILY FINANCE A PORTION OF THE COST OF SUCH DESIGN, ACQUISITION AND CONSTRUCTION; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

and caused the same to be read and there was discussion. Upon motion duly made and seconded, it was unanimously ordered that said Bond and Note Ordinance be adopted and be in full force and effect on and from the date hereof.

Next, the Mayor presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE CITY OF BECKLEY SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2008 A; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; DESIGNATING THE NOTES AS BANK QUALIFIED; MAKING OTHER PROVISIONS AS TO THE NOTES; AND CREATING NOTES CONSTRUCTION TRUST FUND AND REBATE FUND

and caused the same to be read and there was discussion. Upon motion duly made and seconded, it was unanimously ordered that said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

*** *** ***

There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

Mayor

Recorder/Treasurer

CERTIFICATION

I hereby certify that the foregoing action of THE CITY OF BECKLEY remains in full force and effect and has not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature as of the date first written above.

Recorder/Treasurer

A REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF BECKLEY CONVENED AT 7:30 P.M. MAY 27, 2008 IN COUNCIL CHAMBERS OF BECKLEY CITY HALL.

THOSE PRESENT: Mayor Emmett S. Pugh III; Council Members A. K. Minter, Jr., Frank Williams, Mike Atterson, Lee Leftwich, Robert Rappold, and Cedric Robertson; Recorder-Treasurer Gary Sutphin; City Attorney William H. File III, and Secretary Linda Carr.

THOSE ABSENT: Councilwoman Ann Worley.

ALSO PRESENT: Fire Chief Kevin Taylor, Police Chief Tim Deems, Street Commissioner Robert Robinson, Director of Housing and Community Development Manuel Cartelle, Director of Human Rights Commission Elmer Day, Director of the IT Department, William Kelly, Director of Exhibition Mine Renda Morris, Director of Youth Museum Sandi Parker, General Manager of Sanitary Board Luke Richmond, and Chief of Code Enforcement Bob Cannon.

The Mayor called the meeting to order, and Councilman Frank Williams led those present in a word of prayer followed by the Pledge of Allegiance to the Flag.

Council dispensed with reading of the minutes of the previous meeting which had been made available to each member and approved the minutes as written on a motion by Councilman Rappold and seconded by Councilman Williams.

The Mayor announced this as the date advertised for a public hearing for a Small Cities Grant Application for the Red Brush/Piney Oaks Sewer Project. The public hearing was opened for comments. There being none, the public hearing was closed.

The Mayor also presented for Council approval a Resolution for the Small Cities Block Grant Application for the Red Brush/Piney Oaks Sewer Project. On a motion by Councilman Rappold and seconded by Councilman Leftwich, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, the City of Beckley wishes to re-submit an application to the State of West Virginia Housing and Urban Development Small Cities Block Grant Program to request funding for construction of the Red Brush/Piney Oaks Sewer Improvements Project; and

WHEREAS, the City of Beckley must give assurance that all Small Cities Block Grant Program Regulations related to grant administration, civil rights, and other applicable State and Federal laws will be followed; and

WHEREAS, the City of Beckley must designate an official representative to act on its behalf in connection with the application and execute all necessary Program documents.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that:

1. The City of Beckley authorized the re-submission of an application with the State of West Virginia Housing and Urban Development Small Cities Block Grant Program for funding for the construction of the Red Brush/ Piney Oaks Sewer Improvements Project; and

2. The City of Beckley will comply with all laws and regulations pertaining to the Program; and

3. Emmett S. Pugh III, Mayor of the City of Beckley, is designated as the authorized official to act in connection with the application.

Emmett S. Pugh III, Mayor

I, Gary R. Sutphin, Recorder-Treasurer of the City of Beckley, certify that the above is a true copy of a Resolution adopted by the Common Council of the City of Beckley at its regular meeting held on May 27, 2008. I further certify that a quorum of the Council Members was present and a majority of its members voted affirmatively for this Resolution.

Gary R. Sutphin - Recorder-Treasurer

Next, the Mayor stated that this is the date designated for a public hearing with reference to the Interim Financing for the Sanitary Board. Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS

BECKLEY, WEST VIRGINIA 25801

May 23, 2008

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 Advertising Manager for Beckley Newspapers, 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 & ABSTRACT
(Description of notice)

was duly published in said newspaper once a week for two successive weeks (Class 2), commencing with the issue of the 16th day of May, 2008, and ending with the issue of the 23rd day of May, 2008, that said annexed notice was published on the following dates:

05/16/08,05/23/08 and that the cost of publishing said annexed notice as aforesaid was $195.51

Signed Tara Meyer
Tara Meyer
Legal Advertising Manager
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
23rd day of May, 2008

My commission expires March 27, 2011

Notary Public of Raleigh County, West Virginia

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
DIANA L. SLOANE
BECKLEY NEWSPAPERS
P. O. BOX 2369
BECKLEY, WV 25802
My commission expires March 27, 2011

COPY OF PUBLICATION

CITY OF BECKLEY, WEST VIRGINIA

NOTICE OF PUBLIC HEARING AND ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on April 22, 2008, the Common Council of the City of Beckley, West Virginia (the "City") adopted an ordinance which, among other things:

1. Authorized the design, acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the City's existing sewerage system (the "System"), the temporary financing of such costs thereof through the issuance of not more than $1,500,000 in aggregate principal amount of Sewerage System Bond Anticipation Notes (the "Notes"), and the permanent financing of such costs thereof through the issuance of not more than $9,000,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more series (the "Bonds").

2. Directed that the Notes and the Bonds be issued in such principal amounts, bear interest at such rate or rates, not exceeding the then legal maximum rate, mature on such dates and in such amounts and redeemable, in whole or in part, as prescribed in a supplemental resolution.

3. Directed the continuation of the revenue fund and the disposition of the System revenues; provided for the payment of operating expenses of the System and debt service on the Bonds; directed the creation of a sinking fund and a reserve account for the Bonds and continuation of the renewal and replacement fund; and directed the creation of a bond construction trust fund and the disbursement of Bond proceeds.

4. Provided that the Bonds shall not be or constitute a corporate indebtedness of the City within the meaning of any statutory or

The public hearing was opened for comments. There being none, either for or against, the public hearing was closed.

Councilman Rappold recommended to Council that the bid for the Mobile Data System be awarded to Vision 911 which was in the form of a motion, seconded by Councilman Williams. Council unanimously approved this bid award.

The Mayor presented the name of J. T. Scott for appointment to the Policemen's Civil Service Commission to replace Jim Davis who passed away recently. Mr. Scott's terms will expire June 30, 2012. On a motion by Councilman Rappold and seconded by Councilman Atterson, the appointment of Mr. Scott was unanimously approved by Council.

Mr. File presented for Council approval a Supplemental Resolution for the Red Brush/Piney Oaks Project for the Sanitary Board providing as to the principal amount, date, maturity date, interest rate, payment schedule, sale price, and other terms of the City of Beckley Sewerage System Bond Anticipation Notes, Series 2008A; designating a registrar, paying agent, and depository bank; designating the bonds as bank qualified; making other provisions as to the bonds; and creating notes construction trust fund and rebate fund. On a motion by Councilman Rappold and seconded by Councilman Leftwich, the following Supplemental Resolution was unanimously approved by Council:

CITY OF BECKLEY
SEWERAGE SYSTEM BOND ANTICIPATION NOTES,
SERIES 2008 A

2.3

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE CITY OF BECKLEY SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2008 A; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; DESIGNATING THE BONDS AS BANK QUALIFIED; MAKING OTHER PROVISIONS AS TO THE BONDS; AND CREATING NOTES CONSTRUCTION TRUST FUND AND REBATE FUND.

WHEREAS, the Council (the "Governing Body") of the City of Beckley (the "Issuer") has duly and officially passed a Bond and Note Ordinance on May 27, 2008, effective May 27, 2008 (the "Ordinance"), entitled:

AN ORDINANCE AUTHORIZING THE DESIGN, ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWERAGE SYSTEM OF THE CITY OF BECKLEY; AUTHORIZING THE ISSUANCE OF NOT MORE THAN $9,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, IN ONE OR MORE SERIES AS DESIGNATED IN A SUPPLEMENTAL RESOLUTION, OF THE CITY OF BECKLEY, THE PROCEEDS OF WHICH, SHALL BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE CITY OF BECKLEY WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO PERMANENTLY FINANCE THE COST OF SUCH DESIGN, ACQUISITION AND CONSTRUCTION, TO FUND RESERVE ACCOUNTS FOR SUCH BONDS AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; AUTHORIZING THE

Deleted: 1
End of Section

Mayor Pugh presented for Council approval a Resolution approving a Taser Policy for the Police Department Policies and Procedures. On a motion by Councilman Rappold and seconded by Councilman Atterson, Council unanimously approved the following Resolution:

RESOLUTION

WHEREAS, the Chief of the Beckley Police Department has requested the Common Council of the City of Beckley to approve Beckley Police Department Policies and Procedures Policy Number 2008-002 regarding the use of Taser X-26/M-26 Electronic Control Device by sworn Beckley Police Officers; and

WHEREAS, the City of Beckley Personnel Committee has reviewed the proposed policy regarding the use of the Taser as a less lethal weapon and recommends that Common Council approve the proposed policy.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the Beckley Police Department Policies and Procedures be amended to include Policy Number 2008-002, Subject: Taser X-26/M-26 Electronic Control Device, a copy of which is attached hereto. This policy is hereby approved effective immediately.

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on May 27, 2008 on a motion by Councilman Robert Rappold and seconded by Councilman Mike Atterson.

Gary R. Simphin – Recorder-Treasurer

Next, the Mayor presented for Council approval a Resolution for Paramount Development Corporation for B&O Tax Rebates for public infrastructure improvements for the Walgreens Project. On a motion by Councilman Rappold and seconded by Councilman Williams, the following Resolution was unanimously approved by Council:

RESOLUTION

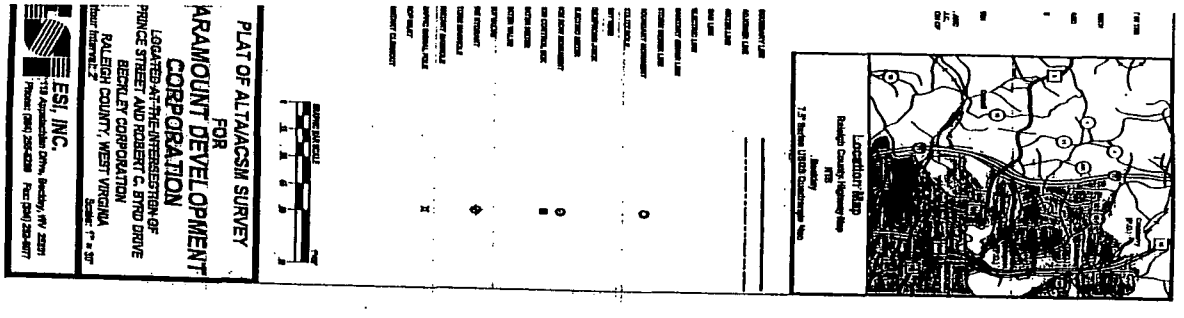
WHEREAS, the City of Beckley has determined that it is essential to the economic and social welfare of Beckley that the City promote the economic community by assuring opportunities for development and sound and stable commercial growth; and

WHEREAS, the City of Beckley has reached a Development Agreement with Paramount Development Corporation for the furtherance of public use and public interest in providing infrastructural improvements regarding the development of property located at the intersection of Prince Street and Robert C. Byrd Drive in the City of Beckley, Raleigh County, West Virginia.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the Mayor is authorized to enter into the attached Development Agreement with Paramount Development Corporation.

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on May 27, 2008 on a motion by Councilman Robert Rappold and seconded by Councilman Frank Williams.

Gary R. Sutphin – Recorder-Treasurer



The Mayor presented for Council approval a Resolution for a $50,000 grant for the YMCA to purchase bleachers at the Soccer Complex. On a motion by Councilman Rappold and seconded by Councilman Robertson, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, the Beckley-Raleigh County YMCA has been awarded a grant through the West Virginia Development Office in the amount of $50,000; and

WHEREAS, these grant monies will be used for the purchase of bleachers at the Soccer Complex; and

WHEREAS, the City of Beckley is the conduit for the funding.

NOW, THEREFORE BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the Mayor is hereby authorized to sign the attached grant application on behalf of the City of Beckley.

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on May 27, 2008 on a motion by Councilman Robert Rappold and seconded by Councilman Cedric Robertson.

Gary R. Sutphin – Recorder-Treasurer

The Mayor then presented for Council approval a Resolution for a $5,000 grant for the YMCA After School Program. On a motion by Councilman Rappold and seconded by Councilman Williams, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, the Beckley-Raleigh County YMCA has been awarded a grant through the West Virginia Development Office in the amount of $5,000; and

WHEREAS, these grant monies will be used for the purchase of classroom materials for the After School Program; and

WHEREAS, the City of Beckley is the conduit for the funding.

NOW, THEREFORE BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the Mayor is hereby authorized to sign the attached grant application on behalf of the City of Beckley.

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on May 27, 2008 on a motion by Councilman Robert Rappold and seconded by Councilman Frank Williams.

Gary R. Sutphin – Recorder-Treasurer

Next, the Mayor presented for Council approval a Resolution for a $9,000 grant for the Youth Museum for the purchase of extra storage facilities and the renovation of a breakroom. On a motion by Councilman Rappold and seconded by Councilman Leftwich, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, theYouth Museum of Southern West Virginia has been awarded a grant through the West Virginia Development Office in the amount of $9,000; and

WHEREAS, these grant monies will be used for the purchase of extra storage facilities and the renovation of a breakroom; and

WHEREAS, the City of Beckley is the conduit for the funding.

NOW, THEREFORE BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the Mayor is hereby authorized to sign the attached grant application on behalf of the City of Beckley.

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on May 27, 2008 on a motion by Councilman Robert Rappold and seconded by Councilman Lee Leftwich.

Gary R. Sulphin – Recorder-Treasurer

The Mayor also presented for Council approval a Resolution for a $5,000 grant for Forward Southern West Virginia for a feasibility study for the construction of a Grand Lodge on the New River Gorge. On a motion by Councilman Rappold and seconded by Councilman Leftwich, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, Forward Southern West Virginia has been awarded a grant through the West Virginia Development Office in the amount of $5,000; and

WHEREAS, these grant monies will be used for a feasibility study for the construction of a Grand Lodge on the New River Gorge; and

WHEREAS, the City of Beckley is the conduit for the funding.

NOW, THEREFORE BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the Mayor is hereby authorized to sign the attached grant application on behalf of the City of Beckley.

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on May 27, 2008 on a motion by Councilman Robert Rappold and seconded by Councilman Lee Leftwich.

Gary R. Sutphin – Recorder-Treasurer

Lastly, the Mayor presented for Council approval a funding request from the Beckley-Raleigh County Convention Center in the amount of $17,500 for repairing water lines at the facility. On a motion by Councilman Rappold and seconded by Councilman Leftwich, the funding request was unanimously approved by Council.

Under new business, Chief Deems presented Council Members with the 2007 Annual Report for the Police Department.

Chief Deems also informed those present that a Red Light Awareness Campaign will begin June 1, 2008 in hopes of decreasing the number of red light violations in the City.

The Mayor informed those present that the new Exhibition Mine Interpretive Center will open on June 30, 2008.

Councilman Leftwich asked for an update on the Greyhound Bus situation. The Mayor informed those present that he has not talked with Greyhound officials for awhile. He is not sure if bus service has begun in the downtown area yet or not.

Ms. Carol Jones of 413 Larew Avenue came before Council with a complaint against her neighbor who has erected an 8-foot fence that obstructs her view. The Mayor informed Ms. Jones that her neighbor has followed all requirements, and there is nothing that can be done as far as having this fence removed.

Ms. Janice Durgan of 117 South Meadows Street thanked the City for demolition of a dilapidated structure at 114 South Meadows Street.

Ms. Saphrania Spradley of 1731½ South Fayette Street asked what can be done about a neighbor near her residence who dumps trash out near her home. She also asked about a pool of water that stands on Dock Street. Mr. Cannon will check into these matters and take the appropriate action.

Mr. Michael Pannell asked the status of the Pet Ordinance. The Mayor informed Mr. Pannell that action on this possible Ordinance had been tabled by the Planning Commission to allow them to investigate this matter further.

Several residents appeared before Council in opposition to the proposed crematorium at Melton Mortuary on Harper Road. These residents feel there are health issues to be considered in this matter.

Ms. Pat Williams asked if there is a "pooper scooper" ordinance in effect in the City. The Mayor informed those present that there is no such ordinance in effect.

Mr. Terrence Weeks of 208 Cawley Street came before Council asking about the possibility of the structure at 207 Cawley Street being demolished. Mr. Cannon reported that this house is on the list for demolition.

With no further business to be addressed, the meeting was adjourned at 8:35 p.m. on a motion by Councilman Rappold and seconded by Councilman Minter.

I certify that the above is a true and accurate copy of the minutes of the Common Council of the City of Beckley at its regular meeting held on May 27, 2008.

9-8-09
Date

Emmett S. Pugh III - Mayor

MAYOR

RECORDER-TREASURER

A REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF BECKLEY CONVENED AT 7:30 P.M. APRIL 22, 2008 IN COUNCIL CHAMBERS OF BECKLEY CITY HALL.

THOSE PRESENT: Mayor Emmett S. Pugh III; Council Members A. K. Minter, Jr., Ann Worley, Frank Williams, Mike Atterson, Lee Leftwich, Robert Rappold, and Cedric Robertson; Recorder-Treasurer Gary Sutphin; City Attorney William H. File III, and Secretary Linda Carr.

ALSO PRESENT: Captain Billie Trump on behalf of Fire Chief Kevin Taylor, Police Chief Tim Deems, Street Commissioner Robert Robinson, Director of Housing and Community Development Manuel Cartelle, Director of Human Rights Commission Elmer Day, William Kelly, Director of the IT Department, and Chief of Code Enforcement Bob Cannon.

The Mayor called the meeting to order, and General Manager of the Sanitary Board Luke Richmond led those present in a word of prayer followed by the Pledge of Allegiance to the Flag.

Council dispensed with reading of the minutes of the regular meeting of April 8, 2008 which had been made available to each member and approved the minutes as written on a motion by Councilman Rappold and seconded by Councilman Atterson.

Council also dispensed with reading of the minutes of the special levy meeting held on April 15, 2008 and adopted the minutes as written on a motion by Councilman Rappold and seconded by Councilman Leftwich.

The Mayor presented a community service award plaque to several students of the Appalachian Bible College student body for their efforts in removing trash from the Rail Trail and New River Park on Saturday, April 19, 2008.

Mr. Sutphin recommended the bid for the underwriter for the $1,000,000 Sanitary Board interim financing loan be awarded to Chase Bank at an interest rate of 2.48% as recommended by David Kirby, the underwriter for this project. On a motion by Councilman Rappold and seconded by Councilwoman Worley, this bid award was unanimously approved by Council.

Mr. File presented for second reading and public hearing an Ordinance authorizing the design, acquisition, and construction of certain extensions, additions, betterments, and improvements to the existing sewerage system of the City of Beckley; authorizing the issuance of not more than $9,000,000 in aggregate principal amount of Sewerage System Revenue Bonds in one or more series as designated in a supplemental resolution of the City of Beckley, the proceeds of which shall be used, along with other funds and monies of, or available to, the City of Beckley which may be expended for such purposes, to permanently finance the cost of such design, acquisition, and construction, to fund reserve accounts for such bonds and to pay other costs in connection therewith authorizing the issuance of not more than $1,500,000 in aggregate amount of Sewerage System Bond Anticipation Notes, to temporarily finance a portion of the cost of such design, acquisition, and construction; providing for the rights and remedies of, and security for, the registered owners of such bonds and notes, and adopting other provisions related thereto. Affidavit of Publication is hereinafter incorporated:

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS

BECKLEY, WEST VIRGINIA 25801

April 18, 2008

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 Advertising Manager for Beckley Newspapers, 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 two successive weeks (Class 2), commencing with the issue of the 11th day of April, 2008, and ending with the issue of the 18th day of April, 2008, that said annexed notice was published on the following dates: 04/11/08,04/18/08 and that the cost of publishing said annexed notice as aforesaid was $ 74.22

Signed Tara Meyer
Tara Meyer
Legal Advertising Manager
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
18th day of April, 2008

My commission expires March 27, 2011

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
DIANA L. STONE
BECKLEY NEWSPAPERS
BECKLEY, WV 25802
My commission expires March 27, 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 Common Council on Tuesday, April 22, 2008, in Council Chambers of Beckley City Hall. All interested parties are urged to attend.

An Ordinance authorizing the design, acquisition, and construction of certain extensions, additions, betterments, and improvements to the existing sewerage system of the City of Beckley; authorizing the issuance of not more than $9,000,000 in aggregate principal amount of Sewerage System Revenue Bonds in one or more series as designated in a supplemental resolution of the City of Beckley, the proceeds of which shall be used, along with other funds and monies of, or available to, the City of Beckley which may be lawfully expended for such purposes, to permanently finance the cost of such design, acquisition, and construction, to fund reserve accounts for such bonds and to pay other cost in connection therewith authorizing the issuance of not more than $1,500,000 in aggregate principal amount of Sewerage System Bond Anticipation Notes, to temporarily finance a portion of the cost of such design, acquisition, and construction; providing for the rights and remedies of, and security for, the registered owners of such bonds and notes; and adopting other provisions related thereto.
4-18-FRI-2-RH; LG 6089

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 Rappold and seconded by Councilman Leftwich, the following Ordinance was unanimously approved by Council:

Under old business, Councilman Williams thanked Mr. Robinson and Mr. Cannon for the demolition of dilapidated structures in East Park.

The Mayor informed Council that the traffic signalization project has begun as well as the Spring Cleanup which began April 21, 2008.

Councilwoman Worley commended the Board of Public Works on the renovation of the concession stand at New River Park Pool.

Mr. Larry Goins of 308 Massey Street came before Council stating that the problems in his neighborhood have not improved. Mr. Goins stated that drug dealing, trash problems, and parking problems are still continuing in his neighborhood. The Mayor stated that the City has worked diligently to rectify these problems and will continue to do so.

Ms. Sharon Bradley came before Council complaining about a residence at 317 Broadway Avenue with trash piled everywhere. Mr. Cannon informed Ms. Bradley that the resident has been put on notice to clean up this area. If nothing is done by the end of the week, the City will remove this trash and charge her for the trash removal and court costs.

Mr. Rickey Dillard of 212 Russell Street had a complaint against a neighbor who he states has at least 20 dogs that run loose and create a mess in his yard. This matter will be investigated by Mr. Cannon.

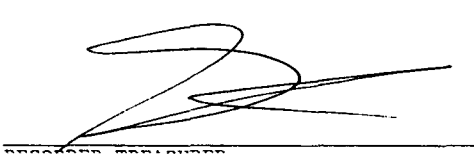
The Mayor informed Council that the next Council meeting with be May 27, 2008 as May 13 is Election Day.

With no further business to be addressed, the meeting was adjourned at 7:59 p.m. on a motion by Councilman Rappold and seconded by Councilman Minter.

I certify that the above is a true and accurate copy of the minutes of the Common Council of the City of Beckley at its regular meeting held on April 22, 2008.

9-8-09
Date

Emmett S. Pugh III - Mayor



A REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF BECKLEY CONVENED AT 7:30 P.M. APRIL 8, 2008 IN COUNCIL CHAMBERS OF BECKLEY CITY HALL.

THOSE PRESENT: Mayor Emmett S. Pugh III; Council Members Ann Worley, Frank Williams, Mike Atterson, Lee Leftwich, Robert Rappold, and Cedric Robertson; Recorder-Treasurer Gary Sutphin; City Attorney William H. File III, and Secretary Linda Carr.

THOSE ABSENT: Councilman A. K. Minter, Jr.

ALSO PRESENT: Fire Chief Kevin Taylor, Police Chief Tim Deems, Terry Worley on behalf of Street Commissioner Robert Robinson, Director of Housing and Community Development Manuel Cartelle, Director of Human Rights Commission Elmer Day, Director of Exhibition Mine Renda Morris, and Chief of Code Enforcement Bob Cannon.

The Mayor called the meeting to order, and Councilman Leftwich led those present in a word of prayer followed by the Pledge of Allegiance to the Flag.

Council dispensed with reading of the minutes of the previous meeting which had been made available to each member and approved the minutes as written on a motion by Councilman Rappold and seconded by Councilman Williams.

The Mayor presented a plaque to Ron Kidd and the Woodrow Wilson High School Basketball Team honoring them on their recent 16th State Championship.

Mr. File presented for first reading an Ordinance authorizing the design, acquisition, and construction of certain extensions, additions, betterments, and improvements to the existing sewerage system of the City of Beckley; authorizing the issuance of not more than $9,000,000 in aggregate principal amount of Sewerage System Revenue Bonds in one or more series as designated in a supplemental resolution of the City of Beckley, the proceeds of which shall be used, along with other funds and monies of, or available to, the City of Beckley which may be expended for such purposes, to permanently finance the cost of such design, acquisition, and construction, to fund reserve accounts for such bonds and to pay other costs in connection therewith authorizing the issuance of not more than $1,500,000 in aggregate amount of Sewerage System Bond Anticipation Notes, to temporarily finance a portion of the cost of such design, acquisition, and construction; providing for the rights and remedies of, and security for, the registered owners of such bonds and notes, and adopting other provisions related thereto. On a motion by Councilman Rappold and seconded by Councilwoman Worley, the first reading of this proposed Ordinance was unanimously approved by Council.

The Mayor presented for Council approval a Resolution for a $30,000 grant for the Beckley Art Group to be used to expand the facility. On a motion by Councilman Rappold and seconded by Councilman Leftwich, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, the Beckley Art Group has received a grant for $30,000 through the local Economic Development Assistance Grant Program; and

WHEREAS, these funds will be used to expand the facility; and

WHEREAS, the City of Beckley will be the conduit for these funds.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the Mayor is hereby authorized to execute the attached contract with the West Virginia Development Office.

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on April 8, 2008 on a motion by _____ _____ and seconded by _____.

_____
Gary R. Sutphin - Recorder-Treasurer

Next, the Mayor presented for Council approval a Resolution for a $25,000 grant for the City to purchase playground equipment for the Beckley City Park. On a motion by Councilman Rappold and seconded by Councilman Atterson, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, the West Virginia Development Office has recently approved a grant in the amount of $25,000 to purchase playground equipment for the Beckley City Park; and

WHEREAS, the City of Beckley has been asked to enter into the attached Agreement with the State of West Virginia Development Office to facilitate the awarding of the Grant.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the Mayor is hereby authorized to enter into the attached Agreement with the State of West Virginia Development Office.

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on April 8, 2008 on a motion by Councilman Robert Rappold and seconded by Councilman Mike Atterson.

Gary R. Sutphin – Recorder-Treasurer

Lastly, the Mayor presented for Council approval a Resolution for an $8,000 grant which monies are to be used to purchase equipment for the Beckley Renaissance Kids Classic Festival. On a motion by Councilman Rappold and seconded by Councilman Williams, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, the West Virginia Development Office has recently approved a grant in the amount of $8,000 to purchase equipment for the Beckley Renaissance Kids Classic Festival; and

WHEREAS, the City of Beckley has been asked to enter into the attached Agreement with the State of West Virginia Development Office to facilitate the awarding of the Grant.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BECKLEY that the Mayor is hereby authorized to enter into the attached Agreement with the State of West Virginia Development Office.

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on April 8, 2008 on a motion by Councilman Robert Rappold and seconded by Councilman Frank Williams.

Gary R. Sutphin – Recorder-Treasurer

The Mayor also presented for Council approval a Resolution in support of the 4-C Economic Development Authority. On a motion by Councilman Rappold and seconded by Councilwoman Worley, the following Resolution was unanimously approved by Council:

RESOLUTION

WHEREAS, the City of Beckley is interested in the economic well-being of its citizens and the community-at-large; and

WHEREAS, the Common Council of the City of Beckley is prepared to support appropriate efforts within the community to become totally prepared to promote economic development; and

WHEREAS, the West Virginia Chamber of Commerce, the West Virginia Economic Development Council, and the West Virginia Development Office are offering a program that is specially designed to help West Virginia communities become better prepared for industrial and related economic development; and

WHEREAS, BE IT RESOLVED by the Common Council of the City of Beckley that our City wishes to participate in the Certified Development Community Program, and that the leadership of this community fully realizes this Program requires dedicated effort; and

BE IT FURTHER RESOLVED that, by making entry into this Program, we are pledging our honest effort to become designated as a "Certified" community; and

BE IT FURTHER RESOLVED that the Program requires the existence or formation of a Local Economic Development Organization, and this governing body designates the 4-C Economic Development Authority as representing our City for the purpose of participation in this Program.

This Resolution is duly adopted by the Common Council of the City of Beckley at its regular meeting held on April 8, 2008 on a motion by Councilman Robert Rappold and seconded by Councilwoman Ann Worley.

Gary R. Sutphin, Recorder-Treasurer

The Mayor presented the following Proclamation for Fair Housing Month:

P R O C L A M A T I O N

WHEREAS, Title VIII of the Civil Rights Acts of 1968; along with the Fair Housing Amendment Act of 1988, provides for, within constitutional limitation fair housing throughout the United States; and is intended, not only to provide greater housing choices for racial minorities, but also to pursue the goal of "truly integrated and balanced living patterns;" thereby, having at least two principal purposes - to provide equal access to housing for members of protected classes and to promote residential diversity; and

WHEREAS, the 40th anniversary of the National Fair Housing law; during the month of April, provides an opportunity for all citizens to recommit themselves to opening doors to fair housing; reacquainting themselves with the responsibilities and rights that are theirs under the law; and,

WHEREAS, it is the policy of the City of Beckley to provide for fair housing throughout the City, to all it's 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, 2008, 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 8th day of April, 2008.

Emmett S. Pugh III

MAYOR

CITY OF BECKLEY

Under old business, Councilman Robertson asked about the status of abandoned houses on F Street that need to be demolished. Mr. Cannon reported that the City Code Enforcement Department has done its part, and asbestos inspections have to be completed before demolition can take place.

Councilman Leftwich also asked again about demolition of the house at the intersection of Truman Avenue and South Fayette Street. Mr. Cannon reported that the property owner has obtained a permit, and the asbestos inspection has been done. Demolition is proceeding slowly by the property owner who has the right to complete the demolition.

Councilman Robertson also asked about a house on South Meadows Street that needs demolished. Mr. Cannon reported that the order for demolition has been issued by the Court, but asbestos testing has not been completed.

Under new business, the Mayor commended Chief Taylor on the 2007 Annual Report provided to Council members. He also informed Council that there will a special Council meeting on Tuesday, April 15, 2008, beginning at 8:00 a.m. to lay the levy rates for Fiscal Year 2009. He reminded those present of the Spring Cleanup that will begin April 21, 2008. The Mayor also informed those present that the dedication ceremony for the new Exhibition Mine Visitor's Center will take place June 30, 2008 at 1:00 p.m. The Mayor stated he felt the recent BIG meeting held on April 3, 2008 was very well attended and informative.

Ms. Elsie McCray came before Council with a complaint about a garbage problem at 209 Ninth Street. Mr. Cannon stated he will have the Police Judge sign a criminal complaint concerning this matter on Wednesday, April 9, 2008, to begin the proceedings to correct this problem.

A lady came before Council complaining about Mountaineer Gas and the manner in which they read their meters. The Mayor explained that the City has no jurisdiction over the gas company and referred this lady to the Public Service Commission.

Amother lady also came before Council asking why the house at 114 South Meadows Street has not been demolished. The Mayor stated that this house is on the City's list for demolition in the near future.

With no further business to be addressed, the meeting was adjourned at 8:08 p.m. on a motion by Councilman Rappold and seconded by Councilwoman Worley.

I certify that the above is a true and accurate copy of the minutes of the Common Council of the City of Beckley at its regular meeting held on April 8, 2008.

9-8-09
Date

Emmett S. Pugh III - Mayor

MAYOR

RECORDER-TREASURER

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS

BECKLEY, WEST VIRGINIA 25801

May 23, 2008

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 Advertising Manager for Beckley Newspapers, 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 & ABSTRACT
(Description of notice)

was duly published in said newspaper once a week for two successive weeks (Class 2), commencing with the issue of the 16th day of May, 2008, and ending with the issue of the 23rd day of May, 2008, that said annexed notice was published on the following dates:

05/16/08,05/23/08

and that the cost of publishing said annexed notice as aforesaid was $ 185.51

Signed Tara Meyer
Tara Meyer
Legal Advertising Manager
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
23rd day of May, 2008

My commission expires March 27, 2011

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
DIANA L. STONE
BECKLEY NEWSPAPERS
P.O. BOX 2398
BECKLEY, WV 25802
My commission expires March 27, 2011

Notary Public of Raleigh County, West Virginia

COPY OF PUBLICATION

CITY OF BECKLEY, WEST VIRGINIA

NOTICE OF PUBLIC HEARING AND ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on April 22, 2008, the Common Council of the City of Beckley, West Virginia (the "City") adopted an ordinance which, among other things:

1. Authorized the design, acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the City's existing sewerage system (the "System"), the temporary financing of such costs thereof through the issuance of not more than $1,500,000 in aggregate principal amount of Sewerage System Bond Anticipation Notes (the "Notes"), and the permanent financing of such costs thereof through the issuance of not more than $9,000,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more series (the "Bonds").

2. Directed that the Notes and the Bonds be issued in such principal amounts, bear interest at such rate or rates, not exceeding the then legal maximum rate, mature on such dates and in such amounts and redeemable, in whole or in part, as prescribed in a supplemental resolution.

3. Directed the continuation of the revenue fund and the disposition of the System revenues; provided for the payment of operating expenses of the System and debt service on the Bonds; directed the creation of a sinking fund and a reserve account for the Bonds and continuation of the renewal and replacement fund; and directed the creation of a bond construction trust fund and the disbursement of Bond proceeds.

4. Provided that the Bonds shall not be or constitute a corporate indebtedness of the City within the meaning of any statutory or constitutional limitations, but shall be payable solely from the Net Revenues of the System; pledged the Net Revenues of the System to payment of the Bonds and established the rights of the registered owners of the Bonds to such Net Revenues; provided certain conditions for the issuance of additional bonds.

5. Provided that the Notes shall not be or constitute a corporate indebtedness of the City within the meaning of any statutory or constitutional limitations, but shall be payable solely from the proceeds of the Bonds to be sold to the Water Development Authority on behalf of the SRF Program or any other purchaser.

