

TOWN OF BEVERLY

Sewer Revenue Bonds,  
Series 1982 A and Series 1982 B

BOND TRANSCRIPT

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10/26/82  
BEVER1-K

Water Development Authority  
1201 Dunbar Avenue  
Dunbar, WV 25064

June 17, 1980

**CERTIFIED MAIL**

The Honorable Frank Herbert  
Mayor, Town of Beverly  
P. O. Box 266  
Beverly, WV 26253

Please be advised that the West Virginia Water Development Authority (WDA) has received a commitment from the Kanawha Valley Bank, N.A., and others to loan to the WDA certain funds as needed for the WDA to make short-term interim loans to local governmental agencies. The loans to the local agencies are to be evidenced by bond anticipation notes and provide interim financing of the local agency's share of the construction cost of its current sewer project. The loans to local agencies will be payable upon demand and are not expected to be outstanding for a period of more than one year from June 1, 1980 (unless extended by the WDA for an additional year), and will bear interest at 8 percent for the initial period. This note program is ancillary to and supportive of the General Revenue Bond Program approved by the Water Development Board by its General Revenue Bond Resolution (Sewage Systems Loan Program) (the Bond Resolution) on November 29, 1978, and was authorized by the Bond Anticipation Note Resolution (Sewage Systems Interim Loan Program) (the Note Resolution) adopted by said Board on May 12, 1980.

The WDA is pleased to commit to you the sum of \$311,850 which will be used to purchase your notes (which notes are to be paid from the proceeds of revenue bonds which you will issue and exchange with the WDA). This note purchase by the WDA is contingent upon the following:

- (1) You must have adopted all necessary ordinances (resolutions) approving your entrance into a loan agreement with the WDA and authorizing the issuance and delivery of your note to the WDA, which note shall be in the amount of \$315,000 and shall be in the form and substance satisfactory to our counsel.
- (2) You must have completed all steps and fulfilled all conditions precedent to your participation in the WDA loan program under the Note Resolution, as more particularly set forth in Section 4.2 thereof, including execution of the appropriate loan agreement between you and the WDA.

The Honorable Frank Herbert  
Page Two  
June 17, 1980

(3) Your delivery to the WDA of an executed copy of the loan agreement, your note payable to the WDA and the opinion of your bond counsel to the effect that the conditions in No. 2 have been satisfied.

This commitment to you will remain open for a period of 90 days from the date hereof, after which time the commitment will be continued to be made available to you or to such other entities as the WDA may in its discretion determine.

You may rely on this commitment for purposes of entering into contracts or for such other purposes as you deem appropriate.

EDGAR N. HENRY, PE  
EDGAR N. HENRY

EDGAR N. HENRY, PE - DIRECTOR

bb

c  Bond Counsel  
Consulting Engineer  
Peer Review Engineer  
WDA Bond Counsel  
WDA Investment Banker

**NOTIFICATION OF GRANT AWARD ACTION** Instruction  
 (Note: Awards are subject to declination by applicant)

1. EPA OFFICE OF LEGISLATION CONTACT Patricia Gaskins		TELEPHONE (202) 755-0488	2. GRANT AGREEMENT/AMENDMENT TO BE MAILED TO APPLICANT ON OR AFTER 4/18/79	
3. ISSUING OFFICE EPA, Water Division Region III, Philadelphia, Pa.			4. LOG NUMBER Three-C-180	5. DATE OF AWARD 4/11/79
6. COMMUNITY REP OR PROJ DIRECTOR (Name, Title, Telephone) D. K. McWilliams Mayor 304/636-0683			7. GRANTEE (Name, Street, City, State, ZIP Code, County, Cong. Dist.) Town of Beverly Beverly West Virginia 26253 Randolph County Cong. Dist. 02	

ROBERT C. BYRD  
 APR 16 1979

8. PROJECT LOCATION (Areas impacted by project)				9. GRANTEE TYPE Town	
CITY/PLACE	COUNTY	STATE	CONGRESSIONAL DISTRICT	13. VENDOR CODE	
10. COMMUNITY POPULATION 1,194	11. FIELD OF SCIENCE		12. PROJECT STEP III	16. TYPE OF GRANT ACTION Augmentation	
14. EPA CONTACT FOR PROJECT INFORMATION (Name, Title, Telephone) Kenneth R. Kryszczun Chief, West Virginia Section 215/597-8224			15. GRANT NUMBER C-540204-02-3	17. PROJECT PERIOD	
19. GRANT PROGRAM Construction Grants for Wastewater Treatment Works CFDA Program No. 66418			20. GRANT MAKING AUTHORITY (P.L. Title, Section) Water Pollution Control Act, as amended		

21. AMOUNT OF FUNDS	FORMER AWARD	22. TOTAL PROJECT COST	25. ELIGIBLE COSTS	FORMER ELIGIBLE COST	26. FORMER AWARD	
	\$ 136,350	\$		\$ 2,727,000		\$ 2,045,250
	THIS ACTION	23. TOTAL BUDGET COST		CHANGE IN ELIGIBLE COST		THIS ACTION
	\$ 0	\$		\$ 194,400		\$ 145,800
	AMENDED TOTAL	24. UNEXPENDED PRIOR YR. BAL.	CURRENT ELIGIBLE COST	AMENDED TOTAL		
	\$ 136,350	\$	\$ 2,921,400	\$ 2,191,050		

27. PROJECT TITLE AND DESCRIPTION  
 Construction of an 0.348 MGD oxidation ditch with interceptors and collectors to serve the Town of Beverly, West Virginia.

28. OTHER INFORMATION

29. FISCAL DATA						
PROGRAM ELEMENT	FY	APPROPRIATION	DOCUMENT CONTROL NO.	ACCOUNT NO.	OBJ CL	OBLIG AMT
ABA779	78	68X0103.A	W78038	Y779036006	41 11	\$145,800

4-11-79  
 2. #3.

U.S. ENVIRONMENTAL PROTECTION AGENCY  
GRANT AGREEMENT/AMENDMENT

GRANT IDENTIFICATION NO.

C 5 4 0 2 0 4 0 2 0

CHECK APPLICABLE ITEM(S)

DATE OF AWARD (Obligation date)

GRANT AGREEMENT

AUG 25 1977

GRANT AMENDMENT

TYPE OF ACTION

SUBSEQUENT RELATED PROJECT (IWWT)

Continuation

PART I-GENERAL INFORMATION

1. GRANT PROGRAM Municipal Wastewater Treatment Works 2. STATUTE REFERENCE 33 USC 1281 et. seq. 3. REGULATION REFERENCE 40 CFR, Parts 30 & 35

4. GRANTEE ORGANIZATION

a. NAME Town of Beverly c. ADDRESS Beverly, West Virginia 26253

b. EMPLOYER I.D. NO. (EIN)

5. PROJECT MANAGER (Grantee Contact)

a. NAME D. K. McWilliams d. ADDRESS Town of Beverly Beverly, West Virginia 26253

b. TITLE Mayor

c. TELEPHONE NO. (Include Area Code)

304/636-0683

6. PROJECT OFFICER (EPA Contact)

a. NAME R. Fenton Roudabush d. ADDRESS Environmental Protection Agency Water Division (3WA53) Curtis Building 6th & Walnut Streets Philadelphia, Pennsylvania 19106

b. TITLE Chief, West Virginia Section

c. TELEPHONE NO. (Include Area Code)

215/597-9890

7. PROJECT TITLE AND DESCRIPTION

The Step III project consists of the construction of an 0.348 MGD oxidation ditch with interceptors and collectors to serve the Town of Beverly, West Virginia. The eligible project includes allowable associated costs as defined in 40 CFR 35.940-1 up to the amounts shown in Part II of the Grant Agreement.

PROJECT STEP (IWWT)

III

8.

DURATION

PROJECT PERIOD (Dates)

November, 1977 - August, 1978

BUDGET PERIOD (Dates)

N/A

9.

DOLLAR AMOUNTS

TOTAL PROJECT COSTS	<u>\$2,727,000</u>	EPA GRANT AMOUNT <del>XXXXXX</del> <u>\$2,045,250</u>
TOTAL ELIGIBLE COSTS (IWWT)	<u>\$2,727,000</u>	UNEXPENDED PRIOR YR. BAL. (EPA Funds) <u>N/A</u>
TOTAL BUDGET PERIOD COSTS	<u>N/A</u>	THIS ACTION (This obligation amount) <u>\$2,045,250</u>

10.

ACCOUNTING DATA

APPROPRIATION	DOC CONTROL NO.	ACCOUNT NO.	OBJ CLASS	AMOUNT CHARGED
<u>68X0103.7</u>	<u>W6C078</u>	<u>T364036006</u>	<u>41.11</u>	<u>\$2,045,250</u>

11. PAYMENT METHOD

ADVANCES (\_\_\_\_\_ % of award)  REIMBURSEMENT

OTHER \_\_\_\_\_

SEND PAYMENT REQUEST TO Grants Administration Branch

12. PAYEE (Name and mailing address. Include ZIP Code)

Town of Beverly Beverly, West Virginia 26253

TABLE A - OBJECT CLASS CATEGORY  
(Non-construction)

	TOTAL APPROVED ALLOWABLE BUDGET PERIOD COST
1. PERSONNEL	
2. FRINGE BENEFITS	
3. TRAVEL	
4. EQUIPMENT	
5. SUPPLIES	
6. CONTRACTUAL	N/A
7. CONSTRUCTION	
8. OTHER	
9. TOTAL DIRECT CHARGES	
10. INDIRECT COSTS: RATE % BASE	
11. TOTAL (Share: Grantee _____ % Federal _____ %)	
12. TOTAL APPROVED GRANT AMOUNT	\$

TABLE B - PROGRAM ELEMENT CLASSIFICATION  
(Non-construction)

1.	
2.	
3.	
4.	
5.	
6.	N/A
7.	
8.	
9.	
10. TOTAL (Share: Grantee _____ % Federal _____ %)	
11. TOTAL APPROVED GRANT AMOUNT	\$

TABLE C - PROGRAM ELEMENT CLASSIFICATION  
(Construction)

1. ADMINISTRATION EXPENSE	
2. PRELIMINARY EXPENSE	27,110
3. LAND STRUCTURES, RIGHT-OF-WAY	
4. ARCHITECTURAL ENGINEERING BASIC FEES	
5. OTHER ARCHITECTURAL ENGINEERING FEES	
6. PROJECT INSPECTION FEES	9,533
7. LAND DEVELOPMENT	59,700
8. RELOCATION EXPENSES	
9. RELOCATION PAYMENTS TO INDIVIDUALS AND BUSINESSES	
10. DEMOLITION AND REMOVAL	
11. CONSTRUCTION AND PROJECT IMPROVEMENT	
12. EQUIPMENT	2,391,588
13. MISCELLANEOUS	
14. TOTAL (Lines 1 thru 13)	
15. ESTIMATED INCOME (If applicable)	
16. NET PROJECT AMOUNT (Line 14 minus 15)	
17. LESS: INELIGIBLE EXCLUSIONS	
18. ADD: CONTINGENCIES	239,069
19. TOTAL (Share: Grantee 25 % Federal 75 %)	2,727,000
20. TOTAL APPROVED GRANT AMOUNT	\$ 2,045,250

PART III - GRANT CONDITIONS

a. General Conditions:

The grantee covenants and agrees that it will expeditiously initiate and timely complete the project work for which assistance has been awarded under this grant, in accordance with all applicable provisions of 40 CFR Chapter I, Subpart B. The grantee warrants, represents, and agrees that it, and its contractors, subcontractors, employees and representatives, will comply with: (1) all applicable provisions of 40 CFR Chapter I, Subchapter B, INCLUDING BUT NOT LIMITED TO the provisions of Appendix A to 40 CFR Part 30, and (2) any special conditions set forth in this grant agreement or any grant amendment pursuant to 40 CFR 30.425.

b. Special Conditions:

1. Regulations

The grantee's attention is particularly directed to the following provisions contained in 40 CFR, Chapter I, Subchapter B, Part 35, Subpart E:

- (a) The grantee's procurement practices shall be in conformance with 40 CFR 35.935-2 and 35.939.
- (b) In accordance with 40 CFR 35.935-12(c), payment shall not be made for (1) more than 50 percent of the Federal share of the project unless the grantee has furnished a draft operation and maintenance manual for review, or adequate evidence of timely development of such draft, or (2) more than 90 percent of such Federal share unless the grantee has furnished a satisfactory final operation and maintenance manual.
- (c) In accordance with 40 CFR 35.935-13, payment shall not be made for (1) more than 50 percent of the Federal share of the project unless the grantee has submitted adequate evidence of timely development of its system(s) of user charges and industrial cost recovery, or (2) more than 80 percent of such Federal share unless the system(s) have been approved by the Regional Administrator.
- (d) In accordance with 40 CFR 35.935-16, payment shall not be made for more than 80 percent of the Federal share of the project, unless the Regional Administrator has approved the grantee's sewer use ordinance, and the grantee is complying with any sewer system evaluation and rehabilitation schedule as may be incorporated in this Grant Agreement.
- (e) Final payment shall be made in accordance with 40 CFR 35.935-14 and 35.945(e).

2. Discharge Permits

The grantee shall obtain any necessary discharge permits for the treatment works in accordance with Section 402 of the 1972 Amendments to the Federal Water Pollution Control Act.

3. Advertisement for Bids

The grantee shall not advertise or place on the market for bidding any portion of this project until the final plans and specifications have been approved in writing by the appropriate state water pollution control agency and the EPA Project Officer.

PART III - GRANT CONDITIONS

b. Special Conditions (Continued):

4. Contract Award

Construction contracts including those for the purchase of equipment and materials shall not be awarded until written approval is obtained from the EPA Project Officer.

5. Sites, Easements and Rights-of-Way

The grantee shall submit an acceptable legal opinion that the necessary sites and easements and/or rights-of-ways 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 not later than the time by which the grantee requests approval to award construction contracts.

6. Operation and Maintenance of Related Facilities

The grantee shall construct the additions described herein in such a manner as to assure an absolute minimum of interference with proper and efficient operation of related facilities.

7. Flood Insurance

The grantee agrees to acquire and maintain any flood insurance made available to it under the National Flood Insurance Act of 1968, as amended. The insurance shall be in an amount at least equal to the total eligible project costs excluding cost of land and uninsurable improvements, or to the maximum limit of coverage made available under the National Flood Insurance Act of 1968, as amended, whichever is less, for the entire useful life of the project.

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. This condition shall not be applicable if the project location is outside the boundaries of a special flood hazard area delineated on a Flood Hazard Boundary Map or Flood Insurance Rate Map which has been issued by the Department of Housing and Urban Development, Federal Insurance Administration. This condition shall not be applicable if the total value of improvements insurable under the National Flood Insurance Act is less than \$10,000.

PART III - GRANT CONDITIONS

b. Special Conditions (Continued):

8. Prompt Payment

- (a) The grantee agrees to make payment to its contractor promptly after receipt of Federal sums due under this grant and to retain only such amounts as may be justified by specific circumstances and provisions of this grant or the construction contract. Retained amounts shall be limited, except where greater retention is necessary under specific circumstances specifically provided for in the construction contract, to the following schedule:
- (1) Retention of up to 10% of payments claimed until construction is 50% complete.
  - (2) After construction is 50% complete, reduction of the total retainage to 5% of payments claimed, provided that the contractor is making satisfactory progress and there is no specific cause for greater withholding.
  - (3) When the project is substantially complete (operational or beneficial occupancy), the retained amount shall be further reduced below 5% to only that amount necessary to assure completion of the contract work.
  - (4) A cash bond or irrevocable letter of credit may be accepted in lieu of all or part of the cash retainage under (2) or (3) above.
- (b) The grantee agrees to report to the EPA Project Officer and promptly credit to the Federal share due under this grant the full amount of any interest earned, or if no such interest is earned, an imputed amount of interest at the prevailing rate, upon Federal sums paid to the grantee, if payment to the contractor is unjustifiably delayed by the grantee, its employees or representatives.
- (c) The grantee agrees to include appropriate provisions in each Step 3 construction contract to implement this prompt payment requirement.

PART III - GRANT CONDITIONS

b. Special Conditions (Continued):

9. Subagreements

This grant is awarded subject to compliance with the following requirements within 90 days after the date of grant acceptance or such additional extension of time as may be allowed by the EPA Project Officer.

- (a) The grantee, in accordance with 40 CFR 35.937-9(c) and 35.938-8(b), agrees that the provisions of Appendices C-1 and C-2 to 40 CFR, Part 35 Subpart E, published in the December 29, 1976 Federal Register shall be incorporated, as applicable, in all subagreements (as defined in 40 CFR 35.936-1(b) ), and that such provisions shall supersede any conflicting provisions in said subagreements.
- (b) Copies of amended subagreements shall be submitted to the EPA Project Officer within the said 90 days (or any extension), marked to show the changes made to conform with the foregoing requirements.
- (c) Work performed under a subagreement which has not been revised in conformance with the above requirements will be ineligible for Federal participation. Accordingly, grant payments will not be made for such work until compliance with said requirements has been obtained.

10. User Charge System

The grantee agrees to develop and maintain a system of user charges to assure that each recipient of waste treatment services within the grantee's service area will pay its proportionate share of the cost of operation and maintenance (including replacement) of all waste treatment services provided by the grantee in conformance with all applicable Federal requirements according to the following schedule:

- (a) User charge system to be drafted and submitted to EPA for preliminary review and comment within 90 days after acceptance of the grant offer.
- (b) Submission of user charge system to appropriate governmental entity for adoption within 60 days of receipt of EPA's comments on draft.
- (c) Adoption of user charge system to appropriate governmental entity within 30 days after submission for adoption.
- (d) Submission of adopted user charge system to EPA for review and approval within 30 days after adoption of system.

11. Industrial Cost Recovery System

The grantee agrees to develop and maintain an industrial cost recovery system which shall require all present and future industrial users to pay that portion of the grant amount allocable to the treatment of wastes from such users in conformance with all applicable Federal requirements.

12. Schedule of Grant Payments

The grantee may submit requests for payment for allowable costs incurred in accordance with the following schedule:

<u>Payment No.</u>	<u>Date</u>	<u>Payment</u>	<u>Cumulative Amount</u> (not to be exceeded)
1	11/77	\$613,575	
2	2/78	613,575	\$ 613,575
3	5/78	613,575	1,227,150
4 (Final)	8/78	204,525	1,840,725
			2,045,250

ALL GRANT PAYMENTS ARE SUBJECT TO CONGRESSIONAL APPROPRIATIONS AND AVAILABILITY OF FUNDS.

PART IV

NOTE: The Grant Agreement must be completed in duplicate and the Original returned to the Grants Administration Division for Headquarters grant awards and to the appropriate Grants Administration Office for state and local awards within 3 calendar weeks after receipt or within any extension of time as may be granted by EPA.

Receipt of a written refusal or failure to return the properly executed document within the prescribed time, may result in the automatic withdrawal of the grant offer by the Agency. Any change to the Grant Agreement by the grantee subsequent to the document being signed by the EPA Grant Award Official which the Grant Award Official determines to materially alter the Grant Agreement shall void the Grant Agreement.

OFFER AND ACCEPTANCE.

The United States of America, acting by and through the U.S. Environmental Protection Agency (EPA), hereby offers a grant/amendment to the Town of Beverly for 75 % of all approved costs incurred up to and not exceeding \$ 2,045,250 for the support of approved budget period effort described in application (including all application modifications) C-540204-02 Town of Beverly 8/1/77 included herein by reference.

ISSUING OFFICE (Grants Administration Office)		AWARD APPROVAL OFFICE	
ORGANIZATION ADDRESS Environmental Protection Agency Grants Administration Branch (3WA40) Curtis Building, 6th & Walnut Streets Philadelphia, Pennsylvania 19106		ORGANIZATION ADDRESS Environmental Protection Agency Water Division (3WA00) Curtis Building, 6th & Walnut Streets Philadelphia, Pennsylvania 19106	
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY			
SIGNATURE OF AWARD OFFICIAL <i>Greene A. Jones</i>		TYPED NAME AND TITLE Greene A. Jones, Director, Water Division	DATE AUG 25 1977
This Grant Agreement is subject to applicable U.S. Environmental Protection Agency statutory provisions and grant regulations. In accepting this award or amendment and any payments made pursuant thereto, (1) the undersigned represents that he is duly authorized to act on behalf of the grantee organization, and (2) the grantee agrees (a) that the grant is subject to the applicable provisions of 40 CFR Chapter I, Subchapter B and of the provisions of this agreement (Parts I thru IV), and (b) that acceptance of any payments constitutes an agreement by the payee that the amounts, if any, found by EPA to have been overpaid will be refunded or credited in full to EPA.			
SIGNATURE <i>[Signature]</i>		BY AND ON BEHALF OF THE DESIGNATED GRANTEE ORGANIZATION	
TYPED NAME AND TITLE <i>[Signature]</i>		DATE Dec 5 - 77	

U.S. ENVIRONMENTAL PROTECTION AGENCY  
GRANT ~~AGREEMENT~~/AMENDMENT

GRANT IDENTIFICATION NO.

C 5 4 0 2 0 4 0 2 3

CHECK APPLICABLE ITEM(S)

DATE OF AWARD (Obligation date)

GRANT AGREEMENT

Aug 11 1979

GRANT AMENDMENT

TYPE OF ACTION

SUBSEQUENT RELATED PROJECT (SRRP)

Increase

PART I-GENERAL INFORMATION

1. GRANT PROGRAM Municipal  
Wastewater Treatment Works

2. STATUTE REFERENCE  
33 USC 1281 et. seq.

3. REGULATION REFERENCE  
40 CFR, Parts 30 & 35

4. GRANTEE ORGANIZATION

a. NAME

Town of Beverly

c. ADDRESS

Beverly, West Virginia 26253

b. EMPLOYER I.D. NO. (EIN)

5. PROJECT MANAGER (Grantee Contact)

a. NAME

D. K. McWilliams

d. ADDRESS

Town of Beverly  
Beverly, West Virginia 26253

b. TITLE

Mayor

c. TELEPHONE NO. (Include Area Code)

304/636-0683

6. PROJECT OFFICER (EPA Contact)

a. NAME

James B. Topsale

d. ADDRESS

Environmental Protection Agency  
Water Division  
Curtis Building  
6th & Walnut Streets  
Philadelphia, Pennsylvania 19106

b. TITLE

Team Leader, West Virginia Section

c. TELEPHONE NO. (Include Area Code)

215/597-8243

7. PROJECT TITLE AND DESCRIPTION

No change in scope of project.

PROJECT STEP (SRRP)  
III

8. DURATION

PROJECT PERIOD (Dates)

August, 1977 - October, 1980

BUDGET PERIOD (Dates)

N/A

9. DOLLAR AMOUNTS

TOTAL PROJECT COSTS \$3,269,920.58

ARC Funds \$136,350  
EPA GRANT AMOUNT ~~XXXXXXXXXXXXXXX~~ \$2,191,050

TOTAL ELIGIBLE COSTS (SRRP) \$2,921,400.00

UNEXPENDED PRIOR YR. BAL. (EPA Funds)  
N/A

TOTAL BUDGET PERIOD COSTS N/A

THIS ACTION (This obligation amount)  
EPA Funds \$145,800

10. ACCOUNTING DATA

APPROPRIATION

DOC CONTROL NO.

ACCOUNT NO.

OBJ CLASS

AMOUNT CHARGED

68X0103.A

W78038

Y779036006

11

\$145,800

11. PAYMENT METHOD

ADVANCES ( ) of award  REIMBURSEMENT

OTHER

12. PAYEE (Name and mailing address. Include ZIP Code)

Town of Beverly  
Beverly, West Virginia 26253

SEND PAYMENT REQUEST TO Financial Management  
Branch

PART II-APPROVED BUDGET

TABLE A - OBJECT CLASS CATEGORY  
(Non-construction)

TOTAL APPROVED ALLOWABLE BUDGET PERIOD COST

1. PERSONNEL	
2. FRINGE BENEFITS	N/A
3. TRAVEL	
4. EQUIPMENT	
5. SUPPLIES	
6. CONTRACTUAL	
7. CONSTRUCTION	
8. OTHER	
9. TOTAL DIRECT CHARGES	
10. INDIRECT COSTS: RATE % BASE	
11. TOTAL (Share: Grantee _____ % Federal _____ %)	
12. TOTAL APPROVED GRANT AMOUNT	\$

TABLE B - PROGRAM ELEMENT CLASSIFICATION  
(Non-construction)

N/A

1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10. TOTAL (Share: Grantee _____ % Federal _____ %)	
11. TOTAL APPROVED GRANT AMOUNT	\$

TABLE C - PROGRAM ELEMENT CLASSIFICATION  
(Construction)

\$

1. ADMINISTRATION EXPENSE	
2. PRELIMINARY EXPENSE	15,000
3. LAND STRUCTURES, RIGHT-OF-WAY	
4. ARCHITECTURAL ENGINEERING BASIC FEES	
5. OTHER ARCHITECTURAL ENGINEERING FEES	200,000
6. PROJECT INSPECTION FEES	
7. LAND DEVELOPMENT	
8. RELOCATION EXPENSES	
9. RELOCATION PAYMENTS TO INDIVIDUALS AND BUSINESSES	
10. DEMOLITION AND REMOVAL	
11. CONSTRUCTION AND PROJECT IMPROVEMENT	
12. EQUIPMENT	2,570,938
13. <del>CONSTRUCTION</del> Legal & Fiscal	
14. TOTAL (Lines 1 thru 13)	7,000
15. ESTIMATED INCOME (If applicable)	
16. NET PROJECT AMOUNT (Line 14 minus 15)	
17. LESS: INELIGIBLE EXCLUSIONS	
18. ADD: CONTINGENCIES	128,462
19. TOTAL (Share: Grantee 20 % Federal 80 %)	2,921,400
20. TOTAL APPROVED GRANT AMOUNT	\$ 2,327,400

PART III - GRANT CONDITIONS

a. General Conditions:

The grantee covenants and agrees that it will expeditiously initiate and timely complete the project work for which assistance has been awarded under this grant, in accordance with all applicable provisions of 40 CFR Chapter I, Subpart B. The grantee warrants, represents, and agrees that it, and its contractors, subcontractors, employees and representatives, will comply with: (1) all applicable provisions of 40 CFR Chapter I, Subchapter B. INCLUDING BUT NOT LIMITED TO the provisions of Appendix A to 40 CFR Part 30, and (2) any special conditions set forth in this grant agreement or any grant amendment pursuant to 40 CFR 30.425.

b. Special Conditions:

A. Part III, Special Conditions, Number 12, "Schedule of Grant Payments" is deleted in its entirety and the following substituted in lieu thereof:

"12. Revised Schedule of Grant Payments

The grantee may submit requests for payments in accordance with the payment schedule dated March 23, 1979 and submitted in conjunction with the construction grant application. The schedule can be amended by an exchange of letters between the grantee and the Project Officer."

B. Part III, Special Conditions, is amended by adding the following:

"13. Subagreement

The engineering subagreements for this project shall not be considered approved by EPA until such time as documentation supporting the Overhead Cost Rate is submitted through the State to EPA and is found to be acceptable. Payment on engineering services will not be made until these agreements or any revisions are approved."

All other terms and conditions remain unchanged.

Funding

EPA		
ARC Section 214 Supplemental	\$2,191,050	75%
Non-Federal (State)	136,350	5%
Non-Federal (Local)	136,350	5%
	<u>457,650</u>	<u>15%</u>
Total Eligible Project Cost	\$2,921,400	100%

Section 214 assistance is limited to the lesser of:

- (1) the amount specified above; or
- (2) the difference between the actual eligible project costs and the sum of the actual basic grant and the non-federal funds specified above.

b. SPECIAL CONDITIONS (Continued)

PART IV

NOTE: The Grant Agreement must be completed in duplicate and the Original returned to the Grants Administration Division for Headquarters grant awards and to the appropriate Grants Administration Office for state and local awards within 3 calendar weeks after receipt or within any extension of time as may be granted by EPA.

Receipt of a written refusal or failure to return the properly executed document within the prescribed time, may result in the automatic withdrawal of the grant offer by the Agency. Any change to the Grant Agreement by the grantee subsequent to the document being signed by the EPA Grant Award Official which the Grant Award Official determines to materially alter the Grant Agreement shall void the Grant Agreement.