6. Provided for insurance coverage on the Project and the System, enforcement of collection of fees, rates or other charges for the System and other covenants in favor of the registered owners; established the events of default and the remedies of the registered owners; and provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The City contemplates the issuance of the Notes and the Bonds described in, and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of the City of Beckley at a regular meeting on Tuesday, May 27, 2008, at 7:30 p.m., prevailing time, in the Council Chambers, City Hall, Beckley, West Virginia, and present protests and be heard as to whether the above-described Ordinance shall be put into effect.

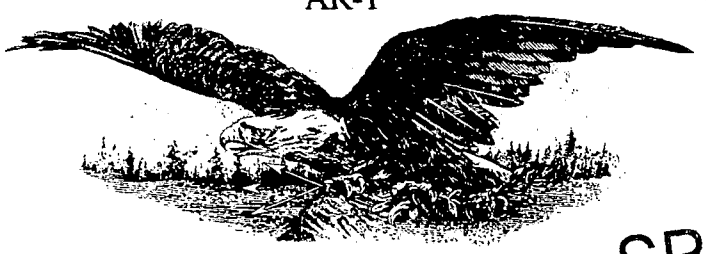
A certified copy of the Ordinance as adopted by the Council of City on April 22, 2008, is on file with the City Recorder for review by interested persons at the City Hall during regular office hours, to-wit: 8:30 a.m. to 4:30 p.m., Monday through Friday.

/s/ Gary Sutphin
City Recorder of the
City of Beckley,
West Virginia

5-23-FRI-2-RH; LG 6784

NUMBER

AR-1



SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM)

No. AR-1 $679,316

KNOW ALL MEN BY THESE PRESENTS: The 18th day of September, 2009, that the CITY OF BECKLEY, a municipal corporation organized and existing under the laws of the State of West Virginia in Raleigh 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 SIX HUNDRED SEVENTY-NINE THOUSAND THREE HUNDRED SIXTEEN DOLLARS ($679,316), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2010, to and including March 1, 2030, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The SRF Administrative Fee of 1.0% (as defined in the hereinafter described Bond Legislation) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2010, as set forth on said EXHIBIT B.

This Bond shall bear interest at the rate of 2% per annum. Principal and interest installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and among the Issuer, the Authority and the DEP, dated September 18, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and installation of improvements and extensions to the existing public sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public sewerage system of the Issuer, the Physical Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on May 27, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on September 8, 2009 (the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS (EXCEPT FOR DESIGNATED TRUST FUNDS AND ACCOUNTS), WITH THE ISSUER'S: (1) SEWER REVENUE BONDS, SERIES 1998 A, DATED MARCH 17, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $11,000,000; (2) SEWER REVENUE BONDS, SERIES 2004 A, DATED SEPTEMBER 28, 2004, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $9,039,000; (3) SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2005, DATED JULY 20, 2005, IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,405,000; (THE "PRIOR BONDS"); (4) SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1 (WEST VIRGINIA CWSRF/ARRA), DATED JULY 21, 2009, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $396,484 (THE "SERIES 2009 B-1 BONDS"); AND (5) SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA CWSRF PROGRAM), DATED JULY 21, 2009, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,035,783 (THE "SERIES 2009 C BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the holders of the Series 2009 B-1 Bonds, the Series 2009 C Bonds and the Prior Bonds and from monies in the reserve account created under the Bond Legislation for the Bonds (the "Series 2009 A Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or

statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2009 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Series 2009 B-1 Bonds, the Series 2009 C Bonds and the Prior Bonds. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the 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 United Bank, Inc., 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 Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

[Remainder of Page Intentionally Blank]

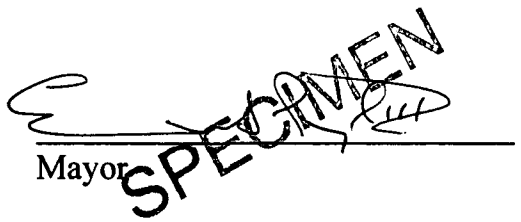
IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond,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

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

[Remainder of Page Intentionally Blank]

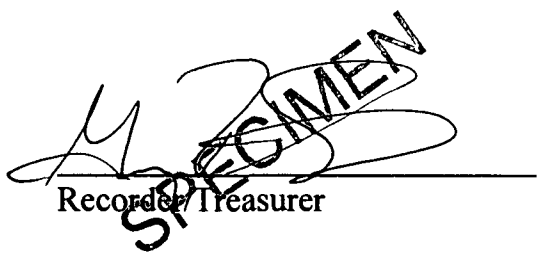
IN WITNESS WHEREOF, the CITY OF BECKLEY has caused this Bond to be signed by its Mayor and its corporate seal, if any, to be hereunto affixed and attested by its Recorder/Treasurer, and has caused this Bond to be dated the day and year first written above.

[SEAL]



Mayor

ATTEST:



Recorder/Treasurer

NUMBER

AR-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: September 18, 2009.

UNITED BANK, INC.,
as Registrar

SPECIMEN

Authorized Officer

NUMBER

AR-1

EXHIBIT A

RECORD OF ADVANCES SPECIMEN

	AMOUNT	DATE	AMOUNT	DATE
(1) $	613,404	09/18/09	(19) $	
(2) $			(20) $	
(3) $			(21) $	
(4) $			(22) $	
(5) $			(23) $	
(6) $			(24) $	
(7) $			(25) $	
(8) $			(26) $	
(9) $			(27) $	
(10) $			(28) $	
(11) $			(29) $	
(12) $			(30) $	
(13) $			(31) $	
(14) $			(32) $	
(15) $			(33) $	
(16) $			(34) $	
(17) $			(35) $	
(18) $			(36) $	

TOTAL $_____

NUMBER

AR-1

EXHIBIT B

SPECIMEN

DEBT SERVICE SCHEDULE

City of Beckley

2% Interest Rate, 1% Administrative Fee

20 Years

Dated Date	9/18/09		
Delivery Date	9/18/09		
			Series A

Period Ending	Principal	Coupon	Interest	Debt Service
9/18/09				
6/1/10	6,927	2.000%	3,396.58	10,323.58
9/1/10	6,962	2.000%	3,361.95	10,323.95
12/1/10	6,997	2.000%	3,327.14	10,324.14
3/1/11	7,031	2.000%	3,292.15	10,323.15
6/1/11	7,067	2.000%	3,257.00	10,324.00
9/1/11	7,102	2.000%	3,221.66	10,323.66
12/1/11	7,137	2.000%	3,186.15	10,323.15
3/1/12	7,173	2.000%	3,150.47	10,323.47
6/1/12	7,209	2.000%	3,114.60	10,323.60
9/1/12	7,245	2.000%	3,078.56	10,323.56
12/1/12	7,281	2.000%	3,042.33	10,323.33
3/1/13	7,318	2.000%	3,005.93	10,323.93
6/1/13	7,354	2.000%	2,969.34	10,323.34
9/1/13	7,391	2.000%	2,932.57	10,323.57
12/1/13	7,428	2.000%	2,895.61	10,323.61
3/1/14	7,465	2.000%	2,858.47	10,323.47
6/1/14	7,502	2.000%	2,821.15	10,323.15
9/1/14	7,540	2.000%	2,783.64	10,323.64
12/1/14	7,578	2.000%	2,745.94	10,323.94
3/1/15	7,616	2.000%	2,708.05	10,324.05
6/1/15	7,654	2.000%	2,669.97	10,323.97
9/1/15	7,692	2.000%	2,631.70	10,323.70
12/1/15	7,730	2.000%	2,593.24	10,323.24
3/1/16	7,769	2.000%	2,554.59	10,323.59
6/1/16	7,808	2.000%	2,515.74	10,323.74
9/1/16	7,847	2.000%	2,476.70	10,323.70
12/1/16	7,886	2.000%	2,437.47	10,323.47
3/1/17	7,926	2.000%	2,398.04	10,324.04
6/1/17	7,965	2.000%	2,358.41	10,323.41
9/1/17	8,005	2.000%	2,318.58	10,323.58
12/1/17	8,045	2.000%	2,278.56	10,323.56
3/1/18	8,085	2.000%	2,238.33	10,323.33
6/1/18	8,126	2.000%	2,197.91	10,323.91
9/1/18	8,166	2.000%	2,157.28	10,323.28
12/1/18	8,207	2.000%	2,116.45	10,323.45
3/1/19	8,248	2.000%	2,075.41	10,323.41
6/1/19	8,289	2.000%	2,034.17	10,323.17

NUMBER

AR-1

SPECIMEN

City of Beckley

2% Interest Rate, 1% Administrative Fee

20 Years

Period Ending	Principal	Coupon	Interest		Debt Service
9/1/19	8,331	2.000%	1,992.73		10,323.73
12/1/19	8,373	2.000%	1,951.07		10,324.07
3/1/20	8,414	2.000%	1,909.21		10,323.21
6/1/20	8,457	2.000%	1,867.14		10,324.14
9/1/20	8,499	2.000%	1,824.85		10,323.85
12/1/20	8,541	2.000%	1,782.36		10,323.36
3/1/21	8,584	2.000%	1,739.65		10,323.65
6/1/21	8,627	2.000%	1,696.73		10,323.73
9/1/21	8,670	2.000%	1,653.60		10,323.60
12/1/21	8,713	2.000%	1,610.25		10,323.25
3/1/22	8,757	2.000%	1,566.68		10,323.68
6/1/22	8,801	2.000%	1,522.90		10,323.90
9/1/22	8,845	2.000%	1,478.89		10,323.89
12/1/22	8,889	2.000%	1,434.67		10,323.67
3/1/23	8,933	2.000%	1,390.22		10,323.22
6/1/23	8,978	2.000%	1,345.56		10,323.56
9/1/23	9,023	2.000%	1,300.67		10,323.67
12/1/23	9,068	2.000%	1,255.55		10,323.55
3/1/24	9,113	2.000%	1,210.21		10,323.21
6/1/24	9,159	2.000%	1,164.65		10,323.65
9/1/24	9,205	2.000%	1,118.85		10,323.85
12/1/24	9,251	2.000%	1,072.83		10,323.83
3/1/25	9,297	2.000%	1,026.57		10,323.57
6/1/25	9,344	2.000%	980.09		10,324.09
9/1/25	9,390	2.000%	933.37		10,323.37
12/1/25	9,437	2.000%	886.42		10,323.42
3/1/26	9,484	2.000%	839.23		10,323.23
6/1/26	9,532	2.000%	791.81		10,323.81
9/1/26	9,579	2.000%	744.15		10,323.15
12/1/26	9,627	2.000%	696.26		10,323.26
3/1/27	9,676	2.000%	648.12		10,324.12
6/1/27	9,724	2.000%	599.74		10,323.74
9/1/27	9,773	2.000%	551.12		10,324.12
12/1/27	9,821	2.000%	502.26		10,323.26
3/1/28	9,870	2.000%	453.15		10,323.15
6/1/28	9,920	2.000%	403.80		10,323.80
9/1/28	9,969	2.000%	354.20		10,323.20
12/1/28	10,019	2.000%	304.36		10,323.36
3/1/29	10,069	2.000%	254.26		10,323.26
6/1/29	10,120	2.000%	203.92		10,323.92
9/1/29	10,170	2.000%	153.32		10,323.32
12/1/29	10,221	2.000%	102.47		10,323.47
3/1/30	10,272	2.000%	51.36		10,323.36
	679,316		**146,571.09**	*	**825,887.09**

*Plus a quarterly Administrative fee of $916.07 for a total Administrative expense of $73,285.06

NUMBER

AR-1

(Form of)

ASSIGNMENT

SPECIMEN

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: _____, _____.

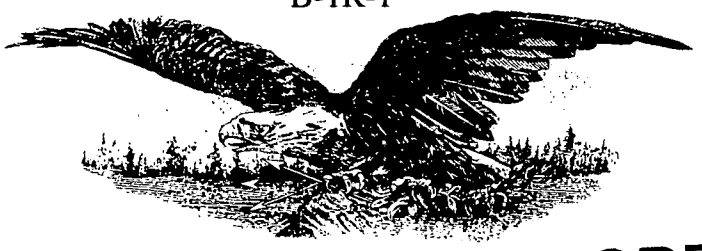
_____

In the presence of:

_____

NUMBER

B-1R-1



SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF/ARRA)

No. B-1R-1 $396,484

KNOW ALL MEN BY THESE PRESENTS: The 18th of September, 2009, that the CITY OF BECKLEY, a municipal corporation organized and existing under the laws of the State of West Virginia in Raleigh 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 THREE HUNDRED NINETY-SIX THOUSAND FOUR HUNDRED EIGHTY-FOUR DOLLARS ($396,484), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly forgiveness of principal on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, to and including December 1, 2020, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and among the Issuer, the Authority and the DEP, dated September 18, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and installation of improvements and extensions to the existing public sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public sewerage system of the Issuer, the Physical Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on May 27, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on September 8, 2009 (the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS (EXCEPT FOR DESIGNATED TRUST FUNDS AND ACCOUNTS), WITH THE ISSUER'S: (1) SEWER REVENUE BONDS, SERIES 1998 A, DATED MARCH 17, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $11,000,000; (2) SEWER REVENUE BONDS, SERIES 2004 A, DATED SEPTEMBER 28, 2004, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $9,039,000; (3) SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2005, DATED JULY 20, 2005, IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,405,000; (THE "PRIOR BONDS"); (4) SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA CWSRF PROGRAM), DATED JULY 21, 2009, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $679,316 (THE "SERIES 2009 A BONDS"); AND (5) SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA CWSRF PROGRAM), DATED JULY 21, 2009, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,035,783 (THE "SERIES 2009 C BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the holders of the Series 2009 A Bonds, the Series 2009 C Bonds and the Prior Bonds, from any monies in the reserve account authorized to be created under the Bond Legislation for the Bonds (the "Series 2009 B-1 Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any

constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2009 B-1 Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Series 2009 A Bonds, Series 2009 C Bonds and the Prior Bonds. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the 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 United Bank, Inc., 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 Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Physical 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 monies, until so applied, in favor of the registered owner of this Bond.

[Remainder of Page Intentionally Blank]

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

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

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the CITY OF BECKLEY has caused this Bond to be signed by its Mayor and its corporate seal, if any, to be hereunto affixed and attested by its Recorder/Treasurer, and has caused this Bond to be dated the day and year first written above.

[SEAL]

Mayor SPECIMEN

ATTEST:

Recorder/Treasurer SPECIMEN

NUMBER

B-1R-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 B-1 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: September 18, 2009.

UNITED BANK, INC.,
as Registrar

SPECIMEN

Authorized Officer

NUMBER

B-1R-1

EXHIBIT A

SPECIMEN

RECORD OF ADVANCES

	AMOUNT	DATE	AMOUNT	DATE
(1) $	78,450	09/18/09	(19) $	
(2) $			(20) $	
(3) $			(21) $	
(4) $			(22) $	
(5) $			(23) $	
(6) $			(24) $	
(7) $			(25) $	
(8) $			(26) $	
(9) $			(27) $	
(10) $			(28) $	
(11) $			(29) $	
(12) $			(30) $	
(13) $			(31) $	
(14) $			(32) $	
(15) $			(33) $	
(16) $			(34) $	
(17) $			(35) $	
(18) $			(36) $	

TOTAL $_____

NUMBER

B-1R-1

EXHIBIT B

SPECIMEN

DEBT SERVICE SCHEDULE

	City of Beckley				
	10 Years				
		Dated Date	9/18/09		
		Delivery Date	9/18/09		
				Series B-1 Bond	
	Period Ending	Debt Service		Principal Forgiveness	
	9/18/09				
	3/1/11	-9,913		-9,913	
	6/1/11	-9,913		-9,913	
	9/1/11	-9,913		-9,913	
	12/1/11	-9,912		-9,912	
	3/1/12	-9,912		-9,912	
	6/1/12	-9,912		-9,912	
	9/1/12	-9,912		-9,912	
	12/1/12	-9,912		-9,912	
	3/1/13	-9,912		-9,912	
	6/1/13	-9,912		-9,912	
	9/1/13	-9,912		-9,912	
	12/1/13	-9,912		-9,912	
	3/1/14	-9,912		-9,912	
	6/1/14	-9,912		-9,912	
	9/1/14	-9,912		-9,912	
	12/1/14	-9,912		-9,912	
	3/1/15	-9,912		-9,912	
	6/1/15	-9,912		-9,912	
	9/1/15	-9,912		-9,912	
	12/1/15	-9,912		-9,912	
	3/1/16	-9,912		-9,912	
	6/1/16	-9,912		-9,912	
	9/1/16	-9,912		-9,912	
	12/1/16	-9,912		-9,912	
	3/1/17	-9,912		-9,912	
	6/1/17	-9,912		-9,912	
	9/1/17	-9,912		-9,912	
	12/1/17	-9,912		-9,912	
	3/1/18	-9,912		-9,912	
	6/1/18	-9,912		-9,912	
	9/1/18	-9,912		-9,912	
	12/1/18	-9,912		-9,912	
	3/1/19	-9,912		-9,912	
	6/1/19	-9,912		-9,912	
	9/1/19	-9,912		-9,912	
	12/1/19	-9,912		-9,912	
	3/1/20	-9,912		-9,912	
	6/1/20	-9,912		-9,912	
	9/1/20	-9,912		-9,912	
	12/1/20	-9,913		-9,913	
		-396,484		-396,484	

B-1R-1

SPECIMEN

(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:

_____

NUMBER

B-2R-1

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BECKLEY
STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA SRF PROGRAM/ARRA GREEN)

No. B-2R-1 $296,952

KNOW ALL MEN BY THESE PRESENTS: The 18th of September, 2009, that THE CITY OF BECKLEY, a municipal corporation organized and existing under the laws of the State of West Virginia in Raleigh County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of TWO HUNDRED NINETY-SIX THOUSAND NINE HUNDRED FIFTY-TWO DOLLARS ($296,952), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly forgiveness of principal on March 1, June 1, September 1 and December I of each year, commencing June 1, 2010 to and including March 1, 2020, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and among the Issuer, the Authority and the DEP, dated September 18, 2009.

SPECIMEN

This Bond is issued (i) to pay the costs of acquisition and construction of improvements and extensions to the existing public stormwater 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 public stormwater system of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on August 25, 2009, and a Supplemental Resolution duly adopted by the Issuer on September 8, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THERE ARE NO OUTSTANDING OBLIGATIONS OF THE ISSUER PAYABLE FROM THE NET REVENUES OF THE SYSTEM.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System and from monies in the reserve account created under the Bond Legislation for the Bonds (the "Series 2009 B-2 Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2009 B-2 Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with or junior to the Bonds; provided however, that so long as there exists in the Series 2009 B-2 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with or junior to the Bonds, an amount at least equal to the requirement therefor, such

SPECIMEN

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. The Issuer shall make the payments into the Renewal and Replacement Fun as required by the Bond Legislation.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of United Bank, Inc., 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 Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

[Remainder of Page Intentionally Blank]

SPECIMEN

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

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

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, THE CITY OF BECKLEY 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 the day and year first written above.

[SEAL]

SPECIMEN

Mayor

ATTEST:

SPECIMEN

Recorder

NUMBER

B-2R-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 B-2 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: September 18, 2009.

UNITED BANK, INC.,
as Registrar

SPECIMEN

Authorized Officer

NUMBER

B-2R-1

EXHIBIT A

SPECIMEN

RECORD OF ADVANCES

	AMOUNT	DATE	AMOUNT	DATE
(1) $	52,016	09/18/09	(19) $	
(2) $			(20) $	
(3) $			(21) $	
(4) $			(22) $	
(5) $			(23) $	
(6) $			(24) $	
(7) $			(25) $	
(8) $			(26) $	
(9) $			(27) $	
(10) $			(28) $	
(11) $			(29) $	
(12) $			(30) $	
(13) $			(31) $	
(14) $			(32) $	
(15) $			(33) $	
(16) $			(34) $	
(17) $			(35) $	
(18) $			(36) $	

TOTAL $_____

B-2R-1

SPECIMEN

EXHIBIT B
DEBT SERVICE SCHEDULE

	City of Beckley		
	10 Years		
	Dated Date		9/18/09
	Delivery Date		9/18/09
			Series B-2
Period Ending	**Debt Service**		**Principal Forgiveness**
9/18/09			
6/1/10	-7,424		-7,424
9/1/10	-7,424		-7,424
12/1/10	-7,424		-7,424
3/1/11	-7,424		-7,424
6/1/11	-7,424		-7,424
9/1/11	-7,424		-7,424
12/1/11	-7,424		-7,424
3/1/12	-7,424		-7,424
6/1/12	-7,424		-7,424
9/1/12	-7,424		-7,424
12/1/12	-7,424		-7,424
3/1/13	-7,424		-7,424
6/1/13	-7,424		-7,424
9/1/13	-7,424		-7,424
12/1/13	-7,424		-7,424
3/1/14	-7,424		-7,424
6/1/14	-7,424		-7,424
9/1/14	-7,424		-7,424
12/1/14	-7,424		-7,424
3/1/15	-7,424		-7,424
6/1/15	-7,424		-7,424
9/1/15	-7,424		-7,424
12/1/15	-7,424		-7,424
3/1/16	-7,424		-7,424
6/1/16	-7,424		-7,424
9/1/16	-7,424		-7,424
12/1/16	-7,424		-7,424
3/1/17	-7,424		-7,424
6/1/17	-7,424		-7,424
9/1/17	-7,424		-7,424
12/1/17	-7,424		-7,424
3/1/18	-7,423		-7,423
6/1/18	-7,423		-7,423
9/1/18	-7,423		-7,423
12/1/18	-7,423		-7,423
3/1/19	-7,423		-7,423
6/1/19	-7,423		-7,423
9/1/19	-7,423		-7,423
12/1/19	-7,423		-7,423
3/1/20	-7,424		-7,424
	-296,952		**-296,952**

B-2R-1

(Form of) SPECIMEN

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

NUMBER

CR-1

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

No. CR-1 $1,035,783

KNOW ALL MEN BY THESE PRESENTS: The 18th day of September, 2009, that CITY OF BECKLEY, a municipal corporation organized and existing under the laws of the State of West Virginia in Raleigh County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of ONE MILLION THIRTY-FIVE THOUSAND SEVEN HUNDRED EIGHTY-THREE DOLLARS ($1,035,783), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, to and including September 1, 2049, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The SRF Administrative Fee of .25% (as defined in the hereinafter described Bond Legislation) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, as set forth on said EXHIBIT B.

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

This Bond is issued (i) to pay a portion of the costs of acquisition and installation of improvements and extensions to the existing public sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public sewerage system of the Issuer, the Physical Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of

the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on May 27, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on September 8, 2009 (the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS (EXCEPT FOR DESIGNATED TRUST FUNDS AND ACCOUNTS), WITH THE ISSUER'S: (1) SEWER REVENUE BONDS, SERIES 1998 A, DATED MARCH 17, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $11,000,000; (2) SEWER REVENUE BONDS, SERIES 2004 A, DATED SEPTEMBER 28, 2004, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $9,039,000; (3) SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2005, DATED JULY 20, 2005, IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,405,000; (THE "PRIOR BONDS"); (4) SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA CWSRF PROGRAM), DATED JULY 21, 2009, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $679,316 (THE "SERIES 2009 A BONDS"); AND (5) SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1 (WEST VIRGINIA CWSRF/ARRA), DATED JULY 21, 2009, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $396,484 (THE "SERIES 2009 B-1 BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the holders of the Series 2009 A Bonds, the Series 2009 B-1 Bonds and the Prior Bonds and from monies in the reserve account created under the Bond Legislation for the Bonds (the "Series 2009 C Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the monies in the Series 2009 C Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the

reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Series 2009 A Bonds, the Series 2009 B-1 Bonds and the Prior Bonds. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the 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 United Bank, Inc., 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 Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

[Remainder of Page Intentionally Blank]

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

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

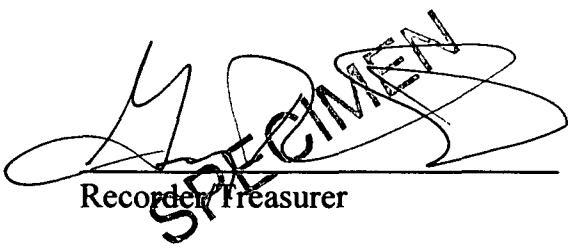
[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the CITY OF BECKLEY has caused this Bond to be signed by its Mayor and its corporate seal, if any, to be hereunto affixed and attested by its Recorder/Treasurer, and has caused this Bond to be dated the day and year first written above.

[SEAL]

Mayor

ATTEST:



Recorder/Treasurer

NUMBER

CR-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 C 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: September 18, 2009.

UNITED BANK, INC.,
as Registrar

SPECIMEN

Authorized Officer

NUMBER

CR-1

EXHIBIT A

SPECIMEN

RECORD OF ADVANCES

	AMOUNT	DATE	AMOUNT	DATE
(1)	$ 166,427	09/18/09	(19) $	
(2)	$		(20) $	
(3)	$		(21) $	
(4)	$		(22) $	
(5)	$		(23) $	
(6)	$		(24) $	
(7)	$		(25) $	
(8)	$		(26) $	
(9)	$		(27) $	
(10)	$		(28) $	
(11)	$		(29) $	
(12)	$		(30) $	
(13)	$		(31) $	
(14)	$		(32) $	
(15)	$		(33) $	
(16)	$		(34) $	
(17)	$		(35) $	
(18)	$		(36) $	

TOTAL $_____

NUMBER

CR-1

SPECIMEN

EXHIBIT B
DEBT SERVICE SCHEDULE

City of Beckley

0% Interest Rate, 1% Administrative Fee

40 Years from Closing Date

Dated Date	9/18/09		
Delivery Date	9/18/09		
			Series C Bond
Period Ending	Principal	Interest	Debt Service
9/18/09			
3/1/11	6,683		6,683
6/1/11	6,683		6,683
9/1/11	6,683		6,683
12/1/11	6,683		6,683
3/1/12	6,683		6,683
6/1/12	6,683		6,683
9/1/12	6,683		6,683
12/1/12	6,683		6,683
3/1/13	6,683		6,683
6/1/13	6,683		6,683
9/1/13	6,683		6,683
12/1/13	6,683		6,683
3/1/14	6,683		6,683
6/1/14	6,683		6,683
9/1/14	6,683		6,683
12/1/14	6,683		6,683
3/1/15	6,683		6,683
6/1/15	6,683		6,683
9/1/15	6,683		6,683
12/1/15	6,683		6,683
3/1/16	6,683		6,683
6/1/16	6,683		6,683
9/1/16	6,683		6,683
12/1/16	6,683		6,683
3/1/17	6,683		6,683
6/1/17	6,683		6,683
9/1/17	6,683		6,683
12/1/17	6,683		6,683
3/1/18	6,683		6,683
6/1/18	6,683		6,683
9/1/18	6,683		6,683
12/1/18	6,683		6,683
3/1/19	6,683		6,683
6/1/19	6,683		6,683

NUMBER

CR-1

SPECIMEN

City of Beckley

0% Interest Rate, 1% Administrative Fee

40 Years from Closing Date

Period Ending	Principal	Interest	Debt Service
9/1/29	6,682		6,682
12/1/29	6,682		6,682
3/1/30	6,682		6,682
6/1/30	6,682		6,682
9/1/30	6,682		6,682
12/1/30	6,682		6,682
3/1/31	6,682		6,682
6/1/31	6,682		6,682
9/1/31	6,682		6,682
12/1/31	6,682		6,682
3/1/32	6,682		6,682
6/1/32	6,682		6,682
9/1/32	6,682		6,682
12/1/32	6,682		6,682
3/1/33	6,682		6,682
6/1/33	6,682		6,682
9/1/33	6,682		6,682
12/1/33	6,682		6,682
3/1/34	6,682		6,682
6/1/34	6,682		6,682
9/1/34	6,682		6,682
12/1/34	6,682		6,682
3/1/35	6,682		6,682
6/1/35	6,682		6,682
9/1/35	6,682		6,682
12/1/35	6,682		6,682
3/1/36	6,682		6,682
6/1/36	6,682		6,682
9/1/36	6,682		6,682
12/1/36	6,682		6,682
3/1/37	6,682		6,682
6/1/37	6,682		6,682
9/1/37	6,682		6,682
12/1/37	6,682		6,682
3/1/38	6,682		6,682
6/1/38	6,682		6,682
9/1/38	6,682		6,682
12/1/38	6,682		6,682
3/1/39	6,682		6,682
6/1/39	6,682		6,682
9/1/39	6,682		6,682

NUMBER

CR-1

SPECIMEN

City of Beckley

0% Interest Rate, 1% Administrative Fee

40 Years from Closing Date

Period Ending	Principal	Interest	Debt Service
12/1/39	6,682		6,682
3/1/40	6,682		6,682
6/1/40	6,682		6,682
9/1/40	6,682		6,682
12/1/40	6,682		6,682
3/1/41	6,682		6,682
6/1/41	6,682		6,682
9/1/41	6,682		6,682
12/1/41	6,682		6,682
3/1/42	6,682		6,682
6/1/42	6,682		6,682
9/1/42	6,682		6,682
12/1/42	6,682		6,682
3/1/43	6,682		6,682
6/1/43	6,682		6,682
9/1/43	6,682		6,682
12/1/43	6,682		6,682
3/1/44	6,682		6,682
6/1/44	6,682		6,682
9/1/44	6,682		6,682
12/1/44	6,682		6,682
3/1/45	6,682		6,682
6/1/45	6,682		6,682
9/1/45	6,682		6,682
12/1/45	6,682		6,682
3/1/46	6,682		6,682
6/1/46	6,682		6,682
9/1/46	6,682		6,682
12/1/46	6,682		6,682
3/1/47	6,682		6,682
6/1/47	6,682		6,682
9/1/47	6,682		6,682
12/1/47	6,682		6,682
3/1/48	6,682		6,682
6/1/48	6,682		6,682
9/1/48	6,682		6,682
12/1/48	6,682		6,682
3/1/49	6,682		6,682
6/1/49	6,682		6,682
9/1/49	6,683		6,683
	1,035,783	*	**1,035,783**

*Plus a quarterly Administrative fee of $1,303.04 for a total Administrative fee of $201,971.20

NUMBER

CR-1

(Form of) SPECIMEN

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

BOND REGISTER 2.14(A)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM),

Bond Number	Principal Amount	Date of Bond
No. AR-1	$679,316	September 18, 2009

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

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

Signature of Registrar:

United Bank, Inc.

Authorized Representative

BOND REGISTER 2.14(B)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF PROGRAM/ARRA)

Bond Number	Principal Amount	Date of Bond
No. B-1R-1	$396,484	September 18, 2009

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

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

Signature of Registrar:

United Bank, Inc.

Authorized Representative

BOND REGISTER 2.14(C)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BECKLEY
STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA CWSRF PROGRAM/ARRA GREEN)

Bond Number	Principal Amount	Date of Bond
No. B-2R-1	$296,952	September 18, 2009

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

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

Signature of Registrar:

United Bank, Inc.

Authorized Representative

BOND REGISTER 2.14(D)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

Bond Number	Principal Amount	Date of Bond
No. CR-1	$1,035,783	September 18, 2009

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

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

Signature of Registrar:

United Bank, Inc.

Authorized Representative

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

THE CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF PROGRAM/ARRA),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

CONSENT TO ISSUANCE OF PARITY BONDS

In reliance upon a certificate of Smith, Cochran & Hicks, PLLC, independent certified public accountants and Jackson Kelly PLLC, bond counsel, 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 Bonds, Series 2009 A (West Virginia CWSRF Program), in the original aggregate principal amount of $679,316, the Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF Program/ARRA), in the original aggregate principal amount of $396,484 and the Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program), in the original aggregate principal amount of $1,035,783 (collectively the "Series 2009 Bonds") by the City of Beckley (the "Issuer"), under the terms of the Bond and Note Ordinance authorizing the Series 2009 Bonds, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Sewer Revenue Bonds, Series 1998 A and Sewer Revenue Bonds, Series 2004 A (collectively, the "Prior Bonds").

WITNESS my signature on this 18th day of September, 2009.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Carol A. Cummings
Authorized Representative

{C1581693.1}

180 Association Drive, Charleston, WV 25311-1217
phone (304) 558-3612 / fax (304) 558-0299
www.wvwda.org

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 1995 Series Bonds will be refunded with the proceeds of the Series 2005 Bonds, together with funds of the City made available by the refunding of the 1995 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 the Notes, 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 REFUNDING 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:

_____

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.

(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 – _____, 2005

Passed on Second Reading - _____, 2005

Passed on Final Reading Following Public Hearing - _____, 2005

_____
Mayor

_____
City Recorder

CERTIFICATION

The undersigned, [_____], **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 ___, 2005; and passed on Final Reading following Public Hearing held on April ___, 2005.

DATED this _____ day of _____, 2005.

_____

[_____]

CITY OF BECKLEY

BOND ORDINANCE

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, IMPROVEMENTS AND BETTERMENTS TO THE PUBLIC SEWERAGE SYSTEM FACILITIES OF THE CITY OF BECKLEY AND THE FINANCING OF THE COSTS THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $11,000,000.00 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A, PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO THE SERIES 2004 A 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 COMMON COUNCIL OF THE CITY OF BECKLEY:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

SECTION 1.01. AUTHORITY FOR THIS ORDINANCE.

This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 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 Beckley (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Raleigh County of said State.

B. The Issuer presently owns and operates a public sanitary sewerage collection and treatment system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain additions, betterments and improvements for the existing sewerage facilities of the Issuer consisting of the replacement

of approximately six (6) miles of interceptor sewer line in the Piney Creek area of Beckley to reduce inflow and infiltration, and relieve hydraulic overloading along said line. The new sewer will consist of pipe 18 to 30 inches in diameter and replaces old pipe from 12 to 24 inches in diameter. The new sewer will extend from the wastewater treatment plant along Piney Creek and Whitestick Creek through the unincorporated community of Raleigh and the Town of Mabscott to its terminus near Crescent Road, Beckley, West Virginia and other various upgrades and repairs (collectively, the "Project") which constitute properties for the collection and treatment of wastewater (the existing sewerage system facilities of the Issuer, the Project and any further additions thereto or extensions thereof is herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have been approved by the Issuer.

C. The Issuer intends to issue its Sewerage System Revenue Bonds, Series 2004 A, in order to pay the remaining costs of the Project, to provide funds to reimburse itself for costs previously incurred and to pay the costs of issuance of the Series 2004 A Bonds.

D. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Bonds and all funds and accounts and other payments provided for herein, all as such terms are hereinafter defined.

E. It is deemed necessary for the Issuer to issue its Sewerage System Revenue Bonds, Series 2004 A, in the total aggregate principal amount of not more than $11,000,000.00 (the "Series 2004 A Bonds"). The proceeds of the Series 2004 A Bonds will used to finance certain costs for the construction and acquisition of the Project and to reimburse the Issuer for certain costs already incurred. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest 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 Reserve 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 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; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or the repayment of indebtedness incurred by the Issuer for such purposes, shall be deemed Costs of the Project, as hereinafter defined.

F. The Issuer intends to finance such costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority") in connection with West Virginia Water Pollution Control Revolving Fund Program (the "SRF Program"), pursuant to the Act, in order to take advantage of the favorable terms available to the Issuer under the SRF Program.

G. The period of usefulness of the System after completion of the Project is not less than 20 years.

H. It is in the best interests of the Issuer that its Series 2004 A Bonds be sold to the Authority (as hereinafter defined) pursuant to the terms and provisions of a loan agreement to be entered into by and among the Issuer, the Authority and the West Virginia Department of Environmental Protection ("DEP"), in form satisfactory to the Issuer, the Authority and the DEP, as shall be approved herein.

I. The Series 2004 A Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has met the parity and coverage requirements of the Prior Bonds and the Prior Ordinances. Prior to the issuance of the Series 2004 A Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating 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 (except the Series 1995A Bonds) to the issuance of the Series 2004 A Bonds on a parity with the Prior Bonds. The Issuer is not required to obtain the parity consent of the Registered Owners of the Series 1995 A Bonds.

The Series 2004 A 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 the Notes, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

J. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bonds, or will have so complied prior to issuance of any thereof, including obtaining of a Certificate of Convenience and Necessity from the Public Service Commission of West Virginia.

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

M. The Project has been approved by the West Virginia Infrastructure and Jobs Development Council as required under Chapter 31, Article 15A of the West Virginia Code of 1931, as amended, or is grandfathered from review thereby.

SECTION 1.03. BOND LEGISLATION CONSTITUTES CONTRACT.

In consideration of the acceptance of the Bonds by those who shall be the registered owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and

security of the registered owners of any and all of such Bonds, all 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, 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 16, Article 13 and Chapter 22C, Article 2 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 Series 2004 A 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 4.01 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 Ordinance" or "Local Act" means this Bond Ordinance and all ordinances, orders and resolutions supplemental hereto or amendatory hereof.

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

"Bond Year" means the 12 month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year except that the first Bond Year shall begin on the Closing Date.

"Bonds" means the Series 1995 A Bonds, the Series 1998 A Bonds, and the Series 2004 A Bonds and any bonds on a parity therewith authorized to be issued hereunder.

"Closing Date" means, the date upon which there is an exchange of the Bonds for a portion of the proceeds of the Series 2004 A Bonds by the Authority.

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

"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 Chapman Technical Group, St. Albans, 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 or portion thereof, in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended.

"Costs" or "Costs of the Project" means those costs described in Section 1.02E 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.

"DEP" means the West Virginia Department of Environmental Protection, or any agency, board or department of the State that succeeds to the functions of the DEP.

"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 Common Council of the Issuer, as it 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.

"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 7.01 hereof) or any tap fees.

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

"Independent Certified Public Accountants" shall mean any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System or for any other

purpose except keeping the accounts of the System in the normal operation of its business and affairs.

"Investment Property" means any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract or investment-type property, excluding, however, obligations the interest on which is excluded from gross income, under Section 103 of the Code, for federal income tax purposes.

"Issuer" means The City of Beckley, a municipal corporation and political subdivision of the State of West Virginia, in Raleigh County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means the Loan Agreement to be entered into among the West Virginia Department of Environmental Protection, the Authority and the Issuer providing for the purchase of the Series 2004 A Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed by the Supplemental Resolution.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 2004 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Series 2004 A Bonds Reserve Account. For purpose of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2004 A Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

"Nonpurpose Investment" means any Investment Property 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.

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

"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 and the Paying Agent (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, charges for

depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

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

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 6.07 hereof.

"Paying Agent" means the West Virginia Municipal Bond Commission, as paying agent for the Series 2004 A Bonds.

"Prior Bonds" means, collectively, the Series 1995 A Bonds and the Series 1998 A Bonds.

"Prior Ordinances" means collectively, the ordinances enacted by the Council of the Issuer 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 and the ordinance enacted November 25, 1997, effective December 9, 1997, as amended and supplemented b a Supplemental Resolution adopted February 28, 1998, pursuant to which the Series 1998 A Bonds were issued.

"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.

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

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

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates

evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

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

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

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

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

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

"Recorder" means the Recorder of the Issuer.

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

"Registrar" means the Bond Registrar.

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

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by Section 4.01 of the Prior Ordinance.

"Reserve Accounts" means, collectively, the respective Reserve Accounts for the Series 2004 A Bonds and the Prior Bonds.

"Revenue Fund" means the Revenue Fund established by Section 4.01 of the Prior Ordinance.

"Series 1995 A Bonds" means the Sewerage System Refunding Revenue Bonds, Series 1995 A, of the Issuer, dated April 1, 1995, issued in the original principal amount of $3,095,000.

"Series 1998 A Bonds" means the Sewerage System Revenue Bonds, Series 1998 A, of the Issuer, dated March 17, 1998, issued in the original principal amount of $11,000,000.

"Series 2004 A Bonds" means the not more than $11,000,000.00 in aggregate principal amount of Sewerage System Revenue Bonds, Series 2004 A, of the Issuer issued pursuant to this Ordinance.

"Series 1995 A Bonds Reserve Account" means the Series 1995 A Bonds Reserve Account established pursuant to Section 4.02 of the Prior Ordinance.

"Series 1998 A Bonds Reserve Account" means the Series 1998 A Bonds Reserve Account established pursuant to Section 4.02 of the Prior Ordinance.

"Series 2004 A Bonds Reserve Account" means the Series 2004 A Bonds Reserve Account established in the Series 2004 A Bonds Sinking Fund pursuant to Section 4.02 hereof.

"Series 1995 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 1995 A Bonds in the then current or any succeeding year.

"Series 1998 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 1998 A Bonds in the then current or any succeeding year.

"Series 2004 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2004 A Bonds in the then current or any succeeding year.

"Series 1995 A Bonds Sinking Fund" means the Series 1995 A Bonds Sinking Fund established by Section 4.01 of the Prior Ordinance.

"Series 1998 A Bonds Sinking Fund" means the Series 1998 A Bonds Sinking Fund established by Section 4.02 of the Prior Ordinance.

"Series 2004 A Bonds Sinking Fund" means the Series 2004 A Bonds Sinking Fund established by Section 4.02 hereof.

"Sinking Funds" means, collectively, the respective Sinking Funds for the Series 2004 A Bonds and the Prior Bonds.

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

"SRF Program" means the State's Water Pollution Control Revolving Fund Program, under which the Authority purchases the water pollution control revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of a capitalization grant award from the United States Environmental Protection Agency and funds from the State.

"SRF Regulations" means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

"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 Series 2004 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2004 A Bonds, and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including the Renewal and Replacement Fund, the Sinking Funds and the Reserve Accounts.

"System" means the existing sewerage system facilities of the Issuer, as expanded by the Project, and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with said sewerage system; and shall include the Project, any

and all additions, extensions, improvements properties or other facilities at any time acquired or constructed for the System after completion of the Project.

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 FOR THE CONSTRUCTION AND ACQUISITION OF THE PROJECT.

There is hereby authorized and ordered the acquisition and construction of the Project in accordance with the plans and specifications prepared by the Consulting Engineers. The Project consists generally of upgrading the existing Wastewater Treatment Plant, consisting of the replacement of approximately six (6) miles of interceptor sewer line in the Piney Creek area of Beckley to reduce inflow and infiltration, and relieve hydraulic overloading along said line. The new sewer will consist of pipe 18 to 30 inches in diameter and replaces old pipe from 12 to 24 inches in diameter. The new sewer will extend from the wastewater treatment plant along Piney Creek and Whitestick Creek through the unincorporated community of Raleigh and the Town of Mabscott to its terminus near Crescent Road, Beckley, West Virginia and other various upgrades and repairs. The proceeds of the Bonds hereby authorized shall be applied as provided in Article V hereof.

The cost of the Project is estimated not to exceed $9,801,503.00, of which approximately $8,039,000 will be obtained from proceeds of the Series 2004 A Bonds, approximately $1,000,000 will be obtained from the United States Army Corps of Engineers grant and approximately $762,503 will be obtained from funds of the Issuer.

The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the SRF Program.

ARTICLE III

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

SECTION 3.01. AUTHORIZATION OF SERIES 2004 A BONDS.

For the purposes of funding the Series 2004 A Bonds Reserve Account, paying certain Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2004 A Bonds and related costs, there shall be issued negotiable Series 2004 A Bonds of the Issuer, in an aggregate principal amount of not more than $11,000,000.00. Said Series 2004 A Bonds shall be issued as a single bond and designated as "Sewerage System Revenue Bonds, Series 2004 A." The Series 2004 A Bonds shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2004 A Bonds remaining after funding the Series 2004 A Bonds Reserve Account, if funded from proceeds of the Series 2004 A Bonds, shall be deposited in the Bond Construction Trust Fund and applied as set forth in Section 5.02 hereof.

SECTION 3.02. TERMS OF THE SERIES 2004 A BONDS.

The Series 2004 A Bonds shall be issued in such principal amounts, shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates; shall be payable and mature on such dates and in such amounts as set forth in Schedule Y attached to the Loan Agreement; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution, or as specifically provided in the Loan Agreement. The Series 2004 A Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 2004 A Bonds shall be paid by check or draft of the Paying Agent mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2004 A Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 2004 A Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2004 A Bonds shall be exchangeable at the option and expense of the 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. Such Bonds shall have such terms as set forth in a supplemental resolution.

SECTION 3.03. EXECUTION OF BONDS.

The Series 2004 A Bonds shall be executed, either manually or by facsimile, 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 Series 2004 A Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the forms set forth in Section 3.10 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 Series 2004 A Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting 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 or its agent, 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 Series 2004 A Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

SECTION 3.07. BONDS NOT TO BE INDEBTEDNESS OF THE ISSUER.

The Series 2004 A Bonds shall not, in any event, be or constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No holder or holders of any of the Series 2004 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2004 A Bonds or the interest thereon.

SECTION 3.08. BONDS SECURED BY PLEDGE OF NET REVENUES; LIEN POSITION WITH RESPECT TO PRIOR BONDS.

The payment of the debt service of the Series 2004 A Bonds shall be secured by a first lien on the Net Revenues derived from the System, on a parity with the lien on the Net Revenues in favor of the holders of the Prior Bonds. Such Net 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 and the Renewal and Replacement Fund are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due. The City has issued Subordinate Sewer Revenue Notes, Series 2002 (the "Notes") and the Notes are hereby declared to be expressly subordinate to the Prior Bonds and to the Series 2004 A Bonds.

SECTION 3.09. DELIVERY OF BONDS.

The Issuer shall execute and deliver the Series 2004 A Bonds to the Bond Registrar, and the Registrar shall authenticate, register and deliver the Bonds to the original purchasers thereof upon receipt of the documents set forth below:

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

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

C. The unqualified approving opinion of bond counsel on the Bonds.

SECTION 3.10. FORM OF BONDS.

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

[Form of Series 2004 A Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BOND,
SERIES 2004 A

No. AR-__ $_____

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF BECKLEY, a municipal corporation and political subdivision of the State of West Virginia in Raleigh County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of _____ DOLLARS ($_____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, beginning _____, 200__, together with interest thereon at the rate of two percent (2%) per annum and an administrative fee of one percent (1%) per annum, which interest and administrative fee shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, beginning _____, as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit B.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of _____, 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 among the Issuer, the Authority and the West Virginia Department of Environmental Protection, dated _____, 2004.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, improvements and betterments to the sewerage system facilities of the Issuer as further defined in the Ordinance authorizing the issuance of the Series 2004 A Bonds (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and a Bond Ordinance and Supplemental Resolution, duly enacted and adopted, respectively, by the Issuer on _____, 2004, and _____, 2004, (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 this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH THE SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1995 A, OF THE ISSUER (THE "SERIES 1995 A BONDS"), ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF $3,095,000, AND THE SEWERAGE SYSTEM REVENUE BONDS, SERIES 1998 A, OF THE ISSUER (THE "SERIES 1998 A BONDS"), ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF $11,000,000, WITH RESPECT TO LIENS, PLEDGE AND SOURCES OF AND SECURITY FOR PAYMENT (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a first lien pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, which first lien is shared with the holders of the Prior Bonds, moneys in the Reserve Account created under the Bond Legislation for this Bond (the "Series 2004 A Bonds Reserve Account"), and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 2004 A 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 required in any year 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 the Prior Bonds; provided however, that so long as there exists in the Series 2004 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, 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 and the costs of issuance hereof as described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the 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 BECKLEY has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated _____, 2004.

[SEAL]

_____
Mayor

ATTEST:

_____
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the City of Beckley Sewerage System Revenue Bonds, Series 2004 A, 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:

_____,
as Registrar

By
Its Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

Amount	Date

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, ___.

In the presence of:

SECTION 3.11. SALE OF SERIES 2004 A BONDS; RATIFICATION OF EXECUTION OF LOAN AGREEMENT WITH AUTHORITY.

The Series 2004 A Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, ratified and approved. The Loan Agreement, including all schedules and exhibits attached thereto, are hereby approved and ratified.

SECTION 3.12. "AMENDED SCHEDULE A" FILING.

Upon completion of acquisition and construction of the Project, the Issuer will file with the Authority and the DEP, a schedule, the form of which will be provided by the DEP setting forth the actual costs of the Project and sources of funding therefor.

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 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 1995 A Bonds Sinking Fund.

(2) Series 1995 A Bonds Reserve Account.

(3) Series 1998 A Bonds Sinking Fund.

(4) Series 1998 A Bonds Reserve Account.

(5) Series 2004 A Bonds Sinking Fund.

(6) Series 2004 A Bonds Reserve Account.

SECTION 4.03. 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, pay from the Revenue Fund, all current Operating Expenses of the System.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Series 1995 A Bonds Sinking Fund, the amount required by the Prior Ordinances to pay the interest on the Series 1995 A Bonds; (ii) for 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; and (iii) commencing 3 months prior to the first date of payment of interest on the Series 2004 A Bonds, for which interest has not been capitalized or as required in the Loan Agreement, for deposit in the Series 2004 A Bonds Sinking Fund, an amount equal to $1/3^{rd}$ of the amount of interest which will become due on the Series 2004 A Bonds on the next ensuing quarterly interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2004 A Bonds Sinking Fund and the next quarterly interest payment date is less than 3 months, then such monthly payment shall be increased proportionately to provide, 1 month prior to the next quarterly interest payment date, the required amount of interest coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Series 1995 A Bonds Sinking Fund, the amount required by the Prior Ordinances to pay the principal of the Series1995 A Bonds; (ii) 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; and (iii) commencing 3 months prior to the first date of payment of principal of the Series 2004 A Bonds, for deposit in the Series 2004 A Bonds Sinking Fund, an amount equal to $1/3^{rd}$ of the amount of principal which will mature and become due on the Series 2004 A Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2004 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Series 1995 A Bonds Reserve Account, the amount required by the Prior Ordinances; (ii) for deposit in the Series 1998 A Bonds Reserve Account, the amount required by the Prior Ordinances; and (iii) commencing 3 months prior to the first date of payment of principal of the Series 2004 A Bonds, if not fully funded upon issuance of the Series 2004 A Bonds, for deposit in the Series 2004 A Bonds Reserve Account, an amount equal to $1/120^{th}$ of the Series 2004 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2004 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2004 A Bonds Reserve Requirement.

(5) 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 2½% of the Gross Revenues each month as previously set forth in the Prior Ordinances and not in addition thereto, exclusive of any payments into the Reserve Accounts. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VII 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 any Reserve Account except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

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

All investment earnings on moneys in the Series 2004 A Bonds Sinking Fund and the Series 2004 A Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Bond Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Series 2004 A Bonds Sinking Fund and applied to the next ensuing interest payments, if any, due on the Series 2004 A Bonds, and then to the next ensuing principal payments due thereon.

Any withdrawals from the Series 2004 A Bonds Reserve Account which result in a reduction in the balance of the Series 2004 A Bonds Reserve Account to below the Series 2004 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments set forth in Section 4.03(A)(2) above 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 respective Reserve Account in an amount equal to the requirement thereof.

The Issuer shall not be required to make any further payments into the Series 2004 A Bonds Sinking Fund or into the Series 2004 A Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2004 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2004 A Bonds Sinking Fund and the Series 2004 A Bonds Reserve Account, and all amounts required for such accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority, the Issuer shall make the necessary arrangements whereby required payments into such accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates hereunder.

Moneys in the Series 2004 A Bonds Sinking Fund and the Series 2004 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 7.01 hereof.

The Series 2004 A Bonds Sinking Fund and the Series 2004 A Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2004 A Bonds Outstanding under the conditions and restrictions herein set forth.

Interest, principal or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 2004 A Bonds and the Prior Bonds, in accordance with the respective principal amounts then Outstanding.

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

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

C. 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 such funds 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.

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

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar or the Depository Bank, on such dates as the Commission, the Registrar or the Depository Bank, as the case may be, shall require such additional sums as shall be necessary to pay their respective charges then due. The Issuer shall also remit from the Revenue Fund to the Authority, on such

dates as the Authority shall require, the Issuer's allocable share of reasonable administrative expenses, if any, incurred by the Authority with respect to the SRF Program.

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

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

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

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

ARTICLE V

BOND PROCEEDS

SECTION 5.01. APPLICATION OF SERIES 2004 A BOND PROCEEDS; PLEDGE OF UNEXPENDED BOND PROCEEDS.

From the moneys received from the sale of the Series 2004 A Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2004 A Bonds, there shall first be deposited with the Commission in the Series 2004 A Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest.

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

C. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 2004 A Bonds, such moneys shall be deposited with the Depository Bank in the Series 2004 A Bonds Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 5.02 hereof and until so expended, are hereby pledged as additional security for the Series 2004 A Bonds.

D. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2004 A Bonds shall be expended as approved by the DEP.

SECTION 5.02. DISBURSEMENTS FROM THE BOND CONSTRUCTION TRUST FUND.

On or before the Closing Date, the Issuer shall have delivered to the DEP and the Authority a report listing the specific purposes for which the proceeds of the Series 2004 A Bonds will be expended and the disbursement procedures for such proceeds, including a estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 5.01 hereof, disbursements from the Bond Construction Trust Fund shall be made only after submission to, and approval from the Authority and DEP of the following:

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

(2) 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, or that Issuer or the Sanitary Board has previously paid such item in connection with the Project is being reimbursed for such payment.

Pending such application, moneys in the Bond Construction Trust Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VI

ADDITIONAL COVENANTS OF THE ISSUER

SECTION 6.01. 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 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 ISSUER.

The Bonds shall not be nor constitute a corporate indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay said Bonds or the interest thereon.

SECTION 6.03. BONDS SECURED BY PLEDGE OF NET REVENUES.

The payment of the debt service of the Series 2004 A Bonds shall be secured by a first lien on the Net Revenues derived from the operation of the System, on a parity with the liens on the Net Revenues in favor of the holders of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest on the Bonds and to make the payments into the Sinking Funds and the Reserve Accounts, and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as the same become due, and for the other purposes provided in the Bond Legislation.

SECTION 6.04. INITIAL SCHEDULE OF RATES AND CHARGES.

The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreement. The Issuer has enacted a rate ordinance on January 27, 2004, and such rates are incorporated herein by reference as a part hereof.

So long as the Series 2004 A Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions

necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the Loan Agreement. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2004 A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement, the Issuer hereby covenants and agrees that it will to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement.

SECTION 6.05. SALE OF THE SYSTEM.

Except as otherwise required by law or with the consent of the DEP and the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Bonds Outstanding in accordance with Section 9.01 hereof. 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.

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 $25,000, the Sanitary Board 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 Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $25,000 but not in excess of $50,000, the Sanitary Board shall first, in writing determine with the written approval of 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 $25,000 and not in excess of $50,000, shall be deposited in the Renewal and Replacement Fund. Such payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said fund 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 the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

SECTION 6.06. ISSUANCE OF OTHER OBLIGATIONS PAYABLE OUT OF REVENUES AND GENERAL COVENANT AGAINST ENCUMBRANCES.

Except as provided in this Section 6.06 and in Section 6.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that additional Bonds on a parity with the Bonds may be issued as provided for in Section 6.07 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 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts at the time of the issuance of such subordinate obligations have been made and are current. The Notes are expressly subordinate to the foregoing Bonds and shall only be entitled to payment so long as the foregoing Bonds are current in their payments.

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.

The Issuer shall give the Authority and the DEP prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System from any grants for the Project, or any other obligations related to the Project or the System.

SECTION 6.07. PARITY BONDS.

So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinances shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Bond Legislation, except under the conditions and in the manner herein provided and with the written consent of the Authority and the DEP.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the design, 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, 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 Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates enacted by the Issuer, the 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 Independent Certified Public Accountants, which shall be filed in the office of the Recorder prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the period for appeal of which has expired prior to issuance of such Parity Bonds.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the 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 Net 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.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and

superior liens of the Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the 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.

SECTION 6.08. BOOKS AND RECORDS.

The Issuer shall keep complete and accurate records of the cost of acquiring the Project Site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the DEP such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing System, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the 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 Authority and the DEP, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation with respect to said Bonds and the status of all said funds and accounts.

(C) The amount of any Bonds or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular or any successor thereof and the Single Audit Act or any successor thereof 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 and shall submit said report to the Authority and DEP, or any other original purchaser of the Bonds. Such audit report submitted to the Authority and DEP shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan Agreement and this Bond Legislation and that revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for 2 years following completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement as Exhibit B, and forward a copy to the Authority and DEP by the 10th day of each month.

Subject to the terms, conditions and provisions of the Loan Agreement and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit E of the Loan Agreement or as promulgated from time to time.

The Issuer shall permit the Authority or the DEP, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Authority and the DEP, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the DEP with respect to the System pursuant to the Act.

SECTION 6.09. RATES.

So long as the Series 1995 A Bonds, the Series 1998 A Bonds and the Series 2004 A Bonds are outstanding, the City shall maintain rates and charges for the use of the System consistent with the requirements of the ordinances authorizing the issuance of such bonds.

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; provided that, in the event an amount equal to or in excess of the Reserve Requirement is on deposit in the Reserve Account and reserve accounts for obligations prior to or on a parity with the 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, subject to any requirements of law, the Issuer shall not reduce the rates and charges for services set forth in the rate ordinance described in the Section 6.04 hereof.

SECTION 6.10. OPERATING BUDGET.

The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and DEP within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a registered professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of a registered professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual

budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority, the DEP and to any Holder of any Bonds, who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority, the DEP and any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

SECTION 6.11. 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 6.12. ENGINEERING SERVICES AND OPERATING PERSONNEL.

The Issuer shall obtain a certificate of the Consulting Engineers in the form attached to the Loan Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Authority and the DEP, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the DEP is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Authority and the DEP covering the supervision and inspection of the development and construction of the Project and bearing responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, the DEP and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a "Performance Certificate," a form of which is attached to the Loan Agreement as Exhibit A, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed.

The Issuer shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator to operate the

System during the entire term of the Loan Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 50% completion stage.

SECTION 6.13. ENFORCEMENT OF COLLECTIONS.

The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules of the Issuer, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System and any services and facilities of the water system, if so owned by the Issuer, to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law, or, if the waterworks facilities are not owned by the Issuer, the Issuer will, to the extent allowed by law, use diligent efforts to enter into a similar termination agreement with the provider of such water, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

The Issuer further acknowledges that it has a water termination agreement with Beckley Water Company and will maintain and use such agreement subject to all the rules, regulations and order of the Public Service Commission.

SECTION 6.14. NO FREE SERVICES.

The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of 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 6.15. INSURANCE AND CONSTRUCTION BONDS.

A. The Issuer hereby covenants and agrees that so long as any of the Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for 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 $500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(4) FLOOD INSURANCE, if the facilities of the System are or will be located in designated special flood or mudslide – prone areas and to the extent available at reasonable cost to the Issuer.

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

(6) FIDELITY BONDS will be provided as to every officer, member and employee of the Issuer or the Sanitary Board having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

B. The Issuer shall also require all contractors engaged in the construction of the Project to carry such workers compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project, provided that the amounts and terms of such coverage are satisfactory to the Authority and the DEP. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the DEP, the Issuer, the prime contractor and all subcontractors, as their interests may appear. The Issuer shall verify such insurance prior to commencement of construction.

The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount at least equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verity such bonds prior to commencement of construction.

SECTION 6.16. COMPLETION OF PROJECT.

The Issuer will complete the Project as promptly as possible and operate and maintain the System in good condition and in compliance with all federal and state requirements and standards.

The Issuer will obtain all permits required by state and federal laws for the acquisition and construction of the Project, and all orders and approvals from the Public Service Commission of West Virginia and the West Virginia Infrastructure and Jobs Development Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the Series 2004 A Bonds required by State law, with all requisite appeals having expired without successful appeal.

SECTION 6.17. 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 Series 2004 A Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the 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 the lesser of 5% or $5,000,000 of the Net Proceeds of the Series 2004 A Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 2004 A Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code 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 Series 2004 A Bonds and the interest thereon, including without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including those deemed necessary by the Authority) so that the interest on the Series 2004 A Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those determined by the Authority) which would adversely affect such exclusion.

SECTION 6.18. 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 of West Virginia 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 6.19. COMPLIANCE WITH LOAN AGREEMENT AND LAW.

The Issuer shall perform, satisfy and comply with all the terms and conditions of the Loan Agreement. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP with copies of all documents submitted to the Authority.

The Issuer also agrees to comply with all applicable laws, rules and regulations issued by the Authority, the DEP or other State, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

SECTION 6.20. SECURITIES LAWS COMPLIANCE.

The Issuer shall provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

SECTION 6.21. CONTRACTS; PUBLIC RELEASES.

A. The Issuer shall, simultaneously with the delivery of the Series 2004 A Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the DEP for written approval. The Issuer shall obtain the written approval of the DEP before expending any proceeds of the Series 2004 A Bonds held in "contingency" as set forth in the schedule attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the DEP before expending any proceeds of the Series 2004 A Bonds made available due to bid or construction or project underruns.

C. The Issuer shall list the funding as being provided by the DEP and the Authority in any press release, publication, program, bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any ground breaking or dedication of the Project.

ARTICLE VII

INVESTMENT OF FUNDS; NON ARBITRAGE

SECTION 7.01. INVESTMENTS.

Any moneys held as a part of the funds and accounts created by this Bond Legislation, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 7.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Depository Bank or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, 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 7.02. ARBITRAGE.

The Issuer covenants that (i) it will restrict the use of the proceeds of the Series 2004 A Bonds in such manner and to such extent as may be necessary, in view of the Issuer's reasonable expectations at the time of issuance of the Series 2004 A Bonds, so that the Series 2004 A 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 Series 2004 A Bonds) so that the

interest on the Series 2004 A Bonds will be and remain excluded from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

SECTION 7.03. TAX CERTIFICATE AND REBATE.

The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Bonds as may be necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds and fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of the Ordinance.

If it is determined that the Issuer does not qualify for an exception to Section 148 of the Code or the Issuer is otherwise subject to rebate in connection with the Bonds, the Issuer shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Authority, the Issuer shall deposit, or cause to be deposited, with the Depository Bank in a separate fund designated the Rebate Fund, such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder, if any, and used only for payment of rebatable arbitrage to the United States. The Issuer shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor. In addition, the Issuer shall 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 may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer may deem appropriate in order to assure compliance with this Section 7.03. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 7.03 in accordance with the requirements of Section 148(f) of the Code. In the event the Issuer fails to make such rebates as required, the

Issuer shall pay the required rebate amount and all interest, penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, and take any other actions necessary, in order to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes.

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

ARTICLE VIII

DEFAULT AND REMEDIES

SECTION 8.01. EVENTS OF DEFAULT.

Each of the following events shall constitute an "Event of Default" with respect to the Series 2004 A Bonds:

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

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2004 A Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2004 A Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, 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; or

(4) If default occurs with respect to the Prior Bonds or the Prior Ordinances.

SECTION 8.02. REMEDIES.

Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided however, that all rights and remedies of the holders of the Series 2004 A Bonds shall be on a parity with those of the Prior Bonds.

SECTION 8.03. APPOINTMENT OF RECEIVER.

Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds any Registered Owner of a Bond shall,

in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might do.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Bond Legislation for Reserve, Sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the 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 IX

PAYMENT OF BONDS

SECTION 9.01. PAYMENT OF BONDS.

If the Issuer shall pay or there shall otherwise be paid, to the Registered Owners of the Series 2004 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 the pledge of Net 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 2004 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest on the Series 2004 A Bonds from gross income for federal income tax purposes.

ARTICLE X

MISCELLANEOUS

SECTION 10.01. 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 rights of Registered Owners of the Bonds shall be made without the consent in writing of the Registered Owners of the Series 2004 A Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the 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 required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest on the Bonds from gross income of the holders thereof.

SECTION 10.02. BOND LEGISLATION CONSTITUTES CONTRACT.

The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

SECTION 10.03. SEVERABILITY OF INVALID PROVISIONS.

If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Bonds.

SECTION 10.04. 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 10.05. CONFLICTING PROVISIONS REPEALED.

Except for the Prior Ordinances, all ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed; provided that, in the event of any conflict between this Ordinance and the Prior Ordinances, the Prior Ordinances shall control (unless less restrictive) so long as the Prior Bonds are outstanding.

SECTION 10.06. COVENANT OF DUE PROCEDURE, ETC.

The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the 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 10.07. EFFECTIVE DATE.

This Ordinance shall take effect immediately following public hearing hereon.

SECTION 10.08. 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 Register Herald, which is a qualified newspaper published and of general circulation in the City of Beckley, together with a notice stating that this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Bonds, 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 the 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 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.

CITY OF BECKLEY

BOND ORDINANCE

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Passed on First Reading - July 13, 2004

Passed on Second Reading - July 27, 2004

Effective Date Following
Public Hearing - July 27, 2004

Mayor _____

Recorder _____

I certify that the foregoing is a certified copy of an Ordinance duly adopted by the Common Council of the City of Beckley at its regular meeting on July, 27, 2004.

Date: 9-28-04

_____
Emmett S. Pugh, II, Mayor
City of Beckley

CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS,
SERIES 2004 A

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE CITY OF BECKLEY SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A; AUTHORIZING AND APPROVING THE LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Council (the "Governing Body") of the City of Beckley (the "Issuer") has duly and officially passed a Bond Ordinance on July 13, 2004, effective July 27, 2004 (the "Bond Ordinance"), entitled:

AN ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, IMPROVEMENTS AND BETTERMENTS TO THE PUBLIC SEWERAGE SYSTEM FACILITIES OF THE CITY OF BECKLEY AND THE FINANCING OF THE COSTS THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $11,000,000.00 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A, PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO THE SERIES 2004 A BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Ordinance when used herein;

WHEREAS, the Bond Ordinance provides for the issuance of the Sewerage System Revenue Bonds, Series 2004 A, of the Issuer, in an aggregate principal amount not to exceed $11,000,000 (the "Bonds"), and has authorized the execution and delivery of a loan agreement relating to the Bonds,

including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), all in accordance with Chapter 16, Article 13 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds should be established by a supplemental resolution, and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Loan Agreement has been presented to the Issuer at this meeting;

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

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Loan Agreement be approved and ratified by the Issuer, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF BECKLEY, AS FOLLOWS:

Section 1. It is hereby found and determined that:

(A) The Notice of Public Hearing and Abstract of Bond Ordinance (the "Notice") was duly published in The Register Herald, a qualified newspaper published and of general circulation in the Issuer, with the first publication thereof being not less than 10 days before the day set by the Bond Ordinance and the Notice for the public hearing at which interested persons may appear before the Council and present protests and suggestions and with the last publication thereof being prior to said date set by the Bond Ordinance and the Notice for the public hearing, and a copy of the Affidavit of Publication reflecting such publications is incorporated herein by reference;

(B) In accordance with the Bond Ordinance and the Notice, the Recorder has maintained in his or her office a certified copy of the Bond Ordinance for review by interested persons during the regular office hours of such office;

(C) In Council chambers, City Hall, Beckley, West Virginia, on July 27, 2004, at 7:30 p.m., prevailing time, in accordance with the Bond Ordinance and the Notice, the Council met for the purpose of hearing protests and suggestions regarding whether the Bond Ordinance should be put into effect and heard all protests and suggestions with regard thereto;

(D) At the public hearing, no significant reasons were presented that would require modification or amendment of the Bond Ordinance and no written protest with regard thereto was filed by 30 percent or more of the freeholders of the Issuer; and

(E) The Bond Ordinance shall be put into effect as of the date hereof and the Bonds contemplated thereby shall be issued, all as provided in the Bond Ordinance and this Supplemental Resolution.

Section 2. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewerage System Revenue Bonds, Series 2004 A, of the Issuer, originally represented by a single Bond, numbered AR-1, in the original principal amount of $9,039,000. The Bonds shall be dated the date of delivery, shall finally mature June 1, 2026, shall bear interest at the rate of 2% per annum. The principal of and interest on the Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2006, in the amounts as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Issuer hereby approves and shall pay the SRF Administrative Fee equal to 1% of the principal amount of the Bonds set forth in the Schedule Y attached to the Loan Agreement. The Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the Registered Owner of the Bonds.

Section 3. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Ordinance.

Section 4. The Issuer hereby ratifies, approves and accepts the Loan Agreement, including all schedules and exhibits attached thereto, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the application to the DEP and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 5. The Issuer hereby appoints and designates J. P. Morgan Trust Company, National Association, Pittsburgh, Pennsylvania, to serve as Registrar (the "Registrar") for the Bonds under the Bond Ordinance and approves and accepts the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 6. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Commission"), to serve as Paying Agent for the Bonds under the Bond Ordinance.

Section 7. The Issuer hereby appoints and designates Bank One, West Virginia, National Association, Beckley, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 8. Series 2004 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 2004 A Bonds Sinking Fund as capitalized interest.

Section 9. Series 2004 A Bonds proceeds in the amount of $-0-shall be deposited in the Series 2004 A Bonds Reserve Account.

Section 10. The remaining proceeds of the Bonds, as advanced from time to time, shall be deposited in or credited to the Series 2004 A Bonds Construction Trust Fund, as received from time to time for payment of costs of the Project, including costs of issuance of the Bonds.

Section 11. The Mayor and Recorder are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered to the Authority pursuant to the Loan Agreement at the time of closing on the Bonds.

Section 12. The acquisition and construction of the Project and the financing thereof with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 13. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the Series 2004 A Bonds Sinking Fund and the Series 2004 A Bonds Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

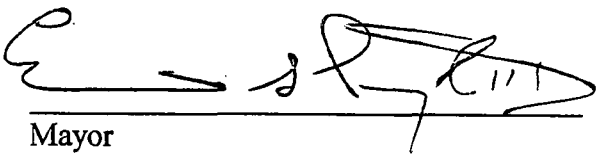
Section 14. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

Section 15. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

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

Section 17. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 14th day of September, 2004.



Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the City of Beckley on the 14th day of September, 2004.

Dated this 28th day of September, 2004.

[SEAL]

Recorder

Exhibit A - Loan Agreement
Schedule Y - Payment Schedule

THE CITY OF BECKLEY

SUPPLEMENTAL RESOLUTION

Supplemental Resolution providing for the dates, maturities, interest rates, principal payment schedules, sale prices and other terms of the Sewerage System Revenue Bonds, Series 1998 A, designating a registrar, paying agent and depository bank, approving the sale of the Sewerage System Revenue Bonds, Series 1998 A pursuant to a Loan Agreement and making other provisions as to such Bonds.

WHEREAS, the Common Council of The City of Beckley (the "Issuer"), on November 25, 1997, 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 Sewerage System Revenue Bonds, Series 1997 A (which will hereinafter be referred to as the "Series 1998 A Bonds"), of the Issuer in aggregate principal amount not to exceed $11,000,000, all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and further provides that the dates, interest rates, maturities, sale prices and other terms of and matters relating to, the Series 1998 A Bonds should be established by supplemental resolution; and

WHEREAS, the Series 1998 A Bonds are proposed to be sold to the West Virginia Water Development Authority pursuant to a Loan Agreement (the "Loan Agreement"); 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 and that the prices, the maturity dates, the redemption provisions, the interest rates, and the interest and principal payment dates of the Series 1998 A Bonds be fixed hereby in the manner stated herein, that the Loan Agreement be ratified and approved and that other matters relating to the Bonds be herein provided for.

NOW THEREFORE, be it resolved by the City Council 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 Sewerage System Revenue Bonds, Series 1998 A, in the aggregate principal amount of $11,000,000 (the "Series 1998 A Bonds"), all in the form set forth in the Ordinance.

(A) The Series 1998 A Bonds of the Issuer shall be originally issued in the form of a single bond payable to the Authority, numbered AR-1, shall be in the principal amount of $11,000,000. The Series 1998 A Bonds shall be dated as of March 9, 1998, or as of the date of closing, and shall mature on March 1, 2020. The Series 1998 A Bonds shall bear interest at the rate

of 2% per annum, together with a 1% annual administrative fee, from March 1, 2000, until paid. Beginning June 1, 2000, the principal of and interest on the Series 1998 A Bonds shall be payable quarterly on June 1, September 1, December 1 and March 1 of each year, all as set forth on Schedule Y attached hereto.

(B) The sale of the Series 1998 A Bonds to the Authority, which is hereby designated as the Original Purchaser of the Series 1998 A Bonds, and the Loan Agreement dated January 29, 1998, in the form attached to this Resolution as Exhibit A is hereby ratified and approved. The Mayor is authorized and directed to execute and deliver the Loan Agreement with such changes and insertions as he may approve. The Mayor's signature on such Agreement shall be conclusive evidence of such approval.

Section 2. Except as herein provided, all other provisions relating to the Series 1998 A Bonds shall be as provided in the Ordinance, and the Series 1998 A 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. The execution of the Series 1998 A Bonds by the Mayor shall be conclusive evidence of such approval.

Section 3. The Issuer hereby determines that the bank currently serving as the Depository Bank for the Sewerage System Revenue Fund, Bank One, West Virginia, Beckley, West Virginia, shall continue in that capacity.

Section 4. The Issuer hereby appoints and designates Bank One, West Virginia, National Association, Charleston, West Virginia, as Registrar for the Bonds.

Section 5. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, as Paying Agent for the Bonds.

Section 6. The Mayor and the Recorder of the Issuer are hereby authorized and directed to execute and deliver such other documents and certificates, including the Tax Regulatory Agreement and Registrar's Agreement, required or desirable in connection with the Series 1998 A Bonds in order for the Series 1998 A Bonds to be delivered to the Original Purchaser pursuant to the Loan Agreement.

Section 7. The Issuer shall not permit at any time or times any of the proceeds of the Series 1998 A Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code, by reason of the classification of the Series 1998 A 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 Issuer hereby authorizes and directs the repayment, from the first disbursement made under the Loan Agreement the following items:

Payee	Purpose	Amount
Bank One, West Virginia	Repayment of Revenue	945,915.00

	Anticipation Notes	
Vaughan & Withrow	Bond Counsel	15,000.00
Total		960,915.00

With respect to each item listed above, the Issuer hereby finds and represents:

(a) That none of the items for which payment is proposed to be made has been the basis for any disbursement heretofore made;
(b) That each item for which payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the services for the Project;
(c) That each of such cost has been otherwise properly incurred; and
(d) That the payment for each of the items proposed is now due and owing.

Section 9. This Supplemental Resolution shall be effective immediately upon adoption.

Adopted this 24th day of February, 1998.

Mayor

Recorder

I certify that the foregoing is a true and accurate copy of a Supplemental Resolution duly adopted by the Common Council of the City of Beckley at its regular meeting on February 24 ,1998. This Resolution is valid and in effect as of March 18, 1998.

Date:
3-18-98

Emmett S. Pugh III
Mayor
City of Beckley

CITY OF BECKLEY

SEWER SYSTEM REVENUE BONDS

SERIES 1997 A

BOND ORDINANCE

CITY OF BECKLEY

BOND ORDINANCE

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CITY OF BECKLEY

BOND ORDINANCE

AN ORDINANCE AUTHORIZING THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND BETTERMENT TO THE PUBLIC SEWERAGE SYSTEM FACILITIES OF THE CITY OF BECKLEY AND THE FINANCING CERTAIN COSTS THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $11,000,000.00 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 A, PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO THE SERIES 1997 A 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 COMMON COUNCIL OF THE CITY OF BECKLEY:

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 16, Article 13 and Chapter 22C, Article 2 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 Beckley (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Raleigh County of said State.

B. The Issuer presently owns and operates a public sanitary sewerage collection and treatment system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be designed and constructed certain additions, betterments and improvements for the existing sewerage facilities of the Issuer consisting of upgrading the existing Wastewater Treatment Plant, upgrading the Whitestick Pump Station, replacing the

existing Pinecrest Interceptor line and other various upgrades and repairs (the "Project") which constitute properties for the collection and treatment of wastewater (the existing sewerage system facilities of the Issuer, the Project and any further additions thereto or extensions thereof is herein called the "System") at an estimated cost of $10,300,000.00, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have been approved by the Issuer.

C. By ordinance enacted February 13, 1996, and effective March 12, 1996, the Issuer issued its Revenue Finance Anticipation Notes, Series 1996 A (the "Series 1996 A Notes"), in the principal amount of $1,500,000.00 to provide funds to finance temporarily the costs of the preliminary design of the Project.

D. The Issuer intends to issue its Sewerage System Revenue Bonds, Series 1997 A, in order to pay the costs of the Project, to pay the amount outstanding on the 1996 Series A Notes, to provide funds to reimburse itself for costs previously incurred and to pay the costs of issuance of the Series 1997 A Bonds

E. 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 Bonds and all Sinking Fund, Reserve Account and other payments provided for herein, all as such terms are hereinafter defined.

F. It is deemed necessary for the Issuer to issue its Sewerage System Revenue Bonds Series 1997 A in the total aggregate principal amount of not more than $11,000,000.00 (the "Series 1997 A Bonds"). The proceeds of the Series 1997 A Bonds will used to finance certain costs for the construction and acquisition of the Project, to repay the amount outstanding on the Series 1996 A Notes and to reimburse the Issuer for certain costs already incurred. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest 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 Reserve 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 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; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or the repayment of indebtedness incurred by the Issuer for such purposes, shall be deemed Costs of the Project, as hereinafter defined.

G. The Issuer intends to finance such costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority

the "Authority") in connection with West Virginia Water Pollution Control Revolving Fund Program (the "SRF Program"), pursuant to the Act, in order to take advantage of the favorable terms available to the Issuer under the SRF Program.

H. The period of usefulness of the System after completion of the Project is not less than 20 years.

I. It is in the best interests of the Issuer that its Series 1997 A Bonds be sold to the Authority (as hereinafter defined) pursuant to the terms and provisions of a loan agreement to be entered into by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of the Environment ("DEP"), in form satisfactory to the Issuer, the Authority and the DEP, as shall be approved herein.

J. Other than the Series 1995 A Bonds, as defined herein, there is not outstanding any obligations of the Issuer which will rank prior to or on a parity with the Bonds as to lien and source of and security for payment. The Series 1995 A Bonds and the Series 1997 A Bonds shall be secured by a first lien on the revenues of the System, which lien shall be shared on a proportionate basis between each series of bonds.

K. 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, or will have so complied prior to issuance of any thereof, including obtaining of a Certificate of Convenience and Necessity from the Public Service Commission of West Virginia.

L. Pursuant to the Act, the Issuer has heretofore established a Sanitary Board, and the Sanitary Board has petitioned the Council to issue the Series 1997 A Bonds for the purposes set forth herein.

M. The Project has been approved by the West Virginia Infrastructure and Jobs Development Counsel as required under Chapter 31, Article 15A of the West Virginia Code of 1931, as amended, or is grandfathered from review thereby.

SECTION 1.03. BOND LEGISLATION CONSTITUTES CONTRACT.

In consideration of the acceptance of the Bonds by those who shall be the registered owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the registered owners of any and all of such Bonds, all 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, 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 16, Article 13 and Chapter 22C, Article 2 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 Series 1997 A 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 4.01 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 Ordinance" or "Local Act" means this Bond Ordinance and all ordinances, orders and resolutions supplemental hereto or amendatory hereof.

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

"Bond Year" means the 12 month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year except that the first Bond Year shall begin on the Closing Date.

"Bonds" means the Series 1995 A Bonds and the Series 1997 A and any bonds on a parity therewith authorized to be issued hereunder.

"Closing Date" means, with respect to the Series 1997 A Bonds, 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 Chapman Technical Group, St. Albans, 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.

"DEP" means the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of the Environment.

"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 1997 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 1997 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 it 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.

"Gross Proceeds" means the sum of the following amounts:

(i) Original proceeds, namely, net amounts received by or for the Issuer as a result of the ıle of the Series 1997 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 1997 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 1997 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 1997 A Bonds, ratably as original proceeds of the Series 1997 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, namely, amounts, other than original proceeds, investment proceeds or transferred proceeds (as referenced in clauses (i) through (iii) above) of the Series 997 A Bonds, which are held in any fund to the extent that the Issuer reasonably expects to use such other fund to pay Debt Service;

(v) Amounts in the Series 1997 A Bonds Reserve Account and in any other fund established as a reasonably required reserve or replacement fund;

(vi) Investment Property pledged as security for payment of Debt Service on the Series 1997 A Bonds by the Issuer;

(vii) Amounts, other than as specified in this definition, used to pay Debt Service on the Series 1997 A Bonds; and

(viii) Amounts received as a result of investing amounts described in this definition.

"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 7.01 hereof) or any tap fees.

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

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

"Investment Property" means any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract or investment-type property, excluding, however, obligations the interest on which is excluded from gross income, under Section 103 of the Code, for federal income tax purposes.

"Issuer" means The City of Beckley, in Raleigh County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means the Loan Agreement to be entered into among the West Virginia Department of Environmental Protection, the Authority and the Issuer providing for the purchase of the Series 1997 A 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 by the Supplemental Resolution.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 1997 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Series 1997 A Bonds Reserve Account. For purpose 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 1997 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.

"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 and the Paying Agent (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, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of,

capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

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

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 6.07 hereof.

"Paying Agent" means the West Virginia Municipal Bond Commission, as paying agent for the Series 1997 A Bonds.

"Prior Ordinance" means the ordinance enacted by the Council of the Issuer 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.

"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.

"Project" means the acquisition and construction of certain improvements and betterments to the Issuer's wastewater collection and treatment facilities of the Issuer, consisting of the upgrading the wastewater treatment plant and certain collection lines and lift stations within the jurisdiction of the Issuer, and all necessary appurtenances.

"Purchase Price," for the purpose of computation of the Yield of the Series 1997 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 1997 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 1997 A Bonds of each maturity is sold or, if the Series 1997 A Bonds are privately placed, the price paid by the first buyer of the Series 1997 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 1997 A Bonds

r acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose investment becomes a Nonpurpose Investment of the Series 1997 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, 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" means the Recorder of the Issuer.

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

"Registrar" means the Bond Registrar.

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

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by Section 4.01 of the Prior Ordinance.

"Revenue Fund" means the Revenue Fund established by Section 4.01 of the Prior Ordinance.

"Series 1995 A Bonds" means the $3,095,000.00 in aggregate principal amount of Sewerage System Refunding Revenue Bonds, Series 1995 A, of the Issuer issued pursuant to the Prior Ordinance, of which $3,055,000.00 are still outstanding.

"Series 1997 A Bonds" means the not more than $11,000,000.00 in aggregate principal amount of Sewerage System Revenue Bonds, Series 1997 A, of the Issuer issued pursuant to this Ordinance.

"Series 1995 A Bonds Reserve Account" means the Series 1995 A Bonds Reserve Account established in the Series 1995 A Bonds Sinking Fund pursuant to Section 4.02 of the Prior Ordinance.

"Series 1997 A Bonds Reserve Account" means the Series 1997 A Bonds Reserve Account established in the Series 1997 A Bonds Sinking Fund pursuant to Section 4.02 hereof.

"Series 1995 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 1995 A Bonds in the then current or any succeeding year.

"Series 1997 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 1997 A Bonds in the then current or any succeeding year.

"Series 1995 A Bonds Sinking Fund means the Series 1995 A Bonds Sinking Fund established by Section 4.01 of the Prior Ordinance.

"Series 1997 A Bonds Sinking Fund means the Series 1997 A Bonds Sinking Fund established by Section 4.02 hereof.

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

"SRF Program" means the State's Water Pollution Control Revolving Fund Program, under which the Authority purchases the water pollution control revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of a capitalization grant award from the United States Environmental Protection Agency and funds from the State.

"SRF Regulations" means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

"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 Series 1997 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 1997 A Bonds, and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including the Renewal and Replacement Fund 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 existing sewerage system facilities as expanded by the Project, and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with said sewerage system; and shall include any and all additions, extensions, improvements properties or other facilities at any time acquired or constructed for the System after completion of the Project.

"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

estment or on the Series 1997 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 FOR THE CONSTRUCTION AND ACQUISITION OF THE PROJECT.

There is hereby authorized acquisition and construction of the Project in accordance with the plans and specifications prepared by the Consulting Engineers. The Project consists generally of upgrading the existing Wastewater Treatment Plant, upgrading the Whitestick Pump Station, replacing the existing Pinecrest Interceptor line and other various upgrades and repairs. The proceeds of the Bonds hereby authorized shall be applied as provided in Article V hereof.

It is estimated that the proposed construction will cost approximately $10,416,709.00, will consist of the following:

Construction	8,328,529.00
Engineering	1,112,790.00
Legal and Fiscal	30,000.00
Administrative	80,250.00
Interim Financing Costs	70,000.00
Bond Counsel for 1997 Bonds	57,000.00
Project Contingency	765,140.00
Total Project	10,416,709.00

The Issuer intends to pay the costs of the Project from the proceeds of the Series 1997 A Bonds.

The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the SRF Program.

ARTICLE III

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

SECTION 3.01. AUTHORIZATION OF SERIES 1997 A BONDS.

For the purposes of paying certain Costs of the Project not otherwise provided for, repaying the Series 1996 A Notes issued to finance temporarily certain Costs and paying certain costs of issuance of the Series 1997 A Bonds and related costs, there shall be issued negotiable Series 1997 A Bonds of the Issuer, in an aggregate principal amount of not more than $11,000,000.00. Said Series 1997 A Bonds shall be issued as a single bond and designated as "Sewerage System Revenue Bonds, Series 1997 A." The Series 1997 A Bonds shall bear no interest until _____. From _____ the Series 1997 A Bonds shall bear interest at the rate of two percent (2%) per annum. There shall also be payable on the Series 1997 A Bonds a one percent (1%) administrative fee. The Series 1997 A Bonds shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 1997 A Bonds shall be deposited in the Bond Construction Trust Fund.

SECTION 3.02. TERMS OF THE SERIES 1997 A BONDS.

The Series 1997 A Bonds shall bear interest as set forth above; shall be payable and mature on such dates and in such amounts as set forth in Schedule Y attached hereto; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution, or as specifically provided in the Loan Agreement. The Series 1997 A Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 1997 A 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 Series 1997 A Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 1997 A Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 1997 A Bonds 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

late specified in a supplemental resolution and shall bear interest from the date so specified therein.

SECTION 3.03. EXECUTION OF BONDS.

The Bonds shall be executed, either manually or by facsimile, 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 3.10 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 or its agent, 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

urrender 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, tolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

SECTION 3.07. BONDS NOT TO BE INDEBTEDNESS OF THE ISSUER.

The Series 1997 A Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts, if any, in the Series 1997 A Bonds Reserve Account. No holder or holders of any of the Series 1997 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1997 A Bonds or the interest thereon.

SECTION 3.08. BONDS SECURED BY PLEDGE OF NET REVENUES; SERIES 1997 A BONDS TO BE ON PARITY WITH THE SERIES 1995 A BONDS.

The payment of the debt service of all the Series 1995 A Bonds and Series 1997 A Bonds shall be secured forthwith equally and ratably with each other, by a first lien on the Net Revenues

derived from the System, which first lien shall be shared prorata among all the above described indebtedness. Such Net 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 Renewal and Replacement Fund 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. DELIVERY OF BONDS.

The Issuer shall execute and deliver the Series 1997 A Bonds to the Bond Registrar, and the Registrar shall authenticate, register and deliver the Bonds to the original purchasers thereof upon receipt of the documents set forth below:

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

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

C. The unqualified approving opinion of bond counsel on the Bonds.

SECTION 3.10. FORM OF 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 1997 A Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BOND
SERIES 1997 A

No. AR-__ $_____

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF BECKLEY, a municipal corporation and political subdivision of the State of West Virginia in Raleigh 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

uthority (the "Authority") or registered assigns the sum of _____ ollars ($_____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached hereto as Exhibit A and incorporated herein by reference, together interest thereon at the rate of two percent (2%) per annum and an administrative fee of one percent (1%) per annum, which interest and administrative fee shall begin to accrue _____, in installments on March 1, June 1, September 1 and December 1 of each year, beginning _____, as set forth on the "Schedule of Annual Debt Service" attached as Exhibit B hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit B.

The interest rate on each installment shall run from _____, and shall be payable on March 1, June 1, September 1 and December 1 of each year, beginning _____, as shown on the aforesaid Schedule. 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 _____, 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 among the Issuer, the Authority and the West Virginia Division of Environmental Protection, dated _____, 1997.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, improvements and betterments to the sewerage system facilities of the Issuer (the "Project"); (ii) to pay the amount outstanding on the Series 1996 A Notes issued to pay temporarily certain preliminary costs of the Project; and (iii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance and Supplemental Resolution, duly enacted and adopted, respectively, by the Issuer on _____, 1997, and _____, 1997, (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 ON A PARITY WITH THE SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1995 A OF THE ISSUER (THE "SERIES 1995 A BONDS"), ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF $3,095,000, WITH

RESPECT TO LIENS AND SOURCES OF AND SECURITY FOR PAYMENT OF EACH RESPECTIVE SERIES OF BONDS.

This Bond is payable only from and secured by a first lien pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, , which first lien is shared with the holders of the Series 1995 A Bonds, moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1997 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1997 A 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 required in any year for principal of and interest on the Series 1997 A Bonds and the Series 1995 A Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1997 A Bonds or the Series 1995 A Bonds, provided however, that so long as there exists in the Series 1997 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Series 1997 A Bonds in the then current or any succeeding year, and in the respective reserve accounts established for the Series 1995 A Bonds and any other obligations outstanding prior to or on a parity with the Series 1997 A Bonds or the Series 1995 A Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar 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 BECKLEY 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 _____, 1997.

[SEAL]

_____
Mayor

ATTEST:

_____
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of The City of Beckley Sewerage System Revenue Bonds, Series 1997 A, 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: _____

_____

as Registrar

By _____
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ADVANCES

Amount	Date

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

Date	Amount

(Form of)

ASSIGNMENT

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

the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, ___.

_____

In the presence of:

_____

SECTION 3.11. SALE OF SERIES 1997 A BONDS; RATIFICATION OF EXECUTION OF LOAN AGREEMENT WITH AUTHORITY.

The Series 1997 A Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, ratified and approved.

SECTION 3.12. "AMENDED SCHEDULE A" FILING.

Upon completion of acquisition and construction of the Project, the Issuer will file with the Authority a schedule substantially in the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funding therefor.

ARTICLE IV

SYSTEM REVENUES AND APPLICATION THEREOF

SECTION 4.01. CONTINUATION OR ESTABLISHMENT OF FUND AND ACCOUNTS WITH DEPOSITORY BANK.

The following special funds or accounts 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; and

(3) Bond Construction Trust 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 1995 A Bonds Sinking Fund;

(a) Within the Series 1995 A Bonds Sinking Fund, the Series 1995 A Bonds Reserve Account.

(2) Series 1997 A Bonds Sinking Fund;

(a) Within the Series 1997 A Bonds Sinking Fund, the Series 1997 A Bonds Reserve Account.

SECTION 4.03. 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, each month, pay from the Revenue Fund, all current Operating Expenses of the System.

(2) (a) From the moneys remaining in the Revenue Fund, the Issuer shall next commencing 6 months prior to the first date of payment of interest on the Series 1995 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1995 A Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Series 1995 A Bonds on the next ensuing semi-annual interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1995 A Bonds Sinking Fund and the next semi-annual interest payment date is less than 6 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semi-annual interest payment date, the required amount of interest coming due on such date.

(b) Simultaneously, the Issuer shall, commencing 12 months prior to the first date payment of principal on the Series 1995 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1995 A Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1995 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 1995 A Bonds Sinking Fund and the next annual principal payment date is less than 12 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(c) Simultaneously, the Issuer shall, commencing 3 months prior to the first date of payment of interest on the Series 1997 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1997 A Bonds Sinking Fund, a sum equal to 1/3rd of the amount of interest which will become due on said Series 1997 A Bonds on the next ensuing quarterly interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1997 A Bonds Sinking Fund and the next quarterly interest payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly interest payment date, the required amount of interest coming due on such date.

(d) Simultaneously, the Issuer shall, commencing 3 months prior to the first date of payment of principal on the Series 1997 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1997 A Bonds Sinking Fund, a sum ual to 1/3rd of the amount of principal which will mature and become due on said Series 1997

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 1997 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

In the event there is insufficient money in the Revenue Fund to make the payments described in this paragraph above, the Issuer shall use the available moneys and make the payments provided for on a prorata basis.

(3) Thereafter, the Issuer shall, commencing 3 months prior to the first date of payment of principal of the Series 1997 A Bonds apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1997 A Bonds Reserve Account, an amount equal to 1/120th of the Series 1997 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1997 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 1997 A Bonds Reserve Requirement.

(4) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the month succeeding the first full calendar month after completion of the Project, transfer to the Renewal and Replacement Fund a sum equal to 2½% of the Gross Revenues each month, exclusive of any payments for account of the Series 995 A Bonds Reserve Account or the Series 1997 A Bonds 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 VII 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 Series 1995 A Bonds Reserve Account or the Series 1997 A 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 4.03(A)(2)(d)] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 1995 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective Series 1995 A Bonds as the same shall become due. Moneys in the Series 1995 A Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Series 1995 A Bonds, as the same shall come due, when other moneys in the Sinking Fund are insufficient therefor, and for no other purpose.

Moneys in the Series 1997 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective Series 1997 A Bonds as the same shall become due. Moneys in the Series 1997 A Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Series 1997 A Bonds, as the same shall come due, when other moneys in the Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Sinking Fund and respective 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 Series 1997 A Bonds Sinking Fund and applied to the next ensuing interest payments, if any, due on the Series 1997 A Bonds, and then to the next ensuing principal payments due thereon.

Any withdrawals from the Series 1995 A Bonds Reserve Account which result in a reduction in the balance of the Series 1995 A Bonds Reserve Account to below the Series 1995 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments set forth in Section 4.03(A)(2) above have been made in full.

Any withdrawals from the Series 1997 A Bonds Reserve Account which result in a reduction in the balance of the Series 1997 A Bonds Reserve Account to below the Series 1997 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments set forth in Section 4.03(A)(2) above 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 1995 A Bonds Sinking Fund or into the Reserve Account therein when the aggregate amount of funds in said Series 1995 A Bonds Sinking Fund and Reserve Account are at least equal to the aggregate principal amount of the Series 1995 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

The Issuer shall not be required to make any further payments into the Series 1997 A Bonds Sinking Fund or into the Reserve Account therein when the aggregate amount of funds in said Series 1997 A Bonds Sinking Fund and Reserve Account are at least equal to the aggregate principal amount of the Series 1997 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

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 the Revenue Fund by the Issuer at the times provided herein.

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 Bond Legislation.

Moneys in the respective Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 7.01 hereof.

The Series 1997 A Bonds Sinking Fund, including the Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 1997 A 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 Fund, including the Reserve Accounts therein, and the Renewal and Replacement Fund 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.

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

D. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar or the Depository Bank, on such dates as the Commission, the Registrar 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 then due. The Issuer shall also remit from the Revenue Fund to the Authority, on such dates as the Authority shall require, the Issuer's allocable share of reasonable administrative expenses, if any, incurred by the Authority with respect to the SRF Program.

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

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

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

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

I. The Issuer shall each month on the day set forth in Section 4.03A(2) hereof, and if ch day is not a business day, then the next succeeding business day), deposit with the Commission the SRF Administrative Fee as set forth in Schedule Y attached to the Loan Agreement.

ARTICLE V

BOND PROCEEDS; FUNDS AND ACCOUNTS

SECTION 5.01. APPLICATION OF SERIES 1997 A BOND PROCEEDS; PLEDGE OF UNEXPENDED BOND PROCEEDS.

The moneys received from the sale of the Series 1997 A Bonds, as requisitioned by the Issuer, shall be deposited in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 5.02.

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 1997 A Bonds.

SECTION 5.02. DISBURSEMENTS FROM THE BOND CONSTRUCTION TRUST FUND.

On or before the Closing Date, the Issuer shall have delivered to the DEP and the Authority a report listing the specific purposes for which the proceeds of the Series 1997 A Bonds will be expended and the disbursement procedures for such proceeds, including a estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 5.01 hereof, disbursements from the Bond Construction Trust Fund shall be made only after submission to, and approval from the Authority and DEP of the following:

(1) a completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement as Exhibit C, and

(i) 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, or that Issuer or the Sanitary Board has previously paid such item in connection with the Project is being reimbursed for such payment.

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 1997 A Bonds Reserve Account, and when fully funded, shall apply such remaining moneys as directed by the Authority.

ARTICLE VI

ADDITIONAL COVENANTS OF THE ISSUER

SECTION 6.01. 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 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 ISSUER.

The Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any

nds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay ...d Bonds or the interest thereon.

SECTION 6.03. BONDS SECURED BY PLEDGE OF NET REVENUES.

The payment of the debt service of the Series 1997 A Bonds issued hereunder and Series 1995 A Bonds heretofore issued shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds 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 6.04. 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 September 23, 1997.

SECTION 6.05. 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 Outstanding, or to effectively defease this Bond Legislation in accordance with Section 9.01 hereof. 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.

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 $25,000, the Sanitary Board 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 Renewal and Replacement Fund. If the amount to be received from such ...le, 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 $25,000 but not in excess of $50,000, the Sanitary Board shall first, in writing determine with the written approval of 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 $25,000 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 Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Bond Legislation. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, 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 6.06. ISSUANCE OF OTHER OBLIGATIONS PAYABLE OUT OF REVENUES AND GENERAL COVENANT AGAINST ENCUMBRANCES.

Except as provided in this Section 6.06 and in Section 6.07B, 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 Bonds may be issued as provided for in Section 6.07 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 1995 A Bonds and the Series 1997 A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the Sinking Funds, Reserve Accounts and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or 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.

The Issuer shall give the Authority and the DEP prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System from any grants for the Project, or any other obligations related to the Project or the System.

SECTION 6.07. 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 and with the written consent of the Authority and the DEP.

So long as the Series 1995 A Bonds are outstanding, no parity bonds shall issued except in conformity with the requirements of both the ordinance authorizing the Series 1995 A Bonds and this Ordinance.

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 Authority and the Bank 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 Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in 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.

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 1997 A Bonds and the Series 1995 A Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 1997 A Bonds or the Series 1995 A 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.

SECTION 6.08. BOOKS AND RECORDS.

The Issuer shall keep complete and accurate records of the cost of acquiring the Project Site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the DEP such documents and information as they may reasonably require in connection with the acquisition, construction

and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all records pertaining to the operation of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing System, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the 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 Authority and the DEP, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation with respect to said Bonds and the status of all said funds and accounts.

(C) The amount of any Bonds 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 and shall submit said report to the Authority and DEP, or any other original purchaser of the Bonds. Such audit report submitted to the Authority and DEP shall include a statement that the Issuer is in compliance with the terms and provisions of the Loan Agreement and this Bond Legislation.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for 2 years following completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement as Exhibit B, and forward a copy to the Authority and DEP by the 10th day of each month.

The Issuer shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit E of the Loan Agreement or as promulgated from time to time.

The Issuer shall permit the Authority or the DEP, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of the Project, the Issuer shall also provide the Authority and the DEP, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the DEP with respect to the System pursuant to the Act.

SECTION 6.09. RATES.

So long as the Series 1995 A Bonds are outstanding, the City shall maintain rates and charges for the use of the System consistent with the requirements of the ordinance authorizing the issuance of such bonds.

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; provided that, in the event an amount equal to or in excess of the Reserve Requirement is on deposit in the Reserve Account and reserve accounts for obligations prior to or on a parity with the 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, subject to any requirements of law, the Issuer shall not reduce the rates and charges for services set forth in the rate ordinance lescribed in the Section 6.04 hereof.

SECTION 6.10. 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 and shall submit a copy of such budget to the Authority and DEP within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by 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 Authority and to any Holder of any Bonds, who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

SECTION 6.11. 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 6.12. ENGINEERING SERVICES AND OPERATING PERSONNEL.

The Issuer shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and the DEP covering the supervision and inspection of the development and construction of the Project and bearing responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, the DEP and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a "Performance

ertificate," a form of which is attached to the Loan Agreement as Exhibit A, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed.

The Issuer agrees that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of the Loan Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

SECTION 6.13. ENFORCEMENT OF COLLECTIONS.

The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules of the Issuer, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System and any services and facilities of the water system, if so owned by the Issuer, to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law, or, if the waterworks facilities are not owned by the Issuer, the Issuer will, to the extent allowed by law, use diligent efforts to enter into a similar termination agreement with the provider of such water, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

The Issuer further acknowledges that it has a water termination agreement with Beckley Water Company and will maintain and use such agreement subject to all the rules, regulations and orders of the Public Service Commission.

SECTION 6.14. NO FREE SERVICES.

The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of 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 6.15. INSURANCE AND CONSTRUCTION BONDS.

A. The Issuer hereby covenants and agrees that so long as any of the Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System n 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.

(6) FIDELITY BONDS will be provided as to every officer, member and employee of the Issuer or the Governing Body having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

B. The Issuer shall also require all contractors engaged in the construction of the Project to carry such workers compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project, provided that the amounts and terms of such coverage are satisfactory to the Authority and the DEP. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the DEP, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount at least equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract.

SECTION 6.16. COMPLETION OF PROJECT.

The Issuer will complete the Project as promptly as possible and operate and maintain the System in good condition and in compliance with all federal and state requirements and standards.

The Issuer will obtain all permits required by state and federal laws for the acquisition and construction of the Project, and all orders and approvals from the Public Service Commission of West Virginia necessary for the acquisition and construction of the Project and the operation of the System.

SECTION 6.17. 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

he 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 Series 1997 A Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 1997 A 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 Series 1997 A Bonds and the interest thereon, including without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including those deemed necessary by the Authority) so that the interest on the Series 1997 A Bonds will be and remain 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 6.18. 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 of West Virginia 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 6.19. COMPLIANCE WITH LOAN AGREEMENT AND LAW.

The Issuer agrees to comply with all the terms and conditions of the Loan Agreement. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP with copies of all documents submitted to the Authority.

The Issuer also agrees to comply with all applicable laws, rules and regulations issued by the Authority, the DEP or other State, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

ARTICLE VII

INVESTMENT OF FUNDS; NON ARBITRAGE

SECTION 7.01. INVESTMENTS.

Any moneys held as a part of the funds and accounts created by this Bond Legislation, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 7.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account.

The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Depository Bank or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, 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 7.02. ARBITRAGE.

The Issuer covenants that (i) it will restrict the use of the proceeds of the Series 1997 A Bonds in such manner and to such extent as may be necessary, in view of the Issuer's reasonable expectations at the time of issuance of the Series 1997 A Bonds, so that the Series 1997 A Bonds will not constitute "arbitrage bonds" under Section 148 of the Code and 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 1997 A Bonds) so that the interest on the Series 1997 A Bonds will be and remain excluded from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

SECTION 7.03. REBATE OF EXCESS INVESTMENT EARNINGS TO THE UNITED STATES.

In accordance with the rebate requirements of Section 148(f) of the Code, 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, (ii) interest earnings and profits on amounts in funds and accounts which do not constitute Gross Proceeds, and (iii) interest earnings and profits on the Rebate Fund 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, on or 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, 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, 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:

(1) Except as provided in (2), in determining the amount described in clause A(i) 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 Bond, 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 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.

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. 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. 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.

In the event of a failure to pay any such amount or amounts, the Issuer will pay, from any lawful sources available therefor, to the United States, an amount equal to the sum of 50% of the amount not paid, plus interest at the required rate on the portion of the amount which was not paid on the required date, beginning on such date, unless waived.

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 7.03.

G. INDEPENDENT CONSULTANTS. In order to provide for the administration of this Section 7.03, 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 as may be requested by the Authority, including, without limitation, information with respect to earnings on all funds constituting "gross proceeds" of the Series 1997 A Bonds (as such term "gross proceeds" is defined in the Code). 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.

SECTION 7.04. SECURITIES LAWS COMPLIANCE.

The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

ARTICLE VIII

DEFAULT AND REMEDIES

SECTION 8.01. EVENTS OF DEFAULT.

Each of the following events shall constitute an "Event of Default" with respect to the Series 1997 A Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest on the Series 1997 A Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 1997 A Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 1997 A Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, 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 8.02. REMEDIES.

Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners.