OFFER AND ACCEPTANCE

The United States of America, acting by and through the U.S. Environmental Protection Agency (EPA), hereby offers a grant/amendment to the Town of Beverly for 80 % of all approved costs incurred up to and not exceeding \$ 2,327,400 for the support of approved budget period effort described in application (including all application modifications) C-540204-02 Town of Beverly 3/14/79 included herein by reference.

ISSUING OFFICE (Grants Administration Office)	AWARD APPROVAL OFFICE
ORGANIZATION ADDRESS Environmental Protection Agency Virginia/West Virginia Branch Curtis Building, 6th & Walnut Streets Philadelphia, Pennsylvania 19106	ORGANIZATION ADDRESS Environmental Protection Agency Water Division Curtis Building, 6th & Walnut Streets Philadelphia, Pennsylvania 19106

THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY		
SIGNATURE OF AWARD OFFICIAL <i>Greene A. Jones</i>	TYPED NAME AND TITLE Greene A. Jones Director, Water Division	DATE APR 11 1979

This Grant Agreement is subject to applicable U.S. Environmental Protection Agency statutory provisions and grant regulations. In accepting this award or amendment and any payments made pursuant thereto, (1) the undersigned represents that he is duly authorized to act on behalf of the grantee organization, and (2) the grantee agrees (a) that the grant is subject to the applicable provisions of 40 CFR Chapter I, Subchapter B and of the provisions of this agreement (Parts I thru IV), and (b) that acceptance of any payments constitutes an agreement by the payee that the amounts, if any, found by EPA to have been overpaid will be refunded or credited in full to EPA.

BY AND ON BEHALF OF THE DESIGNATED GRANTEE ORGANIZATION		
SIGNATURE <i>D. K. McWilliams</i>	TYPED NAME AND TITLE D. K. McWilliams, Mayor	DATE APR 14 1979

U.S. ENVIRONMENTAL PROTECTION AGENCY  
 GRANT ~~AGREEMENT~~ / AMENDMENT

GRANT IDENTIFICATION NO.

C 5 4 0 2 0 4 0 1 2

CHECK APPLICABLE ITEM(S)	DATE OF AWARD (Obligation date)
GRANT AGREEMENT	MM 25 1978
GRANT AMENDMENT	TYPE OF ACTION
SUBSEQUENT RELATED PROJECT (WWT)	Decrease

PART I-GENERAL INFORMATION

GRANT PROGRAM Municipal stewater Treatment Works	2. STATUTE REFERENCE 33 USC 1281 et. seq.	3. REGULATION REFERENCE 40 CFR, Chp. I, Sub. B
---	--	---

GRANTEE ORGANIZATION	
NAME Town of Beverly	C. ADDRESS Beverly, West Virginia 26253
EMPLOYER I.D. NO. (EIN) 55-0465527	

PROJECT MANAGER (Grantee Contact)	
NAME L. K. McWilliams	D. ADDRESS Town of Beverly Beverly, West Virginia 26253
TITLE Mayor	
TELEPHONE NO. (Include Area Code) 04.636-5356	

PROJECT OFFICER (EPA Contact)	
NAME James B. Topsale	D. ADDRESS Environmental Protection Agency Water Division Curtis Building 6th and Walnut Streets Philadelphia, Pennsylvania 19106
TITLE Team Leader, West Virginia Section	
TELEPHONE NO. (Include Area Code) 15/597-8243	

PROJECT TITLE AND DESCRIPTION

to change in scope of project.

PROJECT STEP (WWT) II
--------------------------

DURATION	
PROJECT PERIOD (Dates) June, 1975 - May, 1979	BUDGET PERIOD (Dates)

DOLLAR AMOUNTS	
TOTAL PROJECT COSTS \$165,000	EPA GRANT AMOUNT <del>XXXXXXXXXXXXXXXXXXXX</del> \$123,750
TOTAL ELIGIBLE COSTS (WWT) \$165,000	UNEXPENDED PRIOR YR. BAL. (EPA Funds) N/A
TOTAL BUDGET PERIOD COSTS N/A	THIS ACTION (This obligation amount) -\$540

ACCOUNTING DATA				
APPROPRIATION 68X0103.9	DOC CONTROL NO.	ACCOUNT NO. X765036006	OBJ CLASS 41. 41. 11 41.	AMOUNT CHARGED -\$540

PAYMENT METHOD ADVANCES ( ___ % of award) <input checked="" type="checkbox"/> REIMBURSEMENT <input type="checkbox"/> OTHER	12. PAYEE (Name and mailing address. Include ZIP Code) Town of Beverly Beverly, West Virginia 26253
SEND PAYMENT REQUEST TO Financial Management Branch	

PART II-APPROVED BUDGET

TABLE A - OB  
(Non

struction)  
CLASS CATEGORY

TOTAL APPROVED ALLOWABLE  
BUDGET PERIOD COST

1. PERSONNEL
2. FRINGE BENEFITS
3. TRAVEL
4. EQUIPMENT
5. SUPPLIES
6. CONTRACTUAL
7. CONSTRUCTION
8. OTHER
9. TOTAL DIRECT CHARGES
10. INDIRECT COSTS: RATE % BASE
11. TOTAL (Share: Grantee _____ % Federal _____ %)
12. TOTAL APPROVED GRANT AMOUNT

N/A
\$

TABLE B - PROGRAM ELEMENT CLASSIFICATION  
(Non-construction)

1.
2.
3.
4.
5.
6.
7.
8.
9.
10. TOTAL (Share: Grantee _____ % Federal _____ %)
11. TOTAL APPROVED GRANT AMOUNT

N/A
\$

TABLE C - PROGRAM ELEMENT CLASSIFICATION  
(Construction)

1. ADMINISTRATION EXPENSE
2. PRELIMINARY EXPENSE
3. LAND STRUCTURES, RIGHT-OF-WAY
4. ARCHITECTURAL ENGINEERING BASIC FEES
5. OTHER ARCHITECTURAL ENGINEERING FEES
6. PROJECT INSPECTION FEES
7. LAND DEVELOPMENT
8. RELOCATION EXPENSES
9. RELOCATION PAYMENTS TO INDIVIDUALS AND BUSINESSES
10. DEMOLITION AND REMOVAL
11. CONSTRUCTION AND PROJECT IMPROVEMENT
12. EQUIPMENT
13. MISCELLANEOUS
14. TOTAL (Lines 1 thru 13)
15. ESTIMATED INCOME (If applicable)
16. NET PROJECT AMOUNT (Line 14 minus 15)
17. LESS: INELIGIBLE EXCLUSIONS
18. ADD: CONTINGENCIES
19. TOTAL (Share: Grantee <u>25</u> % Federal <u>75</u> %)
20. TOTAL APPROVED GRANT AMOUNT

160,000
5,000
165,000

\$
123,750

PART III - GRANT CONDITIONS

a. General Conditions:

The grantee covenants and agrees that it will expeditiously initiate and timely complete the project work for which assistance has been awarded under this grant, in accordance with all applicable provisions of 40 CFR Chapter I, Subpart B. The grantee warrants, represents, and agrees that it, and its contractors, subcontractors, employees and representatives, will comply with: (1) all applicable provisions of 40 CFR Chapter I, Subchapter B, INCLUDING BUT NOT LIMITED TO the provisions of Appendix A to 40 CFR Part 30, and (2) any special conditions set forth in this grant agreement or any grant amendment pursuant to 40 CFR 30.425.

b. Special Conditions:

All terms and conditions remain unchanged.

PART IV

NOTE: The Grant Agreement must be completed in duplicate and the Original returned to the Grants Administration Division for Headquarters grant awards and to the appropriate Grants Administration Office for state and local awards within 3 calendar weeks after receipt or within any extension of time as may be granted by EPA. Receipt of a written refusal or failure to return the properly executed document within the prescribed time, may result in the automatic withdrawal of the grant offer by the Agency. Any change to the Grant Agreement by the grantee subsequent to the document being signed by the EPA Grant Award Official which the Grant Award Official determines to materially alter the Grant Agreement shall void the Grant Agreement.

OFFER AND ACCEPTANCE

The United States of America, acting by and through the U.S. Environmental Protection Agency (EPA), hereby offers grant/amendment to the Town of Beverly for 75 % of all approved costs incurred up to and not exceeding \$ 123,750 for the support of approved budget period effort described in application (including all application modifications) C-540204-01 Town of Beverly included herein by reference.

ISSUING OFFICE (Grants Administration Office)	AWARD APPROVAL OFFICE
ORGANIZATION ADDRESS Environmental Protection Agency Virginia/West Virginia Branch Curtis Building, 6th and Walnut Streets Philadelphia, Pennsylvania 19106	ORGANIZATION ADDRESS Environmental Protection Agency Water Division Curtis Building, 6th and Walnut Streets Philadelphia, Pennsylvania 19106

THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY		
SIGNATURE OF AWARD OFFICIAL <i>Greene A. Jones</i>	TYPED NAME AND TITLE Greene A. Jones Director, Water Division	DATE JUN 15 1979

This Grant Agreement is subject to applicable U.S. Environmental Protection Agency statutory provisions and grant regulations. In accepting this award or amendment and any payments made pursuant thereto, (1) the undersigned represents that he is duly authorized to act on behalf of the grantee organization, and (2) the grantee agrees (a) that the grant is subject to applicable provisions of 40 CFR Chapter I, Subchapter B and of the provisions of this agreement (Parts I thru IV), and (b) that acceptance of any payments constitutes an agreement by the payee that the amounts, if any, found by EPA to have been overpaid will be refunded or credited in full to EPA.

BY AND ON BEHALF OF THE DESIGNATED GRANTEE ORGANIZATION		
SIGNATURE <i>W. Williams</i>	TYPED NAME AND TITLE <i>Williams</i>	DATE JUN 17 1979



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
 REGION III  
 6TH AND WALNUT STREETS  
 PHILADELPHIA, PENNSYLVANIA 19106

Re: Town of Beverly  
 Construction Grant  
 C-540204-02

Honorable Frank Herbert, Mayor  
 Town of Beverly  
 P.O. Box 266  
 Beverly, West Virginia 26253

Dear Mayor Herbert:

The grant increase requested by you on April 3, 1980, as you are aware, has been processed by our office. The amount of the increase is less than that requested due primarily to consideration of contingency funds that are included in the existing Step 3 grant. Your increase request was based on the total actual and expected cost overruns for the Step 3 project. Since the contingency funds are to be used for such expenses, the grant increase is only for those costs that are anticipated to exceed the existing contingency funds. Other minor changes have been made and they are identified below.

A breakout of the grant increase is as follows:

Cost Overruns (actual and anticipated)	\$256,189 <sup>1)</sup>
Ineligible change order costs	-\$ 4,294 <sup>2)</sup>
Existing contingency funds	<u>-\$128,462</u>
	\$123,433
Engineering fees	\$ 29,609 <sup>3)</sup>
Total costs eligible for increase	\$153,000 <sup>4)</sup>

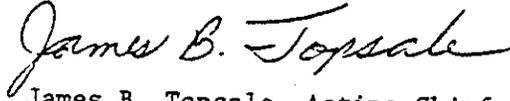
- 1) -C.O. No. 3/Contract No. 1 cost corrected to \$58,297.50  
 -C.O. No. 5/Contract No. 1 included in the amount of \$16,608
- 2) -C.O. No. 1/Contract No. 1:\$3547  
 -C.O. No. 2/Contract No. 2:\$700
- 3) -Increase corrected to agree with the EPA approved engineering sub-contract
- 4) -Rounded down to the nearest hundred

*this is not an additional grant increase  
 it clarifies the grant increase of 8/4/80*

Approval of the grant increase does not imply approval of any change order not yet approved by the State and EPA. The funds will be placed in the contingency account until the eligibility of each change order is determined.

Should any further information be required, please contact Maureen Essenthier at (215) 597-3847.

Sincerely yours,



James B. Topsale, Acting Chief  
West Virginia Section  
Water Division

cc: West Augusta Co.-Ray Powell  
Warren Means, DNR

Partnership Grant

C H I R A C I

Between

GOVERNOR'S OFFICE OF ECONOMIC AND

COMMUNITY DEVELOPMENT

And

TOWN OF BEVERLY

THIS AGREEMENT, entered into this 31st Day of January, 1980, by the West Virginia Department of Finance and Administration on behalf of the Governor's Office of Economic and Community Development, hereinafter called the "GOECD", and the Town of Beverly and its authorized officers, agents, and representatives hereinafter called the "Grantee".

WITNESS THAT:

WHEREAS, the GOECD has promised and agreed to assist the Grantee to perform such tasks hereafter described in the scope of services, which is to be partially financed by funds made available through the Partnership Grants and Loans Program.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. Assistance of the Grantee. The GOECD hereby

3. Data -- be Furnished to the Grantee. All information, data, reports and records as are existing, available and necessary for the carrying out of the work as outlined above shall be furnished to the Grantee by the GOECD. The GOECD shall cooperate with the Grantee in every way possible in facilitating the completion of this Project.

4. Personnel. The Grantee represents that it has or will secure at its own expense personnel with the necessary qualifications and experience required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the GOECD.

5. Time of Performance. The Grantee will commence its duties under this Contract on January 31, 1980, and such duties shall be undertaken and completed in such sequences as to assure their expeditious completion in the light of the purpose of the Contract, but in any event, all of the services required hereunder shall be completed by June 30, 1980.

Completion date of this Contract may only be extended by mutual written agreement of both parties dependent on the reappropriation of funds under the Partnership Grant Program.

6. Compensation. In consideration of the services rendered by the Grantee, the GOECD agrees to pay the Grantee the sum of Ninety Thousand and No Hundredths (\$90,000.00) Dollars. This amount constitutes complete compensation for

plus copies of invoices substantiating that the project construction is seventy five percent complete.

(3.) With the remaining Twenty Two Thousand Five Hundred and No Hundredths (\$22,500.00) Dollars of the grant to be made available upon completion and acceptance of the project by the Grantee.

It is expressly understood and agreed upon that in no event will the total compensation exceed the maximum Ninety Thousand and No Hundredths (\$90,000.00) Dollars for all work performed in accordance with the Contract without the written consent of the Governor of the State of West Virginia.

8. Credit of State Not Pledged. It is the understanding of all parties to this Contract that the GOECD, by joining in this Contract does not pledge or promise to pledge the credit of the State of West Virginia, nor does it promise to pay any part of the Contract sum provided for in this agreement from any monies of the Treasury of the State of West Virginia, except the monies as shall be granted to the Grantee under Paragraph 7 of this agreement.

9. Termination of Contract, for Cause. If, through any cause, the Grantee shall fail to fulfill in a necessary and proper manner his obligations under this Contract, or if the

Grantee for the purpose of set-off until such time as the exact amount of damages due the GOECD from the Grantee is determined.

10. Termination for Convenience of GOECD. The GOECD may terminate this Contract at any time by giving written notice to the Grantee of such termination and specifying the effective date of termination. If the Contract is terminated by the GOECD as provided herein, the Grantee will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this Contract, less payments of compensation previously made.

11. Termination by the Grantee. The Grantee may unilaterally rescind this agreement at any time prior to the commencement of the project. After project commencement, this agreement may be rescinded, modified, or amended only by mutual agreement. A project shall be deemed commenced when the GOECD makes any expenditure or incurs any obligation with respect to the project.

12. Changes. The GOECD and the Grantee may, from time to time, require changes in the scope of the services of the work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Grantee's compensation and work to be performed,

upgrading, demotions, transfers, recruitment, or recruitment of compensation, selection for training, including apprenticeship, and participation in recreational and educational activities, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, or national origin, shall cause the provisions of this non-discrimination clause to be inserted in all subcontracts for any work covered by this notice of grant award so that such provisions will be binding upon each subcontractor and shall keep such records and submit such reports concerning the racial and ethnic origin of employees and applicants for employment as the U. S. Department of Treasury and the GOECD may require, and

c. That it shall comply with such rules, regulations or guidelines as the U. S. Department of Treasury and the GOECD may issue to implement these requirements.

The Grantee shall cause any contractors and/or any subcontractors it engages on this project to comply with Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et. seq.), Presidential Executive Order 11246 as amended by Presidential Executive Order 11375, the requirements imposed by or pursuant to the Regulations

amended (40 U. S. C. 276a-276a-b). Such provisions shall include the payment of the Fair Minimum Wage Rates as determined by the West Virginia Commissioner of Labor and/or the United States Secretary of Labor for each craft or classification of all workmen needed to perform the contract in the locality in which the public work is performed. Projects involving Federal funds which are covered by the provisions of the Davis-Bacon Act (40 U.S.C. 276-a 276a-5) the Grantee shall cause the contractor and/or subcontractors to pay the higher wage rate, Federal or State.

Further the Grantee shall cause these wage rates as determined to be printed on all bidding blanks and attention should be specifically noted to these facts within the body of the advertisement for bids. The Grantee shall, also, have available upon request for review by the GOECD or its designated representative bid documents and other evidence of compliance including copies of contractor's payrolls.

15. Competitive Bid Procedures. The Grantee shall solicit sealed bids for all construction related contracts or supplies related to this project which have an estimated value of over Two Thousand Dollars. Any attempts by the Grantee to segregate the project into sections having an estimated value of less than \$2,000 may be cause for termination of an agreement

review by the KOECD or its designated representative bid documents and other evidence of compliance with these procedures.

16. Bonding and Insurance. Except as otherwise required by law, a grant that requires the contracting or subcontracting for construction of facility improvements shall provide for the grantee to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the contract or subcontract exceeds \$100,000. If the contracts or subcontracts exceed \$100,000 the minimum bonding and insurance requirements shall be as follows:

(A.) A bid guarantee from each bidder equivalent to five per cent of the bid price. This bid guarantee shall consist of a firm commitment such as bid bond, certified check, or other negotiable instrument accompanying a bid that the bidder will, upon acceptance of the bid, execute the contractual documents as may be required within the time specified.

(B.) A performance bond on the part of the contractor for 100 per cent of the contract price. This performance bond shall be executed by the successful contractor in connection with a contract to secure fulfillment of all the contractor's

Facilities Accessible to, and Usable by the Physically Handicapped", Number A117.1-1961, as modified (41CFR101-17.1703) and (13CFR309.14). The grantee shall be responsible for conducting inspections to insure compliance with these specifications.

18. Facilities Operation. The Grantee shall operate and maintain all facilities constructed under the auspices of this Contract in accordance with minimum standards as may be required or prescribed by the applicable Federal, State and local statute, law, ordinance or regulation as to actual construction procedures, as well as maintenance and operation of such facilities upon completion.

19. Interest Of Members Of GOFCD And Others. No officer, member or employee of the GOFCD or officer, member or employee of the Grantee who exercises any function or responsibilities in the review or approval of the undertaking or carrying out of this Project, shall participate in any decision relating to this Contract which affects his personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly interested or have any personal or pecuniary interest nor shall any officer, member of, or employee of, the Grantee or any member of its governing body, or officer, member, or employee of the Contractor have any interest

representative, for examination all of its records with respect to all matters covered by this Contract and permit the GOECD or its designated representative, to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records and personnel, conditions of employment and other data relating to all matters covered by this Contract during the entire time period beginning with project approval and ending three years after the final disbursement of grant funds.

22. Project Audits. All Grantees receiving more than \$25,000 in Partnership Grant funds shall at their own expense engage an independent auditor to perform an audit in conformance with the Regulations issued by the U. S. Department of Treasury and designated as 51CFR Subtitle B, Subpart F, Section 51.101, P. L. 92-512. A certified audit proposal by an independent auditor must be submitted by the Grantee to GOECD at 50 per cent of project completion. Failure to submit such an audit proposal in a timely manner may be reason for GOECD to withhold further payments to the Grantee.

In the case where the project is also being assisted through a Federal and/or State Grant Program

internal financial controls governing the management and utilization of funds provided under this contract, as well as funds provided as the Grantee's matching share.

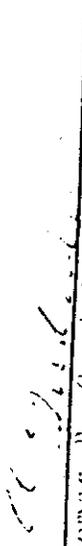
25. Political Activity. No officer or employee of the Grantee whose principal employment is in connection with any activity which is financed in whole or in part pursuant to this agreement shall take part in any of the activities expressly prohibited by the Hatch Act.

26. Construction Within Twelve Months. The Grantee shall have the project under construction within twelve months after execution of this agreement by both parties. The Grantee further understands that if the project is not under construction within a twelve month period that it must resubmit its application at which time the GOECD will re-evaluate its obligation to provide funds for the project.

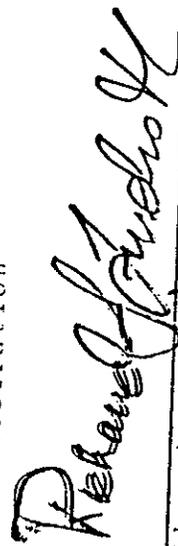
27. Signing. This Contract shall be signed by the Executive Assistant to the Governor and by the Mayor of the Town of Beverly upon authorization of the governing body of the Town of Beverly by adoption and passage of a resolution, motion or similar official action.

IN WITNESS WHEREOF, the GOVER and the Grantee have  
executed this Agreement as of the date first above written.

STATE OF WEST VIRGINIA  
GOVERNOR'S OFFICE OF ECONOMIC  
AND COMMUNITY DEVELOPMENT

  
\_\_\_\_\_  
Thomas R. Goodwin  
Executive Assistant to  
the Governor

STATE OF WEST VIRGINIA  
Department of Finance and  
Administration

  
\_\_\_\_\_  
Miles E. Dean, Commissioner

TOWN OF BEVERLY

By:   
\_\_\_\_\_  
Frank Herbert  
Mayor

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

GRANT AGREEMENT

1. GRANT RECIPIENT (NAME AND ADDRESS):

COUNTY: Randolph

Town of Beverly  
Town Hall  
Beverly, WV 26253

2. GRANT RECIPIENT REPRESENTATIVE (NAME, TITLE, ADDRESS AND TELEPHONE):

Honorable D. K. McWilliams  
Mayor, Town of Beverly  
Town Hall  
Beverly, WV 26253

3. GRANT PAYEE (NAME, TITLE AND ADDRESS):

Town of Beverly  
Town Hall  
Beverly, WV 26253

4. APPROVED AMOUNT OF GRANT: \$ 136,350.00

5. PAYMENTS: PAYMENTS WILL BE INITIATED BY THE WATER DEVELOPMENT AUTHORITY UPON RECEIPT (VIA DIVISION OF WATER RESOURCES, DEPARTMENT OF NATURAL RESOURCES) OF A COPY OF THE US EPA APPROVAL OF GRANT PAYMENT, W00-4020-6, IN AMOUNTS PROPORTIONATELY SIMILAR TO PAYMENTS MADE BY THE US EPA.

ALL GRANTS ARE SUBJECT TO STATE APPROPRIATION AND AVAILABILITY OF FUNDS.  
Contract extends until June 30, 1978, and shall be subject to renewal.

6. TYPE OF ACTIVITY FOR WHICH GRANT FUNDS ARE TO BE USED:

The Step III project consists of the construction of an 0.348 MGD oxidation ditch with interceptors and collectors to serve the Town of Beverly, West Virginia.

4.  
~~15.~~

7. TOTAL COSTS	\$ <u>2,727,000</u>
ELIGIBLE COSTS	\$ <u>2,727,000</u>
FEDERAL (US EPA) GRANT AMOUNT (% OF ELIGIBLE COSTS <u>75</u> )	\$ <u>2,045,250</u>
STATE (WDA) GRANT AMOUNT (% OF ELIGIBLE COSTS <u>5</u> )	\$ <u>136,350</u>

8. GRANT OFFER AND ACCEPTANCE:

THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY HEREBY OFFERS A GRANT TO  
Town of Beverly

SUCH GRANT NOT TO EXCEED \$ 136,350 FOR SUPPORT OF COSTS  
DESCRIBED IN ITS APPLICATION AND GRANT AGREEMENT.

REPAYMENT OF LOANS. THE GRANT RECIPIENT AGREES TO PROVIDE IMMEDIATE  
PAYMENT IN FULL OF ANY LOANS OR SERVICE CHARGES DUE TO THE WATER  
DEVELOPMENT AUTHORITY UPON COMPLETION OF FINANCIAL ARRANGEMENTS FOR THE  
CONSTRUCTION OF THE PROJECT.

TERMINATION. THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RESERVES THE  
RIGHT TO TERMINATE THIS AGREEMENT UPON GIVING THE RECIPIENT ORGANIZATION  
NOT LESS THAN SIXTY (60) DAYS PRIOR WRITTEN NOTICE. THE RECIPIENT  
ORGANIZATION MAY TERMINATE THIS AGREEMENT BY GIVING THE WEST VIRGINIA  
WATER DEVELOPMENT AUTHORITY SIXTY (60) DAYS PRIOR WRITTEN NOTICE. IN THE  
EVENT THIS AGREEMENT IS TERMINATED BY THE WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY, OR IN THE EVENT THIS AGREEMENT IS TERMINATED BY THE RECIPIENT  
ORGANIZATION, THE ELIGIBLE PROJECT COSTS INCURRED PRIOR TO THE DATE OF  
COMPLETION OF THE WORK ON THE APPROVED PROJECT OR THE DATE OF SUCH TERMINA-  
TION, WHICHEVER IS EARLIER, SHALL BE PAID BY THE RECIPIENT ORGANIZATION OR  
ITS CONSTITUENTS. ANY MONEYS PAID BY EITHER PARTY PURSUANT TO THE AGREE-  
MENT WHICH BECOMES THE OBLIGATION OF THE OTHER PARTY UNDER THE PROVISIONS  
OF THIS AGREEMENT SHALL BE REPAID IN NOT MORE THAN THREE (3) YEARS AFTER  
TERMINATION.

THIS GRANT AGREEMENT IS SUBJECT TO ALL STATUTORY PROVISIONS, ALL GRANT  
REGULATIONS OF THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND ALL PRO-  
VISIONS OF THIS AGREEMENT AND FURTHER IS SUBJECT TO THE CONDITIONS SET  
FORTH IN GRANT AGREEMENT NO. C-540204-02 CONSUMMATED BETWEEN THE UNITED  
STATES ENVIRONMENTAL PROTECTION AGENCY AND Town of Beverly  
OFFERED ON August 25, 1977,  
AND ACCEPTED ON December 22, 1977

THE RECIPIENT ORGANIZATION AGREES THAT FUNDS AWARDED UNDER THIS AGREEMENT  
WILL BE USED SOLELY FOR THE PURPOSES OF THE PROJECT AS APPROVED.

9. NAME AND TITLE OF AWARD OFFICIAL: Edgar N. Henry  
TITLE: Director  
SIGNATURE: *Edgar N. Henry*  
DATE: January 13, 1978

STATE OF WEST VIRGINIA, COUNTY OF KANAWHA.

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS 13th DAY OF January, 1978.

NOTARY: *Barbara A. Butcher*

MY COMMISSION EXPIRES: January 3, 1984

10. NAME AND TITLE OF RECIPIENT:  
ORGANIZATION REPRESENTATIVE: Mr. D. K. McWilliams  
TITLE: Mayor, Town of Beverly  
SIGNATURE: *DK McWilliams Mayor*  
DATE: Feb-9-78

STATE OF WEST VIRGINIA, COUNTY OF Randolph.

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS 9 DAY OF Feb, 1978.

NOTARY: *Judi Edgess Dean*

MY COMMISSION EXPIRES: Dec. 3, 1984

NOTE: THE GRANT AGREEMENT MUST BE COMPLETED IN DUPLICATE AND RETURNED WITHIN 30 DAYS AFTER RECEIPT OR AS PROVIDED IN ANY TIME EXTENSION ARRANGED WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY. RECEIPT OF WRITTEN REFUSAL OR FAILURE TO RETURN WITHIN THE 30-DAY PERIOD WILL RESULT IN TERMINATION OF THE GRANT OFFER. NO AMENDMENTS MAY BE MADE TO THE GRANT AGREEMENT SUBSEQUENT TO SIGNING BY THE WDA SIGNEE.

ALL CORRESPONDENCE CONCERNING THIS OFFER AND AGREEMENT SHOULD BE ADDRESSED TO:  
WEST VIRGINIA WATER DEVELOPMENT AUTHORITY  
1201 DUNBAR AVENUE  
DUNBAR, WV 25064

HARDSHIP GRANT AGREEMENT

1. GRANT RECIPIENT (NAME AND ADDRESS): COUNTY: Randolph

Town of Beverly  
Town Hall  
Beverly, WV 26253

2. GRANT RECIPIENT REPRESENTATIVE (NAME, TITLE, ADDRESS AND TELEPHONE):

Honorable D. K. McWilliams  
Mayor, Town of Beverly  
Town Hall  
Beverly, WV 26253

3. GRANT PAYEE (NAME, TITLE AND ADDRESS):

Town of Beverly  
Town Hall  
Beverly, WV 26253

4. APPROVED AMOUNT OF GRANT: \$ 311,580.00

5. PAYMENTS: PAYMENTS WILL USUALLY BE INITIATED BY THE AUTHORITY UPON RECEIPT (VIA DIVISION OF WATER RESOURCES, DEPARTMENT OF NATURAL RESOURCES) OF A COPY OF THE US EPA APPROVAL OF GRANT PAYMENT, WQD-4020-6, IN AMOUNTS PROPORTIONATELY SIMILAR TO PAYMENTS MADE BY THE US EPA.

ALL GRANTS ARE SUBJECT TO STATE APPROPRIATION AND AVAILABILITY OF FUNDS.  
Contract extends until June 30, 1979, and shall be subject to renewal.

6. TYPE OF ACTIVITY FOR WHICH GRANT FUNDS ARE TO BE USED:

The Step III project consists of the construction of an 0.348 MGD oxidation ditch with interceptors and collectors to serve the Town of Beverly.

7. TOTAL COSTS	\$ <u>3,269,920</u>
ELIGIBLE COSTS	\$ <u>2,921,400</u>
FEDERAL (US EPA) GRANT AMOUNT (% OF ELIGIBLE COSTS <u>75</u> )	\$ <u>2,191,050</u>
STATE (WDA) GRANT AMOUNT (% OF ELIGIBLE COSTS <u>10.7</u> )	\$ <u>311,580</u>

8. GRANT OFFER AND ACCEPTANCE:

THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY HEREBY OFFERS A GRANT TO Town of Beverly, SUCH GRANT NOT TO EXCEED \$ 311,580 FOR SUPPORT OF COSTS DESCRIBED IN THIS GRANT AGREEMENT AND ITS APPLICATION WHICH IS HEREBY MADE A PART OF THIS AGREEMENT.

REPAYMENT OF LOANS. THE GRANT RECIPIENT AGREES TO PROVIDE IMMEDIATE PAYMENT IN FULL OF ANY LOANS OR SERVICE CHARGES DUE TO THE WATER DEVELOPMENT AUTHORITY UPON COMPLETION OF FINANCIAL ARRANGEMENTS FOR THE CONSTRUCTION OF THE PROJECT.

TERMINATION. THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RESERVES THE RIGHT TO TERMINATE THIS AGREEMENT UPON GIVING THE RECIPIENT ORGANIZATION NOT LESS THAN SIXTY (60) DAYS PRIOR WRITTEN NOTICE. THE RECIPIENT ORGANIZATION MAY TERMINATE THIS AGREEMENT BY GIVING THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY SIXTY (60) DAYS PRIOR WRITTEN NOTICE. IN THE EVENT THIS AGREEMENT IS TERMINATED BY THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, OR IN THE EVENT THIS AGREEMENT IS TERMINATED BY THE RECIPIENT ORGANIZATION, THE ELIGIBLE PROJECT COSTS INCURRED PRIOR TO THE DATE OF COMPLETION OF THE WORK ON THE APPROVED PROJECT OR THE DATE OF SUCH TERMINATION, WHICHEVER IS EARLIER, SHALL BE PAID BY THE RECIPIENT ORGANIZATION OR ITS CONSTITUENTS. ANY MONEYS PAID BY EITHER PARTY PURSUANT TO THE AGREEMENT WHICH BECOMES THE OBLIGATION OF THE OTHER PARTY UNDER THE PROVISIONS OF THIS AGREEMENT SHALL BE REPAID IN NOT MORE THAN THREE (3) YEARS AFTER TERMINATION.

THIS GRANT AGREEMENT IS SUBJECT TO ALL STATUTORY PROVISIONS, ALL GRANT REGULATIONS OF THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND ALL PROVISIONS OF THIS AGREEMENT AND FURTHER IS SUBJECT TO THE CONDITIONS SET FORTH IN GRANT AGREEMENT NO. C-540204-02 CONSUMMATED BETWEEN THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND Town of Beverly OFFERED ON April 11, 1978, AND ACCEPTED ON April 24, 1979

THE RECIPIENT ORGANIZATION AGREES THAT FUNDS AWARDED UNDER THIS AGREEMENT WILL BE USED SOLELY FOR THE PURPOSES OF THE PROJECT AS APPROVED.

9. NAME AND TITLE OF AWARD OFFICIAL: Edgar N. Henry  
TITLE: Director  
SIGNATURE: Edgar N. Henry  
DATE: May 3, 1979

STATE OF WEST VIRGINIA, COUNTY OF KANAWHA.

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS 3rd DAY OF May,  
1979.

NOTARY: Barbara C. Butcher

MY COMMISSION EXPIRES: January 3, 1984

10. NAME AND TITLE OF RECIPIENT  
ORGANIZATION REPRESENTATIVE: The Honorable D. K. McWilliams  
TITLE: Mayor  
SIGNATURE: D. K. McWilliams  
DATE: May - 9 - 79

STATE OF WEST VIRGINIA, COUNTY OF Randolph

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS 8 DAY OF May,  
1979.

NOTARY: Gloria Huebly

MY COMMISSION EXPIRES: March 19 1986

NOTE: THE GRANT AGREEMENT MUST BE COMPLETED IN DUPLICATE AND RETURNED WITHIN 30 DAYS AFTER RECEIPT OR AS PROVIDED IN ANY TIME EXTENSION ARRANGED WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY. RECEIPT OF WRITTEN REFUSAL OR FAILURE TO RETURN WITHIN THE 30-DAY PERIOD WILL RESULT IN TERMINATION OF THE GRANT OFFER. NO AMENDMENTS MAY BE MADE TO THE GRANT AGREEMENT SUBSEQUENT TO SIGNING BY THE WDA SIGNEE.

ALL CORRESPONDENCE CONCERNING THIS OFFER AND AGREEMENT SHOULD BE ADDRESSED TO:  
WEST VIRGINIA WATER DEVELOPMENT AUTHORITY  
1201 DUNBAR AVENUE  
DUNBAR, WV 25064

# PURCHASE ORDER

43

Date	State Acct. No.:
Fisc. Year: 79	B. P. Acct. No.:
See below	
Ship to:	
Water Development Authority 1201 Dunbar Avenue Dunbar, WV 25064	
Invoice in Quintuplicate To:	
Water Development Authority 1201 Dunbar Avenue Dunbar, WV 25064	

FOR:  
Vendor Name & Address: Water Development Authority  
550 465 527 4

Town of Beverly  
Town Hall  
Beverly, WV 26253

P. O. Date:	Terms:	F.O.B.:	Shipping Date:
3/28/79			

Item No.	Quantity	Description	Unit Price	Amount
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## AGREEMENT

This Agreement constitutes the acceptance of contract made by and between the State of West Virginia by the Commissioner of Finance and Administration for and on behalf of Water Development Authority and Town of Beverly for a grant for the construction of a wastewater facility.

Service beginning February 9, 19 78 and extending until June 30, 19 79. All in accordance with standard form of agreement attached hereto as a part hereof.

### SCHEDULE OF PAYMENT

\$ 136,350.00 per agreement C-540204-02

5670-07-029-01	FY-78	\$44,025.00
5670-07-029-01	FY-77	\$92,325.00

FEE:	\$	<u>136,350.00</u>
TRAVEL EXPENSE:	\$	
OTHER EXPENSE:	\$	
TOTAL:	\$	<u>136,350.00</u>

STATE OF WEST VIRGINIA  
Department of Finance and Administration  
MILES DEAN

*Jay William H. Brown*  
Commissioner

APPROVED AS TO FORM THIS 30  
DAY OF March, 19 79  
CHAUNCEY H. BROWNING, JR.  
Attorney General  
BY *Richard Brown*  
Assistant Attorney General

APPROVED AS TO PROVISIONS AND TERMS

STATE OF WEST VIRGINIA

Department of Finance and Administration  
PURCHASING DIVISION

SEE TERMS AND CONDITIONS ON BACK

TOTAL AMOUNT OF THIS PURCHASE ORDER \$ 136,350.00

*Glenn H. ...*  
Director, Purchasing Division

## GRANT AGREEMENT

WATER DEVELOPMENT AUTHORITY

## 1. GRANT RECIPIENT (NAME AND ADDRESS):

COUNTY: Randolph

Town of Beverly  
Town Hall  
Beverly, WV 26253

## 2. GRANT RECIPIENT REPRESENTATIVE (NAME, TITLE, ADDRESS AND TELEPHONE):

Honorable D. K. McWilliams  
Mayor, Town of Beverly  
Town Hall  
Beverly, WV 26253

## 3. GRANT PAYEE (NAME, TITLE AND ADDRESS):

Town of Beverly  
Town Hall  
Beverly, WV 26253

4. APPROVED AMOUNT OF GRANT: \$ - 136,350.00

5. PAYMENTS: PAYMENTS WILL BE INITIATED BY THE WATER DEVELOPMENT AUTHORITY UPON RECEIPT (VIA DIVISION OF WATER RESOURCES, DEPARTMENT OF NATURAL RESOURCES) OF A COPY OF THE US EPA APPROVAL OF GRANT PAYMENT, WQO-4020-6, IN AMOUNTS PROPORTIONATELY SIMILAR TO PAYMENTS MADE BY THE US EPA.

ALL GRANTS ARE SUBJECT TO STATE APPROPRIATION AND AVAILABILITY OF FUNDS.  
Contract extends until June 30, 1979, and shall be subject to renewal.

## 6. TYPE OF ACTIVITY FOR WHICH GRANT FUNDS ARE TO BE USED:

The Step III project consists of the construction of an 0.348 MGD oxidation ditch with interceptors and collectors to serve the Town of Beverly, West Virginia.

7. TOTAL COSTS \$ 2,727,000  
ELIGIBLE COSTS \$ 2,727,000  
FEDERAL (US EPA) GRANT AMOUNT \$ 2,045,250  
(% OF ELIGIBLE COSTS 75 )  
STATE (WDA) GRANT AMOUNT \$ 136,350  
(% OF ELIGIBLE COSTS 5 )

8. GRANT OFFER AND ACCEPTANCE:

THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY HEREBY OFFERS A GRANT TO Town of Beverly

SUCH GRANT NOT TO EXCEED \$ 136,350 FOR SUPPORT OF COSTS DESCRIBED IN ITS APPLICATION AND GRANT AGREEMENT.

REPAYMENT OF LOANS. THE GRANT RECIPIENT AGREES TO PROVIDE IMMEDIATE PAYMENT IN FULL OF ANY LOANS OR SERVICE CHARGES DUE TO THE WATER DEVELOPMENT AUTHORITY UPON COMPLETION OF FINANCIAL ARRANGEMENTS FOR THE CONSTRUCTION OF THE PROJECT.

TERMINATION. THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RESERVES THE RIGHT TO TERMINATE THIS AGREEMENT UPON GIVING THE RECIPIENT ORGANIZATION NOT LESS THAN SIXTY (60) DAYS PRIOR WRITTEN NOTICE. THE RECIPIENT ORGANIZATION MAY TERMINATE THIS AGREEMENT BY GIVING THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY SIXTY (60) DAYS PRIOR WRITTEN NOTICE. IN THE EVENT THIS AGREEMENT IS TERMINATED BY THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, OR IN THE EVENT THIS AGREEMENT IS TERMINATED BY THE RECIPIENT ORGANIZATION, THE ELIGIBLE PROJECT COSTS INCURRED PRIOR TO THE DATE OF COMPLETION OF THE WORK ON THE APPROVED PROJECT OR THE DATE OF SUCH TERMINATION, WHICHEVER IS EARLIER, SHALL BE PAID BY THE RECIPIENT ORGANIZATION OR ITS CONSTITUENTS. ANY MONEYS PAID BY EITHER PARTY PURSUANT TO THE AGREEMENT WHICH BECOMES THE OBLIGATION OF THE OTHER PARTY UNDER THE PROVISIONS OF THIS AGREEMENT SHALL BE REPAID IN NOT MORE THAN THREE (3) YEARS AFTER TERMINATION.

THIS GRANT AGREEMENT IS SUBJECT TO ALL STATUTORY PROVISIONS, ALL GRANT REGULATIONS OF THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND ALL PROVISIONS OF THIS AGREEMENT AND FURTHER IS SUBJECT TO THE CONDITIONS SET FORTH IN GRANT AGREEMENT NO. C-540204-02 CONSUMMATED BETWEEN THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND Town of Beverly  
OFFERED ON August 25, 1977.  
AND ACCEPTED ON December 22, 1977.

THE RECIPIENT ORGANIZATION AGREES THAT FUNDS AWARDED UNDER THIS AGREEMENT WILL BE USED SOLELY FOR THE PURPOSES OF THE PROJECT AS APPROVED.

9. NAME AND TITLE OF AWARD OFFICIAL: Edgar N. Henry  
TITLE: Director  
SIGNATURE: *Edgar N. Henry*  
DATE: January 13, 1978

STATE OF WEST VIRGINIA, COUNTY OF KANAWHA.

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS 13th DAY OF January, 1978.

NOTARY: *Barbara A. Butcher*

MY COMMISSION EXPIRES: January 3, 1984

10. NAME AND TITLE OF RECIPIENT  
ORGANIZATION REPRESENTATIVE: Mr. D. K. McWilliams  
TITLE: Mayor, Town of Beverly  
SIGNATURE: *D. K. McWilliams Mayor*  
DATE: Jan. - 9 - 78

STATE OF WEST VIRGINIA, COUNTY OF Randolph

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS 9 DAY OF Jan, 1978.

NOTARY: *Judi Edgar Dean*

MY COMMISSION EXPIRES: Dec. 3, 1984

NOTE: THE GRANT AGREEMENT MUST BE COMPLETED IN DUPLICATE AND RETURNED WITHIN 30 DAYS AFTER RECEIPT OR AS PROVIDED IN ANY TIME EXTENSION ARRANGED WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY. RECEIPT OF WRITTEN REFUSAL OR FAILURE TO RETURN WITHIN THE 30-DAY PERIOD WILL RESULT IN TERMINATION OF THE GRANT OFFER. NO AMENDMENTS MAY BE MADE TO THE GRANT AGREEMENT SUBSEQUENT TO SIGNING BY THE WDA SIGNEE.

ALL CORRESPONDENCE CONCERNING THIS OFFER AND AGREEMENT SHOULD BE ADDRESSED TO:  
WEST VIRGINIA WATER DEVELOPMENT AUTHORITY  
1201 DUNBAR AVENUE  
DUNBAR, WV 25064

APPLIED

Pursuant to the provisions of Chapter 5A, the Official  
Code of West Virginia 1961, AS AMENDED  
STATE OF WEST VIRGINIA  
DEPARTMENT OF FINANCE & ADMINISTRATION

APPROVED AS TO PROVISION AND TERMS

*William K. Burner*  
MILES DEAN, Commissioner

*Demetrius C. ...*  
Approved as to form this  
DAY OF ... DIRECTOR, PURCHASING DIVISION

CHAUNCEY H. BROWNING, JR.  
ATTORNEY GENERAL

BY *Richard ...*  
ASSISTANT ATTORNEY GENERAL

MAR 6 1978

## LOAN AGREEMENT

WATER DEVELOPMENT AUTHORITY

## 1. LOAN RECIPIENT (NAME AND ADDRESS):

Town of Beverly  
Beverly  
WV 26253

COUNTY: Randolph

## 2. LOAN RECIPIENT REPRESENTATIVE (NAME, TITLE, ADDRESS AND TELEPHONE):

Honorable D. K. McWilliams  
Acting Mayor, Town of Beverly  
Beverly, WV 26253

## 3. LOAN PAYEE (NAME, TITLE AND ADDRESS):

Town of Beverly  
Beverly  
WV 26253

4. APPROVED AMOUNT OF LOAN: \$ 1840.00

5. PAYMENTS: PAYMENTS WILL BE INITIATED BY THE WATER DEVELOPMENT AUTHORITY UPON RECEIPT (VIA DIVISION OF WATER RESOURCES, DEPARTMENT OF NATURAL RESOURCES) OF A COPY OF THE US EPA APPROVAL OF GRANT PAYMENT, WGD-4020-6, IN AMOUNTS PROPORTIONATELY SIMILAR TO PAYMENTS MADE BY THE US EPA.

ALL LOANS ARE SUBJECT TO STATE APPROPRIATION AND AVAILABILITY OF FUNDS.  
Contract extends until June 30, 1978, and shall be subject to renewal.

## 6. TYPE OF ACTIVITY FOR WHICH LOAN FUNDS ARE TO BE USED:

This increase reflects no change in project scope.

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7. TOTAL COSTS	\$ <u>165,720</u>
ELIGIBLE COSTS	\$ <u>165,720</u>
FEDERAL (US EPA) GRANT AMOUNT (% OF ELIGIBLE COSTS <u>75</u> )	\$ <u>124,290</u>
STATE (WDA) LOAN AMOUNT (% OF ELIGIBLE COSTS <u>25</u> )	\$ <u>41,430*</u>
Less previous agreements for \$39,590	

8. LOAN OFFER AND ACCEPTANCE:

THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY HEREBY OFFERS A LOAN TO Town of Beverly FOR 25 PERCENT OF ALL APPROVED ELIGIBLE COSTS, SUCH LOAN NOT TO EXCEED \$ 1,840 FOR SUPPORT OF COSTS DESCRIBED IN ITS APPLICATION AND LOAN AGREEMENT.

RECIPIENT ORGANIZATION AGREES THAT THE LOAN AND SERVICE CHARGE SHALL BE PAYABLE UPON COMPLETION OF FINANCING ARRANGEMENTS FOR THE STEP III PROJECT WHICH CONSUMMATES THE STEP I AND STEP II PROJECTS DEVELOPED. IN THE EVENT THE STEP I PROJECT SCOPE CONSISTS OF MORE THAN ONE GOVERNMENTAL AGENCY, EACH GOVERNMENTAL AGENCY SHALL BE REQUIRED TO PAY ITS RESPECTIVE SHARE OF THE TOTAL PARTICIPATION CHARGE.

LOAN AND SERVICE CHARGE. THE LOAN PROVIDED TO THE RECIPIENT ORGANIZATION IS A NO-INTEREST LOAN REPRESENTING 25 PERCENT OF A TOTAL ELIGIBLE PROJECT COST. THE SERVICE CHARGE IS SET AT ONE PERCENT (1%) OF THE VALUE OF THE LOAN.

TERMINATION. THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RESERVES THE RIGHT TO TERMINATE THIS AGREEMENT UPON GIVING THE RECIPIENT ORGANIZATION NOT LESS THAN SIXTY (60) DAYS PRIOR WRITTEN NOTICE. THE RECIPIENT ORGANIZATION MAY TERMINATE THIS AGREEMENT BY GIVING THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY SIXTY (60) DAYS PRIOR WRITTEN NOTICE. IN THE EVENT THIS AGREEMENT IS TERMINATED BY THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, OR IN THE EVENT THIS AGREEMENT IS TERMINATED BY THE RECIPIENT ORGANIZATION, THE ELIGIBLE PROJECT COSTS INCURRED PRIOR TO THE DATE OF COMPLETION OF THE WORK ON THE APPROVED PROJECT OR THE DATE OF SUCH TERMINATION, WHICHEVER IS EARLIER, SHALL BE PAID BY THE RECIPIENT ORGANIZATION OR ITS CONSTITUENTS. ANY MONEYS PAID BY EITHER PARTY PURSUANT TO THE AGREEMENT WHICH BECOMES THE OBLIGATION OF THE OTHER PARTY UNDER THE PROVISIONS OF THIS AGREEMENT SHALL BE REPAID IN NOT MORE THAN THREE (3) YEARS AFTER TERMINATION.

THIS LOAN AGREEMENT IS SUBJECT TO ALL STATUTORY PROVISIONS, ALL LOAN REGULATIONS OF THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND ALL PROVISIONS OF THIS AGREEMENT AND FURTHER IS SUBJECT TO THE CONDITIONS SET FORTH IN GRANT AGREEMENT NO. C-540204-01 CONSUMMATED BETWEEN THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND Town of Beverly OFFERED ON December 22, 1977 AND ACCEPTED ON January 7, 1978

THE RECIPIENT ORGANIZATION AGREES THAT FUNDS AWARDED UNDER THIS AGREEMENT WILL BE USED SOLELY FOR THE PURPOSES OF THE PROJECT AS APPROVED.

9. NAME AND TITLE OF AWARD OFFICIAL: Edgar N. Henry  
TITLE: Director  
SIGNATURE: *Edgar N. Henry*  
DATE: February 22, 1978

STATE OF WEST VIRGINIA, COUNTY OF KANAWHA.

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS 22nd DAY OF February, 1978

NOTARY: *Barbara A. Butcher*

MY COMMISSION EXPIRES: January 3, 1984

10. NAME AND TITLE OF RECIPIENT ORGANIZATION REPRESENTATIVE: Honorable D. K. McWilliams  
TITLE: Acting Mayor  
SIGNATURE: *D. K. McWilliams*  
DATE: Mar - 2 - 1978

STATE OF WEST VIRGINIA, COUNTY OF Randolph

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS 2nd DAY OF Mar, 1978.

NOTARY: *Judi Edgall Dean*  
MY COMMISSION EXPIRES: December 3, 1984

NOTE: THE LOAN AGREEMENT MUST BE COMPLETED IN DUPLICATE AND RETURNED WITHIN 30 DAYS AFTER RECEIPT OR AS PROVIDED IN ANY TIME EXTENSION ARRANGED WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY. RECEIPT OF WRITTEN REFUSAL OR FAILURE TO RETURN WITHIN THE 30-DAY PERIOD WILL RESULT IN TERMINATION OF THE LOAN OFFER. NO AMENDMENTS MAY BE MADE TO THE AGREEMENT SUBSEQUENT TO SIGNING BY THE WDA SIGNEE.

ALL CORRESPONDENCE CONCERNING THIS OFFER AND AGREEMENT SHOULD BE ADDRESSED TO: WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, 1201 DUNBAR AVENUE, DUNBAR, WEST VIRGINIA 25064.

APPROVED AS TO PROVISION AND TERMS

*Glenn R. Cunningham*  
DIRECTOR, PURCHASING DIVISION

APPROVED

Pursuant to the provisions of Chapter 5A, the Official  
Code of West Virginia 1951, AS AMENDED  
DEPARTMENT OF FINANCE & ADMINISTRATION

*John S. Moore*  
MILES DEAN, Commissioner

Approved as to form this \_\_\_\_\_

DAY OF \_\_\_\_\_, 197

CHAUNCEY H. BROWNING, JR.  
ATTORNEY GENERAL

BY *Frederic J. George*  
ASSISTANT ATTORNEY GENERAL

TOWN OF BEVERLY  
BEVERLY, RANDOLPH COUNTY, WEST VIRGINIA

March 22, 1977

RESOLUTION

WHEREAS, on or about March 3, 1976, the Common Council of the Town of Beverly, resolved that the Mayor of the Town of Beverly, namely Thomas Trigg, was authorized to execute and file any and all applications and other supporting documents seeking federal assistance in the construction of a sanitary sewage collection and treatment system to serve the Town of Beverly and other areas adjoining the Town.

WHEREAS, as of this date, Mr. Thomas Trigg is no longer the Mayor of the Town of Beverly.

BE IT RESOLVED: that the Acting Mayor of the Town of Beverly, namely D. K. McWilliams, be authorized to continue seeking federal, state and other assistance for the construction of a sanitary sewage collection and treatment system and to continue to administer any ongoing or current grants, and that D. K. McWilliams act as the Town's authorized representation in the execution of necessary applications, supporting and administrative documents.

D. K. McWilliams  
D. K. McWilliams  
Acting Mayor  
TOWN OF BEVERLY

Attest:

Alice Smith  
Recorder  
Town of Beverly

March 22 1977  
Date

378

1977

LOAN AGREEMENT

WATER DEVELOPMENT AUTHORITY

1. LOAN RECIPIENT (NAME AND ADDRESS):

COUNTY: Randolph

Town of Beverly  
Beverly  
WV 26253

2. LOAN RECIPIENT REPRESENTATIVE (NAME, TITLE, ADDRESS AND TELEPHONE):

Honorable D. K. McWilliams  
Acting Mayor  
Town of Beverly  
Beverly, WV 26253

3. LOAN PAYEE (NAME, TITLE AND ADDRESS):

Town of Beverly  
Beverly  
WV 26253

4. APPROVED AMOUNT OF LOAN: \$ 20,465.00

5. PAYMENTS: PAYMENTS WILL BE INITIATED BY THE WATER DEVELOPMENT AUTHORITY UPON RECEIPT (VIA DIVISION OF WATER RESOURCES, DEPARTMENT OF NATURAL RESOURCES) OF A COPY OF THE US EPA APPROVAL OF GRANT PAYMENT, WQD-4020-6, IN AMOUNTS PROPORTIONATELY SIMILAR TO PAYMENTS MADE BY THE US EPA.

ALL LOANS ARE SUBJECT TO STATE APPROPRIATION AND AVAILABILITY OF FUNDS. Contract extends until June 30, 1978, and shall be subject to renewal.

6. TYPE OF ACTIVITY FOR WHICH LOAN FUNDS ARE TO BE USED:

This increase reflects no change in project scope.

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7. TOTAL COSTS	\$ <u>165,720</u>
ELIGIBLE COSTS	\$ <u>165,720</u>
FEDERAL (US EPA) GRANT AMOUNT (% OF ELIGIBLE COSTS <u>75</u> )	\$ <u>124,290</u>
STATE (WDA) LOAN AMOUNT (% OF ELIGIBLE COSTS <u>25</u> )	\$ <u>41,430*</u>

Less previous agreements for \$20,965

8. LOAN OFFER AND ACCEPTANCE:

THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY HEREBY OFFERS A LOAN TO Town of Beverly FOR 25 PERCENT OF ALL APPROVED ELIGIBLE COSTS, SUCH LOAN NOT TO EXCEED \$ 20,465 FOR SUPPORT OF COSTS DESCRIBED IN ITS APPLICATION AND LOAN AGREEMENT.

RECIPIENT ORGANIZATION AGREES THAT THE LOAN AND SERVICE CHARGE SHALL BE PAYABLE UPON COMPLETION OF FINANCING ARRANGEMENTS FOR THE STEP III PROJECT WHICH CONSUMMATES THE STEP I AND STEP II PROJECTS DEVELOPED. IN THE EVENT THE STEP I PROJECT SCOPE CONSISTS OF MORE THAN ONE GOVERNMENTAL AGENCY, EACH GOVERNMENTAL AGENCY SHALL BE REQUIRED TO PAY ITS RESPECTIVE SHARE OF THE TOTAL PARTICIPATION CHARGE.

LOAN AND SERVICE CHARGE. THE LOAN PROVIDED TO THE RECIPIENT ORGANIZATION IS A NO-INTEREST LOAN REPRESENTING 25 PERCENT OF A TOTAL ELIGIBLE PROJECT COST. THE SERVICE CHARGE IS SET AT ONE PERCENT (1%) OF THE VALUE OF THE LOAN.