SECTION 8.03. APPOINTMENT OF RECEIVER.

Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might do.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Bond Legislation for Reserve, Sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the 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 IX

DEFEASANCE

SECTION 9.01. DEFEASANCE OF SERIES 1997 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 1997 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 1997 A Bonds only, the pledge of Net 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 1997 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1997 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

...lier time, shall be sufficient, to pay as and when due either at maturity or at the next ...demption date, the principal installments of and interest on such Series 1997 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 1997 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 1997 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 1997 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.

ARTICLE X

MISCELLANEOUS

SECTION 10.01. 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 Bonds shall be made without the consent in writing of the Registered Owners of 66-2/3% or more in principal amount of the Series 1997 A Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the 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 required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest on the Bonds from gross income of the holders thereof.

SECTION 10.02. BOND LEGISLATION CONSTITUTES CONTRACT.

The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

SECTION 10.03. SEVERABILITY OF INVALID PROVISIONS.

If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Bonds.

SECTION 10.04. 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 10.05. 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, except for the provisions of the Ordinance enacted June 14, 1994, as amended and supplemented by a resolution adopted April 3, 1995, to the extent such provisions affect the Series 1995 A Bonds.

SECTION 10.06. COVENANT OF DUE PROCEDURE, ETC.

The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the 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 10.07. EFFECTIVE DATE.

This Ordinance shall take effect immediately following public hearing hereon.

SECTION 10.08. 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 Register Herald, which is a qualified newspaper of general circulation in The City of Beckley, together with a notice stating that this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Bonds, 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 the 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 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 - 11-11-97

Passed on Second Reading - 11-25-97

Effective Date Following Public Hearing - _____

Mayor

Recorder

I certify that the foregoing is a certified copy of an Ordinance duly adopted by the Common Council of the City of Beckley at its regular meeting on November 25, 1997.

Date:

3-18-98

Emmett S. Pugh III
Mayor
City of Beckley

Supplemental Resolution providing for the dates, maturities, interest rates, principal payment schedules, sale prices and other terms of the Sewerage System Refunding Revenue Bonds, Series 1995A, designating a registrar, paying agent and depository bank, approving the sale of the Sewerage System Refunding Revenue Bonds, Series 1995A pursuant to a Bond Purchase Agreement and making other provisions as to such Bonds.

WHEREAS, the Council of The City of Beckley, West Virginia (the "Council"), on June 14, 1994, adopted 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 Sewerage System Refunding Revenue Bonds, Series 1995A (the "Series 1995A Bonds"), of the City in aggregate principal amounts not to exceed $3,500,000, all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and further provides that the dates, interest rates, maturities, sale prices and other terms of and matters relating to, the Series 1995A Bonds should be established by supplemental resolution; and

WHEREAS, the Series 1995A Bonds are proposed to be sold to the Original Purchasers (as defined in the Ordinance) pursuant to a Bond Purchase Agreement (the "Purchase Agreement"); and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Ordinance; and

WHEREAS, the City Council (the "Council") of the City deems it essential and desirable that this resolution (the "Supplemental Resolution"), be adopted and that the prices, the maturity dates, the redemption provisions, the interest rates, and the interest and principal payment dates of the Series 1995A Bonds be fixed hereby in the manner stated herein, that the Purchase Agreement be approved, that distribution of the Prelinmary Official Statement shall be ratified and approved, that the Official Statement shall be approved, and that other matters relating to the Bonds be herein provided for.

NOW THEREFORE, be it resolved by the Council of The City of Beckley, West Virginia, as follows:

Section 1. All references in the Ordinance to Series 1994 A Bonds, shall be deemed to refer to the Series 1995 A Bonds, authorized and approved in this Supplemental Resolution.

Section 2. Pursuant to the Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewerage System

Refunding Revenue Bonds, Series 1995A, in the aggregate principal amount of $3,095,000 (the "Series 1995A Bonds"), all in the form set forth in the Ordinance:

(A) The Series 1995A Bonds of the City shall be originally issued in the book-entry form of a single bond for each year of maturity, numbered consecutively AR-1 and upwards, shall be in the aggregate principal amount of $3,095,000. The Series 1995A Bonds shall be dated as of April 1, 1995, and shall mature on each October 1, bear interest per annum and be subject to optional and mandatory sinking fund redemption, all as set forth on Schedule X attached hereto.

(B) The Series 1995A Bonds will be issued as fully registered bonds without coupons in denominations of $5,000 and integral multiples thereof for any year of maturity. Interest on the Series 1995A Bonds is payable by check or draft made payable and mailed to the owners thereof at the addresses appearing in the books kept by Bank One, West Virginia, National Association, Charleston, West Virginia, as registrar (the "Registrar"), for the registration and transfer of bonds (the "Register") as of the fifteenth (15th) day of the month preceding such interest payment date or, in the event of a default in the payment of the Series 1995A Bonds, that special record date to be fixed by the Registrar by notice given to the owners not less than 10 days prior to said special record date (the "Record Date") or, if requested, in the case of such an owner of $1,000,000 or more in principal amount of Series 1995A Bonds, by wire transfer to a domestic bank account specified in writing at least 5 days prior to the Record Date by such owner. Principal of and premium, if any, on the Series 1995A Bonds is payable to the owner thereof upon surrender thereof at the principal corporate trust department office of the Registrar, as paying agent (the "Paying Agent").

(C) The proceeds of the Series 1995A Bonds shall be deposited as follows:

(1) $2,664,496.50 of such proceeds, which is hereby found to be the amount necessary, with other available funds, to refund the 1986 Bonds which are being refunded from such proceeds shall be deposited into the Escrow Fund established under the Escrow Agreement,

(2) $6,665.83 of such proceeds, representing accrued interest on the Series 1995A Bonds from April 1, 1995, to the date of delivery thereof to the Original Purchasers shall be deposited into the Sinking Fund,

(3) $75,000.00 of such proceeds shall be deposited into the Costs of Issuance Account and used to pay Costs of Issuance, in the event any moneys remain in the Costs of Issuance Account on July 13, 1995, such moneys shall be transferred to the Sinking Fund, and

(4) $241,825.00 of such proceeds shall be deposited into the Reserve Account held in the Sinking Fund.

(D) The sale of the Series 1995A Bonds to Wheat, First Securities, Inc., who are hereby designated as the Original Purchasers of the Series 1995A Bonds, and the Purchase Agreement dated April 3, 1995 in the form attached to this Resolution as Exhibit A are hereby approved. The Mayor is authorized and directed to execute and deliver the Bond Purchase Agreement with such changes and insertions as he may approve. The Mayor's signature on such Agreement shall be conclusive evidence of such approval.

(E) The City hereby ratifies and approves the distribution of a Preliminary Offical Statement dated March 23, 1995, with respect to the Series 1995A Bonds, attached to this Resolution as Exhibit B. The City further authorizes and approves the execution and delivery of the Official Statement dated April 3, 1995, in the form attached hereto as Exhibit C, and hereby authorizes and directs the Mayor to execute the same and deliver the Official Statement to the Original Purchasers.

(F) The City authorizes and directs the West Virginia Municipal Bond Commission to transfer the moneys held in the sinking fund and reserve account for the 1986 Bonds to Bank One, West Virginia, National Association, as Escrow Trustee.

Section 3. All other provisions relating to the Series 1995A Bonds shall be as provided in the Ordinance, and the Series 1995A 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 City. The execution of the Series 1995A Bonds by the Mayor shall be conclusive evidence of such approval.

Section 4. The City hereby determines that the bank currently serving as the Depository Bank for the Sewer Revenue Fund shall continue in that capacity.

Section 5. The City hereby appoints and designates Bank One, West Virginia, National Association, Charleston, West Virginia, as Registrar for the Bonds.

Section 6. The City hereby appoints and designates Bank One, West Virginia, National Association, as Paying Agent for the Bonds.

Section 7. The City hereby appoints and designates Bank One, West Virginia, National Association, Charleston, West Virginia, as the escrow trustee for the 1986 Bonds being refunded with the proceeds of the Series 1995A Bonds.

Section 8. The City does hereby find and determine that the amount of bonds, other than private activity bonds which it anticipates issuing during calendar year 1995 shall not exceed $10,000,000 and therefore the City hereby designates the Series 1995A Bonds as "qualified-tax-exempt obligations" for purposes of Section 265(b) of the Code.

Section 9. The City hereby establishes October 1, 2001, as the Prior Bonds Redemption Date with respect to the 1986 Bonds being refunded with the proceeds of the Series 1995A Bonds.

Section 10. The Mayor and City Recorder are hereby authorized and directed to execute and deliver such other documents and certificates, including the Registrar's Agreement and the Letter of Representations with The Depository Trust Company, required or desirable in connection with the Series 1995A Bonds in order for the Series 1995A Bonds to be delivered to the Original Purchasers pursuant to the Purchase Agreement.

Section 11. The City shall not permit at any time or times any of the proceeds of the Series 1995A 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 Bonds from the treatment afforded by Section 103(a) of the Code, by reason of the classification of the Series 1995A 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 12. The refunding of the 1986 Bonds, in part with proceeds of the Series 1995A Bonds is hereby found and determined to be in the public interest, serve a public purpose of the City and promote the health, welfare and safety of the residents of the City.

Section 13. The City hereby approves the execution and delivery of the Tax Regulatory Agreement substantially in the form attached to this Resolution as Exhibit D and authorizes and directs the Mayor to execute said agreement with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Tax Regulatory Agreement by the Mayor shall be conclusive evidence of such approval. The City hereby specifically agrees to be bound by the provisions of the Tax Regulatory Agreement relating to rebate required by the Code.

Section 14. This Supplemental Resolution shall be effective immediately upon adoption.

SCHEDULE X

AMOUNTS, MATURITY SCHEDULE AND INTEREST RATE

AMOUNT	MATURITY DATE (October 1)	INTEREST RATE	PRICE
$40,000	1996	4.70%	100%
40,000	1997	4.90%	100%
45,000	1998	5.10%	100%
45,000	1999	5.20%	100%
50,000	2000	5.30%	100%
50,000	2001	5.40%	100%
55,000	2002	5.50%	100%
55,000	2003	5.60	100%
60,000	2004	5.70%	100%
65,000	2005	5.75%	100%
775,000	2014	6.50%	98.640%
1,815,000	2025	6.75	98.410%

A. Optional Redemption

The Series 1995A Bonds are not subject to optional redemption prior to October 1, 2005. At the option of the City, the Series 1995A Bonds will be subject to redemption prior to maturity on or after October 1, 2005, as a whole 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
October 1, 2005 through September 30, 2006	102%
October 1, 2006 through September 30, 2007	101%
October 1, 2007 and thereafter	100%

B. Mandatory Redemption

The Series 1995A Bonds maturing on October 1, 2014, ("2014 Term Bonds"), are subject to annual mandatory redemption prior to maturity by random selection in accordance with the requirements of the Bond Ordinance at the principal amount thereof plus interest accrued to the date fixed for redemption, on October 1 of each of the years and in the principal amounts set forth below:

2014 TERM BONDS

Year	Principal Amount
2006	$65,000
2007	70,000
2008	75,000
2009	80,000
2010	85,000
2011	90,000
2012	95,000
2013	105,000
2014	110,000

The Series 1995A Bonds maturing on October 1, 2025, ("2025 Term Bonds"), are subject to annual mandatory redemption prior to maturity by random selection in accordance with the requirements of the Bond Ordinance at the principal amount thereof plus interest accrued to the date fixed for redemption, on October 1 of each of the years and in the principal amounts set forth below:

2025 TERM BONDS

Year	Principal Amount
2015	$115,000
2016	125,000
2017	135,000
2018	140,000
2019	150,000
2020	160,000
2021	175,000
2022	185,000
2023	195,000
2024	210,000
2025	225,000

This is a true and accurate copy of a Supplemental Resolution duly passed by the Common Council of the City of Beckley on April 3, 1995.

Gary R. Sutphin
ecorder-Treasurer

CITY OF BECKLEY

REFUNDING BOND ORDINANCE

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN $3,600,000 IN AGGREGATE PRINCIPAL AMOUNT OF CITY OF BECKLEY SEWERAGE SYSTEM REVENUE REFUNDING BONDS, SERIES 1994 A, FOR THE PURPOSE OF DEFEASING CERTAIN OUTSTANDING OBLIGATIONS OF THE CITY OF BECKLEY DESIGNATED AS CITY OF BECKLEY SEWERAGE SYSTEM REVENUE BONDS, SERIES 1986; AUTHORIZING THE DEFEASANCE OF CERTAIN OUTSTANDING SEWERAGE SYSTEM REVENUE BONDS OF THE CITY OF BECKLEY; AUTHORIZING THE ISSUANCE OF A SERIES OF SEWERAGE SYSTEM REVENUE REFUNDING BONDS OF SAID CITY OF BECKLEY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $3,600,000, WHICH, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE CITY OF BECKLEY MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSE, TO MAKE PROVISION FOR SUCH REFUNDING; AUTHORIZE AN ESCROW AGREEMENT IN CONNECTION WITH THE DEFEASANCE OF SAID REVENUE BONDS; FUND A RESERVE ACCOUNT FOR THE REFUNDING BONDS AND PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

Be It Ordained by the City 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 16, Article 13, 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 a 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 collection, treatment and disposal in a sanitary manner of sanitary sewage and industrial wastes.

B. In accordance with Section 2 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 $2,495,147 Sewer Revenue Bonds, Series 1986 (the "1986 Bonds").

D. The 1986 Bonds are currently outstanding in the aggregate principal amount of $2,432,655.

E. The City derives revenues from the System, and, except for the pledges thereof to secure and pay the 1986 Bonds, said revenues are not pledged or encumbered in any manner.

F. The City may now refund the 1986 Bonds at a savings to the City and, therefore, such refunding is in the best interests of the City.

G. The 1986 Bonds will be refunded with the proceeds of the Series 1994 A Bonds, together with funds of the Sanitary Board made available by the refunding of the 1986 Bonds

H. The estimated revenues to be derived in each year after the enactment of this Ordinance from the operation of said System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Bonds authorized to be issued pursuant to this Ordinance and all sinking fund, reserve account and other payments provided for in this Ordinance.

I. The Series 1994 A 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.

J. All things necessary to make the Series 1994 A 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 1994 A Bonds, will be timely done and duly performed.

K. The enactment of this Ordinance, and the execution and issuance of the Series 1994 A 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.

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

M. The Series 1994 A Bonds are not private activity bonds as defined in the Code.

N. Ninety-five percent (95%) or more of the net proceeds (as defined with respect to the Code) of the Series 1994 A Bonds will be used for local governmental activities of the City.

O. 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.

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

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

R. It is deemed necessary for the City to issue its Series 1994 A Bonds to refund the 1986 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 agreements 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 16, Article 13 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 New York, New York, printed in the English language and customarily published on each business day of the Registrar, whether or not published on Saturdays, Sundays or legal holidays, and so long as so published, shall include The Bond Buyer.

Authorized Officer" shall mean the Mayor of the City

or any other officer 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.

"Bonds" shall mean the City of Beckley Sewerage System Revenue Refunding Bonds, Series 1994 A Bonds and any pari passu additional Bonds hereafter issued within the terms, restrictions and conditions contained in this Ordinance.

"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 1994 A 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 5.02 hereof.

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

"DTC" shall mean The Depository Trust Company, New York, New York.

"DTC Eligible" shall mean Bonds meeting the qualifications prescribed by The Depository Trust Company, New York, New York.

"Escrow Agreement" shall mean the separate agreement between the City, the Commission and an escrow trustee, substantially in the form of the agreement attached hereto as Exhibit B and by this reference made a part hereof, relating to the refunding or defeasance of the 1986 Bonds.

"Escrow Fund" shall mean the fund created by Paragraph 2 of 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.

"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, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of

America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal 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.

"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 practices.

"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 cancelled 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.

"Participant" shall mean the person or entity registered as such with the Depository Trust Company.

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

"Prior Bonds" or "1986 Bonds" shall mean the City's Sewer Revenue Bonds, Series 1986, dated May 29, 1986, issued in the original principal amount of $2,495,147 and currently outstanding in the principal amount of $2,432,655.

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

"Prior Ordinance" shall mean the Ordinance enacted by the City Council on May 22, 1984, as amended and supplemented, authorizing the issuance of the Prior 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 to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which fund is sufficient, 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 or 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.

"Refunding Bonds" or "Series 1994 A Bonds" shall mean the Sewerage System Refunding Revenue Bonds, Series 1994 A, of the City originally authorized to be issued pursuant to this Ordinance.

"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 1986, 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.

"Reserve Account" shall mean the account in the Sinking Fund, as hereinafter defined, created by Section 4.01 hereof.

"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.

"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.

"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.

"Sinking Fund" shall mean the fund created by Section 4.01 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 1994 A 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 a 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.

"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 investments 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 accepted accounting principles.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Ordinance; and the term "hereafter" means after the date of 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 1986 Bonds outstanding as of the date of issuance of the Series 1994 A Bonds hereby ordered to be refunded pursuant to the terms of the Escrow Agreement, and the lien of said Prior Bonds imposed by the Prior Ordinance on the revenues of the System is hereby ordered terminated, discharged and released upon the payment into the Escrow Fund from the proceeds of said Series 1994 A Bonds, together with other moneys available therefor, 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 Prior Bonds as the same mature on each principal payment date established with respect thereto prior to the Prior Bonds Redemption Date, if any, established for such Prior Bonds, (ii) for the payment of the redemption price of the Prior Bonds outstanding on the Prior Bonds Redemption Date, if any, established for such Prior Bonds, and (iii) for the payment of the interest on the Prior Bonds as the same becomes due. Contemporaneously with the deposit of proceeds of the Series 1994 A 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 Prior Bonds shall be deposited into the Escrow Fund and simultaneously invested as provided in the Escrow Agreement. Upon the refunding of the Prior Bonds, the amounts on deposit in the renewal and replacement fund created and maintained under the Prior Ordinance with respect to the Prior Bonds shall be transferred to the Renewal and Replacement Fund created under this Ordinance.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

Section 3.01. Authorization and Terms of Series 1994 A Bonds. For the purpose of refunding all of the outstanding 1986 Bonds, there shall be issued the Sewerage System Refunding Revenue Bonds, Series 1994 A of the City. The Series 1994 A Bonds shall be in such aggregate principal amount, not to exceed $3,600,000; shall be dated such date; shall bear interest payable semiannually 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 as provided by this Ordinance and as the City Council shall prescribe by Supplemental Resolutions adopted in connection with the sale of such Series 1994 A 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 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 1994 A 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 1994 A 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 Bonds. 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 Bonds shall cease to be such officer of the City 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 City by such person as at the actual

time of the execution of such Bonds shall hold the proper office in the City, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

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

Section 3.04. Book-Entry Bonds.

(a) Except as provided in subparagraph (c) of this Section 3.04, the Registered Owner of all of the Bonds shall be The Depository Trust Company (hereinafter "DTC"), and the Bonds shall be registered in the name of Cede & Co. Payment of semiannual interest for any Bond registered as of each Record Date in the name of Cede & Co. shall be made by wire transfer of New York clearing house or equivalent next-day funds to the account of Cede & Co. on the interest payment date for the Bonds at the address indicated on the regular Record Date or special Record Date for Cede & Co. in the Bond Register.

(b) The City and the Bond Register may treat DTC (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal or redemption price of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Bondholders under this Ordinance, registering the transfer of the Bonds, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever, and neither the City nor the Bond Register shall be affected by any notice to the contrary. Neither the City nor the Bond Register shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Bonds under or through DTC or any Participant, or any Participant of any amount in respect of the principal or redemption price of or interest on the Bonds; any notice which is permitted or required to be given to Bondholders under this Ordinance; the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Bonds; or

any consent given or other action taken by DTC as Bondholder. The Paying Agent shall pay all principal of and premium, if any, and interest on the Bonds only to or "upon the order of" (as that term is used in the Uniform Commercial Code as adopted in the State of West Virginia), and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal or redemption price of and interest on the Bonds to the extent of the sum or sums so paid. No person other than DTC shall receive an authenticated Bond for each separate stated maturity evidencing the obligation of the City to make payments of principal or redemption price and interest pursuant to this Ordinance. Upon delivery by DTC to the City of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions herein with respect to Record Dates, the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(c) In the event the City determines that it is in the best interest of the Owners that they be able to obtain Bond certificates, the City may notify DTC, whereupon DTC will notify the Participants, of the availability through DTC of Bond certificates. In such event, the City shall issue and the Bond Register shall authenticate, transfer and exchange Bond certificates as requested by DTC and any other Bondholders in appropriate amounts. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the City and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is no successor securities depository), the City shall be obligated to deliver Bond certificates as described herein. In the event Bond certificates are issued, the provisions herein shall apply to, among other things, the transfer and exchange of such certificates and the method of payment of principal of and interest on such certificates. Whenever DTC requests the City to do so, the City will assist DTC in taking appropriate action after reasonable notice (a) to make available one or more separate certificates evidencing the Bonds to any Participant having Bonds credited to its DTC account or (b) to arrange for another securities depository to maintain custody of certificates evidencing the Bonds.

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., all payments with respect to the principal or redemption price of and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, to DTC as provided in the Representation Letter. When the City gives notices to DTC or its nominee as Bondholder, it shall request that DTC forward (or cause to be forwarded) the notices to the Participants so that such Participants may forward (or cause to be forwarded) such notices to the Owners.

(e) In connection with any notice or other communication to be provided to Bondholders pursuant to this Ordinance by the City with respect to any consent or other action to be taken by Bondholders, the City shall establish a record date for such consent or other action and give DTC notice of such record date not less than 15 calendar days in advance of such record date to the extent possible. Notice to DTC shall be given only when DTC is the sole Bondholder.

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

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

The 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 Bonds or transferring the Bonds is exercised, Bonds shall be delivered in accordance with the provisions of this Ordinance. All Bonds surrendered in any such exchanges or transfer shall forthwith be cancelled by the Registrar. For every such exchange or transfer of Bonds, the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of 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 Bonds during the period beginning with the Record Date and ending on the date or, in a case of any partial redemption of Bonds during the fifteen days next preceding the date of the selection of Bonds to be redeemed.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bonds shall become mutilated or be destroyed, stolen or lost, the City may in its discretion issue and deliver a new Bond in exchange and substitution for such Bonds so mutilated, destroyed, stolen or lost, upon surrender and cancellation of such mutilated Bond or in lieu of and substitution for the 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 Bonds so surrendered shall be cancelled by the Registrar and held for the account of the City. If such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the City may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen, or destroyed, without surrender therefor.

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

Section 3.07. Bonds Secured by Pledge of Revenues; Not to be Indebtedness of the City. The payment of the debt service of all of the Series 1994 A Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Revenues derived from the System. Such Revenues, in the amount sufficient to pay the principal of and interest on the Bonds and to make the payments required into the Sinking Fund and the Reserve Account therein, and the Renewal and Replacement Fund all hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due. The 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 Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay the Bonds or the interest thereon.

Section 3.08. Notice of Redemption.

(a) The Registrar shall cause notice of any redemption of Bonds to be mailed by first class mail to the Owners of all 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 Bonds to be redeemed (specifying the CUSIP numbers, if any, assigned to the Bonds), (iii) specify the redemption date and the Redemption Price, and (iv) state that on the redemption date the Bonds called for redemption will be payable at the principal corporate trust office of the Paying Agent, that from that date the 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 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 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 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 3.09 Form of Bonds. The text of the 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
SEWERAGE SYSTEM
REFUNDING REVENUE BOND
SERIES 1994 A

INTEREST RATE	BOND DATE	MATURITY DATE	CUSIP
		(July/January)	

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 therefor, 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 semiannually, on the first day of January and the first day of July in each year, beginning _____ 1, 19__, 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 15th 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 "1986 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 _____, 19___ as supplemented by resolution adopted on the _____ day of _____, 19_____, (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 _____ 1, _____. At the option of the City, the Bonds will be subject to redemption prior to maturity on or after _____ 1, _____. as a whole 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
_____ 1, _____ through _____, _____	102%
_____ 1, _____ through _____, _____	101%
_____ 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

The Bonds are payable only from and are secured by the revenues to be derived from the operation of the sewerage system of the City (the "System"), 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 the 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 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 prior to or on a parity with the 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. Such required payments shall constitute a first charge upon all the net revenues of the System. 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 1986 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 Clerk and its corporate seal to be imprinted hereon, all as of the Bond Date.

THE CITY OF BECKLEY, WEST VIRGINIA

_____

Mayor

[SEAL]

ATTEST:

_____

City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Sewerage System Refunding Revenue Bonds, Series 1994 A 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. 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 "Sewerage 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. All Revenues at any time remaining on deposit in the Revenue Fund shall be disposed of only in the following manner and order of priority:

(1) The City shall first each month, from the moneys in the Revenue Fund, pay all reasonable Operating Expenses of the System.

(2) Thereafter, from the moneys in the Revenue Fund, the City shall, on the first day of each month, commencing with and including the first day of that month which is seven months prior to the first interest payment date of said Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in a fund to be known as the "Sinking Fund," which is hereby created and established, a sum equal to one-sixth (1/6) of the amount of interest which will become due on the Bonds on the next ensuing semiannual interest payment date; provided, however, that, in the event the period to elapse between said initial payment date and the next semiannual interest payment date is less than seven (7) months, then such monthly payments shall be increased proportionately to provide the required amount of interest payable on the next semiannual interest payment date one month prior to said date.

The City shall also apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in said Sinking Fund, on the first day of each month, beginning on the first day of that month which is thirteen (13) months prior to the first principal payment date of the Bonds, a sum equal to one-twelfth (1/12) of the amount of principal which will mature and become due on the Bonds on the next ensuing principal payment date.

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, such additional sums as shall be necessary to pay the fiscal agency charges due for paying the 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 Bonds as the same shall become due.

The City shall not be required to make any further payments into said Sinking Fund when the aggregate amount of funds in the 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 1994 A 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.

(3) Then from the moneys remaining in the Revenue Fund, the City shall next, each month, pay into the Reserve Account an amount necessary to make up any deficiency in the Reserve Account Requirement, resulting from (i) the valuation of investments in the 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 Reserve Account is less than the Reserve Account Requirement, or (ii) withdrawals from the 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 Reserve Account in any month be less than, in the event the deficiency in the 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 Reserve Account determined as set forth in clause (ii) above and the amount then withdrawn from the 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 Reserve Account shall have been made equal to the Reserve Account Requirement prior to such twelfth consecutive month); and provided further, that no payments

shall be required to be made into the Reserve Account whenever and as long as the amount deposited therein shall be equal to the Reserve Account Requirement.

(4) 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, remit to the Depository Bank for deposit in a special depreciation account, to be designated the "Renewal and Replacement Fund," which account is hereby established and created, a sum equal to two and one-half percent (2½%) of the Revenues each month, exclusive of any payments for the account of the 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.

(5) 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 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.

(6) 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 which it holds pursuant to this Ordinance, including the Reserve Account 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 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 1994 A BOND PROCEEDS

Section 5.01. Application of the Series 1994 A Bond Proceeds; Other Funds of the City.

A. All accrued interest received from the Original Purchaser of the Series 1994 A Bonds shall be deposited in the Sinking Fund and used to pay the next maturing interest on the Series 1994 A Bonds.

B. The amount of the Series 1994 A Bond proceeds necessary, together with such funds of the City as are made available by the defeasance of the 1986 Bonds, to refund the Prior 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 sale of the Series 1994 A 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 1986 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 1994 A 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 a 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 6.01. 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 6.04. Rates. Prior to the issuance of the 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 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 all

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 6.05. 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 6.06. 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 Bonds about to mature and to the redemption prior to maturity, at the earliest date permitted hereby and at the redemption price, of all other outstanding Bonds. Any balance remaining after the redemption or payment of all the Bonds and interest thereon shall be remitted to the 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 therefor 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 duly 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 Bonds of the last maturities then Outstanding or to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the redemption price of such Bonds. Such payments of such proceeds into the Sinking 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 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 Bonds then Outstanding. The City 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 6.07. 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 6.08 hereof, payable from the Revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such Revenues with the Bonds; 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 Revenues 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 Bonds, being on a parity with the lien of the Bonds, and the interest thereon, upon any of the

income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Ordinance or upon the System or any part thereof.

Section 6.08. 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.

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 1994 A 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 increas[illegible] 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 1994 A 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 1994 A 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 6.09. 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 hazards 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 6.10. 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 6.11. 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 6.12. 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 6.13. 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 6.14. 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 6.15. 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 6.16. 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 1994 A Bonds as provided herein shall constitute the initial schedule of rates for the System for purposes of this Ordinance.

Section 6.17. 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 therefor 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 6.18. 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 Bonds issued hereunder are Outstanding.

Section 6.19. Public Purpose Bonds. The System will be solely operated for a public purpose and as a local governmental activity of the City.

Section 6.20. Private Activity Bonds. The City shall not permit at any time or times any of the proceeds of the 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 Bonds from the treatment afforded by Section 103(a) of the Code by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The City will take all actions necessary to comply with the Code in order to assure the tax-exempt status of the Bonds.

Section 6.21. Filings. The City will file all statements, instruments and returns necessary to assure the tax-exempt status of the Bonds, including, without limitation, the information return required under Section 149(e) of the Code.

Section 6.22. 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 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 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 Bonds to meet the requirements of the Original Purchaser.

Section 6.23. 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 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 Bonds.

Section 6.24. Designation of Bank Eligibility. The Series 1994 A 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 1994, qualified tax-exempt obligations in excess of $10,000,000.

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 Bonds.

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

(B) If default occurs in the City's observance of any of the covenants, agreements or conditions on its part relating to the 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 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 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 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 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 Bonds when the same shall become due, or in the payment of the principal of any Bond or Bonds either at the specified date of maturity thereof or at a date set for redemption thereof, or otherwise in the performance of any covenant contained in 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 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 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 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 Depository Bank 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. Such Depository Bank 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 1994 A 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 1994 A Bonds, so that the Series 1994 A 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 1994 A Bonds) so that the interest on the Series 1994 A Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

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 Bondholders shall be made without the consent in writing of the holders of two-thirds (2/3) or more in principal amount of the Bonds then outstanding; provided, however, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the 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 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, duly 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 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 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 Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section. All Bonds shall, prior to the maturity 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 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 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 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 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 Bonds that the deposit required by (b) above has been made with the Commission and that said 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 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 Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and redemption premium, if applicable, on and interest to become due on said Bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the 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 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 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 - May 24 , 1994

Passed on Second Reading - June 14 , 1994

Passed on Final Reading Following Public Hearing - June 28 , 1994

Mayor

City Recorder

CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF PROGRAM/ARRA),
STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA CWSRF PROGRAM/ARRA GREEN),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

GENERAL CERTIFICATE ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES AND DELIVERY
6. RATES
7. INCUMBENCY AND OFFICIAL NAME
8. MEETINGS
9. INSURANCE
10. ARRA ASSISTANCE AGREEMENT
11. SPECIMEN BOND
12. BOND PROCEEDS
13. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE
14. LAND AND RIGHTS-OF-WAY
15. PUBLIC SERVICE COMMISSION ORDER
16. CONFLICTS OF INTEREST
17. PROCUREMENT OF ENGINEERING SERVICES
18. VERIFICATION OF SCHEDULE A
19. CLEAN WATER ACT
20. COUNTERPARTS

We, the undersigned MAYOR and the undersigned RECORDER/TREASURER 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 Issuer's Sewerage System Revenue Bonds, Series 2009 A (West Virginia CWSRF Program), numbered AR-1, dated the date hereof, in the principal amount of $679,316, the Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF Program/ARRA), numbered B-1R-1, dated the date hereof, in the principal amount of $396,484, the Stormwater Revenue Bonds, Series 2009 B-2 (West

Virginia CWSRF Program/ARRA Green), numbered B-2R-1, dated the date hereof, in the principal amount of $296,952, and the Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program), numbered CR-1, dated the date hereof, in the principal amount of $1,035,783 (collectively, the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning set forth in the Bond and Note Ordinance duly passed by the Issuer on April 22, 2008, effective May 27, 2008 (the "Sewer Ordinance"), as supplemented by a Supplemental Resolution duly adopted by the Issuer on August 25, 2009, and a Bond Ordinance duly passed by the Issuer on August 11, 2009, effective August 25, 2009 (the "Stormwater Ordinance") as supplemented by a Supplemental Resolution duly adopted by the Issuer on August 25, 2009 (collectively, the "Ordinances"), and the ARRA Assistance Agreements by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection ("DEP"), dated August 28, 2009 (the "ARRA Assistance Agreement").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale and delivery of the Bonds, the acquisition and construction of the Sewer Projects as described in the Series 2009 A, 2009 B-1 and 2009 C Supplemental Resolution and the Stormwater Project as described in the Stormwater Ordinance (collectively, the "Projects"), the operation of the Issuer's Sewerage System (the "Sewer System") or the Issuer's Stormwater System (the "Stormwater System" and collectively, 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 Projects, 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. GOVERNMENTAL APPROVALS AND BIDDING: All applicable and necessary approvals, permits, exemptions, consents, authorizations, registrations and certificates required by law for the acquisition and construction of the Projects, the operation of the System and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect, and competitive bids for the acquisition and construction of the Projects have been solicited in accordance with Chapter 5, Article 22, Section 1 of the Code of West Virginia, 1931, as amended, which bids remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery by the Issuer of the ARRA Assistance Agreement. The Issuer has met all conditions set forth in the ARRA Assistance Agreement and will provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Projects.

The Bonds are issued on a parity with the Prior Bonds, with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has obtained (i) the certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the registered owners of the Prior Bonds to the issuance of the Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the Sewer System. The Issuer is in compliance with all the terms and provisions of the Prior Bonds and the Prior Ordinances. There are no outstanding obligations of the Issuer which are secured by the revenues or assets of the Stormwater System.

5. SIGNATURES AND DELIVERY: The undersigned Mayor and Recorder/Treasurer are the duly elected or appointed, qualified and acting officers of the Issuer as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the Issuer. On the date hereof, the undersigned Mayor did officially sign all of the Bonds, consisting upon original issuance of a single Bond, dated the date hereof, by his manual signature; the undersigned Recorder/Treasurer did officially cause the seal of the Issuer to be affixed upon the Bonds and to be attested by his manual signature; and the Registrar did officially authenticate and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the ARRA Assistance Agreement.

6. RATES: The Issuer has duly enacted a sewer rate ordinance on November 13, 2007, setting forth the rates and charges for the services of the Sewer System. The Issuer has complied with all requirements of the Act and the Public Service Commission of West Virginia (the "PSC") to make the rates valid and effective. The time for appeal of such rate ordinance has expired and there has been no appeal thereof and such rates are in full force and effect. The Issuer has duly enacted a stormwater rate ordinance on June 26, 2007, setting forth the rates and charges for the services of the Stormwater System. The time for appeal of such rate ordinance has expired and there has been no appeal thereof and such rates are in full force and effect.

7. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is the "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 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, 2007	June 30, 2011
Council Member	A. K. Minter, Jr.	July 1, 2007	June 30, 2011
Council Member	Mike Atterson	July 1, 2007	June 30, 2011
Council Member	Cedric Robertson	July 1, 2007	June 30, 2011
Council Member	Ann Worley	July 1, 2007	June 30, 2011
Council Member	Frank Williams	July 1, 2007	June 30, 2011
Council Member	Lee Leftwich	July 1, 2007	June 30, 2011
Council Member	Robert Rappold	July 1, 2007	June 30, 2011

The names of the duly appointed, qualified and acting members of the Sanitary Board of the Issuer are as follows:

Chairman:	Mayor Emmett S. Pugh, III
Member:	John Sadowski
Member:	Tom Keyser, P.E.

The duly appointed and acting counsel to the Issuer is Bill File III, Beckley, West Virginia.

8. MEETINGS: All actions, ordinances, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the acquisition, construction, operation and financing of the Projects or the Systems 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.

9. INSURANCE: The Issuer will maintain or, as appropriate, will require all contractors to maintain worker's compensation, public liability and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Ordinances and the ARRA Assistance Agreement. All insurance for the Systems required by the Ordinances and the ARRA Assistance Agreement is in full force and effect.

10. ARRA ASSISTANCE AGREEMENT: As of the date hereof, (i) the representations of the Issuer contained in the ARRA Assistance Agreement are true and correct in all material respects as if made on the date hereof; (ii) the ARRA Assistance Agreement does not contain any untrue statements of material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the ARRA Assistance Agreement, which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading; and (iv) the Issuer is in compliance with the ARRA Assistance Agreement.

11. SPECIMEN BOND: Attached hereto as Exhibit A, Exhibit B, Exhibit C and Exhibit D are specimens of the Bonds which are identical in all respects with the Bonds this day delivered to the Authority and being substantially in the forms prescribed in the Ordinances.

12. BOND PROCEEDS: On the date hereof, the Issuer received $910,297 from the Authority and the DEP, being a portion of the principal amount of the Bonds and more than a de minimus amount of the proceeds of the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer from time to time as acquisition and construction of the Projects progresses.

13. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE: Upon adoption of the Ordinances, 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, 1 qualified newspaper of general circulation in the Issuer, together with a notice to all persons concerned, stating that the Ordinances had been adopted and that the Issuer contemplated the issuance of the Bonds described in the Ordinances, 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 May 27, 2008, at 7:30 p.m., prevailing time, for the Sewer Ordinance and on August 25, 2009, at 7:30 p.m., prevailing time for the Stormwater

Ordinance, in the council chambers of the City Hall in Beckley, West Virginia, and present protests, and stating that a certified copy of the Ordinances were on file at the office of the Recorder/Treasurer 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 Ordinances became finally adopted, enacted and effective as of the date of such public hearing and remains in full force and effect.

14. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the acquisition and construction of the Projects and the operation and maintenance of the Systems have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

15. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the Recommended Decision dated July 17, 2009, which became the final PSC Order on August 6, 2009, in Case No. 09-0728-S-SCN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Sewer Project and approving the financing for the Sewer Project. The time for appeal of the PSC Order entered on August 6, 2009, has expired prior to the date hereof. Such Order remains in full force and effect. It is not necessary for the Issuer to obtain a certificate of public necessity for the Stormwater Project.

16. 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 Ordinances, and/or the Projects, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

17. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has complied with all the requirements of Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended, in the procurement of the engineering services of the Consulting Engineers.

18. VERIFICATION OF SCHEDULE A: The final amended Schedule A attached to the Certificates of Consulting Engineer, with the signature of the Mayor and the Consulting Engineers, accurately represents the estimated costs of the Projects, the sources of funds available to pay the costs of the Projects and the costs of financing of the Bonds.

19. CLEAN WATER ACT: The Projects as described in the Ordinances complies with Sections 208 and 303(e) of the Clean Water Act.

20. COUNTERPARTS: This Certificate may be executed in counterparts and all counterparts shall be deemed to be the Certificate.

WITNESS our signatures and the official corporate seal of The City of Beckley on this 18th day of September, 2009.

[SEAL]

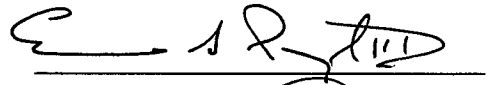
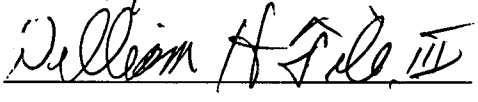
Signature	Official Title
	Mayor
	Recorder/Treasurer
	City Attorney

EXHIBIT A

See 2009 A Specimen Bond (Tab No. 17(A))

EXHIBIT B

See 2009 B-1 Specimen Bond (Tab No. 17(B))

EXHIBIT C

See 2009 B-2 Specimen Bond (Tab No. 17(C))

EXHIBIT D

See 2009 C Specimen Bond (Tab No. 17(D))

CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF PROGRAM/ARRA),
STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA CWSRF PROGRAM/ARRA GREEN),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

CERTIFICATE AS TO USE OF PROCEEDS

On this 18th day of September, 2009, the undersigned Mayor of the City of Beckley in Raleigh County, West Virginia (the "Issuer"), being the official of the Issuer duly charged with the responsibility for the issuance of $679,316 aggregate principal amount of Sewerage System Revenue Bonds, Series 2009 A (West Virginia CWSRF Program), of the Issuer, dated September 18, 2009 (the "Series 2009 A Bonds"), $396,484 aggregate principal amount of Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF Program/ARRA) (the "Series 2009 B-1 Bonds"), $296,952 aggregate principal amount of Stormwater Revenue Bonds, Series 2009 B-2 (West Virginia CWSRF Program/ARRA Green) (the "Series 2009 B-2 Bonds") and the $1,035,783 aggregate principal amount of Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program) (the "Series 2009 C Bonds" and together with the Series 2009 A Bonds, Series 2009 B-1 Bonds and Series 2009 B-2 Bonds, the "Bonds"), all dated September 18, 2009, hereby certify as follows:

1. I am the officer of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the same meanings as set forth in the Bond and Note Ordinance duly passed by the Issuer on May 27, 2008, as supplemented by the Series 2009 A, Series 2009 B-1 and Series 200 C Supplemental Resolution passed by the Issuer on September 8, 2009 (collectively, the "Sewer Ordinance") and the Series 2009 B-2 Bond Ordinance duly passed by the Issuer on August 25, 2009 (the "Stormwater Ordinance") (the Sewer Ordinance and the Stormwater Ordinance shall be known as, collectively, the "Ordinances"), authorizing the Bonds.

2. This certificate may be relied upon as the certificate of the Issuer.

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on September 18, 2009, the date on which the Bonds are to be physically delivered in exchange for a portion of the principal amount of

the Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. The Series 2009 A Bonds were sold on September 18, 2009, to the Authority, pursuant to ARRA assistance agreements dated September 18, 2009, by and among the Issuer, the Authority, and the DEP, for an aggregate purchase price of $679,316 (100% of par value), at which time, the Issuer received $613,404 from the Authority and the DEP, being the first advance of the principal of the Bonds. No accrued interest has been or will be paid on the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

5. The Series 2009 B-1 Bonds were sold on September 18, 2009, to the Authority, pursuant to ARRA assistance agreements dated September 18, 2009, by and among the Issuer, the Authority, and the DEP, for an aggregate purchase price of $396,484 (100% of par value), at which time, the Issuer received $78,450 from the Authority and the DEP, being the first advance of the principal of the Bonds. No accrued interest has been or will be paid on the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Series 2009 B-2 Bonds were sold on September 18, 2009, to the Authority, pursuant to ARRA assistance agreements dated September 18, 2009, by and among the Issuer, the Authority, and the DEP, for an aggregate purchase price of $296,952 (100% of par value), at which time, the Issuer received $52,016 from the Authority and the DEP, being the first advance of the principal of the Bonds. No accrued interest has been or will be paid on the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

7. The Series 2009 C Bonds were sold on September 18, 2009, to the Authority, pursuant to ARRA assistance agreements dated September 18, 2009, by and among the Issuer, the Authority, and the DEP, for an aggregate purchase price of $1,035,783 (100% of par value), at which time, the Issuer received $166,427 from the Authority and the DEP, being the first advance of the principal of the Bonds. No accrued interest has been or will be paid on the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

8. The Series 2009 A Bonds, Series 2009 B-1 Bonds and Series 2009 C 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 additions, betterments and improvements to the sewerage system of the Issuer

(the "Sewer Project"); (ii) paying costs of issuance of the Bonds and related costs and; and (iii) the payment of the Issuer's Bond Anticipation Note, Series 2008 A (the "Series 2008 A Note").

9. The Series 2009 B-2 Bonds are being delivered simultaneously with the delivery of this Certificate and are issued for the purposes of (i) paying a portion of the acquisition and construction of certain additions, betterments and improvements to the stormwater system of the Issuer (the "Stormwater Project" together with the Sewer Project, the "Projects"); and (ii) paying costs of issuance on the Bonds and related costs.

10. The Issuer shall, on the date hereof or immediately hereafter, enter into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bonds for the acquisition and construction of the Projects, constituting a substantial binding commitment. The acquisition and construction of the Projects and the allocation of the net sale proceeds of the Bonds to expenditures for costs of the Projects shall commence immediately and proceed with due diligence to completion and, with the exception of proceeds deposited in the reserve account for the Bonds, if any, all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of costs of acquisition and construction of the Projects on or before September 1, 2010. The acquisition and construction of the Projects is expected to be completed by September 1, 2010.

11. The total cost of the Sewer Project is estimated to be $3,075,0933. Sources and uses of funds for the Sewer Project are as follows:

SOURCES

Proceeds of the Series 2009 A Bonds	$679,316.00
Proceeds of the Series 2009 B-1 Bonds	$396,484.00
Proceeds of the Series 2009 C Bonds	$1,035,783.00
EPA STAG Grant	$955,600.00
City Sanitary Board	$8,750.00
Total Sources	$3,075,933.00

USES

Payment of Series 2008 A Note	$1,001,240.00
Costs of Sewer Project	$2,034,693.00
Costs of Issuance	$40,000.00
Total Uses	$3,075,933.00

12. The total cost of the Stormwater Project is estimated to be $344,833. Sources and uses of funds for the Stormwater Project are as follows:

SOURCES

Proceeds of the Series 2009 B-2 Bonds	$296,952.00
Stormwater Utility	$47,881.00
Total Sources	$344,833.00

USES

Costs of Stormwater Project	$324,833.00
Costs of Issuance	$20,000.00
Total Uses	$344,833.00

13. Pursuant to the Ordinances, the following special funds or accounts have been created (or continued pursuant to the Prior Ordinances):

(1) Sewer Revenue Fund;

(2) Stormwater Revenue Fund;

(3) Sewer Renewal and Replacement Fund;

(4) Stormwater Renewal and Replacement Fund;

(5) Sewer Bonds Construction Trust Fund;

(6) Stormwater Bonds Construction Trust Fund;

(7) Series 2009 A Bonds Sinking Fund;

(8) Series 2009 B-1 Bonds Sinking Fund;

(9) Series 2009 B-2 Bonds Sinking Fund;

(10) Series 2009 C Bonds Sinking Fund;

(11) Series 2009 A Bonds Reserve Account;

(12) Series 2009 B-1 Bonds Reserve Account;

(13) Series 2009 B-2 Bonds Reserve Account; and

(14) Series 2009 C Bonds Reserve Account.

14. Pursuant to the Ordinances, the proceeds of the Bonds will be deposited as follows:

(1) Series 2009 A Bond proceeds in the amount of $544,672 will be deposited with the City to pay JPMorgan Chase the outstanding principal and interest due on the Series 2008 A Note.

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

(3) The balance of the proceeds of the Series 2009 A Bonds will be deposited in the Sewer Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of acquisition and construction of the Projects, including costs of issuance of the Bonds and related costs, and for no other purpose.

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

(5) The balance of the proceeds of the Series 2009 B-1 Bonds will be deposited in the Sewer Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of acquisition and construction of the Projects, including costs of issuance of the Bonds and related costs, and for no other purpose.

(6) Series 2009 B-2 Bond proceeds in the amount of $-0- will be deposited in the Series 2009 B-2 Bonds Reserve Account.

(7) The balance of the proceeds of the Series 2009 B-2 Bonds will be deposited in the Stormwater Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of acquisition and construction of the Projects, including costs of issuance of the Bonds and related costs, and for no other purpose.

(8) Series 2009 C Bond proceeds in the amount of $-0- will be deposited in the Series 2009 C Bonds Reserve Account.

(9) The balance of the proceeds of the Series 2009 C Bonds will be deposited in the Sewer Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of acquisition and construction of the Projects, including costs of issuance of the Bonds and related costs, and for no other purpose.

15. Moneys held in the Series 2009 A Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Bonds and will not be available to meet costs of acquisition and construction of the Sewer Project. All investment earnings on moneys in the Series 2009 A Bonds Reserve Account (if equal to the Series 2009 A Bonds Reserve Requirement) will be withdrawn therefrom, not less than once each year, and, during acquisition and construction of the Sewer Project, deposited into the Sewer Bonds Construction Trust Fund, and following completion of the Sewer Project, will be deposited in the Sewer Revenue Fund, and such amounts will be applied as set forth in the Sewer Ordinance.

16. Moneys held in the Series 2009 B-1 Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Bonds and will not be available to meet costs of acquisition and construction of the Sewer Project. All investment earnings on moneys in the Series 2009 B-1 Bonds Reserve Account (if equal to the Series 2009 B-1 Bonds Reserve Requirement) will be withdrawn therefrom, not less than once each year, and, during acquisition and construction of the Sewer Project, deposited into the Sewer Bonds Construction Trust Fund, and following completion of the Sewer Project, will be deposited in the Sewer Revenue Fund, and such amounts will be applied as set forth in the Sewer Ordinance.

17. Moneys held in the Series 2009 B-2 Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Bonds and will not be available to meet costs of acquisition and construction of the Stormwater Project. All investment earnings on moneys in the Series 2009 B-2 Bonds Reserve Account (if equal to the Series 2009 B-2 Bonds Reserve Requirement) will be withdrawn therefrom, not less than once each year, and, during acquisition and construction of the Stormwater Project, deposited into the Stormwater Bonds Construction Trust Fund, and following completion of the Stormwater Project, will be deposited in the Stormwater Revenue Fund, and such amounts will be applied as set forth in the Stormwater Ordinance.

18. Moneys held in the Series 2009 C Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Bonds and will not be available to

meet costs of acquisition and construction of the Sewer Project. All investment earnings on moneys in the Series 2009 C Bonds Reserve Account (if equal to the Series 2009 C Bonds Reserve Requirement) will be withdrawn therefrom, not less than once each year, and, during acquisition and construction of the Sewer Project, deposited into the Sewer Bonds Construction Trust Fund, and following completion of the Sewer Project, will be deposited in the Sewer Revenue Fund, and such amounts will be applied as set forth in the Sewer Ordinance.

19. Work with respect to the acquisition and construction of the Sewer Project will proceed with due diligence to completion. The acquisition and construction of the Sewer Project is expected to be completed within 12 months of the date hereof.

20. Work with respect to the acquisition and construction of the Stormwater Project will proceed with due diligence to completion. The acquisition and construction of the Stormwater Project is expected to be completed within 6 months of the date hereof.

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

22. With the exception of the amount deposited in the Series 2009 A Bonds Reserve Account, the Series 2009 B-1 Bonds Reserve Account, the Series 2009 B-2 Bonds Reserve Account and the Series 2009 C Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Projects within 12 months from the date of issuance thereof.

23. The Issuer does not expect to sell or otherwise dispose of the Projects in whole or in part prior to the last maturity date of the Bonds.

24. 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.

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

26. No proceeds of the Bonds will be used, directly or indirectly, in any trade or business carried on by any person who is not a governmental unit.

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

28. The Issuer shall use the proceeds of the Bonds solely for the costs of acquisition and construction of the Projects, and the Projects will be operated solely for a public purpose as a local governmental activity of the Issuer.

29. The Bonds are not federally guaranteed.

30. The Issuer has retained the right to amend the Ordinances authorizing the issuance of the Bonds if such amendment is necessary to assure that the Bonds remain governmental or public purpose bonds.

31. The Issuer has either (a) funded the Series 2009 A Bonds Reserve Account, the Series 2009 B-1 Bonds Reserve Account, the Series 2009 B-2 Bonds Reserve Account and the Series 2009 C Bonds Reserve Account at the maximum amount of principal and interest, if any, which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Series 2009 A Bonds Reserve Account, the Series 2009 B-1 Bonds Reserve Account, the Series 2009 B-2 Bonds Reserve Account and the Series 2009 C Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until the Series 2009 A Bonds Reserve Account, the Series 2009 B-1 Bonds Reserve Account, the Series 2009 B-2 Bonds Reserve Account and the Series 2009 C Bonds Reserve Account holds an amount equal to the maximum amount of principal and interest, if any, which will mature and become due on the Bonds in the then current or any succeeding year. Moneys in the Series 2009 A Bonds Reserve Account, the Series 2009 B-1 Bonds Reserve Account, the Series 2009 B-2 Bonds Reserve Account and the Series 2009 C Bonds Reserve Account and the Series 2009 A Bonds Sinking Fund, the Series 2009 B-1 Bonds Sinking Fund, the Series 2009 B-2 Bonds Sinking Fund and the Series 2009 C Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Bonds and will not be available to pay costs of the Projects.

32. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bonds, (b) are to be sold pursuant to a common plan of financing together with the Bonds and (c) will be paid out of substantially the same source of funds or will have substantially the same claim to be paid out of substantially the same source of funds as the Bonds.

33. 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.

34. The Issuer will comply with instructions as may be provided by the Authority, at any time, regarding use and investment of proceeds of the Bonds, rebates and rebate calculations.

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

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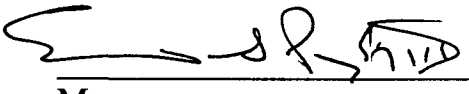
WITNESS my signature as of the date first written above.

CITY OF BECKLEY



Mayor

CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF PROGRAM/ARRA),
STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA CWSRF PROGRAM/ARRA GREEN),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

CERTIFICATE OF RECORDER/TREASURER AS TO TRUTH
AND ACCURACY OF DOCUMENTS DELIVERED

The undersigned duly elected Recorder/Treasurer of the City of Beckley (the "Issuer"), hereby certifies that the copies of the following documents being delivered in connection with the closing of the sale of the City of Beckley Sewerage System Revenue Bonds, Series 2009 A (West Virginia CWSRF Program), Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF Program/ARRA), Stormwater Revenue Bonds, Series 2009 B-2 (West Virginia CWSRF Program/ARRA Green), Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program) (the "Bonds") are, as of the date hereof, true, complete and accurate copies of the originals of those documents maintained on file with the Issuer and delivered in the transcript of proceedings, that said documents have been duly adopted, enacted or entered by the Council of the Issuer, and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. Charter.

2. Oaths of Office of Mayor, Recorder/Treasurer and Council Members.

3. Ordinance Creating Sanitary Board.

4. Oaths of Office of Sanitary Board Members.

5. Public Service Commission Order.

6. Infrastructure Council Approval Letter.

7. ARRA Assistance Agreements.

8. Sewer and Stormwater Rate Ordinances.

9. Minutes of Council Meetings regarding All Readings and Public Hearing of the Sewer and Stormwater Rate Ordinances.

10. Petitions of Sanitary Board for Sewerage System Bonds and Stormwater Bonds.

11. Bond and Note Ordinance for Sewerage System Revenue Bonds.

12. Bond Ordinance for Stormwater Revenue Bonds.

13. Series 2009 A, Series 2009 B-1 and Series 2009 C Supplemental Resolution.

14. Series 2009 B-2 Supplemental Resolution.

15. Minutes of Council Meetings regarding All Readings and Public Hearing of the Bond Ordinances and Adoption of the Series 2009 A, Series 2009 B-1 and Series 2009 C Supplemental Resolution and the Series 2009 B-2 Supplemental Resolution.

16. Affidavit of Publication of the Notice of Public Hearing and Abstract of Bond Ordinances.

17. Series 1998 A Bond Ordinance and Supplemental Resolution.

18. Series 2004 A Bond Ordinance and Supplemental Resolution.

19. Series 2005 Bond Ordinance and Supplemental Resolution.

20. WDA Consent to Issuance of Parity Bonds.

21. NPDES Permit.

22. Evidence of Insurance.

[The rest of this page is intentionally left blank.]

WITNESS my signature and the official seal of the City of Beckley on this 18th day of September, 2009.

Recorder/Treasurer

[SEAL]

CITY OF BECKLEY 3.4(A)
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF PROGRAM/ARRA),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

CERTIFICATE OF CONSULTING ENGINEER

I, Craig D. Richards, Registered Professional Engineer, West Virginia License No. 10358, of Burgess & Niple, Inc., Parkersburg, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain additions, betterments and improvements (the "Project") to the existing public sewerage system (the "System") of the City of Beckley (the "Issuer"), to be constructed primarily in Raleigh County, West Virginia, which acquisition and construction are being permanently financed by the above-captioned bonds (the "Bonds") of the Issuer. All capitalized words used herein and not defined herein shall have the same meaning set forth in the Bond Ordinance passed by the Issuer on April 22, 2008, effective May 27, 2008, as supplemented by a Supplemental Resolution adopted by the Issuer on September 8, 2009, and the ARRA Assistance Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection ("DEP"), dated September 18, 2009 (the "ARRA Assistance Agreement").

2. The Bonds are being issued for the purposes of (i) paying the costs of acquisition and construction of the Project; (ii) paying the Sewerage System Bond Anticipation Notes, Series 2008 A; and (iii) paying certain costs of issuance and related costs.

3. To the best of my knowledge, information and belief (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project, to the extent the plans were prepared by my firm, will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the DEP and any change orders approved by the

Issuer, the DEP and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 40 years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the Schedule B attached hereto as Exhibit A, and in reliance upon the opinion of File Payne Scherer & File PLLC, of even date herewith, all successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the DEP and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project, to the extent the plans were prepared by my firm, and operation of the System; (ix) in reliance upon the certificate of the Issuer's certified public accountant, Smith, Cochran & Hicks, P.L.L.C., of even date herewith, as of the effective date thereof, the rates and charges for the System as enacted by the Issuer will be sufficient to comply with the provisions of the ARRA Assistance Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the DEP; and (xi) attached hereto as Exhibit A are the final amended "Schedule B - Total Cost of Project, Sources of Funds and Cost of Financing" for the Bonds associated with the Project.

4. I have received the Buy American Certification from the contractor responsible for performing the construction work associated with the Series 2009 B-1 Bonds.

5. The Project will serve no new customers.

WITNESS my signature and seal on this 18th day of September, 2009.

[SEAL]

Burgess & Niple, Inc.
Craig D. Richards, P.E.
West Virginia License No. 10358

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
SCHEDULE B
CITY OF BECKLEY - PHASE I SEWER PROJECT
SRF No. C-544439-01, EPA No. XP-973786-01, IJDC No. 2007S-993
COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING

A. Cost of Project		**Total**	**EPA STAG**	**DEP SRF (20 yr, 2%, 1% admin)**	**City Sanitary Board**
1.	Construction				
	Equipment & Software - BAN	161,500	-	161,500	-
	Misc Construction - BAN	517,936	506,314	2,872	8,750
	Lynch Construction Co. - Balance	567,076	176,395	390,681	-
2.	Technical Services				
	a. Study & Report Phase	45,200	-	-	45,200
	b. Design Phase - Phases I - II	28,589	-	-	28,589
	Design Phase - Phase I - II - BAN	292,177	231,586	48,637	11,954
	d. Construction Phase - Phase I	55,100	30,305	16,749	8,046
3.	Legal & Fiscal				
	a. Legal				
	b. Accounting				
4.	Sites and Other Lands				
5.	Miscellaneous				
	a. Administrative - BAN Cost of Fin	28,895	-	28,895	-
	b. Permits - BAN	732	-	732	-
6.	Bank Refinancing (Eng & construction)				
7.	Construction Contingency	20,000	11,000	9,000	-
8.	SUBTOTAL (Lines 1 through 7)	1,717,205	955,600	659,066	102,539
B. Cost of Financing					
9.	Funded Reserve				
10	Other Costs				
	a. Bond Counsel	20,000	-	20,000	-
	b. Bank Registrar Fee	250	-	250	-
11.	Total Cost of Financing	20,250	-	20,250	-
12.	TOTAL PROJECT COST (Line 8 plus Line 11)	1,737,455	955,600	679,316	102,539
C. Sources of Funds					
13.	Federal Grants	955,600			
14.	State Grants				
15.	Other Sources	102,539			
16.	TOTAL OTHER SOURCES (Lines 13 through 15)	1,058,139			
17	Size of Bond Issue	679,316	955,600	679,316	102,539

Authorized Representative Date

Consulting Engineer 9/9/09
Date

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
SCHEDULE B
CITY OF BECKLEY - PHASE II SEWER PROJECT
SRF No. C-544439-02, IJDC No. 2007S-993b
COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING

A. Cost of Project		Total	WV DEP - Stimulus (50%)	WVDEP SRF (38 yr, 0%, 1% admin)	
1.	Construction				
	Phase II - Lynch Construction Co.	$ 455,050	$ 209,030	$ 246,020	$ -
	Emergency - Pipe	$ 28,000	$ -	$ 28,000	$ -
	Emergency - Installation/Asbestos Removal	$ 392,200	$ -	$ 392,200	$ -
2.	Technical Services				
	b. Design - Phase I - II	$ 208,104	$ 149,904	$ 58,200	
	Design - Phase III	$ 219,100	$ -	$ 219,100	$ -
	c. Bidding & Negotiation Phase	$ 17,300	$ 17,300	$ -	$ -
	d. Construction Phase - Phase I	$ 35,800	$ -	$ 35,800	$ -
	e. Post Construction - Phases I - II	$ 14,100	$ -	$ 14,100	$ -
3.	Legal & Fiscal				
	a. Legal	$ -			
	b. Accounting	$ -			
4.	Sites and Other Lands	$ -			
5.	Miscellaneous				
	a. Admin	$ -			
	b. Permits	$ -			
6.	Bank Refinancing	$ -			
7.	Construction Contingency	$ 42,363	$ -	$ 42,363	$ -
8.	SUBTOTAL (Lines 1 through 7)	$ 1,412,017	$ 376,234	$ 1,035,783	$ -
B. Cost of Financing					
9.	Reserve Fund				
10	Other Costs				
	a. Bond Counsel	$ 20,000	$ 20,000	$ -	$ -
	b. Bank Registrar Fee	$ 250	$ 250	$ -	$ -
11.	Total Cost of Financing	$ 20,250	$ 20,250	$ -	$ -
12.	TOTAL PROJECT COST (Line 8 plus Line 11)	$ 1,432,267	$ 396,484	$ 1,035,783	$ -
C. Sources of Funds					
13.	Federal Grants	$ -	$ -	$ -	$ -
14.	State Grants	$ -	$ -	$ -	$ -
15.	Other Sources		$ -	$ -	$ -
16.	TOTAL OTHER SOURCES (Lines 13 through 15)	$ -	$ -	$ -	$ -
17	Size of Bond Issue	$ 1,432,267	$ 396,484	$ 1,035,783	$ -

9-15-09
Authorized Representative Date

Craig D. Williams 9/9/09
Consulting Engineer Date

CITY OF BECKLEY 3.4(B)
STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA CWSRF PROGRAM/ARRA GREEN)

CERTIFICATE OF CONSULTING ENGINEER

I, John J. Keeling, Registered Professional Engineer, West Virginia License No. 9003, of MSES Consultants, Clarksburg, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain additions, betterments and improvements (the "Project") to the existing public stormwater system (the "System") of the City of Beckley (the "Issuer"), to be constructed primarily in Raleigh County, West Virginia, which acquisition and construction are being permanently financed by the above-captioned bonds (the "Bonds") of the Issuer. All capitalized words used herein and not defined herein shall have the same meaning set forth in the Bond Ordinance passed by the Issuer on August 11, 2009, effective August 25, 2009, as supplemented by a Supplemental Resolution adopted by the Issuer on September 8, 2009, and the ARRA Assistance Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection ("DEP"), dated September 16, 2009 (the "ARRA Assistance Agreement").

2. The Bonds are being issued for the purposes of (i) paying the costs of acquisition and construction of the Project (including the repayment of the financing for design costs); and (ii) paying certain costs of issuance and related costs.

3. To the best of my knowledge, information and belief (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the DEP and any change orders approved by the Issuer, the DEP and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 40 years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise

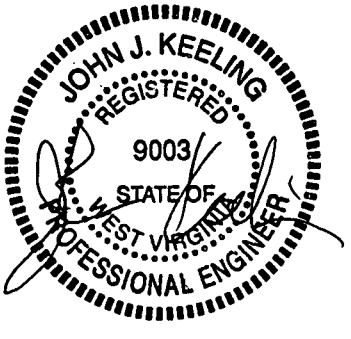
compatible with the plan of financing set forth in the Schedule B attached hereto as Exhibit A, and in reliance upon the opinion of File Payne Scherer & File PLLC, of even date herewith, all successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the DEP and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the DEP; and (x) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project, Sources of Funds and Cost of Financing" for the Project.

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

5. The Project will serve no new customers.

WITNESS my signature and seal on this 16th day of September, 2009.

[SEAL]



MSES Consultants
John J. Keeling, P.E.
West Virginia License No. 9003

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

SCHEDULE B

CITY OF BECKLEY - TANGLEWOOD-WITHERSPOON-CIRCLE STORMWATER PROJECT

SRF No. C-547050

COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING

	A. Cost of Project	Total	City of Beckley Stormwater Utility	WV DEP - Stimulus (100%)	
1.	Construction				
	Contract 1	$ 244,800	$ -	$ 244,800	
	Stormwater Pipe	$ 30,152	$ -	$ 30,152	
	Retention Area Plantings	$ 2,000	$ -	$ 2,000	
2.	Technical Services				
	f. Conventional Stormwater & Sewer Engineering	$ 15,547	$ 15,547	$ -	
	g. Green Engineering	$ 5,000	$ 5,000	$ -	
	h. Additional Surveying & Engineering	$ 2,500	$ 2,500	$ -	
	i. Special Services - Preconstruction Video	$ 180	$ 180	$ -	
3.	Legal & Fiscal				
	a. Legal				
	b. Accounting				
4.	Sites and Other Lands - Easement Filing	$ 154	$ 154	$ -	
5.	Miscellaneous				
	a. Admin				
	b. Permits				
6.	Bank Refinancing				
7.	Construction Contingency	$ 24,500	$ 24,500	$ -	
8.	SUBTOTAL (Lines 1 through 7)	$ 324,833	$ 47,881	$ 276,952	$ -
	B. Cost of Financing				
9.	Capitalized Interest				
10	Other Costs				
	a. Bond Counsel	$ 20,000	$ -	$ 20,000	
	b. Bank Registrar Fee				
11.	Total Cost of Financing	$ 20,000	$ -	$ 20,000	$ -
12.	TOTAL PROJECT COST (Line 8 plus Line 11)	$ 344,833	$ 47,881	$ 296,952	$ -
	C. Sources of Funds				
13.	Federal Grants				
14.	State Grants				
15.	Other Sources				
16.	TOTAL OTHER SOURCES (Lines 13 through 15)	$ -	$ -	$ -	$ -
17	Size of Bond Issue	$ 344,833	$ 47,881	$ 296,952	$ -

Authorized Representative Date

SCH
Smith, Cochran & Hicks, P.L.L.C.
Certified Public Accountants Oak Hill Charleston Montgomery
405 Capitol Street • Suite 908 • Charleston, WV 25301 • 304-345-1151 • Fax 304-346-6731

September 18, 2009

CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF PROGRAM/ARRA),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

City of Beckley
P.O. Box 2514
Beckley, WV 25802

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

West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, WV 25311

Jackson Kelly PLLC
1600 Laidley Tower
P.O. Box 553
Charleston, WV 25322

Vaughan Law Firm
2020 Kanawha Blvd., East
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 November 13, 2007, and the projected operating expenses and anticipated customer usage provided by Burgess and Niple Ltd., 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 115% 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 Bonds, Series 2009 A (West Virginia CWSRF Program), Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF Program/ARRA), Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program) (the "Bonds") and all other obligations secured by or payable from revenues of the System on a parity with the Bonds, including the Issuer's Sewer Revenue Bonds, Series 1998 A, Sewer System Revenue Bonds, Series 2004 A and Sewerage System Revenue Bonds, Series 2005 (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 Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the Bonds, will not be less than 120% of the maximum debt service in any succeeding year on the Prior Bonds and the Bonds.

Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Ordinance authorizing the Bonds.

Very truly yours,

Smith Cochran & Hicks

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

SCH

CITY OF BECKLEY 3.6
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF PROGRAM/ARRA),
STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA CWSRF PROGRAM/ARRA GREEN),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

RECEIPT FOR BONDS

The undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, hereby certifies as follows:

1. On the 28th day of August, 2009, in Charleston, West Virginia, the Authority received the entire original issue of $2,508,535 in aggregate principal amount of the Sewerage System Revenue Bonds, Series 2009 A (West Virginia CWSRF Program), of the City of Beckley (the "Issuer"), dated September 18, 2009, issued in the form of one bond, fully registered to the Authority, and numbered AR-1, Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF Program/ARRA), of the Issuer, dated September 18, 2009, issued in the form of one bond, fully registered to the Authority, and numbered B-1R-1, Stormwater Revenue Bonds, Series 2009 B-2 (West Virginia CWSRF Program/ARRA Green), of the Issuer, dated September 18, 2009, issued in the form of one bond, fully registered to the Authority, and numbered B-2R-1 and Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program), of the Issuer, dated September 18, 2009, issued in the form of one bond, fully registered to the Authority, and numbered CR-1 (the "Bonds").

2. At the time of such receipt of the Bonds, they had been executed by the Mayor of the Issuer and attested by the Recorder/Treasurer of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been impressed upon the Bonds.

WITNESS my signature on this 18th day of September, 2009.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Carol A. Cummings
Authorized Representative

CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF PROGRAM/ARRA),
STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA CWSRF PROGRAM/ARRA GREEN),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

RECEIPT FOR BOND PROCEEDS

On this 18th day of September, 2009, the undersigned Mayor of the City of Beckley (the "Issuer"), for and on behalf of the Issuer, hereby certifies that the Issuer has received on the date hereof from the West Virginia Water Development Authority (the "WDA"), the sum of $679,316, being the first advance on Sewerage System Revenue Bonds, Series 2009 A (West Virginia CWSRF Program), the sum of $396,484 being the first advance on Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF Program/ARRA), the sum of $296,952 being the first advance on Stormwater Revenue Bonds, Series 2009 B-2 (West Virginia CWSRF Program/ARRA Green) and the sum of $1,035,783 being the first advance on Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program), dated the date hereof (the "Bonds"). The Issuer understands that the remaining proceeds of the Bonds will be advanced to the Issuer by the WDA from time to time as construction progresses.