TERMINATION. THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RESERVES THE RIGHT TO TERMINATE THIS AGREEMENT UPON GIVING THE RECIPIENT ORGANIZATION NOT LESS THAN SIXTY (60) DAYS PRIOR WRITTEN NOTICE. THE RECIPIENT ORGANIZATION MAY TERMINATE THIS AGREEMENT BY GIVING THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY SIXTY (60) DAYS PRIOR WRITTEN NOTICE. IN THE EVENT THIS AGREEMENT IS TERMINATED BY THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, OR IN THE EVENT THIS AGREEMENT IS TERMINATED BY THE RECIPIENT ORGANIZATION, THE ELIGIBLE PROJECT COSTS INCURRED PRIOR TO THE DATE OF COMPLETION OF THE WORK ON THE APPROVED PROJECT OR THE DATE OF SUCH TERMINATION, WHICHEVER IS EARLIER, SHALL BE PAID BY THE RECIPIENT ORGANIZATION OR ITS CONSTITUENTS. ANY MONEYS PAID BY EITHER PARTY PURSUANT TO THE AGREEMENT WHICH BECOMES THE OBLIGATION OF THE OTHER PARTY UNDER THE PROVISIONS OF THIS AGREEMENT SHALL BE REPAID IN NOT MORE THAN THREE (3) YEARS AFTER TERMINATION.

THIS LOAN AGREEMENT IS SUBJECT TO ALL STATUTORY PROVISIONS, ALL LOAN REGULATIONS OF THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND ALL PROVISIONS OF THIS AGREEMENT AND FURTHER IS SUBJECT TO THE CONDITIONS SET FORTH IN GRANT AGREEMENT NO. C-540204-01 CONSUMMATED BETWEEN THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND Town of Beverly OFFERED ON December 22, 1977, AND ACCEPTED ON January 7, 1978

THE RECIPIENT ORGANIZATION AGREES THAT FUNDS AWARDED UNDER THIS AGREEMENT WILL BE USED SOLELY FOR THE PURPOSES OF THE PROJECT AS APPROVED.

9. NAME AND TITLE OF AWARD OFFICIAL: Edgar N. Henry  
TITLE: Director  
SIGNATURE: Edgar N. Henry  
DATE: February 22, 1978

STATE OF WEST VIRGINIA, COUNTY OF KANAWHA.

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS 22nd DAY OF February, 1978.

NOTARY: Barbara A. Butcher

MY COMMISSION EXPIRES: January 3, 1984.

10. NAME AND TITLE OF RECIPIENT ORGANIZATION REPRESENTATIVE: Honorable D. K. McWilliams  
TITLE: Acting Mayor  
SIGNATURE: D. K. McWilliams  
DATE: Mar - 2 - 1978.

STATE OF WEST VIRGINIA, COUNTY OF Randolph

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS 2nd DAY OF March, 1978

NOTARY: Judi Edgell Dean

MY COMMISSION EXPIRES: December 3, 1984

NOTE: THE LOAN AGREEMENT MUST BE COMPLETED IN DUPLICATE AND RETURNED WITHIN 30 DAYS AFTER RECEIPT OR AS PROVIDED IN ANY TIME EXTENSION ARRANGED WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY. RECEIPT OF WRITTEN REFUSAL OR FAILURE TO RETURN WITHIN THE 30-DAY PERIOD WILL RESULT IN TERMINATION OF THE LOAN OFFER. NO AMENDMENTS MAY BE MADE TO THE AGREEMENT SUBSEQUENT TO SIGNING BY THE WDA SIGNEE.

ALL CORRESPONDENCE CONCERNING THIS OFFER AND AGREEMENT SHOULD BE ADDRESSED TO: WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, 1201 DUNBAR AVENUE, DUNBAR, WEST VIRGINIA 25064.

Department of Public Administration  
Code of Massachusetts Regulations  
DEPARTMENT OF PUBLIC ADMINISTRATION

APPROVED AS TO FORM

*Blair R Cummings*  
DIRECTOR, PURCHASING DIVISION

\_\_\_\_\_  
WILSON DEAN, Commissioner

Approved as to form this \_\_\_\_\_

DAY OF \_\_\_\_\_, 197 \_\_\_\_\_

CHAUNCEY H. BROWNING, JR.  
ATTORNEY GENERAL

BY *Fred J. George*  
ASSISTANT ATTORNEY GENERAL

TOWN OF BEVERLY  
BEVERLY, RANDOLPH COUNTY, WEST VIRGINIA

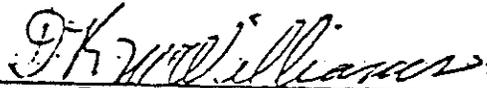
March 22, 1977

RESOLUTION

WHEREAS, on or about March 3, 1976, the Common Council of the Town of Beverly, resolved that the Mayor of the Town of Beverly, namely Thomas Trigg, was authorized to execute and file any and all applications and other supporting documents seeking federal assistance in the construction of a sanitary sewage collection and treatment system to serve the Town of Beverly and other areas adjoining the Town.

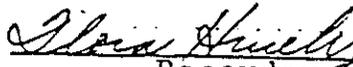
WHEREAS, as of this date, Mr. Thomas Trigg is no longer the Mayor of the Town of Beverly.

BE IT RESOLVED: that the Acting Mayor of the Town of Beverly, namely D. K. McWilliams, be authorized to continue seeking federal, state and other assistance for the construction of a sanitary sewage collection and treatment system and to continue to administer any ongoing or current grants, and that D. K. McWilliams act as the Town's authorized representation in the execution of necessary applications, supporting and administrative documents.



D. K. McWilliams  
Acting Mayor  
TOWN OF BEVERLY

Attest:

  
Recorder  
Town of Beverly

March 22, 1977  
Date

378



STATE OF WEST VIRGINIA  
WATER DEVELOPMENT AUTHORITY  
1201 DUNBAR AVENUE  
DUNBAR, WV 25064

(304) 348-3612

June 11, 1979

CERTIFIED MAIL

Honorable D. K. McWilliams  
Mayor, Town of Beverly  
Town Hall  
Beverly, WV 26253

West Virginia Water Development Authority Administrative Regulations, Chapter 20, Article 5C, concerning requirements for disbursement of hardship grant funds for assisting in the construction of sewage treatment facilities and interceptor sewers were amended and became effective June 8, 1979. The amendment removed the 95-percent grant limitation. The \$400,000 ceiling on hardship grants remains the same.

Therefore, the WDA hardship grant shall be for an amount not to exceed \$400,000. The enclosed agreement for \$88,420 reflects the increase in the hardship grant, which is subject to the conditions set forth in the grant agreement and Administrative Regulations. If you desire to participate in the hardship grant program, please sign the enclosed agreement and forward the original and first copy to this office. Also, a copy of the resolution designating the signee of the agreement must be returned.

If you have any questions, please call me.

EDGAR N. HENRY, PE - DIRECTOR

c Senators  
Delegates  
Water Resources Division  
Regional Planning Council  
Economic & Community Development  
Environmental Health Services  
Consulting Engineer

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

HARDSHIP GRANT AGREEMENT

1. GRANT RECIPIENT (NAME AND ADDRESS): COUNTY: Randolph

Town of Beverly  
Town Hall  
Beverly, WV 26253

2. GRANT RECIPIENT REPRESENTATIVE (NAME, TITLE, ADDRESS AND TELEPHONE):

Honorable D. K. McWilliams  
Mayor, Town of Beverly  
Town Hall  
Beverly, WV 26253

3. GRANT PAYEE (NAME, TITLE AND ADDRESS):

Town of Beverly  
Town Hall  
Beverly, WV 26253

4. APPROVED AMOUNT OF GRANT: \$ 88,420.00

5. PAYMENTS: PAYMENTS WILL USUALLY BE INITIATED BY THE AUTHORITY UPON RECEIPT (VIA DIVISION OF WATER RESOURCES, DEPARTMENT OF NATURAL RESOURCES) OF A COPY OF THE US EPA APPROVAL OF GRANT PAYMENT, WQD-4020-6, IN AMOUNTS PROPORTIONATELY SIMILAR TO PAYMENTS MADE BY THE US EPA.

ALL GRANTS ARE SUBJECT TO STATE APPROPRIATION AND AVAILABILITY OF FUNDS.  
Contract extends until June 30, 1979, and shall be subject to renewal.

6. TYPE OF ACTIVITY FOR WHICH GRANT FUNDS ARE TO BE USED:

The Step III project consists of the construction of an 0.348 MGD oxidation ditch with interceptors and collectors to serve the Town of Beverly.

7. TOTAL COSTS \$ 3,192,920  
 ELIGIBLE COSTS \$ 2,921,400  
 FEDERAL (US EPA) GRANT AMOUNT \$ 2,191,050  
 (% OF ELIGIBLE COSTS 75 )  
 STATE (WDA) GRANT AMOUNT \$ 400,000\*  
 (% OF ELIGIBLE COSTS 13.7 )  
 \*Less previous agreement for \$311,580

8. GRANT OFFER AND ACCEPTANCE:

THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY HEREBY OFFERS A GRANT TO Town of Beverly, SUCH GRANT NOT TO EXCEED \$ 88,420.00 FOR SUPPORT OF COSTS DESCRIBED IN THIS GRANT AGREEMENT AND ITS APPLICATION WHICH IS HEREBY MADE A PART OF THIS AGREEMENT.

REPAYMENT OF LOANS. THE GRANT RECIPIENT AGREES TO PROVIDE IMMEDIATE PAYMENT IN FULL OF ANY LOANS OR SERVICE CHARGES DUE TO THE WATER DEVELOPMENT AUTHORITY UPON COMPLETION OF FINANCIAL ARRANGEMENTS FOR THE CONSTRUCTION OF THE PROJECT.

TERMINATION. THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RESERVES THE RIGHT TO TERMINATE THIS AGREEMENT UPON GIVING THE RECIPIENT ORGANIZATION NOT LESS THAN SIXTY (60) DAYS PRIOR WRITTEN NOTICE. THE RECIPIENT ORGANIZATION MAY TERMINATE THIS AGREEMENT BY GIVING THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY SIXTY (60) DAYS PRIOR WRITTEN NOTICE. IN THE EVENT THIS AGREEMENT IS TERMINATED BY THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, OR IN THE EVENT THIS AGREEMENT IS TERMINATED BY THE RECIPIENT ORGANIZATION, THE ELIGIBLE PROJECT COSTS INCURRED PRIOR TO THE DATE OF COMPLETION OF THE WORK ON THE APPROVED PROJECT OR THE DATE OF SUCH TERMINATION, WHICHEVER IS EARLIER, SHALL BE PAID BY THE RECIPIENT ORGANIZATION OR ITS CONSTITUENTS. ANY MONEYS PAID BY EITHER PARTY PURSUANT TO THE AGREEMENT WHICH BECOMES THE OBLIGATION OF THE OTHER PARTY UNDER THE PROVISIONS OF THIS AGREEMENT SHALL BE REPAID IN NOT MORE THAN THREE (3) YEARS AFTER TERMINATION.

THIS GRANT AGREEMENT IS SUBJECT TO ALL STATUTORY PROVISIONS, ALL GRANT REGULATIONS OF THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND ALL PROVISIONS OF THIS AGREEMENT AND FURTHER IS SUBJECT TO THE CONDITIONS SET FORTH IN GRANT AGREEMENT NO. C-540204-02 CONSUMMATED BETWEEN THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND Town of Beverly OFFERED ON April 11, 1979, AND ACCEPTED ON April 24, 1979.

THE RECIPIENT ORGANIZATION AGREES THAT FUNDS AWARDED UNDER THIS AGREEMENT WILL BE USED SOLELY FOR THE PURPOSES OF THE PROJECT AS APPROVED.

9. NAME AND TITLE OF AWARD OFFICIAL: Edgar N. Henry  
TITLE: Director  
SIGNATURE: *Edgar N. Henry*  
DATE: June 11, 1979

STATE OF WEST VIRGINIA, COUNTY OF KANAWHA.

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS 11th DAY OF June, 1979.

NOTARY: *Barbara B. Butcher*

MY COMMISSION EXPIRES: January 3, 1984

10. NAME AND TITLE OF RECIPIENT ORGANIZATION REPRESENTATIVE: The Honorable D. K. McWilliams  
TITLE: Mayor  
SIGNATURE: *D. K. Williams*  
DATE: June 14-79

STATE OF WEST VIRGINIA, COUNTY OF Randolph.

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS 14 DAY OF June, 1979.

NOTARY: *Alma Huebel*

MY COMMISSION EXPIRES: March 19-1980

NOTE: THE GRANT AGREEMENT MUST BE COMPLETED IN DUPLICATE AND RETURNED WITHIN 30 DAYS AFTER RECEIPT OR AS PROVIDED IN ANY TIME EXTENSION ARRANGED WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY. RECEIPT OF WRITTEN REFUSAL OR FAILURE TO RETURN WITHIN THE 30-DAY PERIOD WILL RESULT IN TERMINATION OF THE GRANT OFFER. NO AMENDMENTS MAY BE MADE TO THE GRANT AGREEMENT SUBSEQUENT TO SIGNING BY THE WDA SIGNEE.

ALL CORRESPONDENCE CONCERNING THIS OFFER AND AGREEMENT SHOULD BE ADDRESSED TO: WEST VIRGINIA WATER DEVELOPMENT AUTHORITY  
1201 DUNBAR AVENUE  
DUNBAR, WV 25064

INVOICE FOR PAYMENT

APPROVAL OF loan PAYMENT FOR design OF WASTE TREATMENT WORKS.

PAY TO: Town of Beverly

DATE: March 7, 1978

ADDRESS: Beverly  
WV 26253

PROJECT NO: C-540204-01

COUNTY: Randolph

AMOUNT: \$ 20,465.00

PAYMENT REQUEST NO: 1

THIS INVOICE FOR PAYMENT IS ISSUED PURSUANT TO PURCHASE ORDER NO. 59 CONSTITUTING ACCEPTANCE OF AGREEMENT MADE BY AND BETWEEN THE STATE OF WEST VIRGINIA, BY THE COMMISSIONER OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION FOR AND ON BEHALF OF THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, AND Town of Beverly. THE MONEY FOR WHICH THIS DOCUMENT IS PROVIDED IS NEEDED FOR PRESENT USE AND FOR THE PURPOSE FOR WHICH APPROPRIATED.

NAME AND TITLE OF REPRESENTATIVE: Honorable D. K. McWilliams

TITLE: Acting Mayor

SIGNATURE: \_\_\_\_\_

DATE: July 4 - 78

STATE OF WEST VIRGINIA, COUNTY OF Randolph

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1978.

NOTARY: \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_

NAME OF DIRECTOR OF WEST VIRGINIA WATER DEVELOPMENT AUTHORITY: Edgar N. Henry

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

STATE OF WEST VIRGINIA, COUNTY OF KANAWHA.

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1978.

NOTARY: \_\_\_\_\_

MY COMMISSION EXPIRES: January 3, 1984

INVOICE FOR PAYMENT

APPROVAL OF loan PAYMENT FOR design OF WASTE TREATMENT WORKS.

PAY TO: Town of Beverly

DATE: March 7, 1978

ADDRESS: Beverly  
WV 26253

PROJECT NO: C-540204-01

COUNTY: Randolph

AMOUNT: \$ 1,840.00

PAYMENT REQUEST NO: 1

THIS INVOICE FOR PAYMENT IS ISSUED PURSUANT TO PURCHASE ORDER NO. 59 CONSTITUTING ACCEPTANCE OF AGREEMENT MADE BY AND BETWEEN THE STATE OF WEST VIRGINIA, BY THE COMMISSIONER OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION FOR AND ON BEHALF OF THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, AND Town of Beverly. THE MONEY FOR WHICH THIS DOCUMENT IS PROVIDED IS NEEDED FOR PRESENT USE AND FOR THE PURPOSE FOR WHICH APPROPRIATED.

NAME AND TITLE OF REPRESENTATIVE: Honorable D. K. McWilliams

TITLE: ~~Acting~~ Mayor

SIGNATURE: \_\_\_\_\_

DATE: July 4-78

STATE OF WEST VIRGINIA, COUNTY OF Randolph.

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1978.

NOTARY: \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_

NAME OF DIRECTOR OF WEST VIRGINIA WATER DEVELOPMENT AUTHORITY: Edgar N. Henry

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

STATE OF WEST VIRGINIA, COUNTY OF KANAWHA.

TAKEN, SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1978.

NOTARY: \_\_\_\_\_

MY COMMISSION EXPIRES: January 3, 1984

**PURCHASE ORDER**

FOR:

Vendor Name & Address:

Water Development Authority

550-465-527-4

Town of Beverly  
Beverly  
WV 26253

22

Fiscal Year 78

BS&E&E&E NOW

Slip and 78

Water Development Authority  
1201 Dunbar Avenue  
Dunbar, WV 25064

Invoice in Quintuplicate To:

Water Development Authority  
1201 Dunbar Avenue  
Dunbar, WV 25064

P. O. Date:

Terms:

F.O.B.

Shipping Date:

3-15-78

Item No.	Quantity	Description	Unit Price	Amount
----------	----------	-------------	------------	--------

**AGREEMENT**

This Agreement constitutes the acceptance of contract made by and between the State of West Virginia by the Commissioner of Finance and Administration for and on behalf of Water Development Authority and Town of Beverly for a Step II loan for preparation of construction drawings and specifications for a wastewater facility

Service beginning March 2, 19 78 and extending until June 30, 19 78. All in accordance with standard form of agreement attached hereto as a part hereof.

**SCHEDULE OF PAYMENT**

\$ 22,305.00 per agreement C-540204-01  
5670-07-029-01 77 FY \$1,840  
5670-07-029-01 78 FY \$20,465

FEE: \$ 22,305.00  
TRAVEL EXPENSE: \$ \_\_\_\_\_  
OTHER EXPENSE: \$ \_\_\_\_\_  
TOTAL: \$ 22,305.00

STATE OF WEST VIRGINIA  
Department of Finance and Administration  
MILES DEAN

*[Signature]*  
Commissioner

APPROVED AS TO FORM THIS 28  
DAY OF March, 19 78

CHAUNCEY H. BROWNING, JR.  
Attorney General

BY *[Signature]*  
Assistant Attorney General

APPROVED AS TO PROVISIONS AND TERMS

STATE OF WEST VIRGINIA

Department of Finance and Administration  
PURCHASING DIVISION

SEE TERMS AND CONDITIONS ON BACK

TOTAL AMOUNT OF THIS  
PURCHASE ORDER \$

22,305.00

*[Signature]*  
Director, Purchasing Division

TOWN OF BEVERLY  
BEVERLY, RANDOLPH COUNTY, WEST VIRGINIA

March 22, 1977

RESOLUTION

WHEREAS, on or about March 3, 1976, the Common Council of the Town of Beverly, resolved that the Mayor of the Town of Beverly, namely Thomas Trigg, was authorized to execute and file any and all applications and other supporting documents seeking federal assistance in the construction of a sanitary sewage collection and treatment system to serve the Town of Beverly and other areas adjoining the Town.

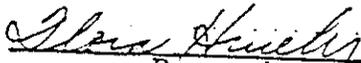
WHEREAS, as of this date, Mr. Thomas Trigg is no longer the Mayor of the Town of Beverly.

BE IT RESOLVED: that the Acting Mayor of the Town of Beverly, namely D. K. McWilliams, be authorized to continue seeking federal, state and other assistance for the construction of a sanitary sewage collection and treatment system and to continue to administer any ongoing or current grants, and that D. K. McWilliams act as the Town's authorized representation in the execution of necessary applications, supporting and administrative documents.



D. K. McWilliams  
Acting Mayor  
TOWN OF BEVERLY

Attest:



Recorder  
Town of Beverly

March 22, 1977  
Date

TOWN OF BEVERLY

Sewer Revenue Bonds,  
Series 1982 A and Series 1982 B

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

The undersigned, for West Virginia Water Development Authority (the "Purchaser"), hereby certifies as follows:

1. On the 28th day of October, 1982, at Dunbar, West Virginia, the undersigned received for and on behalf of the Purchaser the Town of Beverly Sewer Revenue Bond, Series 1982 A, and the Town of Beverly Sewer Revenue Bond, Series 1982 B, in the respective principal amounts of \$285,000 and \$86,500, both dated the date hereof, authorized to be issued by a Bond and Notes Ordinance enacted by the Council of the Town of Beverly on October 17, 1980, and as supplemented by supplemental resolutions adopted October 17, 1980, September 8, 1981, June 10, 1982, and October 26, 1982, and issued in the form of two fully registered Bonds with payment record attached, both numbered R-1.

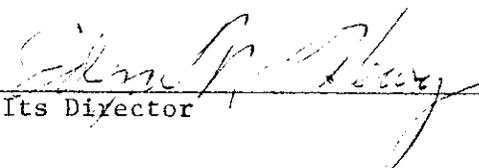
2. At the time of such receipt, the Bonds had been executed by the Mayor of the Town of Beverly and the seal of the Town had been affixed to the Bonds and attested by the Clerk of the Town.

3. At the time of such receipt, there was paid to the Town for the Series 1982 A Bond the sum of \$240,825 (84.5% of par value) and for the Series 1982 B Bond the sum of \$86,500 (100% of par value).

4. At the time of such receipt, there was also received by the undersigned a set of Bond Transcript documents.

IN WITNESS WHEREOF, the West Virginia Water Development Authority has duly executed and delivered this Receipt for Bonds on This 28th day of October, 1982.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By   
Its Director

\$327,325

The undersigned, James R. Ware, Mayor of the Town of Beverly, hereby certifies that on the date hereof, I received on behalf of the Town of Beverly, West Virginia, the sum of ~~\$217,325~~ as payment in full for the Town of Beverly's Sewer Revenue Bonds, Series 1982 A and Series 1982 B, in the respective principal amounts of \$285,000 and \$86,500, the purchase price of the Series 1982 A Bond being \$240,825 and the purchase price of the Series B Bond being \$86,500.

Dated this 28th day of October, 1982.

  
Mayor, Town of Beverly

10/27/82  
BEVER1-J

STEPTOE & JOHNSON

ATTORNEYS AT LAW

SIXTH FLOOR

UNION NATIONAL CENTER EAST

P. O. BOX 2190

CLARKSBURG, W. VA. 26302-2190

(304) 624-8000

OF COUNSEL

WILLIS O. SHAY

WRITER'S DIRECT DIAL NUMBER

(304) 624-

TELECOPIER

(304) 622-2676

EUGENE G. EASON  
RALPH BOHANNON  
ERNEST C. SWIGER  
HERBERT G. UNDERWOOD  
JACKSON L. ANDERSON  
ROBERT G. STEELE  
JAMES M. WILSON  
PATRICK D. DEEM  
ROBERT M. STEPTOE, JR.  
JUSTIN L. HENDERSON  
ANNE R. WILLIAMS  
JAMES R. WATSON  
JAMES D. GRAY  
VINCENT A. COLLINS  
JAMES A. RUSSELL  
FRANK E. SIMMERMAN, JR.  
WILLIAM T. BELCHER  
MICHAEL L. BRAY  
J. GREG GOODYKOONTZ  
IRENE M. KEELEY  
EVANS L. KING, JR.  
WALTER L. WILLIAMS  
SUSAN S. BREWER  
RONALD H. HANLAN  
STEVEN F. BRINES  
C. DAVID MORRISON  
HARRY P. WADDELL  
RICHARD H. LORENSEN

October 28, 1982

West Virginia Water Development Authority  
1201 Dunbar Avenue  
Dunbar, West Virginia 25064

Town of Beverly  
Beverly,  
West Virginia

Town of Beverly Sewer Revenue Bonds,  
Series 1982 A and Series 1982 B

Gentlemen:

We are bond counsel to the Town of Beverly, in Randolph County (the "Governmental Agency"), a municipal corporation and political subdivision of the State of West Virginia.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement (the "Loan Agreement"), dated June 10, 1982, between the Governmental Agency and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of two separate series of revenue bonds of the Governmental Agency (the "Governmental Agency Bonds") purchased by the Authority in accordance with the provisions of the Loan Agreement. The Governmental Agency Bonds are issued in the aggregate principal amount of \$371,500, and consist of the series of Governmental Agency Bonds described in the Loan Agreement as Local Bonds (the "Series 1982 A Bonds") in the principal amount of \$285,000 and the series of Governmental Agency Bonds described in the Loan Agreement as Supplemental Bonds (the "Series 1982 B Bonds") in the principal amount of \$86,500.

We have also examined the applicable provisions of Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Code Provision") under which the Governmental Agency Bonds are issued, and the Loan Agreement that has been undertaken, including all schedules and exhibits to the Loan Agreement. The Governmental Agency Bonds have been authorized by a bond ordinance duly enacted

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by the Common Council of the Governmental Agency on October 17, 1980, as supplemented by supplemental resolutions adopted October 17, 1980, September 8, 1981, June 10, 1982 and October 26, 1982 (the "Local Act"), which contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement. The Governmental Agency Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

1. The Loan Agreement has been duly authorized by and executed on behalf of the Governmental Agency and is a valid and binding obligation of the Governmental Agency enforceable in accordance with the terms thereof.
2. The Loan Agreement inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Governmental Agency without the consent of the Authority.
3. The Governmental Agency is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to construct, acquire, operate and maintain the project referred to in the Loan Agreement and to issue and sell the Governmental Agency Bonds, all under the provisions of the Code Provision and other applicable provisions of law.
4. The Governmental Agency has legally and effectively adopted the Local Act authorizing the issuance and sale to the Authority of the Governmental Agency Bonds.
5. The Governmental Agency Bonds, subject to the terms thereof, constitute valid and legally enforceable special obligations of the Governmental Agency, payable from the Net Revenues of the system referred to in the Local Act and secured by a lien on and pledge of said Net Revenues, all in accordance with the terms of the Governmental Agency Bonds and the Local Act and the Governmental Agency Bonds have been issued and delivered to the Authority.
6. The Governmental Agency has reserved the right to issue additional bonds ranking on a parity with the Local Bonds, as provided in the Local Act.

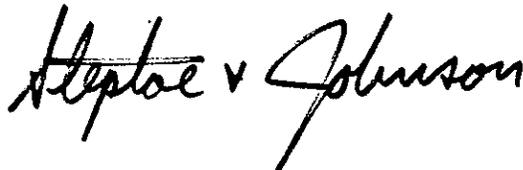
7. The rates, fees and other charges for the services and facilities of the System referred to in the Local Act are, by statute, not subject to approval by the Public Service Commission of West Virginia.

8. The Governmental Agency Bonds and the interest on the Local Bonds (the Series 1982 A Bonds) are, by statute, exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof, and under the laws, regulations, rulings and decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is exempt from Federal income taxation.

9. We have examined the Governmental Agency Bonds, Series 1982 A, numbered R-1 and Series 1982 B, numbered R-1, and in our opinion, the Governmental Agency Bonds are in proper form and have been properly executed.

No opinion is given herein as to the enforceability of remedies with respect to the Governmental Agency Bonds under any applicable bankruptcy, insolvency, moratorium or other laws affecting creditors' rights.

Very truly yours,

A handwritten signature in cursive script that reads "Heptae v Johnson". The signature is written in dark ink and is positioned below the typed name.

10/26/82  
BEVER1-E

TOWN OF BEVERLY

Sewer Revenue Bonds,  
Series 1982 A and Series 1982 B

GENERAL CERTIFICATE ON:

1. PROPER TITLE
2. INCUMBENCY
3. EXECUTION AND DELIVERY OF BAN AND RECEIPT OF PAYMENT
4. NO-LITIGATION
5. PUBLICATION AND NO PROTEST
6. NO ADVERSE FINANCIAL CHANGE: INDEBTEDNESS
7. SIGNATURES, ETC.
8. MEETINGS, ETC.
9. CERTIFICATION OF COPIES OF DOCUMENTS
10. LAND AND RIGHTS-OF-WAY
11. NO ARBITRAGE
12. MISCELLANEOUS CERTIFICATIONS

We, the undersigned MAYOR and RECORDER of the Town of Beverly, Randolph County, West Virginia (the "Issuer"), and W. Del Roy Harner, Esquire, ATTORNEY for the Issuer, hereby certify as follows in connection with the issuance and delivery by the Issuer of its \$285,000 principal amount Sewer Revenue Bond, Series 1982 A and its \$86,500 principal amount Sewer Revenue Bond, Series 1982 B, both dated the date hereof (collectively the "Bonds"), authorized to be issued by an Ordinance enacted by the Common Council of the Issuer on October 17, 1980 and by supplemental resolutions adopted October 17, 1980, September 8, 1981, June 10, 1982 and October 26, 1982 (collectively, the "Bond Legislation"):

1. PROPER TITLE: The proper corporate title of the Issuer is "Town of Beverly," and it is a municipal corporation of the State of West Virginia in Randolph County of said State.

2. INCUMBENCY: The governing body of the Issuer is its Common Council consisting of five members, a Mayor and a Recorder, whose names and dates of commencement and termination of current terms of office are as follows:

<u>Name</u>	<u>Commencement of Term</u>	<u>Termination of Term</u>
Mayor James R. Ware	July, 1981	July, 1983
Recorder Kenneth Butler	March, 1982	July, 1983
Councilmember Nelson Bard	July, 1981	July, 1983
Councilmember Linda Gowers	July, 1981	July, 1983
Councilmember Austin Yokum	July, 1981	July, 1983
Councilmember Enid Coberly**	January, 1981	July, 1983
Councilmember David Hively	July, 1981	*

\* Councilmember David Hively has resigned effective August, 1982. No successor has been appointed as of the date hereof.

\*\* Councilmember Coberly has been appointed acting Recorder for purposes of execution of this Certificate and the Bonds. The Issuer's Recorder, Kenneth Butler was unable to attend the closing on the date hereof.

3. EXECUTION AND DELIVERY OF BONDS AND RECEIPT OF PAYMENT: A. As of the date hereof the undersigned Mayor executed the Bonds in the aggregate principal amount of \$371,500, numbered R-1, and the undersigned Recorder affixed the official corporate seal of the Issuer to the Bonds, an impression of which seal is affixed to this certificate, and attested the same. The Bonds were delivered to a representative of West Virginia Water Development Authority (the "Purchaser") at Dunbar, West Virginia. At the time of such delivery, there was paid to the Issuer the agreed purchase price of the Bonds, being the sum of \$240,825 for the Series 1982 A Bond and \$86,500 for the Series 1982 B Bond. \$315,000 of the proceeds of the Bonds have been credited to the Note Repayment Account established by the Bond Legislation to be applied to payment of the principal of the outstanding Bond Anticipation Notes of the Issuer on or before October 28, 1982, and the balance of proceeds of the Bonds, being \$12,325, will be applied toward the Cost of Works, as defined in the Bond Legislation.

4. NO LITIGATION: No controversy or litigation of any nature is now pending, or threatened, restraining, enjoining or affecting in any manner the issuance and delivery of the Bonds; nor in any manner questioning the proceedings and authority by which the Issuer authorized the issuance and sale of the Bonds; nor in any manner affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor in any manner questioning the existence of the Issuer or the Common Council of the Issuer or the title of the members and officers thereof to their respective offices; nor in any manner questioning any proceedings, procedures,

act or thing followed, taken, held or done in connection with the Bonds and the issuance thereof for the purposes recited in the Bonds or the accomplishment of said purposes; nor questioning the acquisition and construction of the Project described in the said Bond Legislation being financed in part out of the proceeds of sale of the Bonds.

5. PUBLICATION AND NO PROTEST: Notice of public hearing upon the Bond and Notes Ordinance enacted October 17, 1980, was duly published as required by law.

There was not any protest to the passage of the Bond and Notes Ordinance, oral or written, and said Ordinance became fully effective on October 17, 1980, following such public hearing and remains in full force and effect.

6. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer or the System since the issuance by West Virginia Water Development Authority (the "Authority") of its commitment letter, dated June 17, 1980, whereby the Authority has agreed to purchase the Issuer's Bonds with funds from the proceeds of the Authority's next issue of sewage system loan program revenue bonds, which agreement is contingent upon the Issuer's satisfying the engineering, legal and other requirements of its sewage system loan program, to assist in acquisition or construction of the Project.

The Issuer does not have outstanding any other obligation payable from and entitled to any lien on the revenues of the System.

7. SIGNATURES, ETC.: The undersigned MAYOR and RECORDER are the duly elected, qualified and serving officers as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer.

8. MEETINGS, ETC.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the construction, acquisition, operation and financing of the Project and the System were authorized or adopted at meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, and a quorum of duly appointed, qualified and acting members of the Governing Body was present and acting at all times during all such meetings.

9. CERTIFICATION OF COPIES OF DOCUMENTS: The copies of the below-listed documents hereto attached or delivered herewith or heretofore delivered are true, correct and complete copies of the

originals of the documents of which they purport to be copies, and such original documents are in full force and effect and have not been repealed, rescinded, amended or changed in any way unless modification appears from later documents also listed below:

Charter of Issuer

Affidavits of Publication of Bond and Note Ordinance.

Minutes on Adoption of Bond and Notes Ordinance  
- First and Second Readings

Minutes on Adoption of Supplemental Resolutions

PSC Certificate of Convenience and Necessity

Engineer's Certificate

Commitment Letter, dated June 17, 1980,, from  
West Virginia Water Development Authority

Loan Agreement dated June 10, 1982, with Water  
Development Authority

10. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the construction, acquisition and maintenance of the sewerage system to be financed in part by the proceeds of the Bonds 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 that would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any property that 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 Note.

11. NO ARBITRAGE: The original proceeds of the Bonds, being \$327,325, will be used as follows:

(a) \$315,000 of the proceeds of the Bonds will be used to pay the principal of the Issuer's Bond Anticipation Notes, heretofore issued in the aggregate principal amount of \$315,000, on or prior to October 28, 1982, the proceeds of which Bond Anticipation Notes were

applied toward financing in part acquisition and construction of the Project (as defined in the Bond Legislation);

(b) \$ 100,000 of the proceeds of the Bonds will be used to pay Costs of the Works not otherwise provided for; and

(c) \$ 2,225 of the proceeds of the Bonds will be used to pay expenses incurred in connection with issuance of the Bonds.

The Issuer has entered into binding obligations to commence construction of the Project and work on the Project has proceeded with due diligence. Completion of the Project was accomplished in 1981, 1981.

At least 85% of the spendable proceeds of the Bonds will be expended on the Project (or to pay principal of the Bond Anticipation Notes, the proceeds of which were expended on the Project) within 3 years from the date of issuance thereof.

The Issuer will further secure payment of the Series 1982 A Bond by creating over a period of approximately 5 years a reasonably required reserve account (the "Reserve Account") that when fully funded, shall equal one year's debt service on the Series 1982 A Bonds.

Any money deposited in a sinking fund for payment of the principal of or interest on the Bonds (other than the Reserve Account) will be spent within a 13-month period beginning on the date of receipt.

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

The to best of our information and belief, the above expectations are reasonable.

The Issuer has not been notified of any listing of it by the Internal Revenue Service as an issue which may not certify its bonds.

This no arbitrage certification is being executed and delivered pursuant to Section 1.103-13, 1.103-14 and 1.103-15 of the Income Tax Regulations, and the undersigned Mayor of the Issuer is the office of the Issuer charged with the responsibility of issuing the Bonds.

12. MISCELLANEOUS CERTIFICATIONS: To the best knowledge of the undersigned, no legislation, ordinance, rule or regulation has been enacted or introduced or favorably reported for passage by any governmental body, department or agency of the State of West Virginia or the Town of Beverly or a decision rendered by any court of competent jurisdiction of such state which would adversely affect the exemption from all taxation of the Issuer and all properties owned by it and the exemption from taxes of all bonds and obligations of the general character of the Bonds issued by the Issuer.

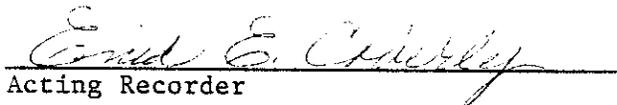
No authority or proceedings for the issuance of the Bonds or documents executed in connection therewith have been repealed, revoked, rescinded or superseded, except as set forth in the Bond Legislation.

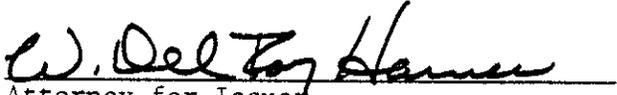
Attached hereto as Exhibit A are specimens of the Series 1982 A and Series 1982 B Bonds, which, except as to execution, are identical in all respects with the Bonds described herein and delivered to the purchaser herein designated.

WITNESS our official signatures and the official corporate seal of the TOWN OF BEVERLY this 28th day of October, 1982.

[SEAL]

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Acting Recorder

  
\_\_\_\_\_  
Attorney for Issuer

10/27/82  
BEVER1-0

TOWN OF BEVERLY

Sewer Revenue Bonds,  
Series 1982 A and Series 1982 B

REGISTRATION OF BONDS

I, LARRIE BAILEY, Treasurer of the State of West Virginia and Registrar under the Bond Legislation providing for the \$285,000 Sewer Revenue Bond, Series 1982 A and the \$86,500 Sewer Revenue Bond, Series 1982 B of the Town of Beverly, West Virginia, hereby certify that on the 28th day of October, 1982, the single, fully registered Bond of the Town of Beverly in the principal amount of \$285,000 designated "Sewer Revenue Bond Series 1982 A," numbered R-1, and dated on the date hereof and the single, fully registered Bond of the Town of Beverly in the principal amount of \$86,500 designated "Sewer Revenue Bond, Series 1982 B," numbered R-1, and dated on the date hereof, were registered as to principal and interest in the name of "West Virginia Water Development Authority" in the books of the Town kept for that purpose at my office.

WITNESS my signature as of this 28th day of October, 1982.

  
Larrie Bailey  
Treasurer, State of West Virginia

10/19/82  
BEVER1-A

STEPTOE & JOHNSON

ATTORNEYS AT LAW

SIXTH FLOOR

UNION NATIONAL CENTER EAST

P. O. BOX 2190

CLARKSBURG, W. VA. 26302-2190

(304) 624-8000

OF COUNSEL  
WILLIS O. SHAY

WRITER'S DIRECT DIAL NUMBER

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JACKSON L. ANDERSON  
ROBERT G. STEELE  
JAMES M. WILSON  
PATRICK D. DEEM  
ROBERT M. STEPTOE, JR.  
JUSTIN L. HENDERSON  
ANNE R. WILLIAMS  
JAMES R. WATSON  
JAMES D. GRAY  
VINCENT A. COLLINS  
JAMES A. RUSSELL  
FRANK E. SIMMERMAN, JR.  
WILLIAM T. BELCHER  
MICHAEL L. BRAY  
J. GREG GOODYKOONTZ  
IRENE M. KEELEY  
EVANS L. KING, JR.  
WALTER L. WILLIAMS  
SUSAN S. BREWER  
RONALD H. HANLAN  
STEVEN F. BRINES  
C. DAVID MORRISON  
HARRY P. WADDELL  
RICHARD H. LORENSEN

October 28, 1982

West Virginia Water Development Authority  
Dunbar,  
West Virginia

Town of Beverly  
Beverly,  
West Virginia

Town of Beverly Sewer Revenue Bonds,  
Series 1982 A and Series 1982 B

Gentlemen:

We have examined a record of proceedings relating to the issuance of the \$285,000 principal amount of Sewer Revenue Bonds, Series 1982 A and the \$86,500 principal amount of Sewer Revenue Bonds, Series 1982 B (collectively the "Bonds") of the Town of Beverly (the "Issuer"), a municipal corporation of the State of West Virginia.

In connection with such examination, we have reviewed the certificate of even date herewith of the Mayor of the Issuer relating to the expectation that the proceeds of the issuance of the Bonds will not be used in a manner which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 103(c) of the Internal Revenue Code of 1954, as amended.

Based upon our examination of law and review of such certification, it is our opinion that the Bonds will not be an "arbitrage bond" for the purposes of Section 103(c) and Sections 1.103-13, 1.103-14 and 1.103-15 of the Income Tax Regulations adopted May 31, 1979, under the Internal Revenue Code of 1954, as amended.

M

West Virginia Water Development Authority, et al.  
Page 2

No matters have come to our attention which in our opinion  
make unreasonable or incorrect the representations made in such  
certification.

Very truly yours,

*Heptoe & Johnson*

10/27/82  
BEVER1-G

EXHIBIT A

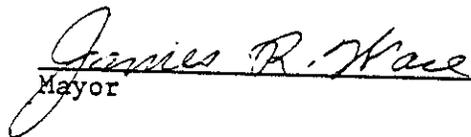
CERTIFICATE REGARDING LOCAL ACT

I, the undersigned Mayor, of the Town of Beverly (the Governmental Agency"), hereby certify that the Local Act, as defined in the Loan Agreement, dated June 10, 1982, between the Governmental Agency and the West Virginia Water Development Authority (the "Authority") consists of the following: the original bond and note ordinances enacted October 17, 1980, as amended and supplemented by an amendatory resolution adopted September 8, 1981, accepting the authority's extension of the maturity of the Governmental Agency's Note by issuance of it Sewerage System Bond Anticipation Renewal Note, 1981 Series A, and as further supplemented by a supplemental resolution adopted June 10, 1982, agreeing to a further extension of maturity of said Note to November 30, 1982, and as further supplemented by a supplemental resolution adopted June 10, 1982, approving execution and delivery of the Loan Agreement and Schedule X thereto.

Certified copies of all the ordinances and resolutions set forth above have, prior to the date hereof been delivered to the Authority or are being delivered herewith. The ordinances and resolutions set forth above constitute the entire Local Act as of the date hereof, and said Local Act is in full force and effect as of the date hereof and has not been amended, supplemented, superseded, repealed or otherwise modified except as set forth above.

WITNESS my signature and the seal of the Town of Beverly this 30th day of June, 1982.

[SEAL]

  
\_\_\_\_\_  
Mayor

06/14/82  
WDA

TOWN OF BEVERLY

Sewer Revenue Bonds,  
Series 1982 A and Series 1982 B

ATTORNEY'S CERTIFICATE OF NO LITIGATION

I, W. Del Roy Harner, Attorney for the Town of Beverly, West Virginia (the "Issuer"), HEREBY CERTIFY as follows:

No proceeding at law or in equity or before any administrative body or litigation of any nature is pending or, to my knowledge, threatened: (a) restraining or enjoining the authorization, issuance, sale, execution or delivery of the \$285,000 principal amount Town of Beverly Sewer Revenue Bond, Series 1982 A, numbered R-1 or the \$86,500 principal amount Town of Beverly Sewer Revenue Bond, Series 1982 B, numbered R-1 (collectively the "Bonds"), or any part thereof, both dated as of the date hereof, authorized to be issued by an Ordinance enacted by the Council of the Issuer on October 17, 1980 and supplemental Resolutions adopted October 17, 1980, September 8, 1981, June 10, 1982 and October 26, 1982 (collectively called the "Bond Legislation"), or the collection of any amount of revenues pledged under the Bond Legislation, (b) in any way questioning or affecting the pledge of moneys, funds and accounts of the Issuer for the benefit of the Bonds provided in the Bond Legislation, (c) in any way contesting or affecting any authority for the issuance of the Bonds or the validity of the Bonds, the Bond Legislation, or the Loan Agreement between the Issuer and the West Virginia Water Development Authority, or (d) in any way contesting or affecting the creation, organization, existence or powers of the Issuer or the title of any of the present members of the Council of the Issuer or the officers thereof to their respective positions.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 28th day of October, 1982.

  
\_\_\_\_\_  
Attorney for the Town of Beverly

10/27/82  
BEVER1-P

TOWN OF BEVERLY

Sewer Revenue Bonds,  
Series 1982 A and Series 1982 B

GENERAL CERTIFICATE ON:

1. PROPER TITLE
2. INCUMBENCY
3. EXECUTION AND DELIVERY OF BAN AND RECEIPT OF PAYMENT
4. NO-LITIGATION
5. PUBLICATION AND NO PROTEST
6. NO ADVERSE FINANCIAL CHANGE: INDEBTEDNESS
7. SIGNATURES, ETC.
8. MEETINGS, ETC.
9. CERTIFICATION OF COPIES OF DOCUMENTS
10. LAND AND RIGHTS-OF-WAY
11. NO ARBITRAGE
12. MISCELLANEOUS CERTIFICATIONS

We, the undersigned MAYOR and RECORDER of the Town of Beverly, Randolph County, West Virginia (the "Issuer"), and W. Del Roy Harner, Esquire, ATTORNEY for the Issuer, hereby certify as follows in connection with the issuance and delivery by the Issuer of its \$285,000 principal amount Sewer Revenue Bond, Series 1982 A and its \$86,500 principal amount Sewer Revenue Bond, Series 1982 B, both dated the date hereof (collectively the "Bonds"), authorized to be issued by an Ordinance enacted by the Common Council of the Issuer on October 17, 1980 and by supplemental resolutions adopted October 17, 1980, September 8, 1981, June 10, 1982 and October 26, 1982 (collectively, the "Bond Legislation"):

1. PROPER TITLE: The proper corporate title of the Issuer is "Town of Beverly," and it is a municipal corporation of the State of West Virginia in Randolph County of said State.

2. INCUMBENCY: The governing body of the Issuer is its Common Council consisting of five members, a Mayor and a Recorder, whose names and dates of commencement and termination of current terms of office are as follows:

<u>Name</u>	<u>Commencement of Term</u>	<u>Termination of Term</u>
Mayor James R. Ware	July, 1981	July, 1983
Recorder Kenneth Butler	March, 1982	July, 1983
Councilmember Nelson Bard	July, 1981	July, 1983
Councilmember Linda Gowers	July, 1981	July, 1983
Councilmember Austin Yokum	July, 1981	July, 1983
Councilmember Enid Coberly**	January, 1981	July, 1983
Councilmember David Hively	July, 1981	*

\* Councilmember David Hively has resigned effective August, 1982. No successor has been appointed as of the date hereof.

\*\* Councilmember Coberly has been appointed acting Recorder for purposes of execution of this Certificate and the Bonds. The Issuer's Recorder, Kenneth Butler was unable to attend the closing on the date hereof.

3. EXECUTION AND DELIVERY OF BONDS AND RECEIPT OF PAYMENT: A. As of the date hereof the undersigned Mayor executed the Bonds in the aggregate principal amount of \$371,500, numbered R-1, and the undersigned Recorder affixed the official corporate seal of the Issuer to the Bonds, an impression of which seal is affixed to this certificate, and attested the same. The Bonds were delivered to a representative of West Virginia Water Development Authority (the "Purchaser") at Dunbar, West Virginia. At the time of such delivery, there was paid to the Issuer the agreed purchase price of the Bonds, being the sum of \$240,825 for the Series 1982 A Bond and \$86,500 for the Series 1982 B Bond. \$315,000 of the proceeds of the Bonds have been credited to the Note Repayment Account established by the Bond Legislation to be applied to payment of the principal of the outstanding Bond Anticipation Notes of the Issuer on or before October 28, 1982, and the balance of proceeds of the Bonds, being \$12,325, will be applied toward the Cost of Works, as defined in the Bond Legislation.

4. NO LITIGATION: No controversy or litigation of any nature is now pending, or threatened, restraining, enjoining or affecting in any manner the issuance and delivery of the Bonds; nor in any manner questioning the proceedings and authority by which the Issuer authorized the issuance and sale of the Bonds; nor in any manner affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor in any manner questioning the existence of the Issuer or the Common Council of the Issuer or the title of the members and officers thereof to their respective offices; nor in any manner questioning any proceedings, procedures,

act or thing followed, taken, held or done in connection with the Bonds and the issuance thereof for the purposes recited in the Bonds or the accomplishment of said purposes; nor questioning the acquisition and construction of the Project described in the said Bond Legislation being financed in part out of the proceeds of sale of the Bonds.

5. PUBLICATION AND NO PROTEST: Notice of public hearing upon the Bond and Notes Ordinance enacted October 17, 1980, was duly published as required by law.

There was not any protest to the passage of the Bond and Notes Ordinance, oral or written, and said Ordinance became fully effective on October 17, 1980, following such public hearing and remains in full force and effect.

6. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer or the System since the issuance by West Virginia Water Development Authority (the "Authority") of its commitment letter, dated June 17, 1980, whereby the Authority has agreed to purchase the Issuer's Bonds with funds from the proceeds of the Authority's next issue of sewage system loan program revenue bonds, which agreement is contingent upon the Issuer's satisfying the engineering, legal and other requirements of its sewage system loan program, to assist in acquisition or construction of the Project.

The Issuer does not have outstanding any other obligation payable from and entitled to any lien on the revenues of the System.

7. SIGNATURES, ETC.: The undersigned MAYOR and RECORDER are the duly elected, qualified and serving officers as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer.

8. MEETINGS, ETC.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the construction, acquisition, operation and financing of the Project and the System were authorized or adopted at meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, and a quorum of duly appointed, qualified and acting members of the Governing Body was present and acting at all times during all such meetings.

9. CERTIFICATION OF COPIES OF DOCUMENTS: The copies of the below-listed documents hereto attached or delivered herewith or heretofore delivered are true, correct and complete copies of the

originals of the documents of which they purport to be copies, and such original documents are in full force and effect and have not been repealed, rescinded, amended or changed in any way unless modification appears from later documents also listed below:

Charter of Issuer

Affidavits of Publication of Bond and Note Ordinance.

Minutes on Adoption of Bond and Notes Ordinance  
- First and Second Readings

Minutes on Adoption of Supplemental Resolutions

PSC Certificate of Convenience and Necessity

Engineer's Certificate

Commitment Letter, dated June 17, 1980,, from  
West Virginia Water Development Authority

Loan Agreement dated June 10, 1982, with Water  
Development Authority

10. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the construction, acquisition and maintenance of the sewerage system to be financed in part by the proceeds of the Bonds 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 that would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any property that 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 Note.

11. NO ARBITRAGE: The original proceeds of the Bonds, being \$327,325, will be used as follows:

(a) \$315,000 of the proceeds of the Bonds will be used to pay the principal of the Issuer's Bond Anticipation Notes, heretofore issued in the aggregate principal amount of \$315,000, on or prior to October 28, 1982, the proceeds of which Bond Anticipation Notes were

applied toward financing in part acquisition and construction of the Project (as defined in the Bond Legislation);

(b) \$ 100,000 of the proceeds of the Bonds will be used to pay Costs of the Works not otherwise provided for; and

(c) \$ 2,000 of the proceeds of the Bonds will be used to pay expenses incurred in connection with issuance of the Bonds.

The Issuer has entered into binding obligations to commence construction of the Project and work on the Project has proceeded with due diligence. Completion of the Project was accomplished in 1981, 1981.

At least 85% of the spendable proceeds of the Bonds will be expended on the Project (or to pay principal of the Bond Anticipation Notes, the proceeds of which were expended on the Project) within 3 years from the date of issuance thereof.

The Issuer will further secure payment of the Series 1982 A Bond by creating over a period of approximately 5 years a reasonably required reserve account (the "Reserve Account") that when fully funded, shall equal one year's debt service on the Series 1982 A Bonds.

Any money deposited in a sinking fund for payment of the principal of or interest on the Bonds (other than the Reserve Account) will be spent within a 13-month period beginning on the date of receipt.

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

The to best of our information and belief, the above expectations are reasonable.

The Issuer has not been notified of any listing of it by the Internal Revenue Service as an issue which may not certify its bonds.

This no arbitrage certification is being executed and delivered pursuant to Section 1.103-13, 1.103-14 and 1.103-15 of the Income Tax Regulations, and the undersigned Mayor of the Issuer is the office of the Issuer charged with the responsibility of issuing the Bonds.

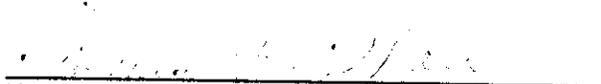
12. MISCELLANEOUS CERTIFICATIONS: To the best knowledge of the undersigned, no legislation, ordinance, rule or regulation has been enacted or introduced or favorably reported for passage by any governmental body, department or agency of the State of West Virginia or the Town of Beverly or a decision rendered by any court of competent jurisdiction of such state which would adversely affect the exemption from all taxation of the Issuer and all properties owned by it and the exemption from taxes of all bonds and obligations of the general character of the Bonds issued by the Issuer.

No authority or proceedings for the issuance of the Bonds or documents executed in connection therewith have been repealed, revoked, rescinded or superseded, except as set forth in the Bond Legislation.

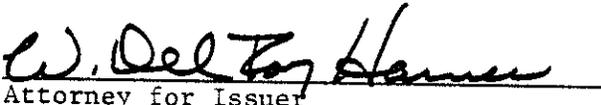
Attached hereto as Exhibit A are specimens of the Series 1982 A and Series 1982 B Bonds, which, except as to execution, are identical in all respects with the Bonds described herein and delivered to the purchaser herein designated.

WITNESS our official signatures and the official corporate seal of the TOWN OF BEVERLY this 28th day of October, 1982.

[SEAL]

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Acting Recorder

  
\_\_\_\_\_  
Attorney for Issuer

10/27/82  
BEVER1-0

ENGINEER'S CERTIFICATE

West Virginia Water  
Development Authority,  
1201 Dunbar Avenue,  
Dunbar, West Virginia. 25064

Town of Beverly

Gentlemen:

I, Ray M. Powell, Registered Professional Engineer, West Virginia License No. 5174, of West Augusta Company, Elkins, West Virginia, hereby certify that my firm is engineer for the sewerage system (the "Project") of the Town of Beverly for constructed in Randolph County West Virginia, which construction and acquisition are being financed in part by the proceeds of \$315,000 in aggregate principal amount of Sewerage System Bond Anticipation Notes, Series 1980, of the said Town. I further certify as follows:

- (1) The Project will, to the best of my knowledge, be constructed in accordance with plans and specifications prepared by my firm.
- (2) Such sewerage system is situate wholly or chiefly within the boundaries of said Town.
- (3) The Project is adequate for the purposes for which it is designed.
- (4) The said Town has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Town's application for loan, dated December 10, 1979, as revised and supplemented, submitted to the West Virginia Water Development Authority (the "Application").

CHAPTER I

GENERAL ASSEMBLY OF VIRGINIA  
ACT 1790 ESTABLISHING TOWN OF BEVERLY

GENERAL ASSEMBLY OF VIRGINIA  
ACT 1848 ESTABLISHING "*Borough of Beverly*"

LEGISLATURE OF WEST VIRGINIA  
ACT 1871 GRANTING CHARTER TO THE TOWN OF BEVERLY

CHAPTER XLV. An Act to Establish Several Towns  
(Passed the 16th of December, 1790)

Sec. 1. Be it enacted by the General Assembly, etc.

\* \* \* \* \*

Sec. 2. That twenty acres of land, the property of James Westfall, as the same are already laid off into lots and streets in the county of Randolph adjoining the land whereon the court house stands, shall be established a Town by the name of Beverly, and that John Wilson, Jacob Westfall, Sylvester Ward, Thomas Phillips, Hezekiah Rosencrans, William Wamsley and Valentine Stalnaker, gentlemen, shall be and are hereby constituted trustees thereof.

\* \* \* \* \*

Sec. 3. The trustees of the said Towns respectively or a majority of them are empowered to make such rules

*17.*

and orders for the regular building of houses therein as to them shall seem best, and to settle and determine all disputes about the bounds of the said lots. So soon as the purchasers of lots in the said Towns shall have built thereon a dwelling house sixteen feet square with a brick or stone chimney, such purchaser shall be entitled to have and enjoy all the rights, privileges and immunities which the freeholders and inhabitants of other Towns in this State not incorporated, hold and enjoy.

SEC. 9. If the purchaser of any lot in \* \* \* \* Beverly \* \* \* \* shall fail to build thereon within the time hereinbefore limited for that purpose (five years from the day of purchase) the trustees of the said Town where such failure shall happen, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said Town.

SEC. 10. In case of the death, resignation or removal out of the county of one or more of the trustees of the said Towns respectively, the vacancy thereby occasioned shall be supplied by the remaining trustees, and the person so elected shall have the same power and authority as if he had been particularly named in this act.