[Remainder of Page Intentionally Blank]

WITNESS my signature as of the date first written above.

CITY OF BECKLEY

Mayor

CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF PROGRAM/ARRA),
STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA CWSRF PROGRAM/ARRA GREEN),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

REQUEST AND AUTHORIZATION TO
AUTHENTICATE AND DELIVER THE BONDS

September 18, 2009

United Bank, Inc., as Registrar
Charleston, West Virginia

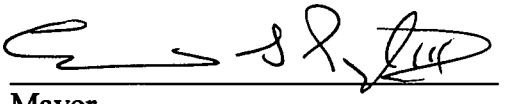
Ladies and Gentlemen:

We herewith hand to you, duly executed, the $679,316 Sewerage System Revenue Bonds, Series 2009 A (West Virginia CWSRF Program), in the form of one bond, numbered AR-1, dated September 18, 2009, the $396,484 Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF Program/ARRA), in the form of one bond, numbered B-1R-1, dated September 18, 2009, and the $1,035,783 Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program) in the form of one bond, numbered CR-1, dated September 18, 2009 (the "Sewer Bonds"), of the City of Beckley (the "Issuer"), authorized to be issued under and pursuant to a Bond and Note Ordinance duly passed by the Issuer on April 22, 2008, effective May 27, 2008, and a Supplemental Resolution duly adopted by the Issuer on August 25, 2009.

We also herewith hand to you, duly executed the $296,952 Stormwater Revenue Bonds, Series 2009 B-2 (West Virginia CWSRF Program/ARRA Green), in the form of one bond, numbered B-2R-1, dated September 18, 2009 (the "Stormwater Bonds") of the Issuer authorized to be issued under and pursuant to a Bond Ordinance duly passed by the Issuer on August 11, 2009, effective August 25, 2009 and a Supplemental Resolution duly adopted by the Issuer on August 25, 2009.

You are hereby requested and authorized to register, authenticate and deliver the Sewer Bonds and the Stormwater Bonds on behalf of the Issuer to the West Virginia Water Development Authority.

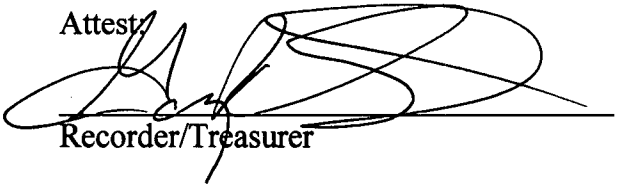
CITY OF BECKLEY



Mayor

(SEAL)

Attest:



Recorder/Treasurer

CITY OF BECKLEY
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF PROGRAM/ARRA),
STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA CWSRF PROGRAM/ARRA GREEN),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 18th day of September, 2009, by and between the CITY OF BECKLEY, a municipal corporation (the "Issuer"), and UNITED BANK, INC., Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its $679,316 Sewerage System Revenue Bonds, Series 2009 A (West Virginia CWSRF Program), in the form of one bond, numbered AR-1, in fully registered form, $396,484 Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF Program/ARRA), in the form of one bond, numbered B-1R-1, in fully registered form, and the $1,035,783 Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program) in the form of one bond, numbered CR-1, in fully registered form (collectively, the "Sewer Bonds"), pursuant to a Bond and Note Ordinance duly passed by the Issuer on April 22, 2008, effective May 27, 2008, and a Supplemental Resolution duly adopted August 25, 2009 (collectively, the "Sewer Ordinance");

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its $296,952 Stormwater Revenue Bonds, Series 2009 B-2 (West Virginia CWSRF Program/ARRA Green), in the form of one bond, numbered B-2R-1, in fully registered form (the "Stormwater Bonds" and together with the Sewer Bonds, the "Bonds"), pursuant to a Bond Ordinance duly passed by the Issuer on August 11, 2009, effective August 25, 2009, and a Supplemental Resolution duly adopted August 25, 2009 (collectively, the "Stormwater Ordinance" and together with the Sewer Ordinance, the "Ordinances");

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 Ordinances, a copy of which are attached as Exhibit A and Exhibit B hereto and incorporated herein by reference;

WHEREAS, the Ordinances provide for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Ordinances and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Ordinances 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 Ordinances, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest, if any, on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation for services rendered as provided in the annexed schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Ordinances with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Ordinances, the terms of the Ordinances 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

Ordinances will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective address:

ISSUER:

City of Beckley
P.O. Box 2514
Beckley, WV 25802
Attention: Mayor

REGISTRAR:

United Bank, Inc.
500 Virginia Street, East
Charleston, WV 25301
Attention: Corporate Trust Department

The Issuer and the Registrar shall notify the other in writing of any change of address.

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Ordinances.

IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the date first above-written.

THE CITY OF BECKLEY

Mayor

UNITED BANK, INC.

Authorized Officer

EXHIBIT A

See Sewer Bond and Note Ordinance (Tab No. 12)
See Sewer Supplemental Resolution (Tab No. 14)

EXHIBIT B

See Stormwater Bond Ordinance (Tab No. 13)
See Stormwater Supplemental Resolution (Tab No. 15)

CITY OF BECKLEY 3.10
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF PROGRAM/ARRA),
STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA CWSRF PROGRAM/ARRA GREEN),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

CERTIFICATE OF REGISTRATION OF BONDS

UNITED BANK, INC., Charleston, West Virginia, as Registrar (the "Registrar"), hereby certifies that on the date hereof, the single, fully registered Sewerage System Revenue Bonds, Series 2009 A (West Virginia CWSRF Program), of the City of Beckley (the "Issuer"), dated September 18, 2009, in the principal amount of $679,316, and numbered AR-1, Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF Program/ARRA) of the Issuer, dated September 18, 2009, in the principal amount of $396,484, and numbered B-1R-1, Stormwater Revenue Bonds, Series 2009 B-2 (West Virginia CWSRF Program/ARRA Green) of the Issuer, dated September 18, 2009, in the principal amount of $296,952, and numbered B-2R-1, Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program) of the Issuer, dated September 18, 2009, in the principal amount of $1,035,783, and numbered CR-1, was registered as to principal in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of the Registrar.

WITNESS my signature on this 18th day of September, 2009.

UNITED BANK, INC., as Registrar

Authorized Officer

CITY OF BECKLEY 3.11
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 B-1
(WEST VIRGINIA CWSRF PROGRAM/ARRA),
STORMWATER REVENUE BONDS, SERIES 2009 B-2
(WEST VIRGINIA CWSRF PROGRAM/ARRA GREEN),
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 C
(WEST VIRGINIA CWSRF PROGRAM)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

JPMORGAN CHASE BANK, NA, Beckley, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond and Note Ordinance of the City of Beckley (the "Issuer"), passed by the Issuer on April 22, 2008, effective May 27, 2008, a Supplemental Resolution adopted by the Issuer on September 8, 2009, a Bond Ordinance passed by the Issuer on August 11, 2009, effective August 25, 2009, and a Supplemental Resolution adopted by the Issuer on September 8, 2009 (collectively, the "Ordinances"), authorizing the issuance of the City of Beckley Sewerage System Revenue Bonds, Series 2009 A (West Virginia CWSRF Program), in the aggregate principal amount of $679,316, Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF Program/ARRA), in the aggregate principal amount of $396,484, Stormwater Revenue Bonds, Series 2009 B-2 (West Virginia CWSRF Program/ARRA Green), in the aggregate principal amount of $296,952 and Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program), in the aggregate principal amount of $1,035,783, all dated September 18, 2009, and agrees to serve as Depository Bank, all as set forth in the Ordinances.

Witness my signature on this 18th day of September, 2009.

JPMORGAN CHASE BANK, NA

Nancy Kinnison
Authorized Officer

WEST VIRGINIA MUNICIPAL BOND COMMISSION
1207 Quarrier Street, Suite 401
Charleston, WV 25301
(304) 558-3971

3.12(A)
NEW ISSUE REPORT FORM
Date of Report: September 18, 2009

ISSUE: City of Beckley Sewerage System Revenue Bonds, Series 2009 A (West Virginia CWSRF Program)

ADDRESS: P.O. Box 2514, Beckley, WV 25802 COUNTY: Raleigh

PURPOSE OF ISSUE: New Money X
Refunding _____ Refunds issue(s) dated: _____

ISSUE DATE: September 18, 2009 CLOSING DATE: September 18, 2009

ISSUE AMOUNT: $679,316 RATE: 2% / 1% Admin Fee

1st DEBT SERVICE DUE: June 1, 2010 1st PRINCIPAL DUE: June 1, 2010

1st DEBT SERVICE AMOUNT: $6,927 PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Jackson Kelly PLLC
Contact Person: Samme L. Gee, Esquire
Phone: (304) 340-1318

UNDERWRITERS COUNSEL: Kauffelt & Kauffelt
Contact Person: Mark Kauffelt, Esquire
Phone: (304) 345-1272

CLOSING BANK: JPMorgan Chase
Contact Person: Nancy Kissinger
Phone: (304) 256-2157

ESCROW TRUSTEE: _____
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: Luke Richmond
Position: General Manager, Sanitary Board
Phone: (304) 256-1760
E-Mail: lukerichmond_bsb@yahoo.com

OTHER: WVDEP
Contact Person: Rosalie Brodersen
Function: Program Manager
Phone: (304) 558-0637

DEPOSITS TO MBC AT CLOSE: _____
By ____ Wire
_____ Check

Accrued Interest: $_____
Capitalized Interest: $_____
Reserve Account: $_____
Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire
_____ Check
_____ IGT

_____ To Escrow Trustee: $_____
_____ To Issuer: $_____
_____ To Cons.Invest.Fund $_____
_____ To Other: _____ $_____

NOTES: Reserve Fund to be funded over ten years.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

{C1581540.1}

WEST VIRGINIA MUNICIPAL BOND COMMISSION
1207 Quarrier Street, Suite 401
Charleston, WV 25301
(304) 558-3971

3.12(B)
NEW ISSUE REPORT FORM
Date of Report: September 18, 2009

ISSUE: City of Beckley Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF Program/ARRA)

ADDRESS: P.O. Box 2514, Beckley, WV 25802 COUNTY: Raleigh

PURPOSE OF ISSUE: New Money X
Refunding _____ Refunds issue(s) dated: _____

ISSUE DATE: September 18, 2009 CLOSING DATE: September 18, 2009

ISSUE AMOUNT: $396,484 RATE: 0% / Principal foregiveness

1st DEBT SERVICE DUE: N/A 1st PRINCIPAL DUE: N/A

1st DEBT SERVICE AMOUNT: Principal forgiveness PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Jackson Kelly PLLC UNDERWRITERS COUNSEL: Kauffelt & Kauffelt
Contact Person: Samme L. Gee, Esquire Contact Person: Mark Kauffelt, Esquire
Phone: (304) 340-1318 Phone: (304) 345-1272

CLOSING BANK: JPMorgan Chase ESCROW TRUSTEE: _____
Contact Person: Nancy Kissinger Contact Person: _____
Phone: (304) 256-2157 Phone: _____

KNOWLEDGEABLE ISSUER CONTACT: OTHER: WVDEP
Contact Person: Luke Richmond Contact Person: Rosalie Brodersen
Position: General Manager, Sanitary Board Function: Program Manager
Phone: (304) 256-1760 Phone: (304) 558-0637
E-Mail: lukerichmond_bsb@yahoo.com

DEPOSITS TO MBC AT CLOSE: _____ Accrued Interest: $_____
_____ Capitalized Interest: $_____
By _____ Wire _____ Reserve Account: $_____
_____ Check _____ Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire _____ To Escrow Trustee: $_____
_____ Check _____ To Issuer: $_____
_____ IGT _____ To Cons.Invest.Fund $_____
_____ To Other: _____ $_____

NOTES: Bond is 100% principal forgiveness over ten years.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

WEST VIRGINIA MUNICIPAL BOND COMMISSION
1207 Quarrier Street, Suite 401
Charleston, WV 25301
(304) 558-3971

3.12(C)
NEW ISSUE REPORT FORM
Date of Report: September 18, 2009

ISSUE: City of Beckley Stormwater Revenue Bonds, Series 2009 B-2 (West Virginia CWSRF Program/ARRA Green)

ADDRESS: P.O. Box 2514, Beckley, WV 25802 COUNTY: Raleigh

PURPOSE OF ISSUE: New Money X
Refunding _____ Refunds issue(s) dated: _____

ISSUE DATE: September 18, 2009 CLOSING DATE: September 18, 2009

ISSUE AMOUNT: $296,952 RATE: 0% / Principal foregiveness

1st DEBT SERVICE DUE: N/A 1st PRINCIPAL DUE: N/A

1st DEBT SERVICE AMOUNT: Principal forgiveness PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Jackson Kelly PLLC
Contact Person: Samme L. Gee, Esquire
Phone: (304) 340-1318

UNDERWRITERS COUNSEL: Kauffelt & Kauffelt
Contact Person: Mark Kauffelt, Esquire
Phone: (304) 345-1272

CLOSING BANK: JPMorgan Chase
Contact Person: Nancy Kissinger
Phone: (304) 256-2157

ESCROW TRUSTEE: _____
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: Luke Richmond
Position: General Manager, Sanitary Board
Phone: (304) 256-1760
E-Mail: lukerichmond_bsb@yahoo.com

OTHER: WVDEP
Contact Person: Rosalie Brodersen
Function: Program Manager
Phone: (304) 558-0637

DEPOSITS TO MBC AT CLOSE:
By _____ Wire
_____ Check

Accrued Interest: $_____
Capitalized Interest: $_____
Reserve Account: $_____
Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire
_____ Check
_____ IGT

To Escrow Trustee: $_____
To Issuer: $_____
To Cons.Invest.Fund $_____
To Other: _____ $_____

NOTES: Bond is 100% principal forgiveness over ten years.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

{C1581548.1}

WEST VIRGINIA MUNICIPAL BOND COMMISSION
1207 Quarrier Street, Suite 401
Charleston, WV 25301
(304) 558-3971

3.12(D)
NEW ISSUE REPORT FORM
Date of Report: September 18, 2009

ISSUE: City of Beckley Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program)

ADDRESS: P.O. Box 2514, Beckley, WV 25802 COUNTY: Raleigh

PURPOSE OF ISSUE: New Money X
Refunding _____ Refunds issue(s) dated: _____

ISSUE DATE: September 18, 2009 CLOSING DATE: September 18, 2009

ISSUE AMOUNT: $1,035,783 RATE: 0% / .25% Admin Fee

1st DEBT SERVICE DUE: March 1, 2011 1st PRINCIPAL DUE: March 1, 2011

1st DEBT SERVICE AMOUNT: $6,683 PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Jackson Kelly PLLC
Contact Person: Samme L. Gee, Esquire
Phone: (304) 340-1318

UNDERWRITERS COUNSEL: Kauffelt & Kauffelt
Contact Person: Mark Kauffelt, Esquire
Phone: (304) 345-1272

CLOSING BANK: JPMorgan Chase
Contact Person: Nancy Kissinger
Phone: (304) 256-2157

ESCROW TRUSTEE: _____
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: Luke Richmond
Position: General Manager, Sanitary Board
Phone: (304) 256-1760
E-Mail: lukerichmond_bsb@yahoo.com

OTHER: WVDEP
Contact Person: Rosalie Brodersen
Function: Program Manager
Phone: (304) 558-0637

DEPOSITS TO MBC AT CLOSE: _____ Accrued Interest: $_____
_____ Capitalized Interest: $_____
By _____ Wire _____ Reserve Account: $_____
_____ Check _____ Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire _____ To Escrow Trustee: $_____
_____ Check _____ To Issuer: $_____
_____ IGT _____ To Cons.Invest.Fund $_____
_____ To Other: _____ $_____

NOTES: Debt Service Reserve Fund to be funded over ten years.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

{C1581553.1}

STATE OF WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER AND WASTE MANAGEMENT
601 57TH STREET SE
CHARLESTON, WV 25304-2345

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WATER POLLUTION CONTROL PERMIT

NPDES PERMIT NO.: WV0023183
SUBJECT: Sewage

ISSUE DATE: June 26, 2009
EFFECTIVE DATE: July 26, 2009
EXPIRATION DATE: June 25, 2014
SUPERSEDES: Permit No. WV0023183 dated July 30, 2004

LOCATION: BECKLEY (City) Raleigh (County) Lower New River (Drainage Basin)

See the next page for a list of Outlets.

TO WHOM IT MAY CONCERN:

This is to certify that: BECKLEY CITY OF
PO BOX 2494
BECKLEY, WV 25802-2494

is hereby granted a West Virginia NPDES Water Pollution Control Permit to:
operate and maintain an existing combined wastewater collection system, an existing 3.5 million gallons per day conventional activated sludge wastewater treatment plant, and an existing 4.5 million gallons per day sequential batch reactor wastewater treatment plant. The two (2) wastewater treatment plants operate in unison to provide a total wastewater treatment capacity of 8.0 million gallons per day. The wastewater facilities are further described as follows.

The wastewater collection system is comprised of approximately 690,600 linear feet of gravity sewer lines ranging from four (4) inches in diameter to 36 inches in diameter, 2,200 manholes, 600 cleanouts, 21 lift stations, approximately 87,000 linear feet of force mains ranging from one and one half (1½) inches in diameter to 16 inches in diameter, and all requisite appurtenances.

The 3.5 million gallons per day conventional activated sludge wastewater treatment plant is comprised of a mechanical bar screen, a manual bar screen, grit removal and handling facilities, a vactor truck dumping station, a septage receiving station with a volume of 6,000 gallons, an influent distribution box, a plant lift station utilized as a transfer lift station for excess wastewater flows, filtrate, and washwater to the sequential batch reactor wastewater treatment plant, one (1) combination gravity thickner or surge tank with a volume of 297,400 gallons, one (1) primary clarifier with a volume of 429,600 gallons and a surface area of 4,418 square feet, six (6) aeration chambers with a total volume of 1,131,000 gallons, three (3) secondary clarifiers with a total volume of 761,000 gallons, two (2) anaerobic digesters with a volume of 408,700 gallons each, two (2) sludge holding tanks with a volume of 80,200 gallons each, two (2) 1.5 meter combination sludge thickening- dewatering belt presses, a sludge pumping system, and all requisite appurtenances.

The 4.5 million gallons per day sequential batch reactor wastewater treatment plant is comprised of an influent distribution box for the diversion of the wastewater flow from the Whitestick Pump Station to this plant, two (2) reactor chambers with a total volume of 4,398,200 gallons which function as an integral clarifier with a surface area of 14,000 square feet each, an ultraviolet disinfection equalization chamber, ultraviolet disinfection facilities

utilized by both plants, flow measurement, a supervisory control and data acquisition and telemetry system, and all requisite appurtenances.

These facilities are to serve a population equivalent of approximately 88,900 persons in the City of Beckley, the Town of Mabscott, the Raleigh County Airport Authority service area, the Federal Bureau of Prison's correctional institution, and environs, and discharge treated wastewater to Piney Creek, approximately 10.5 miles from its mouth, of the New River of the Kanawha River. The facility also contains one (1) combined sewer system overflow relief point which discharges during wet weather events when the hydraulic capacity of the wastewater treatment plant is exceeded through Combined Sewer Overflow Outlet No. C002 to Little Whitestick Creek, approximately 0.15 miles from its mouth, of Cranberry Creek of Piney Creek of the New River of the Kanawha River.

To implement a Publicly Owned Treatment Works Pretreatment Program.

To operate and maintain disposal systems and best mangement practices for the discharge of untreated storm water runoff through Outlet No. 006, Outlet No. 007, and Outlet No. 008 to Piney Creek of the New River of the Kanawha River.

To acquire, construct, install, operate and maintain improvements to an existing wastewater collection system to be comprised of replacement of approximately 7,000 linear feet of 18 inch diameter force main; two (2) temporary bypass force mains; replacement of two (2) automatic valves; replacement of an air vent; two(2) manholes; associated demolition and rehabilitation of structures relative to the wastewater collection system improvements; and all requisite appurtenances.

This permit is subject to the following terms and conditions :
The information submitted on, and with, Permit Application No. WV0023183, dated the 9th day of February 2009, and additional information, dated the 17th day of March 2009, are all hereby made terms and conditions of this Permit with like effect as if all such permit application information were set forth herein and with other conditions set forth in Sections A, B, C, D, E, and F, and Appendix A.

WASTEWATER COLLECTION SYSTEM IMPROVEMENTS PROJECT TO BE CONSTRUCTED IN ACCORDANCE WITH:

Plans, Specifications, and Reports:
Approved: January 5, 2009
Prepared by: Burgess & Niple, Inc.
4424 Emerson Avenue
Parkersburg, WV 26104
Title: City of Beckley, Sanitary Board
Raleigh County, West Virginia
Sanitary Sewer Improvements
Whitestick Force Main Replacement
Contract 08-1
SRF Project No.C-544439

The validity of this permit is contingent upon the payment of the applicable annual permit fee, as required by Chapter 22, Article 11, Section 10 of the Code of West Virginia.

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY) 9/22/09

PRODUCER

Wells Fargo Ins. Services
of West Virginia, Inc.
P.O. Box 1551
Charleston WV 25326-1551
(304) 346-0611

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED

City of Beckley
P O Box 2514
Beckley, WV 25801

COMPANIES AFFORDING COVERAGE

COMPANY A: St. Paul Fire & Marine Ins Co.
COMPANY B:
COMPANY C:
COMPANY D:

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS MADE [X] OCCUR OWNER'S & CONTRACTOR'S PROT	GP09314670	9/01/09	9/01/10	GENERAL AGGREGATE	$ 6,000,000
					PRODUCTS-COMP/OP AGG	$ 6,000,000
					PERSONAL & ADV INJURY	$ 2,000,000
					EACH OCCURRENCE	$ 2,000,000
					FIRE DAMAGE (Any one fire)	$ 100,000
					MED EXP (Any one person)	$ Not Covered
A	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS	GP09314670	9/01/09	9/01/10	COMBINED SINGLE LIMIT	$ 2,000,000
					BODILY INJURY (Per person)	$
					BODILY INJURY (Per accident)	$
					PROPERTY DAMAGE	$
	GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT	$
					OTHER THAN AUTO ONLY:	
					EACH ACCIDENT	$
					AGGREGATE	$
A	EXCESS LIABILITY X UMBRELLA FORM OTHER THAN UMBRELLA FORM	GP09314670	9/01/09	9/01/10	EACH OCCURRENCE	$ 2,000,000
					AGGREGATE	$ 2,000,000
						$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY THE PROPRIETOR/ PARTNERS/EXECUTIVE OFFICERS ARE: [ ] INCL [ ] EXCL				WC STATUTORY LIMITS / OTHER	
					EL EACH ACCIDENT	$
					EL DISEASE-POLICY LIMIT	$
					EL DISEASE-EA EMPLOYEE	$
	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

Proof of Insurance and Certificate Holder is added as an additional Insured as respects to the Stormsewer System.

CERTIFICATE HOLDER

WV Water Dev. Authority
180 Association Dr
Charleston, WV 25311

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

© ACORD CORPORATION 1988

CERTIFICATE: 002/001/ 00002

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Grant Agreement

ASSISTANCE ID NO.			DATE OF AWARD
PRG	DOC ID	AMEND#	08/19/2009
XP -	97378601	- 0	

TYPE OF ACTION	MAILING DATE
New	08/26/2009
PAYMENT METHOD: Reimbursement	**ACH#** PEND

RECIPIENT TYPE:
Municipal

Send Payment Request to:
N/A

RECIPIENT:
City of Beckley Sanitary Board
301 South Heber Street
Beckley, WV 25802-2494
EIN: 55-6000144

PAYEE:
City of Beckley Sanitary Board
301 South Heber Street
Beckley, WV 25802-2494

PROJECT MANAGER	EPA PROJECT OFFICER	EPA GRANT SPECIALIST
Mr. Luke Richmond 301 South Heber Street Beckley, WV 25802-2494 E-Mail: lukerichmond_bsb@yahoo.com Phone: 304-256-1760	BruceA Smith 1650 Arch Street, 3WP50 Philadelphia, PA 19103-2029 E-Mail: Smith.Brucea@epa.gov Phone: 215-814-5770	Hana Jones Grants and Audit Management Branch, 3PM70 E-Mail: Jones.Hana@epa.gov Phone: 215-814-5417

PROJECT TITLE AND DESCRIPTION
City of Beckley WV
Design and construction of the replacement of approximately 7,000 Linear Feet (LF) of the existing 16" Whitestick Force Main in the City's wastewater conveyance system with approximately 7,000 LF of new 18" lined High Density Polyethylene Pipe.

BUDGET PERIOD	PROJECT PERIOD	TOTAL BUDGET PERIOD COST	TOTAL PROJECT PERIOD COST
10/01/2006 - 01/01/2010	10/01/2006 - 01/01/2010	$1,737,455.00	$1,737,455.00

NOTICE OF AWARD

Based on your application dated 04/03/2009, including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA), hereby awards $955,600. EPA agrees to cost-share 55.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of $955,600. Such award may be terminated by EPA without further cause if the recipient fails to provide timely affirmation of the award by signing under the Affirmation of Award section and returning all pages of this agreement to the Grants Management Office listed below within 21 days after receipt, or any extension of time, as may be granted by EPA. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and all terms and conditions of this agreement and any attachments.

ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)	AWARD APPROVAL OFFICE
ORGANIZATION / ADDRESS	ORGANIZATION / ADDRESS
US EPA Region 3, 3PM70 1650 Arch Street Philadelphia, PA 19103-2029	U.S. EPA, Region 3 Water Protection Division 3WP00 1650 Arch Street Philadelphia, PA 19103-2029

THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

SIGNATURE OF AWARD OFFICIAL	TYPED NAME AND TITLE	DATE
Digital signature applied by EPA Award Official	John Krakowiak, Acting ARA for Policy and Management	08/19/2009

AFFIRMATION OF AWARD

BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION

SIGNATURE	TYPED NAME AND TITLE	DATE
	Luke Richmond, General Manager	09-01-2009

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	$	$ 955,600	$ 955,600
EPA In-Kind Amount	$	$	$ 0
Unexpended Prior Year Balance	$	$	$ 0
Other Federal Funds	$	$	$ 0
Recipient Contribution	$	$	$ 0
State Contribution	$	$ 781,855	$ 781,855
Local Contribution	$	$	$ 0
Other Contribution	$	$	$ 0
Allowable Project Cost	$ 0	$ 1,737,455	$ 1,737,455

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.202 - Congressionally Mandated Projects	Consolidated Appropriations Act of 2006	40 CFR PART 31

Fiscal

Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
	0903LL0213	09	E4C	0300HAL	202B51E	4192			955,600
									955,600

Approved Budget	
Program Element Classification (Construction)	Approved Allowable Budget Period Cost
1. Administration Expense	$0
2. Preliminary Expense	$0
3. Land Structure, Right Of Way	$0
4. Architectural Engineering Basic Fees	$568,607
5. Other Architectural Engineering Fees	$38,585
6. Project Inspection Fees	$0
7. Land Development	$0
8. Relocation Expenses	$0
9. Relocation Payments to Individuals & Bus.	$0
10. Demolition and Removal	$0
11. Construction and Project Improvement	$1,130,263
12. Equipment	$0
13. Miscellaneous	$0
14. Total (Lines 1 thru 13)	$1,737,455
15. Estimate Income	$0
16. Net Project Amount (Line 14 minus 15)	$1,737,455
17. Less: Ineligible Exclusions	$0
18. Add: Contingencies	$0
19. Total (Share: Recip 45.00% Fed 55.00%)	$1,737,455
20. TOTAL APPROVED ASSISTANCE AMOUNT	$955,600

Administrative Conditions

1. Procurement - Recycling

Any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth in Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds $10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was $10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

2. Suspension & Debarment

The recipient shall fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons)." The recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. The recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. The recipient acknowledges that failing to disclose the information as required at 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

The recipient may access the Excluded Parties List System at http://epls.arnet.gov. This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

3. Lobbying

The recipient agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying. The recipient shall include the language of this provision in award documents for all subawards exceeding $100,000, and require that subrecipients submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure.

4. Lobbying & Litigation

The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The recipient shall abide by its respective OMB Circular (A-21, A-87, or A-122), which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities.

5. Recycling

In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007), the recipient agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

6. Single Audit

In accordance with OMB Circular A-133, which implements the Single Audit Act, the recipient hereby agrees to obtain a single audit from an independent auditor if it expends $500,000 or more in total Federal funds in any fiscal year. Within nine months after the end of a recipient's fiscal year or 30 days after receiving the report from the auditor, the recipient shall submit a copy of the SF-SAC and a Single Audit Report Package. **For fiscal periods ending in 2002 to 2007 recipients are to submit in hardcopy to the following address:**

Federal Audit Clearinghouse
1201 East 10th Street
Jeffersonville, IN 47132

For fiscal periods ending in 2008 and beyond the recipient MUST submit the SF-SAC and Single Audit Report Package, using the Federal Audit Clearinghouse's Internet Data Entry System. For complete information on how to accomplish the 2008 and beyond single audit submissions, you will need to visit the Federal Audit Clearinghouse website: http://harvester.census.gov/fac/

7. Payment to Consultants

EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. As of January 1, 2009, the limit is $587.20 per day and $73.40 per hour. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Subagreements with firms for services which are awarded using the procurement requirements in 40 CFR 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 31.36(j) or 30.27(b).

8. Drug-Free Workplace Certification

The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 40 CFR 36.200 - 36.230. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title 40 CFR 36.300.

The consequences for violating this condition are detailed under Title 40 CFR 36.510. Recipients can access the Code of Federal Regulations (CFR) Title 40 Part 36 at http://www.access.gpo.gov/nara/cfr/waisidx_06/40cfr36_06.html.

9. Hotel-Motel Fire Safety

Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at http://www.usfa.dhs.gov/applications/hotel/ to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

10. Subawards

The recipient agrees to:

a. Establish all subaward agreements in writing;

b. Maintain primary responsibility for ensuring successful completion of the EPA-approved project (this responsibility cannot be delegated or transferred to a subrecipient);

c. Ensure that any subawards comply with the standards in Section 210(a)-(d) of OMB Circular A-133 and are not used to acquire commercial goods or services for the recipient;

d. Ensure that any subawards are awarded to eligible subrecipients and that proposed subaward costs are necessary, reasonable, and allocable;

e. Ensure that any subawards to 501(c)(4) organizations do not involve lobbying activities;

f. Monitor the performance of their recipients and ensure that they comply with all applicable regulations, statutes, and terms and conditions which flow down in the subaward;

g. Obtain EPA's consent before making a subaward to a foreign or international organization, or a subaward to be performed in a foreign country; and

h. Obtain approval from EPA for any new subaward work that is not outlined in the approved work plan in with 40 CFR Parts 30.25 and 31.30, as applicable.

Any questions about subrecipient eligibility or other issues pertaining to subawards should be addressed to the recipients' EPA Project Officer. Additional information regarding subawards may be found at http://www.epa.gov/ogd/guide/subaward-policy-part-2.pdf.

Guidance for distinguishing between vendor and subrecipient relationships and ensuring compliance with Section 210(a)-(d) of OMB Circular A-133 can be found at http://www.epa.gov/ogd/guide/subawards-appendix-b.pdf and http://www.whitehouse.gov/omb/circulars/a133/a133.html.

The recipient is responsible for selecting its subrecipients and, if applicable, for conducting subaward competitions.

11. Management Fees

The recipient agrees that management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

12. Reimbursement Limitation

EPA's financial obligations to the recipient are limited by the amount of federal funding awarded to date as shown on line 20 in its EPA approved budget. If the recipient incurs costs in anticipation of receiving additional funds from EPA, it does so at its own risk.

13. Trafficking Victim Protection Act

To implement requirements of Section 106 of the Trafficking Victims Protection Act of 2000, as amended,

the following provisions apply to this award:

a. We, as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity: (1) is determined to have violated an applicable prohibition in the Prohibition Statement below; or (2) has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in the Prohibition Statement below through conduct that is either: (a) associated with performance under this award; or (b) imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 1532. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in the Prohibition Statement below.

b. Our right to terminate unilaterally that is described in paragraph a of this award term: (1) implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and (2) is in addition to all other remedies for noncompliance that are available to us under this award.

c. You must include the requirements of the Prohibition Statement below in any subaward you make to a private entity.

Prohibition Statement - You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or subawards under the award.

14. Earmark - Fully-funded

EPA is fully funding this assistance agreement based on the terms of a congressional earmark. If future earmarks are not provided for this project and recipient, supplemental funding for this project is not guaranteed.

15. Disadvantaged Business Enterprise

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

Accepting the Fair Share Objectives/Goals of Another Recipient

The dollar amount of this assistance agreement is $250,000, or more; or the total dollar amount of all of the recipient's non-TAG assistance agreements from EPA in the current fiscal year is $250,000, or more. The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the **West Virginia Department of Environmental Protection** as follows:

MBE%: CONSTRUCTION 0.64; EQUIPMENT 0.06; SERVICES 0.24; SUPPLIES 2.05
WBE%: CONSTRUCTION 1.18; EQUIPMENT 0.37; SERVICES 0.60; SUPPLIES 29.0

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404
The recipient has the option to negotiate its own MBE/WBE fair share objectives/goals. If the recipient wishes to negotiate its own MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, equipment, services and supplies.

The submission of proposed fair share goals with the supporting analysis or disparity study means that the recipient is **not** accepting the fair share objectives/goals of another recipient. The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C
Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

(a) Ensure Disadvantage Business Enterprises (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

(b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and Local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce in finding DBEs.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

MBE/WBE REPORTING, 40 CFR, Part 33, Sections 33.502 and 33.503
The recipient agrees to complete and submit EPA Form 5700-52A, "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" beginning with the Federal fiscal year reporting period the recipient receives the award, and continuing until the project is completed. **Only procurements with certified MBE/WBEs are counted toward a recipient's MBE/WBE accomplishments.** The reports must be submitted **semiannually** for the periods ending March 31st and September 30th for:

Recipients of financial assistance agreements that capitalize revolving loan programs (CWSRF, DWSRF, Brownfields); and

All other recipients not identified as annual reporters (40 CFR Part 30 and 40 CFR Part 35, Subpart A and Subpart B recipients are annual reporters).