\* \* \* \* \*

THE CHARTER OF THE "BOROUGH OF BEVERLY"

CHAPTER 298 An Act incorporating the borough of Beverly, in the county of Randolph.  
 (Passed by General Assembly of Virginia, Jan. 17, 1848)

1. BE IT ENACTED BY THE GENERAL ASSEMBLY, That the inhabitants of so much of the county of Randolph, as are contained within the boundary lines of the Town of Beverly in said county, and who may hereinafter reside within the said boundary lines, shall be and are hereby made a body politic and corporate, by the name and style of "The Borough of Beverly," and as such, and by that

name, may contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered unto, purchase, take, receive, hold and use goods and chattels, lands and tenements, and choses in action, for the proper use of the said borough, and the same may grant, sell, convey, transfer and assign, let, pledge, mortgage, charge and incumber in any case and in any manner; and may have and use a common seal; and generally shall have all the rights, franchises, capacities and powers appertaining to municipal corporations.

2. BE IT FURTHER ENACTED, That it shall be lawful for the male citizens above the age of twenty-one years, annually to meet at the court house in said borough, on the third Monday in May, and under the superintendence of a magistrate or justice of the peace of said county, elect viva voca, five persons as trustees who shall be freeholders of and in said borough, who shall before they perform any of the duties required by this act, make oath or affirm that they will faithfully and impartially perform the duties of trustees, in and for said borough, and in case of a refusal to act, resignation or removal from said borough, the remaining trustees shall supply the vacancy. The said trustees or a majority of them shall be competent to form a board and appoint a clerk, who shall record annually the certificate of the magistrate verifying the election and the qualification of the trustees, as well as the orders and proceedings, levies and assessments, fines, penalties, forfeitures and settlements; the ordinances and by-laws of the said corporation. They shall also appoint a treasurer, who, (after executing bond with approved security, payable to said corporation by its corporate name and style and in such penalty as the said trustees may direct conditioned well and truly to pay all orders or drafts upon him by order of said trustees, and faithfully to account for, and pay over all moneys re-

ceived by him, in virtue of said office) shall execute the duties of his said office as required by said trustees; and the trustees of said corporation may, at any time, upon thirty days previous notice, before any court or magistrate of said county having jurisdiction, recover against the said treasurer and his security, or either of them, such sum or sums of money, or other things as may be in the hands of him, the said treasurer and not paid or delivered over, agreeably to the order or orders of said board of trustees, or the tenor of his bond, and the general or specific duties thereunder.

3. BE IT FURTHER ENACTED, That the board of trustees of said borough, are hereby authorized to establish within said borough, all markets, and to regulate the same, and to provide suitable buildings therefor; to make all by-laws and fix the amount of fine for any violation thereof; have power to abate all nuisances at the expense of those who occasion them, or in default of ascertaining that, at the expense of the owner or occupier of the ground whereon the same shall be; have power to prevent or regulate slaughter houses, or any unhealthy employment in said borough; have power to grade and pave the streets and alleys of said borough; to prevent the firing of guns or any other combustible matter; or riding or driving any animal at an improper speed in said borough; shall have power, management and control of the real and personal estate, revenue, claims, fines and funds belonging to said corporation; shall have authority to provide for the weighing of all hay, and measure of all wood, lumber, coal and boards offered for sale in said borough; shall have power to make and establish all ordinances and by-laws in order to carry into full effect the powers hereby granted; shall have power to construct and establish landings, wharves and docks on any ground belonging to said corporation, and lease or rent the same,

and establish and collect rates and taxes for using the same; shall have power to purchase ground for new streets or alleys of borough; and shall have full power and authority to sell and convey under seal of said borough, all streets and alleys or parts of streets and alleys deemed of no public convenience by said trustees, and when such sale would not lessen or impair any private right; and to receive any conveyance for any ground over which any street, alley, wharf or landing shall be made; shall have authority to ordain and enforce regulations to prevent or guard against accident by fire; shall have power to prevent hogs and other animals from running at large in said borough or subject the same to such tax as may be deemed proper; shall have power to contract with any person or persons for the conveyance to the said borough of any ground within the same, for the purpose of erecting a market house or other public building thereupon.

4. BE IT FURTHER ENACTED, That it shall be lawful for the trustees of said borough to levy and collect annually a capitation tax not exceeding one dollar and fifty cents on each male citizen of said borough over the age of twenty one years; and that they shall have power to assess, levy and collect annually, on all property according to its value, now or hereafter subject to taxation, according to the revenue laws of this common wealth, such amount of tax as may be deemed proper, not exceeding fifty cents on the hundred dollars of value thereof, and upon exhibitors of any public show, clock or tin peddlers, a sum not exceeding one fourth of the tax paid to the common wealth who may exhibit or trade in said borough; and shall have power to negotiate contracts or make any loan, not exceeding three thousand dollars in any one year, for the improvement of the streets and alleys in said borough, and pledge the annual taxes for the re-

demption of such loan with interest thereon; and shall have power and authority to levy and collect as a special tax from each lot holder or owner of the same, a sum sufficient to pave the sidewalk before such lot fronting on any street, or make any other regulations or enactments in relation to all the sidewalks in said borough.

5. BE IT FURTHER ENACTED, That the said board of trustees shall appoint one of its members as president, who is hereby authorized to do all acts, execute all deeds, bonds or other writings required by the said board in behalf of the said corporation; and shall also appoint a collector of taxes and levies made by said board, which collector so appointed shall have power to make distress for such taxes and levies in the same manner that sheriffs are now authorized to do in collection of the revenue due to the commonwealth, and shall be entitled to the same commission and fees; which collector, before entering upon the duties of his office, shall execute a bond with good security, payable to the said corporation, in such penalty as the board may direct, conditioned to collect and pay to the treasurer all taxes and levies assessed by the board, and placed in his hands for collection; and the said corporation may from time to time recover, in any of the courts held in said county, upon ten days previous notice, any sum remaining due from said collector, against him and his securities, or either of them, with ten per centum damage on such sums from the time it becomes due until payment.

6. BE IT FURTHER ENACTED, That if any loan or loans shall be negotiated by the authority of this act, the trustees of the said borough shall not contract to pay a higher rate of interest than six per centum per annum. And the said trustees shall fix the period or periods at which such loan or loans shall be redeemable, and shall levy annually upon the male inhabitants of said borough,

above the age of twenty one years, and upon the taxable property in said borough, a sufficient sum to pay the annual interest upon such loan or loans, and create a fund for the final redemption of the principal. And the president of the board of trustees shall grant certificates for such loans, under the seal of said borough, which shall be assignable and transferable on the books of said corporation, either in person or by attorney.

7. BE IT FURTHER ENACTED, That all copies purporting to be copies of the by-laws, orders and ordinances of the said board of trustees or extracts from the same, certified to be correct by the president of the board, shall be received by all courts and magistrates as legal evidence.

8. AND BE IT FURTHER ENACTED, That all acts and parts of acts coming within the purview of this act, are hereby repealed; and this act shall be subject to be modified and amended, as to the general assembly may deem proper.

9. This act shall commence and be in force from the passing thereof.

## THE CHARTER OF "THE TOWN OF BEVERLY"

(Enacted by Legislature of West Virginia, Feb. 10, 1871)

CHAPTER 21. AN ACT to extend and prescribe the limits of the Town of Beverly and to amend the Charter of the Town enacted by the General Assembly of the State of Virginia, January 17th, 1848.

Be it enacted by the Legislature of West Virginia:

1. The corporation limits and boundaries of the Town of Beverly, in the county of Randolph, shall be as follows: Beginning at the abutment of the bridge across Files' Creek, on the west of the Staunton and Parkersburg turnpike, south of Beverly; thence north 27, east 123 poles with the east line of the tier of lots east of Wal-

nut street to a stake, the south east corner of Baker's lot; also a corner to George Buckley's lot; thence north 45, east 78 poles to a stake in Parkinson Collett's field standing a northwest course thirty five links from a white oak stump; thence north 45, west 47 poles, crossing the Beverly and Fairmont turnpike to a stake in the edge of Collett's meadow; thence with the same bearing of last mentioned pike, south 41, west 24 poles to a stake in the line between George Buckley's and the heirs of Eli Kittle, deceased; thence, with their division line north 65, west 34  $\frac{1}{2}$  poles to a stake in the stone quarry of said Kittle's corner; thence, with another of their lines south 17, west 4  $\frac{1}{2}$  poles to a spanish oak stump, their corner; thence with another of their lines and passing their south west corner, south 27, west 178 poles to the middle of Files' creek; thence, up the same with the meanders thereof about 55 poles to the beginning.

2. The municipal authorities of said Town shall be a Mayor, three Councilmen, a Sergeant, Recorder, Treasurer, Assessor and a Superintendent of roads, streets and alleys, all of whom shall be elected annually by the citizens and owners of real estate in said corporation (who may be entitled under this act to vote) except the Recorder, Assessor and Treasurer, who shall be appointed by the Council from among their own number, and all of whom together shall constitute a common Council, a majority of whom shall constitute a quorum to transact business.

3. The bond of the Sergeant and Treasurer shall be in such penalty, not less than three hundred dollars, as the Council may prescribe.

4. The Mayor, Sergeant, Superintendent of roads, streets and alleys and the Councilmen, so soon as they shall have been elected, and qualified, as hereinbefore provided, shall be a body politic by the name of "The

Town of Beverly" and shall have perpetual successive and a common seal, and by that name may sue and be sued, plead and be impleaded; may purchase and hold real estate and other property necessary to enable them the better to discharge their duties, and needful for the good order, government and welfare of the said corporation as provided for by the Code of West Virginia, in the 47th Chapter thereof, not inconsistent with this act.

5. The term of office shall be (except when to fill vacancies) for one year and until their successors have been elected and qualified as hereinafter provided.

6. All officers of said corporation must be voters therein and entitled to vote for members of its common Council.

7. The first election under this act shall be on the first Monday in May, 1871, in the Town of Beverly, under the supervision of a Justice and Inspector of elections of Beverly township, and annually thereafter on the same day, under such supervision, rules and regulations as the Council may prescribe. The officers conducting the first election shall grant a certificate of election to the persons elected, which certificates shall be recorded in the journal kept by the Council.

8. All white male persons residing in said Town, or owning real estate therein, and who shall have paid the town taxes, if any assessed against them for the preceding year, shall be entitled to vote at all elections held in pursuance of this act, but no person who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, felony or bribery in any election, or who has not been a resident of the State for one year, and of the said Town or owning real estate therein for six months next preceding the day of election, shall be permitted to vote while such disability continues.

9. At all elections the vote shall be by ballot, and

when two or more persons for the same office at any election shall receive an equal number of votes, the person or persons conducting such election shall decide which of the said persons shall be returned elected. And all contested elections shall be determined by the Council for the time being. And when a vacancy shall occur, the vacancy shall be filled by appointment of the Council.

10. The Mayor, Recorder, Treasurer, Sergeant, Assessor, Councilmen and Superintendent of roads, streets and alleys, shall each before entering upon their duties, and within ten days after notice of his election, make oath or affirmation before an officer authorized to administer oaths that they will truly, faithfully and impartially discharge the duties of their said office respectively, so long as they shall continue therein. And if any of these officers shall fail within ten days so to qualify, his office shall be vacant.

11. The Council shall be presided over at its meetings by the Mayor, or in his absence by one of the Councilmen chosen by a majority of the Council, and a majority of the Council shall be necessary to constitute a quorum to do business. The Council shall cause to be kept in a well-bound book, an accurate account of its proceedings, by-laws, acts and orders, which shall be open to the inspection of the voters of the Town. 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. Upon a call of any member, the ayes and noes in any question shall be called and recorded in the journal. The Mayor shall vote only in case of a tie, and shall have the casting vote.

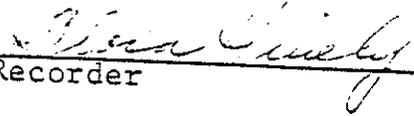
12. The Council so constituted shall have power within said Town to lay off, open, curb and pave streets, alleys and gutters for the public use, and to alter, improve and to light the same, as well as the streets and alleys

kept in good order and free from obstructions on or over them; to regulate the width of streets and sidewalks and to order the sidewalks, footways and gutters to be curbed, paved and kept in good order, free and clean, by the owners of the adjacent property; to lay off public grounds and provide and contract for, and take care of, public buildings proper to the Town; to prevent injury or annoyance to the public, or individuals from any thing dangerous, offensive or unwholesome; to abate or cause to be abated anything, which, in the opinion of a majority of the whole Council, shall be a nuisance; to regulate the keeping of gunpowder and any other combustible; to provide for the burial of the dead and for this purpose, may purchase and hold land necessary for a cemetery near or convenient to said Town, and provide for its improvement and security; to provide for making division fences, and for shade and ornamental trees, and against danger or to prevent hogs and other animals from running at large in said Town; to provide a revenue for the Town and appropriate the same, and to provide the annual assessment of taxable persons and property of the Town; to adopt rules for the government of its own body, and to promote the general welfare of the Town, and protect and preserve peace and good order therein; to appoint such officers as they may see proper; to define their powers and prescribe their duties, fix their term of service and compensation, require and take from them bonds with such security and in such penalty as the Council may determine, conditioned for the true and faithful discharge of their duties; all bonds to be made payable to the Town in its corporate name; to regulate and provide for weighing and measuring hay, coal and other articles sold, or for sale in said Town; and to regulate the transportation thereof through the streets, and generally to do such things as the Council shall deem

necessary for the interest, prosperity, peace and good order of the citizens of said Town. To carry into effect these enumerated powers and all others conferred upon the said Town, or its Council, expressly, or by implication, in this or any other acts of the Legislature; the Council shall have power to adopt and enforce all needful orders, by-laws and ordinances not contrary to the Constitution and laws of this State, and to prescribe, impose and enforce reasonable fines and penalties, included imprisonment for a term not exceeding thirty days, under the judgment and order of the Mayor of said Town, or the person lawfully exercising his functions. The Council may have the right to use the jail of said county for the purpose of carrying into effect the administration of its affairs.

13. The annual levy ordered by the Council may be upon all male persons within said Town over the age of twenty-one years, and on all real and personal estate, not exempt from State taxation, and on all other subjects in said Town, as may at the time be assessed with State taxes; provided the tax does not exceed fifty cents on every hundred dollars of the value of the real and personal property, and such property embraced in said corporate limits shall be exempt from county levy.

The undersigned does hereby certify that the foregoing is a true and correct copy of the Charter of the Town of Beverly.

  
Recorder

AN ORDINANCE PROVIDING FOR THE CREATION OF A  
SANITARY BOARD FOR THE TOWN OF BEVERLY; PROVIDING FOR THE  
CONSTRUCTION, ADMINISTRATION, OPERATION AND MAINTENANCE OF  
THE SEWAGE COLLECTION AND TREATMENT SYSTEM BY SAID BOARD;  
AND GRANTING POWER TO SAID BOARD TO ESTABLISH BY-LAWS, RULES  
AND REGULATIONS FOR ITS OWN GOVERNMENT.

Sec. 1. Establish; composition; qualification, appointment  
and term of members; vacancies.

There is hereby created a sanitary board of the Town, which shall be composed of the mayor and two persons appointed by the common council, one of whom, during any construction period, must be a registered professional engineer, and the engineer member of the board need not be a resident of the Town. After the construction of the plant has been completed, the engineer member may be succeeded by a person not an engineer. The appointed members of the board shall serve their terms subject to the will and pleasure of the common council. 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, appointment of a successor shall be made in similar manner for a term of three years. Vacancies shall be filled for an unexpired term and such substitutions shall be made in the same manner as was the original appointment.

Sec. 2. Eligibility of Town personnel.

No officer or employee of the Town holding a paid or unpaid office or position shall be eligible to appointment on the sanitary board until at least one year from the expiration of the term of his public office or employment.

Sec. 3. Officers and by-laws.

The mayor shall be chairman of the sanitary board, which shall elect a vice-chairman from its members and shall designate a secretary and treasurer, though the secretary and treasurer may be one and the same person, who need not be a member of the board.

All compensation, as well as expenses incurred by the sanitary board, its officers and employees, shall be paid solely from funds provided under the authority of chapter 16, article 13 of the Code of West Virginia.

Sec. 5. Authority as to supervision and control of sewerage system.

The construction, acquisition, improvement, equipment, custody, operation and maintenance of all works for the collection, treatment and disposal of sewage within or without the corporate limits of the city, the collection of revenues therefrom for the services rendered thereby and the employment of all engineers, architects, inspectors, superintendents, managers, collectors, attorneys and other personnel, as, in the judgment of the sanitary board, may be necessary to the execution of its powers and duties, shall be under the supervision and control of the sanitary board.

Sec. 6. Statutory authority of board.

The sanitary board shall have, in addition to the powers enumerated herein, all other powers provided for such boards by chapter 16, article 13 of the Code of West Virginia.

TOWN OF BEVERLY

  
Mayor

The foregoing ordinance was passed by the Council at meeting regularly called and held on April 5, 1979, and April 12, 1979.

  
Recorder

PETITION

OF THE SANITARY BOARD OF THE TOWN OF BEVERLY TO THE TOWN COUNCIL:

The Sanitary Board of the Town of Beverly hereby petitions the Town Council of said Town to enact an Ordinance providing for an issue of sewer revenue bonds in an aggregate principal amount of not to exceed \$400,000 to provide a portion of the cost of construction and acquisition of sewerage facilities for the Town and to provide for issuance of Bond Anticipation Notes and Grant Anticipation Notes, if needed.

Respectfully submitted,

Frank Herbert  
Mayor and Chairman

Frank W Rogers  
Engineer Member

[Signature]  
Member

Dated this 8 day of July, 1980.

06/12/80

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PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA  
at the Capitol in the City of Charleston on the 11th day of April, 1979.

CASE NO. 79-066-S-CN

TOWN OF BEVERLY, a  
municipal corporation.

Application for a certificate of  
convenience and necessity to  
construct and operate a sewage  
system and treatment facility at  
Beverly in the County of Randolph.

PROCEDURE

On February 28, 1979, the Town of Beverly, a municipal corporation,  
filed an application for a certificate of convenience and necessity to  
construct and operate a sewage system and treatment facility at Beverly,  
in the County of Randolph.

By order entered on March 5, 1979, this matter was set for hearing  
to be held in the Commission's Hearing Room at the Capitol in the City  
of Charleston on March 26, 1979, at 9:30 a.m., EST, at which time and  
place the applicant was required to give notice of the filing of said  
application and of the time and place of hearing thereon by publishing a  
copy of the order not less than fifteen (15) days prior to March 26,  
1979, in a newspaper published and of general circulation in the County  
of Randolph, making due return thereof to the Commission on or before  
the day of hearing.

Proper notice was given and the hearing was held as scheduled. The

septic tank systems which are not effective and the testimony generally indicated that the present system is creating a health hazard and permits for additional septic tanks are not being issued because of this problem. The applicant proposes to serve an estimated 313 customers. The proposed area of service will include the communities of Hazelwood, Files Creek and Dodson Run, in addition to the town of Beverly.

The estimated cost of the project is \$3,269,920 to be financed by a grant of \$2,333,625 from the Environmental Protection Administration; a grant from the Water Development Authority of \$448,450; a grant from the Appalachian Regional Commission of \$136,350; and by a Water Development Authority loan of \$438,000 at 7 1/2% for forty (40) years.

The applicant estimates annual revenues at \$88,393. After deducting operating expenses of \$38,018 and total debt service of \$45,217, the applicant would have a cash surplus of \$1,863 or a bond coverage of 142%.

#### COMMENTS

It should be noted that the applicant applied for approval of its proposed rates and that since the filing of said application, Commission approval is no longer required for the establishment of rates and charges of municipally operated public utilities due to the passage of House Bill 1280, effective March 10, 1979. The Commission, therefore, makes no finding in the matter of rates and charges.

#### CONCLUSIONS OF LAW

The applicant has established that public convenience and necessity



8 The Inter-Mountain, Elkins, W. Va., Tuesday, October 7, 1980

Legal Notice

TOWN OF BEVERLY

\$400,000 Sewer Revenue Bonds, Series 1980  
and  
Sewerage System Bond Anticipation Notes

**NOTICE TO ALL PERSONS CONCERNED:**

The Council of the Town of Beverly has adopted the following Ordinance and the Town contemplates the issuance of Sewer Revenue Bonds, Series 1980, in an aggregate amount not to exceed Four Hundred Thousand Dollars (\$400,000), as described in the Ordinance. The proceeds of the Bonds will be used for the financing of part of the costs of construction and acquisition of sewerage treatment facilities for the Town of Beverly. Any person interested may appear before the Council at the Municipal Building at 7:30 P.M., Eastern Daylight Time, on the 17TH day of OCTOBER, 1980, and shall be heard as to whether or not said Ordinance shall be put into effect. At such hearing, all objections and suggestions shall be heard and the Council shall

TOWN OF BEVERLY

Sewer Revenue Bond, Series 1980  
and  
Bond Anticipation Notes

MINUTES ON ADOPTION OF BOND AND NOTES  
ORDINANCE ON FIRST READING

I, Flora Hively, Recorder of the Town of Beverly, hereby certify that the following is a true and correct excerpt of the minutes of a Special meeting of the Common Council of said Town:

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\*\*\*

The Council of the Town of Beverly met in Special session, pursuant to notice duly given, on the 26th day of Sept., 1980, at the municipal building in the Town of Beverly, West Virginia, at the hour of 7:30 p. m.

PRESENT: Mayor            Frank Herbert  
Recorder                Flora Hively  
Councilmember        Eber Conley, Jr.  
Councilmember        Joan Hart  
Councilmember        Jim Dennis Pritt  
Councilmember        Hubert Rhea  
~~XXXXXXXX~~ Councilmember    James Ross Ware

The Mayor announced that a quorum of members was present and that the meeting was open for any business properly before it. Thereupon, the Mayor presented a proposed Bond and Notes Ordinance in writing entitled:

The Mayor then tendered a proposed Notice of Public Hearing to be published with said Bond and Notes Ordinance and caused the Recorder to read the same. Thereupon, on motion of Eber Conley, Jr., seconded by Joan Hart, it was ordered that the Recorder is hereby directed to cause publication of the Bond and Notes Ordinance and such Notice once a week for two successive weeks as provided in said Bond and Notes Ordinance, public hearing to be had before this Council upon said Bond and Notes Ordinance at the hour of 7:30 p.m., on the 17th day of Oct. 1980, all in accordance with the requirements of statute.

There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

Frederick Herbert  
Mayor

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I further hereby certify that the foregoing action of said Council remains in full force and effect and has not been amended or repealed.

WITNESS my signature on this 6 day of October, 1980.

John Hickey  
Recorder

TOWN OF BEVERLY

Sewer Revenue Bond, Series 1980  
and  
Bond Anticipation Notes

MINUTES ON ADOPTION OF BOND AND NOTES  
ORDINANCE ON SECOND READING AFTER PUBLIC HEARING

I, Flora Hively, Recorder of the Town of Beverly, hereby certify that the following is a true and correct excerpt of the minutes of a Special meeting of the Common Council of said Town:

\*\*\*

\*\*\*

\*\*\*

The Council of the Town of Beverly met in special session, pursuant to notice duly given, on the 17th day of OCT., 1980, at the municipal building in the Town of Beverly, West Virginia, at the hour of 7:30 p.m.

PRESENT:

Mayor

Recorder

Councilmember

Councilmember

Councilmember

Councilmember

*FRANK HERBERT*

*Flora Hively*

*Dennis Jim Pitt*

*EBER JUNIOR Cowley*

*JAMES ROSS WARE*

*Councilmember NUBERT RHEA*

ABSENT:

*Councilmember - JOAN NAKT*

The Mayor announced that a quorum of members was present and that the meeting was open for any business properly before it.

Thereupon, on motion of HUBERT RHEA, seconded by  
DENNIS SIM RITT, it was unanimously ordered that the  
above-entitled Ordinance be passed upon second reading.

\*\*\*

There being no further business to come before the meet-  
ing, on motion duly made and seconded, it was ordered that the  
meeting adjourn.

Frank Herbert  
Mayor

\*\*\*

I further hereby certify that the foregoing action of the  
Council remains in full force and effect and has not been amended or  
repealed.

WITNESS my signature on this 17th day of October,  
1980.

Shirley Hinchey  
Recorder

TOWN OF BEVERLY

Sewer Revenue Bonds,  
Series 1982 A and Series 1982 B

MINUTES ON ADOPTION OF BOND RESOLUTION

I, Enid Coberly, Acting Recorder of the Town of Beverly, hereby certify that the following is a true and correct excerpt of the minutes of a special meeting of the Common Council of said Town:

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The Council of the Town of Beverly met in regular session, pursuant to notice duly given, on the 26th day of October, 1982, at the municipal building in the Town of Beverly, West Virginia, at the hour of 7:30 p.m.

PRESENT: Mayor James R. Ware  
Recorder Kenneth Butler  
Councilmember Nelson Bard  
Councilmember Linda Gowers  
Councilmember Austin Yokum  
Councilmember Enid Coberly

ABSENT:

The Mayor announced that a quorum of members was present and that the meeting was open for any business properly before it. Thereupon, the Mayor present a proposed Resolution in writing entitled:

RESOLUTION PROVIDING AS TO DATE, MATURITY, INTEREST RATE AND SALE PRICE OF THE SEWER REVENUE BONDS, SERIES 1982, OF THE TOWN OF BEVERLY; CHANGING SERIES DESIGNATION; AUTHORIZING ISSUANCE OF SUCH BONDS IN TWO SEPARATE SERIES AND AUTHORIZING, APPROVING AND RATIFYING A NEW LOAN AGREEMENT AND MAKING OTHER PROVISIONS AS TO THE BONDS.

and caused the same to be read and there was discussion. Thereupon, on motion of Councilmember Bard, seconded by Councilmember Gower, it was unanimously ordered that the said Bond Resolution be adopted.

The Mayor then announced that the Town's Recorder, Kenneth Butler, would be unable to attend the closing for the Bond issue in

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Dunbar on October 28th. Whereupon a motion by councilmember Gower, seconded by councilmember Yocum, councilmember Coberly was appointed Acting Recorder for purposes of signing the Bonds and other documents relating to the issuance thereof on October 28, 1982.

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

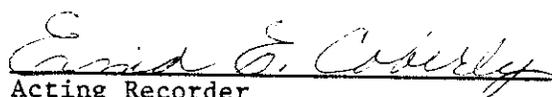
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I further hereby certify that the foregoing action of said Council remains in full force and effect and has not been amended or repealed.

WITNESS my signature on this 28th day of October, 1982.

  
\_\_\_\_\_  
Acting Recorder

10/27/82  
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TOWN OF BEVERLY

SEWER REVENUE BONDS, SERIES 1980  
and  
SEWERAGE SYSTEM BOND ANTICIPATION NOTES

BOND AND NOTES ORDINANCE

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TOWN OF BEVERLY

ORDINANCE

AN ORDINANCE AUTHORIZING THE CONSTRUCTION AND ACQUISITION OF CERTAIN SEWAGE FACILITIES OF THE TOWN OF BEVERLY, AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$400,000 IN PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1980, AND BOND ANTICIPATION NOTES; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH BONDS AND NOTES; AUTHORIZING THE SALE OF SUCH BONDS AND NOTES TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY PURSUANT TO THE TERMS OF A LOAN AGREEMENT BETWEEN THE TOWN AND SAID AUTHORITY AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE TOWN OF BEVERLY, WEST VIRGINIA:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority of this Ordinance. This Ordinance (the "Bond Legislation") is enacted pursuant to the provisions of Article 13 of Chapter 16 of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law.

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

A. The Town of Beverly (the "Issuer") is a municipal corporation of the State of West Virginia in Randolph County.

B. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be constructed certain sewer facilities (the "Project") of the Issuer, constituting public service properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (the "System") at an estimated cost of \$3,397,720 in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed in the office of the Issuer.

C. The estimated revenues to be derived in each year after the enactment hereof 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.

D. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds in the principal amount of not more than \$400,000 to finance costs of construction and acquisition of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest upon the Bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses 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 properties and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof.

E. The estimated maximum cost of construction of the Project is \$3,397,720, of which \$311,850 will be obtained from the proceeds of sale of the Bond Anticipation Notes herein authorized, \$2,305,800 from a grant by the United States Environmental Protection Agency (EPA) \$136,350 from a grant by Appalachian Regional Commission (ARC) and \$563,720 from a grant by the Authority.

F. It is in the best interests of the Issuer that its Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement to be entered into between the Issuer and the Authority (the form of which agreement is attached hereto as Exhibit A, which Exhibit, by this reference, is incorporated herein and made a part hereof) (the "Loan Agreement").

G. The Issuer does not now own public service properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage, or industrial wastes.

H. There are not outstanding any obligations of the Issuer which will rank prior to or on a parity with the Bonds and the Notes as to lien and source of and security for payment.

I. Pending issuance of the Bonds, it is necessary for the Issuer to issue its bond anticipation notes (the "Notes") in the principal amount of \$315,000 to provide interim financing for the Project, in accordance with the Loan Agreement.

J. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bonds and the Notes, or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Bonds by those who shall hold 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 legal holders of any and all of such Bonds and the coupons attached thereto, all which shall be of equal rank and without preference, priority or distinction between any one Bond and the coupons appertaining thereto and any other Bonds and the coupons appertaining thereto 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" shall mean Article 13 of Chapter 16 of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

"Authority" shall mean the West Virginia Water Development Authority, which shall be the original purchaser of the Bonds or any other Agency of the State of West Virginia that succeeds to the functions of the Authority.

"Bonds" shall mean the not in excess of \$400,000 Sewer Revenue Bonds, Series 1980, originally authorized to be issued pursuant hereto, and any additional parity bonds hereafter issued within the terms, restrictions and conditions contained herein, and the interest coupons appertaining to said Bonds; and shall also mean until issuance of the Bonds, the Notes with reference to the provisions of Articles IV, V, VI and VII hereof except as expressly provided otherwise in Article III A hereof.

"Bondholder" or "Holder of the Bonds" or any similar term shall mean any person who shall be the bearer or owner of any outstanding Bond or Bonds registered to bearer or not registered, or the registered owner of any outstanding Bond or Bonds which shall at the time be registered other than to the bearer or of any coupons representing interest accrued or to accrue on the Bonds; and shall also mean, until issuance of the Bonds, the holder or owner of the Notes.

"Bond Legislation" shall mean this Ordinance and all ordinances and resolutions supplemental hereto or amendatory hereof.

"Commission" shall mean 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" shall mean West Augusta Company, Consulting Engineers, Elkins, 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.

"Cost of Works" shall mean those costs described in Section 1.02(D) hereof to be a part of the cost of construction and acquisition of the Project.

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

"Governing Body" shall mean the Common Council of the Issuer.

"Gross Revenues" shall mean all rates, rents, fees, charges or other income (including, without limitation, sale proceeds) received by or accrued to the Issuer from the operation of the System, as calculated in accordance with generally accepted accounting practices.

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

"Independent Certified Public Accountants" shall mean Krisher & Krisher, certified public accountants, Charleston, West Virginia, or any other 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" shall mean the Town of Beverly in Randolph County, West Virginia, and where appropriate the Governing Body thereof.

"Loan Agreement" shall mean the Loan Agreement between the Authority and the Issuer providing as to purchase of the Bonds and the Notes from the Issuer by the Authority.

"Mayor" shall mean the Mayor of the Issuer.

"Notes" shall mean the Sewerage System Bond Anticipation Notes, Series 1980, of the Issuer authorized hereby in the principal amount of \$315,000.

"Operating Expenses," unless qualified, shall mean the current expenses, paid or accrued, of repair, operation and maintenance of the System 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 Issuer 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.

"Project" shall mean the sewer facilities described in Exhibit B attached hereto.

"Recording Officer" means the Recorder of the Issuer.

"Supplemental Resolution" shall mean any resolution which is supplemental hereto.

"System" shall mean the complete public service properties of the Issuer for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, in its entirety or any integral part thereof, and shall include any additions, betterments and improvements thereto hereafter constructed or acquired for said system from any sources whatsoever.

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

Section 1.05. Exhibits. Exhibits attached hereto as parts hereof are as follows:

Exhibit A - Loan Agreement  
Exhibit B - Project

## ARTICLE II

### AUTHORIZATION OF CONSTRUCTION AND ACQUISITION OF THE PROJECT

Section 2.01. Authorization of Construction and Acquisition. There is hereby authorized the construction and acquisition of the Project, plans and specifications for which have been prepared by the Consulting Engineers, and heretofore filed in the office of the Recording Officer. The proceeds of the Bonds hereby authorized shall be applied as provided in Article V hereof.

## ARTICLE III

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

Section 3.01. Authorization and Terms of Bonds. For the purpose of financing the cost of construction and acquisition of the Project, there shall be issued negotiable Sewer Revenue Bonds, Series 1980, of the Issuer, in the aggregate principal amount of not in excess of \$400,000. Said Bonds shall be designated "Sewer Revenue Bonds, Series 1980"; and shall bear interest at such rate or rates, not exceeding the maximum rate authorized by the Act, and shall mature as the Issuer shall prescribe in the Supplemental Resolution. Interest on the Bonds shall be payable semiannually and shall commence as prescribed in the Supplemental Resolution. The Bonds shall be payable as to both principal and interest at the office of the Commission or through a paying agent or agents selected by the original purchaser or purchasers thereof, in any coin or currency that is legal tender for the payment of public or private debts under the laws of the United States of America, and shall be redeemable, in whole or in part, as set forth in the Supplemental Resolution.

The Issuer will issue the Bonds to be exchanged for the Notes, the Bonds shall comply in all respects with the provisions of the Loan Agreement, shall have the following terms, and shall be issued upon the following additional conditions:

(A) The Bonds shall be in an aggregate principal amount equal to the unpaid principal amount of all outstanding Notes plus the amount, if any, required by the Bond Resolution of the Authority referred to in the Loan Agreement to be paid from the proceeds of the Bonds to fund the Capital Reserve Fund and to pay all Costs of Issuance, (both "Capital Reserve Fund" and

"Costs of Issuance" are defined in said Bond Resolution including, without limitation, any consultant fees, related thereto (collectively, the "Issuing Expenses") as determined by the Authority, and the Issuer will advise the Authority of the amount, if any, of Issuing Expenses to be paid from any of its funds then available to pay such Issuing Expenses before utilizing the proceeds of the Bonds to do so; and

(B) The Bonds shall mature in the times and amounts as directed by the Authority, but not over a period of more than 40 years, and shall be dated, shall bear interest at such rate per annum (but not in excess of the legally permissible rate) as the Authority shall direct and shall be in denominations equal to the unpaid principal amount of each of the Notes to be exchanged, plus the pro rata portion of Issuing Expenses which are not to be paid from other funds of the Issuer attributable to each such Note.

The Bonds shall be issued in the form of coupon Bonds, registrable as to principal only, or in the form of one fully registered Bond with payment record attached (the "Registered Bond").

Coupon Bonds shall be in the denomination of \$5,000 each and shall be dated as of the date which is six months preceeding the first interest payment date of the Bonds. Coupon Bonds shall bear interest from their date, payable in accordance with, and upon surrender of, the appurtenant interest coupons as they severally mature. The Registered Bond shall be dated as of the date of its delivery to the original purchaser thereof and shall bear interest from such date.

Except as otherwise provided in Section 3.04, before the delivery of any coupon Bonds, all matured coupons thereto attached, except matured coupons for which payment in full has not been provided, shall be cut off, cancelled and destroyed; provided, however, that if coupon Bonds are issued in exchange for the Registered Bond upon which interest is in default, as shown by the records of the Treasurer of the State, such coupon Bonds shall have attached thereto all coupons maturing after the date to which interest has been paid in full, as shown by such records, and in case any interest installments shall have been paid in part, appropriate notation shall be made on the coupons to evidence such fact.

Section 3.02. Execution of Bonds and Coupons. Said Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or a facsimile of the seal shall be imprinted thereon and attested by the Recording Officer. 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.

The coupons to be attached to the Bonds shall be authenticated with the facsimile signature of the present or future Mayor and Recording Officer of the Issuer.

Section 3.03. Negotiability, Transfer and Registration. 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 or the coupons appertaining thereto, 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 in the manner provided hereinafter in the form of said Bonds.

So long as any of the Bonds remain outstanding, the Treasurer of the State of West Virginia shall keep and maintain books for the registration and transfer of the Bonds. Coupon Bonds

may be registered at the option of the Holder as to principal only at the office of the Treasurer of the State of West Virginia, such registration to be noted on the back of said Bonds in the space provided therefor. After such registration as to principal only, no transfer of the Bonds shall be valid unless made at said office by the registered owner, or by his duly authorized agent or representative, and similarly noted on the Bonds, but the Bonds may be discharged from registration by being in like manner transferred to bearer, and thereupon transferability by delivery shall be restored. At the option of the Holder the Bonds may thereafter again from time to time be registered or transferred as before. Such registration as to principal only shall not affect the negotiability of the coupons, which shall continue to pass by delivery.

The Registered Bond shall be transferable only upon the books of the Issuer, which shall be kept for the purpose at the office of the aforesaid Treasurer, 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 Treasurer of the State duly executed by the registered owner or his duly authorized attorney. Upon transfer of the Registered Bond, there shall be issued in the name of the transferee, coupon Bonds, with appropriate coupons attached, of the same aggregate principal amount equal to the unpaid principal amount of the Registered Bond, and having maturities corresponding to the principal installments of such Registered Bond then unpaid.

In all cases in which the privilege of exchanging Bonds or transferring the Registered Bond is exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds and coupons surrendered in any such exchanges or transfers shall forthwith be cancelled by the Treasurer. For every such exchange or transfer of Bonds, the Treasurer 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 coupon Bond upon each exchange or transfer, and any other expenses of the said Treasurer incurred in connection therewith, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer; provided, however, that in the event the Authority is the Bondholder requesting such exchange or transfer, the Issuer shall pay all such taxes, fees, governmental charges or other expenses incurred in making such exchange or transfer. The Treasurer shall not be obliged to make any such exchange or transfer of Bonds during the ten (10) days preceeding 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 3.04. Bonds Mutilated, Destroyed, Stolen, or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond with all unmatured coupons, if any, so mutilated, destroyed, stolen or lost in exchange and substitution for such mutilated Bond upon surrender and cancellation of such mutilated Bond, and attached coupons, if any, or in lieu of and substitution for the Bond and coupons, if any, destroyed, stolen or lost and upon the Holder's furnishing the Issuer proof of his ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. All Bonds and coupons so surrendered shall be cancelled by the Recording Officer and held for the account of the Issuer. If such Bond or coupons shall have matured or be about to mature, instead of issuing a substitute Bond or coupon, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond or coupons be lost, stolen, or destroyed, without surrender therefor.

Any such duplicate Bond and coupons issued pursuant to this section shall constitute original, additional contractual obligations on the part of the Issuer, whether or not the lost, stolen or destroyed Bond or coupons be at any time found by any one, and such duplicate Bond and coupons 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 and coupons issued hereunder.

Section 3.05. Form of Bonds and Coupons. The text of the Bonds, and of the coupons, shall be of substantially the following tenor, 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 Coupon Bonds)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
COUNTY OF RANDOLPH  
TOWN OF BEVERLY  
SEWER REVENUE BOND, SERIES 1980

NO. \_\_\_\_\_

\$5,000

KNOW ALL MEN BY THESE PRESENTS: That the TOWN OF BEVERLY, a municipal corporation of the State of West Virginia (the "Issuer"), for value received, hereby promises to pay solely from the special funds provided therefor, as hereinafter set forth, to the bearer or, if this Bond be registered as to principal to the registered holder thereof, on the first day of \_\_\_\_\_, 19\_\_\_\_, the sum of Five Thousand Dollars (\$5,000) and solely from such special funds also to pay interest on said sum from the date hereof at the rate of \_\_\_\_\_ per centum (\_\_\_\_%) per annum semiannually, on the first day of \_\_\_\_\_ and the first day of \_\_\_\_\_ in each year beginning \_\_\_\_\_ 1, 19\_\_\_\_, all such interest as may accrue on and prior to the maturity date hereof to be payable only upon presentation and surrender of the annexed coupons as they severally become due, 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, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia, or at the option of the holder at the \_\_\_\_\_.

This Bond is subject to redemption prior to its stated date of maturity in whole or in part in inverse order of maturities (by lot if less than all the Bonds of the same maturity) only on or after the date on which all outstanding bonds issued by West Virginia Water Development Authority (the "Authority") to provide funds for the purchase of the Bonds of the issue of which this Bond is one are redeemable and at a price equal to the aggregate of (i) the corresponding principal amount of the bonds of the Authority to be redeemed by the Authority as a consequence of the redemption by the Issuer of all or a part of its Bonds outstanding (ii) the interest to accrue on the bonds of the Authority so to be redeemed to the next redemption date thereof and not previously paid, (iii) the applicable premium, if any, payable on the bonds of the Authority so to be redeemed, (iv) the applicable premium, if any,

payable on additional bonds of the Authority which also become redeemable by virtue of such redemption, (v) the costs and expenses of the Authority in effecting redemption of the bonds of the Authority so to be redeemed, and (vi) at the direction of the Authority, an amount equal to the proportionate amount of the additional bonds of the Authority so to be redeemed, if any, less other moneys of the Authority available therefor; provided, however, that in the event that the bonds of the Authority have been refunded and the refunding bonds were issued by the Authority in a principal amount in excess of or less than such bonds remaining unpaid at the date of issuance of such refunding bonds, the Issuer shall be obligated to pay under item (i) above the principal amount of such refunding bonds outstanding, and, in the event the interest the Authority is required to pay on said refunding bonds is less than the Authority was required to pay on its bonds, the Issuer shall be obligated to pay under item (ii) above the amount of interest to accrue on such outstanding refunding bonds of the Authority.

This Bond is one of an authorized issue of Bonds (the "Bonds") in the aggregate principal amount of \$\_\_\_\_\_, of like date and of like tenor and effect, except as to principal amount, number, date of maturity, and interest rate, issued to finance the cost of construction and acquisition of new public service facilities for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (the "System") in the territory to be served by the Issuer under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Article 13 of Chapter 16 of the West Virginia Code of 1931, as amended (the "Act"), an Ordinance duly enacted by the Council of the Issuer on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and a Supplemental Resolution adopted by said Council on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ (collectively called the "Bond Legislation"), and is subject to all the terms and conditions of the Bond Legislation. 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.

The Bonds are payable only from and secured by a pledge of the net revenues to be derived from the operation of the System, which 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 thereon except from said special fund provided from the net revenues from the operation of the System. By the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates of 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 130% of the amount required to pay the maximum amount due in any ensuing year of principal of and interest on all obligations payable from such revenues. The Issuer has entered into certain further covenants with the holders of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the holders of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

This Bond is fully negotiable but may be registered as to principal only in the name of the holder on the books in the office of the Treasurer of the State of West Virginia, at Charleston, West Virginia, such registration to be evidenced by notation on the back hereof by the Treasurer, after which no transfer shall be valid unless made on said books and similarly noted hereon, but it may be discharged from such registration by being transferred to bearer, after which it shall be transferable by delivery, but it may be registered again as before. The registration of this Bond as to principal shall not restrain the negotiability of the coupons by delivery merely.

This Bond and the interest hereon shall be exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

All money received from the sale of this Bond or other Bonds of the issue of which this Bond is one, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the cost of the Project described in the Bond Legislation, including payment of the Notes authorized and issued pursuant to the Bond Legislation and any other indebtedness incurred by the Issuer for such purposes which is required to be paid from the moneys received from the sale of such Bonds, 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 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 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 the Bonds.

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

IN WITNESS WHEREOF, the TOWN OF BEVERLY has caused this Bond to be signed by its Mayor, and its corporate seal to be hereunto affixed and attested by its Recorder, and the coupons hereto attached to be executed with the facsimile signatures of said Mayor and Recorder, which officials by the execution of this Bond do adopt as their own proper signatures their facsimile signatures appearing on said coupons, and this Bond, all as of the first day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Mayor

[SEAL]

ATTEST:

\_\_\_\_\_  
Recorder

(Form of Coupon)

NO. \_\_\_\_\_

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

On the first day of \_\_\_\_\_, 19\_\_\_\_, the Town of Beverly, Randolph County, West Virginia, will pay to bearer upon presentation of and surrender of this coupon the sum shown hereon, out of the special fund provided therefor, at the office of the West Virginia Municipal Bond Commission or at the \_\_\_\_\_, at the option of the holder hereof, said payment to be made in any coin or currency which on said date of payment is legal tender for the payment of public and private debts under the laws of the United State of America, as provided in, and for interest then due on, the Sewer Revenue Bond, Series 1980, dated \_\_\_\_\_ 1, 19\_\_\_\_, to which this coupon is attached.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Recorder

(No writing on this Bond except by the Treasurer  
of the State of West Virginia as Registrar)

Date of  
Registration

In Whose Name  
Registered

Signature of  
Registrar

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Form of Fully Registered Bond With Payment Record]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
COUNTY OF RANDOLPH  
TOWN OF BEVERLY  
SEWER REVENUE BOND, SERIES 1980

NO. R-1

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

KNOW ALL MEN BY THESE PRESENTS: That the TOWN OF BEVERLY, a municipal corporation of the State of West Virginia (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to \_\_\_\_\_, (the "Payee") or registered assigns (the "Alternate Payee"), the sum of \$ \_\_\_\_\_, in installments on \_\_\_\_\_ 1 of each year as set forth below, with interest on each installment at the rate per annum set forth below opposite the year in which the installment becomes due:

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
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The interest rate on each installment shall run from the original date of delivery of this Bond to the Payee and payment therefor and until payment of such installment, and such interest shall be payable on the first day of \_\_\_\_\_, and the first day of \_\_\_\_\_ in each year beginning \_\_\_\_\_ 1, 19\_\_\_\_. Both principal of and interest on this Bond are 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, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia, or at the option of the Payee at the \_\_\_\_\_.

This Bond is subject to redemption prior to its stated date of maturity in whole or in part in inverse order of maturities only on or after the date on which all outstanding bonds issued by the West Virginia Water Development Authority (the "Authority") to

provide funds for the purchase of this Bond are redeemable and at a price equal to the aggregate of (i) the corresponding principal amount of the bonds of the Authority to be redeemed by the Authority as a consequence of the redemption by the Issuer of all or a part of its Bond outstanding, (ii) the interest to accrue on the bonds of the Authority so to be redeemed to the next redemption date thereof and not previously paid, (iii) the applicable premium, if any, payable on the bonds of the Authority so to be redeemed, (iv) the applicable premium, if any, payable on additional bonds of the Authority which also become redeemable by virtue of such redemption, (v) the costs and expenses of the Authority in effecting redemption of the bonds of the Authority so to be redeemed, and (vi) at the direction of the Authority, an amount equal to the proportionate amount of the additional bonds of the Authority so to be redeemed, if any, less other moneys of the Authority available therefor; provided, however, that in the event the bonds of the Authority have been refunded and the refunding bonds were issued by the Authority in a principal amount in excess of or less than such bonds remaining unpaid at the date of issuance of such refunding bonds, the Issuer shall be obligated to pay under item (i) above the principal amount of such refunding bonds outstanding, and, in the event the interest the Authority is required to pay on said refunding bonds is less than the Authority was required to pay on the bonds of the Authority, the Issuer shall be obligated to pay under item (ii) above the amount of interest to accrue on such outstanding bonds of the Authority.

This Bond is issued to finance the cost of construction and acquisition of new public service facilities for the collection, treatment, purification or disposal of liquid or solid wastes (the "System") in the territory to be served by the Issuer under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Article 13 of Chapter 16 of the West Virginia Code of 1931, as amended (the "Act"), an Ordinance duly enacted by the Council of the Issuer on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and a Supplemental Resolution adopted by said Council on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ (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 payable only from and secured by a pledge of the net revenues to be derived from the operation of the System, which 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 thereon except from said special fund provided, and 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 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 130% of the amount required to pay the maximum amount due in any ensuing year of principal of and interest on all obligations payable from such revenues. The Issuer has entered into certain further covenants with the holders of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the holders of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Bond Legislation, only upon the books of the Issuer kept for that purpose at the office of the Treasurer of the State of West Virginia, by the Payee, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Treasurer of the State of West Virginia, duly executed by the Payee or its attorney duly authorized in writing. This Bond may be exchanged for an aggregate principal amount of coupon Bonds equal to the unpaid principal amount of this Bond, and having maturities corresponding with the principal installments of this Bond then unpaid.

This Bond and the interest hereon shall be exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

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 cost of the Project described in the Bond Legislation, including payment of the Notes authorized and issued pursuant to the Bond Legislation and any other indebtedness incurred by the Issuer for such purposes which is required to be paid from the moneys received from the sale of this Bond, 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 holder 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 TOWN OF BEVERLY has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, all as of the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Mayor

[SEAL]

ATTEST:

\_\_\_\_\_  
Recorder

[Form of Payment Record]

PAYMENT RECORD

<u>Due Date</u>	<u>Principal Payment</u>	<u>Principal Balance Due After Payment</u>	<u>Interest Payment ( % )</u>	<u>Date Paid</u>	<u>Name of Paying Agent Authorized Officer And Title</u>
	\$	\$	\$		

SCHEDULE "A"

Principal installments on which payments have been made prior to maturity

<u>Principal Due Date</u>	<u>Amount</u>	<u>Principal Payment</u>	<u>Balance</u>	<u>Date Paid</u>	<u>Name of Paying Agent Authorized Officer and Title</u>
	\$	\$	\$		

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfer unto

the within Bond of the Town of Beverly, and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney to transfer the said Bond on the books of the said Town with full power of substitution in the premises.

Dated:

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

Section 3.06. Sale of Notes and Bonds; Execution of Loan Agreement with Authority. The Notes and the Bonds shall be sold to the West Virginia Water Development Authority, Charleston, West Virginia, pursuant to the terms and conditions of the Loan Agreement to be entered into between the Issuer and the Authority, all the provisions of which are hereby ratified and confirmed herein and made a part hereof. The Mayor is specifically authorized and directed to execute the Loan Agreement in substantially the form of Exhibit A and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority.

ARTICLE IIIA

BOND ANTICIPATION NOTES

Section 3.01 A. Authorization and General. In order to pay certain costs of the construction of the Project pending the delivery of the Bonds to the Authority, bond anticipation notes ("Notes") of the Issuer shall be issued and sold in the amount of \$315,000.

A fully registered Note shall be issued, representing the entire Note issue, which shall be designated "Sewerage System Bond Anticipation Note, Series 1980," shall bear such date, shall be numbered NR-1, and shall be in the denomination of \$315,000, shall

be in fully registered single form, shall bear interest from date at the rate of 8% per annum, payable on such dates, shall mature, shall have such paying agents and shall have such other provisions as are not set forth herein as provided in supplemental Note Legislation to be adopted by the Governing Body prior to delivery of the Notes. The Note No. NR-1 shall contain substantially the provisions shown in the form set forth in Section 3.10 A below.

The Notes shall be executed for the Issuer by the Mayor, and the seal of the Issuer shall be impressed thereon and attested by the signature of the Recorder.

The Notes shall be sold pursuant to the Loan Agreement and to such supplemental Note Legislation.

The Notes shall be payable on demand of the Authority upon at least fourteen days written notice to the Issuer.

The Notes shall be renewed at the option of the Authority for a period not to exceed 1 year at lawful interest rates to be established by the Authority.

Section 3.02 A. Deposit of Note Proceeds. The amount received upon the sale of the Notes, less interest to become due until the maturity thereof, shall be deposited on receipt by or for the Issuer with a bank which is a member of the Federal Deposit Insurance Corporation ("FDIC"), in the Project Construction Account established hereby.

The balance received from the proceeds from the sale of the Notes shall be for payment of the interest on the Notes as such interest becomes due, and shall be directly deposited on receipt by or for the Issuer with the Commission in the Sinking Fund hereby established.

Section 3.03 A. Security for the Notes. The Notes shall be secured by the pledge by the Issuer of and by a first lien on (i) the proceeds of the sale of the Bonds issued to refund the Notes; (ii) all moneys and securities in the Sinking Fund, (iii) the proceeds from the sale of the Notes until expended as herein authorized, and (iv) the Net Revenues of the System until payment of the Notes, and said pledge by the Issuer for the benefit of the holders of the Notes, to the extent of the aggregate principal amount of the Notes and the interest thereon, is hereby made and granted. The Issuer will execute such documents as may be required, if any, to perfect such pledge and lien.

Section 3.04 A. Payment of Notes. At the maturity, or call prior to maturity, of the Notes, as provided in Section 3.01 A hereof, the Bonds originally issued pursuant hereto shall be used to defease the Notes and pay issuing expenses required by the Authority. The Issuer hereby assigns its right to receive funds as proceeds of said Bonds to the Authority, and there shall be no transfer of funds by the Authority to the Issuer as payment for said Bonds, except to the extent Bonds are issued in a principal amount in excess of the amount required to refund the Notes and pay costs of issuance of the Bonds and related costs.

Section 3.05 A. Notes Are Limited Obligations. The Notes shall be limited obligations of the Issuer, the interest of which is payable solely from certain of the proceeds from the sale of the Notes, the principal of which is payable from the sources described in Section 3.03 A above.

Section 3.06 A. Paying Agent. The Issuer, with approval of the Authority, may appoint as Paying Agent any bank, trust company or national banking association, but the Commission shall be the only Paying Agent unless the Issuer designates additional Paying Agents.

Section 3.07 A. Covenants. The Issuer agrees that until payment in full of the principal and interest owing on the Notes when due, the covenants contained in this Bond Legislation for the benefit of the Bondholders shall inure to the benefit of the holders of the Notes.

In addition, the Issuer covenants to issue and sell the Bonds to the Authority and to take all actions necessary to cause the Authority to purchase the Bonds to refund the Notes in accordance with the Loan Agreement.

Section 3.08 A. Events of Default and Enforcement. Each of the following events is hereby declared an "Event of Default": (a) failure to make timely payment of all principal and interest owing on the Notes at due date or maturity; and (b) failure duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the Issuer for the benefit of the holders of the Notes and the Bonds as herein provided.

On the happening of any Event of Default, then, and in each such case, the holders of the Notes or any one or more of such holders shall be entitled to proceed against all assets pledged for payment of the Notes, and shall have and are hereby given all further rights and remedies as are granted hereby to the Authority. Each holder of a Note shall be deemed to be a holder of a Bond upon such default.

Section 3.09 A. Supplemental Note Legislation. Following adoption hereof, and upon receipt of the Loan Agreement, the Issuer, if it be so advised, will adopt supplemental Note Legislation, which supplemental Note Legislation will provide, among other things, the interest payment dates, the maturity date and the sale price of the Notes and such other matters as shall be required or desired in connection with issuance of the Notes.

Section 3.10 A. Form of Notes. The Notes shall be in the following form, subject to such changes, insertions and deletions as the Mayor shall agree to by execution thereof:

(Form of Bond Anticipation Note)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF BEVERLY  
SEWERAGE SYSTEM BOND ANTICIPATION NOTE  
SERIES 1980

No. NR-1

\$315,000

THE TOWN OF BEVERLY, a municipal corporation of the State of West Virginia (the "Issuer"), for value received, hereby promises to pay to the order of West Virginia Water Development Authority the sum of THREE HUNDRED FIFTEEN THOUSAND DOLLARS (\$315,000), subject to prior demand as provided in the below mentioned Bond Legislation, on June 1, 1981, with interest at the rate of eight per cent (8%) per year payable on November 28, 1980, and February 27 and May 29, 1981. Both principal and interest are payable in lawful money of the United States of America at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia, or at the option of the holder, at \_\_\_\_\_,

This Note represents the entire issue of Series 1980 Notes in the aggregate principal amount of \$315,000 duly authorized by the Issuer and issued in anticipation of the issuance of the Sewer Revenue Bond, Series 1980 (the "Bond"), of the Issuer in the principal sum of not to exceed \$400,000 for aiding in the construction of a new public sewerage system (the "System") of the Issuer.

West Virginia Water Development Authority ("WDA") has agreed to purchase the Bond on the due date of this Note unless called prior to maturity or unless this Note has been renewed as provided below. The Bond has been authorized by the Issuer pursuant to Bond Legislation of the Issuer.

This Note is subject to renewal and to call prior to maturity upon the terms and conditions provided in the Bond Legislation mentioned below.