The reports are due within 30 days of the end of the semiannual reporting periods (April 30th and October 30th). Reports should be sent to Romona McQueen, Small Business Program Manager (3PM00), U.S. EPA - Region III, 1650 Arch Street, Philadelphia, PA 19103-2029. Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. Your grant cannot be officially closed without all MBE/WBE reports.

EPA Form 5700-52A may be obtained from the EPA Office of Small Business Program's Home Page on the Internet at www.epa.gov/osbp .

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

Programmatic Conditions

1. Procurement

a. The recipient agrees to procure all services, supplies, and construction awarded under this grant in accordance with 40 CFR Part 31.

b. A copy of all proposed subagreements for services and supplies over $100,000 shall be submitted to the West Virginia Department of Environmental Protection (WV DEP), for review and pre-award approval, as appropriate, under 40 CFR Part 31. The submittal of the proposed subagreements shall include procurement records. Also, the contract cost and price data shall be submitted on EPA Form 5700-41, or on a form which contains similar information.

c. A copy of all proposed subagreements for construction shall be submitted to the WV DEP, for review and pre-award approval, as appropriate, under 40 CFR Part 31. The submittal of the proposed subagreements shall include procurement records.

2. Grant Payments

The recipient agrees that:

a. Grant payment will be on a reimbursement basis based upon eligible costs incurred. Payment will be processed using the Federal Automated Standard Application for Payments (ASAP) or Electronic Fund Transfer method.

If the ASAP method is used, the recipient will authorize inquiry-only access to the recipient's ASAP account for the WV DEP to enable monitoring of grant financial status.

b. As instructed by the WV DEP, the recipient agrees to submit for pre-payment review: (1) a Standard Form (SF) 271, *Outlay Report and Request for Reimbursement for Construction Programs,* summarizing eligible project costs incurred to date, and (2) and additional information requested to confirm that the grant disbursement is consistent with the terms and conditions of the grant agreement.

The regulatory requirement to submit a Federal Cash Transactions Report, SF 272 is waived since payment will be requested using SF 271.

Prior to requesting final payment of the grant, the recipient will submit to the WV DEP: (1) documentation of all costs (invoice copies); (2) proof of payment (check copies, verification of electronic transfer); and (3) documentation that the facility or system operates as designed.

3. Project Changes

For any changes in the project which affect the grant amount, delay or accelerate the project or alter the project in other ways, the recipient must receive a formal grant amendment from EPA. Of particular interest is any change in completion of final design drawings and specifications, date of advertisement for bids, and the building completion date.

4. Land Acquisition

In the event the recipient procures land or relocates people, 49 CFR Part 24 applies.

5. Sites, Easements and Rights-of-Way

The recipient shall submit an acceptable legal opinion that the necessary sites and easements and/or rights-of-way have been obtained and that they are free of any restrictions or encumbrances that might restrict their use for the purpose intended. Said opinion shall be submitted to EPA no later than the time at which the recipient requests approval to award construction contracts.

6. Flood Insurance

The recipient agrees to acquire and maintain at his own cost any flood insurance made available to it under the National Flood Insurance Act of 1968, as amended, before the project is placed in operation. This condition shall not be applicable if, on the date of execution of this Grant Agreement by both parties, flood insurance was not available pursuant to the Flood Insurance Act of 1968, as amended, for property in the project location.

7. Review

The recipient recognizes that approval of any part of this grant, change orders, grant increase amendments, subagreements, any special items or allowableness of any other costs will be subject to final review, including project officer review, audit review, and final determination of the grant approving official.

8. Project Schedule

EPA's policy requires that projects be initiated, constructed, and placed in operation in a timely manner. For that reason, the schedule shown below, which was developed in conjunction with your grant application, is included as a condition.

Complete Construction	August 2009
Submit Final Payment Request	December 2009

9. Performance Reports

outputs/outcomes established in the assistance agreement work plan for the period; 2) the reasons for slippage if established outputs/outcomes were not met; and 3) additional pertinent information, including, when appropriate, analysis and information of cost overruns or high unit costs.

In accordance with 40 C.F.R. § 31.40 (d), the recipient agrees to inform EPA as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan.

10. Outputs and Outcomes

EPA Order 5700.7, Environmental Results under EPA Assistance Agreements, requires that the award of grant assistance is tied to the accomplishment of agreed-upon products/activities and the effect of those products/activities, referred to as environmental "outputs" and "outcomes." The outputs and outcomes must be measurable and identified in the application work plan. The award of grant assistance constitutes EPA agreement with the outputs and outcomes identified in the application work plan.

EPA Order 5700.7 further requires that following the award of grant assistance, grant recipients must report on their progress in achieving the accepted environmental outputs and outcomes. The preceding Performance Reporting condition highlights this obligation.

Pursuant to EPA regulation 40 CFR 31.40(c), *Construction performance reports*, for the purpose of this grant award the recipient may satisfy the above Performance Reporting obligation by providing information on the interim status or completion of the project to the WV DEP during the course of interim and final project inspections.

11. Pre-Award Costs

Pre-award costs have been approved in accordance with the recipient's application dated April 3, 2009. The grant recipient initiated design of the project on October 1, 2006 and has requested participation in those design engineering costs incurred starting October 1, 2006. The costs are eligible, have been approved by WV DEP on July 15, 2009, and are included in the grant budget.

THE CITY OF BECKLEY 3.15
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA CWSRF PROGRAM)

RECEIPT OF PAYMENT OF NOTES

The undersigned duly authorized representative of JPMorgan Chase Bank, NA, the registered owner of the Sewerage System Bond Anticipation Notes, Series 2008 A (the "Notes"), of the City of Beckley (the "Issuer"), dated June 5, 2008, in the original aggregate principal amount of $1,000,000, hereby certifies that it has received the sum of $1,001,240 from the Issuer and that such sum is sufficient to pay the entire outstanding principal amount of the Notes and all accrued interest thereon to the date hereof and discharge the liens, pledges and encumbrances securing the Notes.

Dated this 18th day of September, 2009.

JPMORGAN CHASE BANK, NA

Authorized Representative

CLOSING MEMORANDUM

3.16

To: **Mayor Emmitt Pugh**
Luke Richmond
Rosalie Brodersen
Carol Cummings

From: **Ryan White**

Date: **September 18, 2009**

Re: **City of Beckley Sewerage System Revenue Bonds, Series 2009 A (West Virginia CWSRF Program)**
Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF Program/ARRA)
Stormwater Revenue Bonds, Series 2009 B-2 (West Virginia CWSRF Program/ARRA Green)
Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program)

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1. DISBURSEMENTS TO CITY

Payor:	West Virginia Department of Environmental Protection
Source:	Series 2009 A Bonds Proceeds
Amount:	$613,404
Date:	September 18, 2009
Form:	Wire
Payee:	City of Beckley
Bank:	JPMorgan Chase Bank, NA New York, New York
ABA:	021000021
Account #:	790602627
Contact:	Nancy A. Kissinger

2. DISBURSEMENTS TO CITY

Payor:	West Virginia Department of Environmental Protection
Source:	Series 2009 B-1 Bonds Proceeds
Amount:	$78,450
Date:	September 18, 2009
Form:	Wire
Payee:	City of Beckley
Bank:	JPMorgan Chase Bank, NA New York, New York
ABA:	021000021
Account #:	790602627
Contact:	Nancy A. Kissinger (304) 256-2157

3. DISBURSEMENTS TO CITY

Payor:	West Virginia Department of Environmental Protection
Source:	Series 2009 B-2 Bonds Proceeds
Amount:	$52,016
Date:	September 18, 2009
Form:	Wire
Payee:	City of Beckley
Bank:	JPMorgan Chase Bank, NA New York, New York
ABA:	021000021
Account #:	790602619
Contact:	Nancy A. Kissinger (304) 256-2157

4. DISBURSEMENTS TO CITY

Payor:	West Virginia Department of Environmental Protection
Source:	Series 2009 C Bonds Proceeds
Amount:	$166,427
Date:	September 18, 2009
Form:	Wire
Payee:	City of Beckley
Bank:	JPMorgan Chase Bank, NA New York, New York
ABA:	021000021
Account #:	790602627
Contact:	Nancy A. Kissinger (304) 256-2157

5. DISBURSEMENTS TO BANK FROM CITY

Payor:	The City of Beckley
Source:	Series 2009 A Bonds Proceeds and EPA Grant
Amount:	$1,001,240
Date:	September 18, 2009
Form:	Check
Payee:	JPMorgan Chase Bank, NA
Bank:	JPMorgan Chase Bank, NA New York, New York
Customer Name:	City of Beckley
Account #:	460315748005
Contact:	Nancy A. Kissinger (304) 256-2157
Purpose:	Pay for the Series 2008 A Notes

American Recovery and Reinvestment Act of 2009 (ARRA)

Project Certification

Program: West Virginia Clean Water State Revolving Fund

Project: Beckley, Raleigh County

Description:

Wastewater treatment plant upgrade and Whitestick combined sewer overflow disinfection system upgrade.

Total Project Cost

$1,432,267

ARRA Assistance Provided

$396,484

I hereby certify that the above project has received the full review and vetting required by federal law and that the investment of federal and state funds in this infrastructure project is an appropriate use of taxpayer dollars.

This certification will be posted on the Governor's website and linked to the federal ARRA website www.recovery.gov

Randy C. Huffman, Cabinet Secretary

9/4/09
Date

dep
west virginia department of environmental protection

American Recovery and Reinvestment Act of 2009 (ARRA)

Project Certification

Program: West Virginia Clean Water State Revolving Fund

Project: Beckley, Raleigh County

Description:

Storm water project consisting of dry swales and bioretention and landscaped bioinfiltration areas; storm pipe installation; sanitary sewer relocation; all in the Tanglewood, Withersoon and Circle Project areas within the city.

Total Project Cost

$344,833

ARRA Assistance Provided

$296,952

I hereby certify that the above project has received the full review and vetting required by federal law and that the investment of federal and state funds in this infrastructure project is an appropriate use of taxpayer dollars.

This certification will be posted on the Governor's website and linked to the federal ARRA website www.recovery.gov

Randy C. Huffman, Cabinet Secretary

Date

dep

west virginia department of environmental protection

JACKSONKELLY
ATTORNEYS AT LAW PLLC
500 LEE STREET EAST • SUITE 1600 • P.O. BOX 553 • CHARLESTON, WEST VIRGINIA 25322 • TELEPHONE: 304-340-1000 • TELECOPIER: 304-340-1130
www.jacksonkelly.com

4.1(A)

September 18, 2009

City of Beckley
P.O. Box 2514
Beckley, WV 25802

West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, WV 25311

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

Re: City of Beckley
Sewerage System Revenue Bonds, Series 2009 A
(West Virginia CWSRF Program)

Ladies and Gentlemen:

We have served as bond counsel to the City of Beckley ("the Issuer"), a municipal corporation, in connection with the issuance of its Sewerage System Revenue Bonds, Series 2009 A (West Virginia CWSRF Program), dated the date hereof (the "Bonds").

We have examined certified copies of proceedings and other papers relating to the authorization of (i) an ARRA assistance agreement for the Bonds dated September 18, 2009, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and (ii) the Bonds to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are issued in the principal amount of $679,316, in the form of one bond, registered as to principal and interest to the Authority, with interest at the rate of 2% per annum, and with principal and interest payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing June 1, 2010, all as set forth in the Schedule Y attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds. The Bonds are

subject to the SRF Administrative Fee equal to 1% of the principal amount of the Bonds as set forth in the Schedule Y attached to the ARRA Assistance Agreement.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), for the purposes of (i) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); (ii) paying the Issuer's Sewerage System Bond Anticipation Note, Series 2008 A; and (iii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and a Bond and Note Ordinance duly passed by the Issuer on April 22, 2008, effective May 27, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on September 8, 2009 (collectively, the "Ordinance"), pursuant to and under which Act and Ordinance the Bonds are authorized and issued, and the ARRA Assistance Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Ordinance and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Ordinance and in the ARRA Assistance Agreement when used herein.

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

1. The Issuer is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to enact the Ordinance and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The ARRA Assistance Agreement has been duly authorized by and executed on behalf of the Issuer and is a valid and binding special obligation of the Issuer, enforceable in accordance with the terms thereof.

3. The ARRA Assistance Agreement inures to the benefit of the Authority and the DEP and cannot be amended so as to affect adversely the rights of the Authority or the DEP or diminish the obligations of the Issuer without the written consent of the Authority and the DEP.

4. The Issuer has legally and effectively enacted the Ordinance and adopted all other necessary resolutions in connection with the issuance and sale of the Bonds. The Ordinance constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

5. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Prior Bonds (as that term is defined in the Ordinance), all in accordance with the terms of the Bonds and the Ordinance.

6. Under the Act, the Bonds and any interest thereon are exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof.

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

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

Very truly yours,

Jackson Kelly PLLC

THE VAUGHAN LAW FIRM
Attorneys and Counsellors at Law

DENNIS R. VAUGHAN, JR.

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September 18, 2009

City of Beckley
P.O. Box 2514
Beckley, WV 25802

Jackson Kelly, PLLC
500 Lee Street, East
Suite 1600
Charleston, WV 25301-3202

West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, WV 25311

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

Re: City of Beckley
Sewerage System Revenue Bonds, Series 2009 A
(West Virginia CWSRF Program)

Ladies and Gentlemen:

We have served as co-bond counsel to the City of Beckley ("the Issuer"), a municipal corporation, in connection with the issuance of its Sewerage System Revenue Bonds, Series 2009 A (West Virginia CWSRF Program), dated the date hereof (the "Bonds").

We have examined certified copies of proceedings and other papers relating to the authorization of (i) an ARRA assistance agreement for the Bonds dated August 28, 2009, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and (ii) the Bonds to be purchased by the Authority in accordance with the

provisions of the ARRA Assistance Agreement. The Bonds are issued in the principal amount of $679,316, in the form of one bond, registered as to principal and interest to the Authority, with interest at the rate of 2% per annum, and with principal and interest payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing June 1, 2010, all as set forth in the Schedule Y attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds. The Bonds are subject to the SRF Administrative Fee equal to 1% of the principal amount of the Bonds as set forth in the Schedule Y attached to the ARRA Assistance Agreement.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), for the purposes of (i) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); (ii) paying the Issuer's Sewerage System Bond Anticipation Note, Series 2008 A; and (iii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and a Bond and Note Ordinance duly passed by the Issuer on April 22, 2008, effective May 27, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on August 25, 2009 (collectively, the "Ordinance"), pursuant to and under which Act and Ordinance the Bonds are authorized and issued, and the ARRA Assistance Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Ordinance and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Ordinance and in the ARRA Assistance Agreement when used herein.

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

1. The Issuer is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to enact the Ordinance and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The ARRA Assistance Agreement has been duly authorized by and executed on behalf of the Issuer and is a valid and binding special obligation of the Issuer, enforceable in accordance with the terms thereof.

3. The ARRA Assistance Agreement inures to the benefit of the Authority and the DEP and cannot be amended so as to affect adversely the rights of the Authority or the DEP or diminish the obligations of the Issuer without the written consent of the Authority and the DEP.

4. The Issuer has legally and effectively enacted the Ordinance and adopted all other necessary resolutions in connection with the issuance and sale of the Bonds. The Ordinance constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

5. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Prior Bonds (as that term is defined in the Ordinance), all in accordance with the terms of the Bonds and the Ordinance.

6. Under the Act, the Bonds and any interest thereon are exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof.

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

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

Very truly yours,

The Vaughan Law Firm

By: _____

JACKSONKELLY
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September 18, 2009

City of Beckley
P.O. Box 2514
Beckley, WV 25802

West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, WV 25311

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

Re: City of Beckley
Sewerage System Revenue Bonds, Series 2009 B-1
(West Virginia CWSRF Program/ARRA)

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the City of Beckley (the "Issuer"), a municipal corporation created and existing under the laws of the State of West Virginia, of its $396,484 Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF Program/ARRA), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of an ARRA Assistance Agreement dated as of the date hereof, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are originally issued in the form of one Bond, registered to the Authority, bearing no interest and subject to principal forgiveness on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, to and including December 1, 2020, all as set forth in the

"Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds.

The 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 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of improvements and extensions to the existing public sewerage system of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond and Note Ordinance duly passed by the Issuer on April 22, 2008, effective May 27, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on September 8, 2009 (the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the ARRA Assistance Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein. Based upon the foregoing, and upon our examination of such other documents as we have deemed necessary, we are of the opinion, under existing law, as follows:

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The ARRA Assistance Agreement has been duly authorized by and executed on behalf of the Issuer, is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the DEP and cannot be amended by the Issuer so as to affect adversely the rights of the Authority or the DEP or diminish the obligations of the Issuer without the written consent of the Authority and the DEP.

3. The Bond Legislation and all other necessary ordinances and resolutions have been duly and effectively adopted by the Issuer and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms.

The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System referred to in the Bond Legislation and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment from the Net Revenues with the Issuer's Prior Bonds (as defined in the Bond Legislation), all in accordance with the terms of the Bonds and the Bond Legislation.

5. The Bonds are, under the Act, exempt from taxation by the State of West Virginia and the other taxing bodies of the State. The Bonds bear no interest.

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

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

Very truly yours,

Jackson Kelly PLLC

JACKSON KELLY PLLC

THE VAUGHAN LAW FIRM
Attorneys and Counsellors at Law

DENNIS R. VAUGHAN, JR.

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September 18, 2009

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West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, WV 25311

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

Re: City of Beckley
Sewerage System Revenue Bonds, Series 2009 B-1
(West Virginia CWSRF Program/ARRA)

Ladies and Gentlemen:

We have served as co-bond counsel in connection with the issuance by the City of Beckley (the "Issuer"), a municipal corporation created and existing under the laws of the State of West Virginia, of its $396,484 Sewerage System Revenue Bonds, Series 2009 B-1 (West Virginia CWSRF Program/ARRA), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of an ARRA Assistance Agreement dated as of the date hereof, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and among the Issuer, the West Virginia Water Development Authority

(the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are originally issued in the form of one Bond, registered to the Authority, bearing no interest and subject to principal forgiveness on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, to and including December 1, 2030 all as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds.

The 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 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of improvements and extensions to the existing public sewerage system of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond and Note Ordinance duly passed by the Issuer on April 22, 2008, effective May 27, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on August 25, 2009 (the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the ARRA Assistance Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein. Based upon the foregoing, and upon our examination of such other documents as we have deemed necessary, we are of the opinion, under existing law, as follows:

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

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

rights of the Authority or the DEP or diminish the obligations of the Issuer without the written consent of the Authority and the DEP.

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

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System referred to in the Bond Legislation and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment from the Net Revenues with the Issuer's Prior Bonds (as defined in the Bond Legislation), all in accordance with the terms of the Bonds and the Bond Legislation.

5. The Bonds are, under the Act, exempt from taxation by the State of West Virginia and the other taxing bodies of the State. The Bonds bear no interest.

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

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

Very truly yours,

The Vaughan Law Firm

By: _____

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4.1(C)

September 18, 2009

City of Beckley
P.O. Box 2514
Beckley, WV 25802

West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, WV 25311

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

Re: City of Beckley
Sewerage System Revenue Bonds, Series 2009 B-2
(West Virginia CWSRF Program/ARRA Green)

Ladies and Gentlemen:

We have served as co-bond counsel in connection with the issuance by the City of Beckley (the "Issuer"), a municipal corporation created and existing under the laws of the State of West Virginia, of its $296,952 Sewerage System Revenue Bonds, Series 2009 B-2 (West Virginia CWSRF Program/ARRA Green), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of an ARRA Assistance Agreement dated as of the date hereof, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are originally issued in the form of one Bond, registered to the Authority, bearing no interest and subject to principal forgiveness on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2010, to and including March 1, 2020, all as set forth in the

"Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds.

The 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 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of improvements and extensions to the existing public stormwater system of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond and Note Ordinance duly passed by the Issuer on August 11, 2009, effective August 25, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on September 8, 2009 (the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the ARRA Assistance Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein. Based upon the foregoing, and upon our examination of such other documents as we have deemed necessary, we are of the opinion, under existing law, as follows:

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The ARRA Assistance Agreement has been duly authorized by and executed on behalf of the Issuer, is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the DEP and cannot be amended by the Issuer so as to affect adversely the rights of the Authority or the DEP or diminish the obligations of the Issuer without the written consent of the Authority and the DEP.

3. The Bond Legislation and all other necessary ordinances and resolutions have been duly and effectively adopted by the Issuer and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms.

The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System referred to in the Bond Legislation and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment from the Net Revenues with the Issuer's Prior Bonds (as defined in the Bond Legislation), all in accordance with the terms of the Bonds and the Bond Legislation.

5. The Bonds are, under the Act, exempt from taxation by the State of West Virginia and the other taxing bodies of the State. The Bonds bear no interest.

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

We have examined the executed and authenticated Bond numbered B-2R-1, and in our opinion the form of said Bond and its execution and authentication are regular and proper.

Very truly yours,

Jackson Kelly PLLC

JACKSON KELLY PLLC

THE VAUGHAN LAW FIRM
Attorneys and Counsellors at Law
DENNIS R. VAUGHAN, JR.
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September 18, 2009

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West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, WV 25311

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

Re: City of Beckley
Sewerage System Revenue Bonds, Series 2009 B-2
(West Virginia CWSRF Program/ARRA Green)

Ladies and Gentlemen:

We have served as co-bond counsel in connection with the issuance by the City of Beckley (the "Issuer"), a municipal corporation created and existing under the laws of the State of West Virginia, of its $296,952 Sewerage System Revenue Bonds, Series 2009 B-2 (West Virginia CWSRF Program/ARRA Green), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of an ARRA Assistance Agreement dated as of the date hereof, including all schedules and exhibits attached thereto (the "ARRA Assistance

Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are originally issued in the form of one Bond, registered to the Authority, bearing no interest and subject to principal forgiveness on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2010, to and including March 1, 2020 all as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds.

The 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 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of improvements and extensions to the existing public stormwater system of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond and Note Ordinance duly passed by the Issuer on August 11, 2009, effective August 25, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on August 25, 2009 (the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the ARRA Assistance Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein. Based upon the foregoing, and upon our examination of such other documents as we have deemed necessary, we are of the opinion, under existing law, as follows:

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

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

rights of the Authority or the DEP or diminish the obligations of the Issuer without the written consent of the Authority and the DEP.

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

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System referred to in the Bond Legislation and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment from the Net Revenues with the Issuer's Prior Bonds (as defined in the Bond Legislation), all in accordance with the terms of the Bonds and the Bond Legislation.

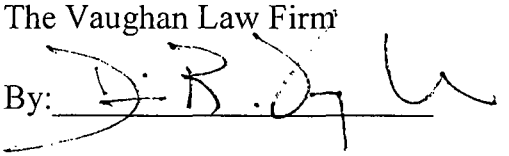
5. The Bonds are, under the Act, exempt from taxation by the State of West Virginia and the other taxing bodies of the State. The Bonds bear no interest.

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

We have examined the executed and authenticated Bond numbered B-2R-1, and in our opinion the form of said Bond and its execution and authentication are regular and proper.

Very truly yours,

The Vaughan Law Firm

By: 

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4.1(D)

September 18, 2009

City of Beckley
P.O. Box 2514
Beckley, WV 25802

West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, WV 25311

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

Re: City of Beckley
Sewerage System Revenue Bonds, Series 2009 C
(West Virginia CWSRF Program)

Ladies and Gentlemen:

We have served as bond counsel to the City of Beckley ("the Issuer"), a municipal corporation, in connection with the issuance of its Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program), dated the date hereof (the "Bonds").

We have examined certified copies of proceedings and other papers relating to the authorization of (i) an ARRA assistance agreement for the Bonds dated September 18, 2009, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and (ii) the Bonds to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are issued in the principal amount of $1,035,783, in the form of one bond, registered as to principal and interest to the Authority, will bear no interest with principal payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing March 1, 2011, all as set forth in the Schedule Y attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds. The Bonds are subject to the SRF Administrative Fee equal to

.25% of the principal amount of the Bonds as set forth in the Schedule Y attached to the ARRA Assistance Agreement.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), for the purposes of (i) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); (ii) paying the Issuer's Sewerage System Bond Anticipation Note, Series 2008 A; and (iii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and a Bond and Note Ordinance duly passed by the Issuer on April 22, 2008, effective May 27, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on September 8, 2009 (collectively, the "Ordinance"), pursuant to and under which Act and Ordinance the Bonds are authorized and issued, and the ARRA Assistance Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Ordinance and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Ordinance and in the ARRA Assistance Agreement when used herein.

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

1. The Issuer is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to enact the Ordinance and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The ARRA Assistance Agreement has been duly authorized by and executed on behalf of the Issuer and is a valid and binding special obligation of the Issuer, enforceable in accordance with the terms thereof.

3. The ARRA Assistance Agreement inures to the benefit of the Authority and the DEP and cannot be amended so as to affect adversely the rights of the Authority or the DEP or diminish the obligations of the Issuer without the written consent of the Authority and the DEP.

4. The Issuer has legally and effectively enacted the Ordinance and adopted all other necessary resolutions in connection with the issuance and sale of the Bonds. The Ordinance constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

5. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Prior Bonds (as that term is defined in the Ordinance), all in accordance with the terms of the Bonds and the Ordinance.

6. Under the Act, the Bonds and any interest thereon are exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof.

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

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

Very truly yours,

Jackson Kelly PLLC

THE VAUGHAN LAW FIRM
Attorneys and Counsellors at Law

DENNIS R. VAUGHAN, JR.

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September 18, 2009

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Charleston, WV 25301-3202

West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, WV 25311

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

Re: City of Beckley
Sewerage System Revenue Bonds, Series 2009 C
(West Virginia CWSRF Program)

Ladies and Gentlemen:

We have served as co-bond counsel to the City of Beckley ("the Issuer"), a municipal corporation, in connection with the issuance of its Sewerage System Revenue Bonds, Series 2009 C (West Virginia CWSRF Program), dated the date hereof (the "Bonds").

We have examined certified copies of proceedings and other papers relating to the authorization of (i) an ARRA assistance agreement for the Bonds dated August 28, 2009, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and (ii) the Bonds to be purchased by the Authority in accordance with the

provisions of the ARRA Assistance Agreement. The Bonds are issued in the principal amount of $1,035,783, in the form of one bond, registered as to principal and interest to the Authority, with interest at the rate of 0% per annum, and with principal and interest payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing March 1, 2011, all as set forth in the Schedule Y attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds. The Bonds are subject to the SRF Administrative Fee equal to 1% of the principal amount of the Bonds as set forth in the Schedule Y attached to the ARRA Assistance Agreement.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), for the purposes of (i) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); (ii) paying the Issuer's Sewerage System Bond Anticipation Note, Series 2008 A; and (iii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and a Bond and Note Ordinance duly passed by the Issuer on April 22, 2008, effective May 27, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on August 25, 2009 (collectively, the "Ordinance"), pursuant to and under which Act and Ordinance the Bonds are authorized and issued, and the ARRA Assistance Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Ordinance and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Ordinance and in the ARRA Assistance Agreement when used herein.

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

1. The Issuer is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to enact the Ordinance and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The ARRA Assistance Agreement has been duly authorized by and executed on behalf of the Issuer and is a valid and binding special obligation of the Issuer, enforceable in accordance with the terms thereof.

3. The ARRA Assistance Agreement inures to the benefit of the Authority and the DEP and cannot be amended so as to affect adversely the rights of the Authority or the DEP or diminish the obligations of the Issuer without the written consent of the Authority and the DEP.

4. The Issuer has legally and effectively enacted the Ordinance and adopted all other necessary resolutions in connection with the issuance and sale of the Bonds. The Ordinance constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

5. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Prior Bonds (as that term is defined in the Ordinance), all in accordance with the terms of the Bonds and the Ordinance.

6. Under the Act, the Bonds and any interest thereon are exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof.

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

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

Very truly yours,

The Vaughan Law Firm

By: _____

CITY OF
BECKLEY

P. O. BOX 2514 • BECKLEY, WEST VIRGINIA 25802-2514

WILLIAM H. FILE III
City Attorney

Phone: (304) 256-1750

September 18, 2009

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West Virginia Water Development Authority
180 Association Drive
Charleston WV 25311

Jackson Kelly PLLC
PO Box 553
Charleston WV 25322

Vaughan Law Firm
2020 Kanawha Blvd., East
Charleston WV 25311

Re: City of Beckley
Sewerage System Revenue Bonds, Series 2009 A
(West Virginia CWSRF Program)
Sewerage System Revenue Bonds, Series 2009 B-1
(West Virginia CWSRF Program/ARRA)
Stormwater Revenue Bonds, Series 2009 B-2
(West Virginia CWSRF Program/ARRA Green)
Sewerage System Revenue Bonds, Series 2009 C
(West Virginia CWSRF Program)

Ladies and Gentlemen:

I am City Solicitor for the City of Beckley in Raleigh County, West Virginia (the "Issuer"). As such City Solicitor, I have examined copies of the approving opinion of Jackson Kelly PLLC and The Vaughan Law Firm, as co-bond counsel,

relating to the above-captioned bonds of the Issuer (the "Bonds"), two ARRA assistance agreements for the Bonds, dated September 18, 2009, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreements"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), a Bond and Note Ordinance duly passed by the Issuer on April 22, 2008, effective May 27, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on September 8, 2009, an Ordinance duly passed by the Issuer on August 11, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on September 8, 2009 (collectively, the "Ordinances"), two Petitions of the Sanitary Board duly adopted on July 15, 2009, and other documents relating to the Bonds. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the ARRA Assistance Agreements, the Ordinances and the General Certificate of the Issuer when used herein.

I am of the opinion that:

1. The Issuer is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Sewer Project and the Stormwater Project, to operate and maintain the Sewer System and the Stormwater System and to enact the Ordinances, all under the Act and other applicable provisions of law. The Sanitary Board has been duly created by the Issuer and is presently existing as a sanitary board under the Act.

2. The ARRA Assistance Agreements have been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the DEP and the Authority, constitutes valid and binding agreements of the Issuer, enforceable in accordance with the terms.

3. The Mayor, Recorder/Treasurer and members of the Council and the Sanitary Board of the Issuer have been duly, lawfully and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the Issuer.

4. The Ordinances have been duly adopted and enacted by the Issuer and are in full force and effect.

5. The execution and delivery of the Bonds and the ARRA Assistance Agreements and the consummation of the transactions contemplated by the Bonds, the ARRA Assistance Agreements and the Ordinances, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach or default under any ordinance, resolution, order, agreement, document or instrument to which the Issuer is a party or by which the Issuer or its properties are bound or any existing law, regulation, rule, order or decree to which the Issuer is subject.

6. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bonds, the acquisition and construction of the Projects, the operation of the Systems and the imposition of rates and charges, including, without limitation, all requisite orders, consents, certificates and approvals from the DEP, the West Virginia Infrastructure and Jobs Development Council and the Issuer has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges.

7. To the best of my knowledge, there is no litigation, action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the ARRA Assistance Agreements, the Bonds and the Ordinances, the acquisition and construction of the Project, the operation of the Systems, the validity of the Bonds, the collection of the Gross Revenues or the pledge of the Net Revenues for the payment of the Bonds.

8. All successful bidders have made the required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy. Based upon my review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Projects, I am of the opinion that such surety bonds and policies: (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interest of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Ordinances and the ARRA Assistance Agreements; and (5) all such documents constitute valid and

legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

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

Very truly yours,

William H. File, III
City Solicitor

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September 18, 2009

City of Beckley
Beckley, WV 25802

West Virginia Water Development Authority
Charleston, WV 25311

West Virginia Infrastructure & Jobs Development Council
Charleston, West Virginia

West Virginia Department of Environmental Protection
Charleston, WV 25311

Re: City of Beckley
Sewerage System Revenue Bonds, Series 2009 A
(West Virginia CWSRF Program)
Sewerage System Revenue Bonds, Series 2009 B-1
(West Virginia CWSRF Program/ARRA)
Sewerage System Revenue Bonds, Series 2009 C
(West Virginia CWSRF Program)

Ladies and Gentlemen:

We are special counsel to the City of Beckley, a municipal corporation in Raleigh County, West Virginia (the "Issuer"). As such counsel, we have represented the Issuer before the Public Service Commission of West Virginia in connection with the issuance of the above-referenced bonds, and the acquisition and construction of the Projects. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Legislation and the Loan Agreement when used herein.

We are of the opinion that:

1. The Issuer has received all orders, certificates and authorizations from the Public Service Commission of West Virginia necessary for the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the implementation of rates and charges, and the Issuer has taken any other action required for the imposition of such rates and charges, including, without limitation, the adoption of

an ordinance prescribing such rates and charges. The Issuer has received a Commission Order of the Public Service Commission of West Virginia dated March 26, 2008 in Case No. 07-2250-S-PC and a Recommended Decision of an Administrative Law Judge dated July 17, 2009, as made final by the PSC in Case No. 09-0728-S-SCN on August 6, 2009, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of such Order has expired prior to the date hereof.

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

Very truly yours,

Jackson Kelly PLLC

JACKSON KELLY PLLC

CITY OF
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September 18, 2009

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1560 Kanawha Boulevard, East
Charleston, West Virginia 25311

West Virginia Water Development Authority
180 Association Drive
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P.O. Box 553
Charleston, WV 25322

Re: Final Title Opinion for the City of Beckley

Ladies and Gentlemen:

I am City Solicitor for the City of Beckley (the "Issuer") in connection with a proposed project to construct certain extensions, additions, betterments and improvements to the existing sewerage system and stormwater system of the Issuer (the "Projects"). I provide this final title opinion on behalf of the Issuer to satisfy the requirements of the West Virginia Department of Environmental Protection (the "DEP") for the Projects. Please be advised of the following:

1. I am of the opinion that the Issuer is a duly created and validly existing municipality possessed with all the powers and authority granted to municipalities under the laws of the State of West Virginia to construct, operate and maintain the Projects as approved by the DEP.

2. The Issuer has obtained all necessary permits and approvals for the construction of the Projects.

3. I have investigated and ascertained the location of, and I am familiar with the legal description of, the necessary sites, including easements and/or rights of way, required for the Projects as set forth in the plans for the Projects prepared by Burgess & Niple LTD and MSES Consultants, the consulting engineer for the Projects.

4. I have examined the records on file in the Office of the Clerk of the County Commission of Raleigh County, West Virginia, the county in which the Projects are to be located, and, in my opinion, the Issuer has acquired legal title or such other estate or interest in all of the necessary site components for the Projects, including all easements and/or rights of way, sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the Projects.

5. All deeds, easements and rights of way which have been acquired to date by the Issuer have been duly recorded in the Office of the Clerk of the County Commission of Raleigh County to protect the legal title to and interest of the Issuer.

Very truly yours,

William H. File, III
City Solicitor