The principal of this Note is payable solely and only from the proceeds of sale of the Bond and, if WDA should not purchase the Bond, the principal of and interest on this Note is payable from the net revenues of the System defined in the Bond Legislation mentioned below. Payment of the principal of and interest on this Note is also secured by the proceeds from the sale hereof, until expended as authorized in the Bond Legislation. The proceeds of sale of the

Bond have been pledged to the owner hereof to secure payment of the principal of this Note.

Moneys from the proceeds of sale of the Note to pay the interest on the Note to maturity have been deposited with the West Virginia Municipal Bond Commission.

This Note is a limited and special obligation of the Issuer, and does not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory limitations or provisions, and the Issuer shall not be obligated to pay this Note or the interest hereon except from the proceeds of the Note and the Bond and any other sources which may be provided by the Bond Legislation referred to below.

This Note has been duly authorized by an Ordinance and a Supplemental Resolution of the Issuer (collectively called the "Bond Legislation"), pursuant to West Virginia Code, Chapter 16, Article 13 (the "Act").

The Act provides that this Note is exempt as to principal and interest from taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

Reference is made to the said Bond Legislation for further description of the security for payment hereof, the rights of the owner hereof and the rights and obligations of the Issuer.

Every requirement of law relating to the issuance hereof has been duly complied with.

IN WITNESS WHEREOF, the TOWN OF BEVERLY has caused this Note to be signed by its Mayor and has caused its seal to be hereto affixed and attested by its Recorder, all as of the date below written.

Dated: \_\_\_\_\_

TOWN OF BEVERLY

[SEAL]

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

[Form of Payment Record]

PAYMENT RECORD

<u>Due Date</u>	<u>Principal Payment</u>	<u>Principal Balance Due After Payment</u>	<u>Interest Payment ( % )</u>	<u>Date Paid</u>	<u>Name of Paying Agent Authorized Officer And Title</u>
	\$	\$	\$		

SCHEDULE "A"

Principal installments on which payments have been made prior to maturity

<u>Principal Due Date</u>	<u>Amount</u>	<u>Principal Payment</u>	<u>Balance</u>	<u>Date Paid</u>	<u>Name of Paying Agent Authorized Officer and Title</u>
	\$	\$	\$		

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfer unto

the within Note of the Town of Beverly, and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney to transfer the said Note on the books of the said Town with full power of substitution in the premises.

Dated:

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

ARTICLE IV

SYSTEM REVENUES AND APPLICATION THEREOF

Section 4.01. System Revenues and Application Thereof. So long as any of the Bonds shall be outstanding and unpaid, the Issuer covenants with the Holders of the Bonds as follows:

A. Establishment of System Revenue Fund and Disposition of System Revenues. The entire gross revenues derived from the operation of the System and all parts thereof shall be deposited by the Issuer in a special fund in a bank in the State of West Virginia which is eligible under the laws of West Virginia to receive deposits of state and municipal funds, which fund (herein called the "Revenue Fund") is hereby established. The Revenue Fund shall constitute a trust fund for the purposes provided herein and shall be kept separate and distinct from all other funds of the Issuer and 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 Issuer 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 Issuer shall, on the first day of each month, commencing with and including the month of July, 1981, 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 interest payment date; provided, however, that in the event that the period to elapse between said initial payment date and the next semiannual interest payment date for the Bonds is less than six (6) months, then such monthly payments shall be increased proportionately to provide the required amount of interest maturing on the next semiannual interest payment date.

The Issuer 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.

The Issuer shall also apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in said Sinking Fund, as below provided, on the first day of each month, beginning on the first day of that month which is twelve (12) 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 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 Notes as provided in Article V hereof by the Issuer at the times provided herein.

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 Issuer shall next, from the Revenue Fund, remit to the Commission for deposit in the Reserve Account hereby established in said Sinking Fund, on the first day of each month of each year, beginning with and including the month in which payments from the Revenue Fund for semiannual interest are commenced, an amount equal to twenty per centum (20%) of all amounts required to be deposited for maturing principal and interest into the Sinking Fund, as provided above, on said dates: Provided, however, that no further payments shall be made into the Reserve Account when there shall have been deposited and as long as there shall remain on deposit

therein, an amount equal to the maximum amount of principal and interest that will mature and become due on the Bonds in any succeeding fiscal year.

Moneys in the Reserve Account shall be used only for the purpose of payment of maturing principal of or interest on the Bonds when other moneys in the Sinking Fund are insufficient therefor and for no other purpose.

Any withdrawals from the Reserve Account shall be subsequently restored from the first revenues available after all required payments to the Sinking Fund and Reserve Account, including any deficiencies for prior payments, have been made in full.

The Issuer shall not be required to make any further payments into said Sinking Fund or into the Reserve Account when the aggregate amount of funds in both said Sinking Fund and said Reserve Account are at least equal to the aggregate principal amount of the Bonds then outstanding, plus the amount of interest due or thereafter to become due on the Bonds.

As and when additional bonds ranking on a parity with the Bonds herein authorized are issued, provision shall be made for additional payments into said 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 Reserve Account in an amount equal to the maximum provided and required to be paid into the Sinking Fund in any calendar year for account of all the Bonds, including such additional bonds which by their terms are payable from said Sinking Fund.

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 Account in which to be deposited and the custody, use and application thereof consistent with the provisions hereof.

Moneys in the Sinking Fund shall be used solely and only and are hereby pledged for the purpose of servicing the Bonds.

(3) Thereafter, from the moneys remaining in said Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the first month in which interest shall be first payable from the Revenue Fund, remit to a bank which is eligible under the laws of West Virginia to receive deposits of public funds for deposit in a special account to be designated "Renewal and Replacement Fund," which account is hereby established and created,

a sum equal to two and one-half per centum (2-1/2%) of the gross revenues each month, exclusive of any payments for account of the Reserve Accounts. All funds in said Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer, and all or any part of said Fund may be invested in bonds or other direct or fully guaranteed obligations of the United States of America maturing or being subject to retirement at the option of the holder within not more than ten (10) years from the date of such investment. Withdrawals and disbursements may be made from said Renewal and Replacement Fund for replacements, emergency repairs, additions, betterments or improvements to the System; provided, however, that any deficiency in the Reserve Account (except to the extent such deficiency exists because the required payments into the Reserve Account have not as of the date of determination of a deficiency not funded such Reserve Account to the maximum extent required by Section 4.01(A)(2)), shall be promptly eliminated with moneys from the Renewal and Replacement Fund in amounts sufficient to eliminate such deficiency.

(4) 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 construction and acquisition of improvements and extensions to the System, and, thereafter, to the extent not needed for such purposes, said surplus revenues and any surplus moneys in the Sinking Fund, exclusive of the Reserve Account, in excess of the amount of interest to become due on the next interest payment date and the amount of principal to become due within the next succeeding twelve (12) months, may be used to purchase or prepay Bonds, any such purchase upon the open market to be at a price not exceeding the par value thereof plus three per centum (3%) of such par value, or to redeem Bonds at a price not in excess of the redemption price thereof, or for debt service on obligations not on a parity with the Bonds, the proceeds of which obligations were used to finance such additions, betterments or improvements.

(5) The moneys in excess of the sum insured by the Federal Deposit Insurance Corporation ("FDIC") in the Revenue Fund and for the Renewal and Replacement Fund (unless remitted to the Commission) shall at all times be secured, to the full extent thereof in excess of such insured sum, by direct obligations of the United States of America 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.

(6) If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds 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 on the subsequent payment dates.

(7) Moneys in the Reserve Account shall be invested and reinvested by the Commission in direct obligations of the United States of America having maturities not longer than two (2) years from the date of purchase. Moneys in the Reserve Account in excess of the maximum amount required to be therein shall, at least annually, be deposited in the Sinking Fund by the Commission.

(8) All remittances made by the Issuer to the Commission shall clearly identify the funds or accounts into which each amount is to be deposited.

## ARTICLE V

### APPLICATION OF BOND AND NOTE PROCEEDS

Section 5.01. Construction Trust Fund. From the moneys received from the sale of any or all the Notes, the following amounts shall be first deducted and deposited:

A. The sum required to pay interest on the Notes to maturity shall be deposited in the Sinking Fund and used to pay interest on the Notes as the same becomes due.

B. Upon issuance of the Bonds and exchange of the Bonds for the Notes and payment of allocated issuance expenses of the Bonds of the Authority as provided in the Loan Agreement, any balance remaining from the sale of the Bonds shall be deposited in the Construction Trust Fund described below.

The remaining moneys derived from the sale of the Notes shall be deposited by the Issuer in a fund to be known as the "Construction Trust Fund," which is hereby created, which fund shall be kept separate and apart from all other funds of the Issuer and shall be drawn out, used and applied by the Issuer solely for the payments of the cost of the construction and acquisition of the Project, and purposes incidental thereto, and for no other purposes whatsoever. The moneys in said fund shall be secured at all times by the deposit of such bonds in direct obligations of the United States of America having a fair market value at least equal to the balance in excess of the amount insured by FDIC in said fund. 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 Issuer in the Sinking Fund and shall be used only as provided herein. All such proceeds shall be and constitute a trust fund for such purposes, and there is hereby created a lien upon such moneys until so applied in favor of the Holders of the Bonds.

Expenditures or disbursements from said Construction Trust Fund, except for legal, fiscal and engineering expenses and expenses in connection with the issuance and sale of the Bonds shall be made only after such expenditures or disbursements shall have been approved in writing by the Consulting Engineers.

## ARTICLE VI

### ADDITIONAL COVENANTS OF THE ISSUER

Section 6.01. General Covenants of the Issuer. All the covenants, agreements and provisions hereof 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 hereof, 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 the Bonds or the interest thereon are outstanding and unpaid.

Section 6.02. Bonds not to be Indebtedness of the Issuer. Neither the Bonds nor coupons appertaining thereto shall be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness but shall be payable solely from the revenues of the System, as herein provided.

Section 6.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all the Bonds shall be secured forthwith equally and ratably by a first lien on the net revenues derived from the operation of the System, to the extent necessary to make the payments required under Section 4.01 hereof. 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 Fund, including the Reserve Account therein, and all other payments provided for herein 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 herein.

Section 6.04. Rates. Prior to the issuance of the Bonds, equitable rates or charges for the use of and service rendered by the System will be established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file in the office of the Recording Officer of the Issuer, 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 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. The Issuer shall take the necessary actions with respect to the imposition of rates at such times and with such provisions with respect to interest rate and maturity of the Bonds to finance the issuance of the Bonds as the Authority shall require. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient to provide for all reasonable expenses of operation, repair and maintenance of the System and to leave a balance each year equal to at least 130% of the maximum amount required in any ensuing year to pay the interest on and the principal of the Bonds as the same become due and accomplish retirement of all obligations for the payment of which such revenues have or shall have been pledged, charged or otherwise encumbered.

Section 6.05. Completion, Operation and Maintenance. The Issuer will expeditiously complete and maintain in good condition said System 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 the System in the manner provided herein.

Section 6.06. Sale of the System. 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. 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 Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest on the Bonds as they become due or in accordance with redemption provisions hereof. 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, unless otherwise prohibited by law, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor is not in excess of Ten Thousand Dollars (\$10,000), the Issuer shall, in writing, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof. 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 Fifty Thousand Dollars (\$50,000), the Issuer 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 then 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 \$10,000 and not in excess of \$50,000, shall be remitted by the Issuer to the Commission for deposit in the Sinking Fund and shall be applied only to the purchase or prepayment of Bonds of the last maturities then outstanding at prices not greater than the par value thereof plus three per centum (3%) of such par value. 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 hereof.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom shall be in excess of \$50,000 and insufficient to pay all 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 per centum (66-2/3%) in amount of 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 6.07. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. The Issuer will not issue any other obligations whatsoever, except additional parity 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 Issuer payable from the revenues of the System, except such additional parity

bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds; provided, however that no such subordinate obligations shall be issued unless the Reserve Account in the Sinking Fund is funded to the extent that no further payments are required therefor as provided in Section 4.01(A)(2).

Except as provided in Section 6.08 below, the Issuer will 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 hereby for payment of the Bonds and the interest thereon 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 hereto, 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 construction or acquisition of additions, betterments and improvements 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 Board a written statement by a certified public accountant not in the regular employ of the Issuer 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 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 thirty per centum (130%) 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 originally issued pursuant hereto then outstanding;

(2) Any additional parity bonds theretofore issued pursuant to the provisions contained herein 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 (a) the improvements to be financed by such additional parity bonds and (b) any increase in rates effected by the Issuer prior to the date of delivery of such additional parity bonds, and shall not exceed the amount stated in a certificate of the Consulting Engineer which shall be filed in the office of the Recording Officer of the Issuer prior to the issuance of such additional parity bonds.

The net revenues actually derived from the System during the twelve-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 certified public accountant as stated in a certificate jointly made and signed by the Consulting Engineers and said certified public accountant, on account of increased rates, rentals, fees and charges for the System provided for by the Issuer prior to issuance of such additional parity bonds.

Not later than simultaneously with the delivery of such additional parity bonds, the Issuer shall have entered into written contracts for the immediate construction or acquisition of such additions, betterments or improvements to the System that 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 Sewer Revenue Bonds, Series 1980, and all the covenants and other provisions hereof (except as to details of such additional parity bonds inconsistent herewith) shall be for equal benefit, protection and security of the Holders of the Sewer Revenue Bonds, Series 1980, 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 or 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 or coupon over any other. The Commission shall comply fully with all the increased payments

into the various funds created hereby required for and on account of such additional bonds, in addition to the payments required for Bonds theretofore issued pursuant hereto.

All additional parity bonds shall have the same monthly maturity date and the same semiannual interest payment dates as the Bonds originally issued hereunder.

The term "additional parity bonds," as used in this section, 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 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 created at any time, however, unless all the payments into the respective funds and accounts provided for herein on the Bonds then outstanding, and any other payments provided for herein, shall have been made in full as required to the date of delivery of the additional bonds and the Issuer shall then be in full compliance with all the covenants, agreements and terms hereof.

Notwithstanding any of the foregoing provisions, with the written consent in advance of the Authority and upon compliance with the terms, limitations and conditions contained herein, additional parity Bonds may be authorized and issued by the Issuer pursuant to supplemental resolution solely to complete the Project in accordance with the plans and specifications therefor now on file with the Recording Officer of the Issuer in the event that the Bonds issued hereunder should be insufficient, together with other funds lawfully available therefor, to pay all costs of construction and acquisition of the Project; provided, however, that prior to the issuance of such additional parity bonds under the provisions of this paragraph, the Consulting Engineers shall file with the Recording Officer of the Issuer a statement to the effect that additional funds are needed and shall state the amount thereof deemed to be adequate for such purpose. All such additional parity bonds authorized and issued under the provisions of this paragraph shall be limited to the aggregate principal amount required to make up any deficiency in funds for payment of the construction costs to complete the Project and the maturities of any such additional parity bonds shall be in years and amounts suggested by the Authority.

Section 6.09. Insurance. The Issuer will carry, with a reputable insurance carrier or carriers, such insurance as is customarily carried with respect to works and properties similar to the System, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks, which insurance shall at all times be in an amount or amounts equal to the fair appraisal value of the buildings, properties, furniture, fixtures and equipment of the System. In time of war, the Issuer shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be 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 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. Services Rendered to the Issuer. The Issuer will not render or cause to be rendered any free services of any nature by its System; and in the event the Issuer or any 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 officer or employee.

Section 6.11. Remedies and Appointment of Receiver. Any Bondholder may, by proper legal action, compel the performance of the duties of the Issuer hereunder and under the Act, including the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any default in the payment of interest on any Bonds when the same shall become due, or in the payment of the principal of any Bond or Bonds at the specified date of maturity thereof, or otherwise in the performance of any covenant contained herein other than as to such payment and such default shall continue for a period of thirty (30) days after written notice to the Issuer of such default, any Bondholder shall, in addition to all other remedies or rights, including, but not limited to, the right of foreclosure provided in the Act, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the Issuer with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the Bonds and interest thereon, the deposits into the funds and accounts hereby established as herein provided and the payment of operating expenses of the System, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions hereof and of the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate 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 principal due upon the Bonds and interest thereon and under any covenants hereof 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 hereof 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 Bondholder 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, 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 Holders of 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 Bondholders, and the curing and making good of any default under the provisions hereof, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage or otherwise dispose of any assets of the System.

Section 6.12. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rates, rentals or other charges for the services and facilities of the System and take all steps, actions and proceedings for the enforcement and collection of such fees, rates, rentals or other charges that shall

become delinquent to the full extent permitted or authorized by the laws of the State of West Virginia. All such fees, rates and charges, if not paid when due, shall become a lien on the premises served by the System. When such fees, rates and charges have been delinquent for thirty (30) days, the Issuer shall have the power to forthwith foreclose the lien on the premises served in the manner provided for the foreclosure of mortgages on real property by the laws of West Virginia, as provided by the Act.

Whenever any rates, rentals or charges for services or facilities of the System shall remain unpaid for a period of thirty days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. The Issuer further covenants and agrees that in the event it owns a waterworks system (the "Water System"), 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 and facilities of the System and the Water System to all delinquent users of services and facilities of the System and will not restore such services of either System until all delinquent charges for the services 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. The Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation or body, or agency or instrumentality whatsoever for the providing of any services that would compete with services provided by the System.

Section 6.14. Books and Records. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow currently accepted accounting practices and safeguards. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Sanitary Board of the Issuer shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Consulting Engineers and the Authority, 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 and net revenues derived from the System.

B. A balance sheet statement showing all deposits in all the funds provided for herein and the status of all said funds.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by a certified public accountant and shall mail upon request, and make available generally, the report of said certified public accountant or a summary thereof to any Holder or Holders of Bonds and shall file said report with the Authority.

Section 6.15. Operating Budget. The Sanitary Board of the Issuer shall annually, at least thirty (30) days preceding the beginning of each fiscal year, prepare and adopt by resolution a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding fiscal year. No expenditures for the operation and maintenance of the System shall be made in any fiscal year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the said Sanitary Board shall have unanimously authorized the same. The said Sanitary Board shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to any Bondholder who shall file his address with the said Sanitary Board and request in writing that copies of all such budgets and resolutions be furnished him 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 6.16. Mandatory Connections. The mandatory use of the sewer facilities of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare and the economy of the inhabitants 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 and occupant of every lot, parcel and tract of land that abuts on a street, alley or other public way in which any sewer line, main or

facility is located, or which is located within a reasonable distance thereof, not exceeding 300 feet, and is reasonably accessible thereto, and upon which lot, parcel or tract a building or other habitable structure has been or shall be erected for residential, commercial or industrial use, shall connect the waste or sewage lines of such building or structure with the facilities of the System if sewage will flow by gravity from such building or structure into the facilities of the System and shall thereupon and thereafter refrain from using and shall cease to use any other method for the disposal of sewage or water-borne waste matter and shall pay all charges, fees and rates lawfully provided for use of the sewer facilities.

Any such building or structure from which emanates sewage or water-borne waste matter and 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.

## ARTICLE VII

### MISCELLANEOUS

Section 7.01. Modification or Amendment. No material modification or amendment hereof or of any ordinance or resolution amendatory hereof or supplemental hereto that 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 Issuer 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 that would reduce the percentage of the principal amount of Bonds required for consent to the above permitted amendments or modifications.

Section 7.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision hereof shall be held invalid, such invalidity shall not affect any of the remaining provisions hereof.

Section 7.03. Repeal of Conflicting Ordinances and Resolutions. All ordinances, resolutions and orders, or parts thereof, in conflict herewith are to the extent of such conflict repealed.

Section 7.04. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage hereof do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the Recorder and members of the Governing Body were at all times when any actions in connection herewith occurred, and are, duly in office and duly qualified for such offices.

Section 7.05. Defeasance. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of all Bonds and coupons the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and herein, then the pledge of any revenues, and other moneys and securities pledged hereby and all covenants, agreements and other obligations of the Issuer to the Bondholders shall thereupon cease, terminate and become void and be discharged and satisfied.

Bonds or coupons or interest installments 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 and all coupons appertaining to such 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 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 time, shall be sufficient, to pay when due the principal of and interest due and to become due on the Bonds on and prior to the maturity dates thereof as the case may be. Neither securities or 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 of and interest on said Bond; 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 interest to become due on said Bonds on and prior to such maturity dates

thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the Issuer, as received by the Commission, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only obligations of, or obligations guaranteed by, the United States of America.

Section 7.06. Restrictions as to Arbitrage Bonds. 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 to acquire any securities or obligations the acquisition of which would cause any Bond to be an "arbitrage bond" as defined in Section 103(c)(2) of the Internal Revenue Code, and the Mayor shall deliver his certificate, based upon this covenant, with regard thereto to the Authority.

Section 7.07. Effective Date. This Bond Legislation shall take effect upon final reading, in the manner prescribed by law.

Section 7.08. Statutory Notice and Public Hearing. Upon adoption hereof, this Bond Legislation shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in the Elkins Inter-Mountain, a newspaper published and of general circulation in Randolph County, West Virginia, there being no newspaper published in the Town of Beverly, together with a notice stating that this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Bond, and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the second publication of this Bond Legislation and notice, and present protests. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Passed on First Reading  
Passed on Second and Final  
Reading Following  
Public Hearing

September 26, 1980  
October 17, 1980

Frederick H. H. H.  
Mayor

\_\_\_\_\_  
Recorder

RESOLUTION

A Resolution supplementing an ordinance entitled:

An Ordinance authorizing the construction and acquisition of certain sewerage facilities of the Town of Beverly and the financing of the cost, hereof, not otherwise provided, through the issuance by the Town of not more than \$400,000 in principal amount of Sewer Revenue and Bond Anticipation Notes; Bonds, and Series 1980, providing for the rights and remedies of and security for the holders of such bonds and notes; authorizing the sale of such bonds and notes to the West Virginia Water Development Authority pursuant to the terms of a Loan Agreement between the Town and said Authority; and adopting other provisions relating thereto,

enacted by the Council of said Town on October 17, 1980, (the "Ordinance"), as amended on September 8, 1981, by an amendatory resolution (the "Renewal Note Resolution") accepting the Water Development Authority's extension of the stated maturity of the Town's Sewerage System Bond Anticipation Renewal Note, 1981 Series A, from May 31, 1981 to May 31, 1982.

WHEREAS, by adoption of the Renewal Note Resolution, as described above, there was authorized and issued to the West Virginia Water Development Authority (the "Authority"), the Town's Sewer System Bond Anticipation Renewal Note, 1981 Series A (the "Renewal Note");

WHEREAS, said Renewal Note was issued in accordance with Subsection 4.1(b)(iii) of the Loan Agreement, dated October 23, 1980, between the Town and the Authority (the "Loan Agreement"), and Section 3.01A of the said Ordinance enacted by the Council of the Town on October 17, 1980, as amended by the Renewal Note Resolution (collectively, the "Local Act");

WHEREAS, the Renewal Note, outstanding in the principal amount of \$315,000, matures on May 31, 1982;

WHEREAS, the Authority, by letter dated May 24, 1982, a copy of which is attached as Exhibit A hereto and incorporated herein by reference (the "Extension Letter"), has extended the stated maturity of the Renewal Note to November 30, 1982, and has expressly waived any event of default under the Local Act, the Loan Agreement or the Renewal Note for nonpayment of the Renewal Note on May 31, 1982, upon the terms set forth in the Extension Letter; and

WHEREAS, it is in the best interests of the Town and the inhabitants thereof to accept said extension and waiver, and the terms thereof;

NOW, THEREFORE, Be It Resolved by the Council of the Town of Beverly, West Virginia, as follows:

1. The Authority's extension of the stated maturity of the Renewal Note from May 31, 1982, to November 30, 1982, its waiver of an event of default under the Local Act, the Loan Agreement and the Renewal Note and the terms thereof, all as set forth in the Extension Letter, are hereby accepted.

2. The Mayor of the Town is hereby authorized and directed to execute the duplicate of the Extension Letter, and the Clerk of the Town is hereby authorized and directed to return such executed duplicate, together with a certified copy of this resolution, to the Authority and to cause an opinion of Bond Counsel in requisite form, to be delivered to the Authority, all prior to May 31, 1982, or as soon thereafter as this resolution is adopted, but in any event prior to June 8, 1982.

3. This resolution shall take effect immediately upon adoption.

Adopted this 10TH day of JUNE, 1982.

James R. Stare  
Mayor

Certified a true copy as of this 10TH day of  
JUNE, 1982

[SEAL]

Kenneth E. Dulla  
Recorder

06/01/82  
WDA

SUPPLEMENTAL  
RESOLUTION

WHEREAS, THE TOWN OF BEVERLY (the "Governmental Agency") acting through its governing body, has heretofore, on October 17, 1980, enacted a bond and notes resolution authorizing issuance of the Governmental Agency's Sewer Revenue Bonds, and said ordinance has been amended by amendatory and supplemental resolutions regarding extension of maturity of the Governmental Agency's interim financing as represented by a bond anticipation note;

WHEREAS, West Virginia Water Development Authority ("WDA") has informed the Governmental Agency that permanent financing for the sewer system will be available shortly, and in anticipation thereof, the Governmental Agency has heretofore executed and delivered to WDA a revised Loan Agreement dated JUNE 10, 1982 (the "Loan Agreement") setting forth certain provisions in connection with the permanent bonds;

WHEREAS, it is in the best interest of the Governmental Agency to accept the terms for permanent financing as set forth in the Loan Agreement and "Schedule X", attached thereto, as presented to this meeting.

NOW THEREFORE, BE IT RESOLVED, by the Common Council of the TOWN OF BEVERLY, that the Loan Agreement and the execution and delivery thereof be ratified and approved and that "Schedule X" thereto, as presented to this meeting, be hereby approved in the form so presented.

BE IT FURTHER RESOLVED that issuance of the Governmental Agency's Bonds in the aggregate principal amount and with interest rates and payment dates and other provisions as set forth in said Schedule X is hereby authorized and approved.

This resolution shall be supplemental to the original ordinance enacted by the Governmental Agency on October 17, 1980 and shall take effect immediately.

Adopted this 24TH day of June, 1982.

James R. Ware  
Mayor

Wilson P. Bard Jr.  
Acting Recorder

06/21/82  
WDA

TOWN OF BEVERLY

Sewer Revenue Bonds, Series 1982

RESOLUTION PROVIDING AS TO DATE, MATURITY, INTEREST RATE AND SALE PRICE OF THE SEWER REVENUE BONDS, SERIES 1982, OF THE TOWN OF BEVERLY; CHANGING SERIES DESIGNATION; AUTHORIZING ISSUANCE OF SUCH BONDS IN TWO SEPARATE SERIES AND AUTHORIZING, APPROVING AND RATIFYING A NEW LOAN AGREEMENT AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Town of Beverly (the "Issuer") is a municipal corporation of the State of West Virginia, the governing body of which is its Common Council (the "Governing Body"); and

WHEREAS, the Governing Body has duly and officially enacted on October 17, 1980, an Ordinance (the "Bond and Notes Ordinance") entitled:

AN ORDINANCE AUTHORIZING THE CONSTRUCTION AND ACQUISITION OF CERTAIN SEWAGE FACILITIES OF THE TOWN OF BEVERLY, AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$400,000 IN PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1980, AND BOND ANTICIPATION NOTES; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH BONDS AND NOTES; AUTHORIZING THE SALE OF SUCH BONDS AND NOTES TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY PURSUANT TO THE TERMS OF A LOAN AGREEMENT BETWEEN THE TOWN AND SAID AUTHORITY AND ADOPTING OTHER PROVISIONS RELATING THERETO.

providing for the issuance of the Sewer Revenue Bond, Series 1980, of the Issuer (the "Bond"), in the principal amount not to exceed \$400,000, and providing for the issuance of Sewerage System Bond Anticipation Notes, Series 1980, of the Issuer (the "BAN") in the aggregate principal amount of \$315,000, all in accordance with West Virginia Code, Chapter 16, Article 13 (the "Act") and the Issuer has, on October 17, 1980, September 8, 1981, and June 10, 1982 adopted Resolutions supplementing the Bond and Notes Ordinance

(such supplemental Resolutions, together with the Bond and Notes Ordinance, and this Supplemental Resolution collectively called herein the "Bond Legislation") and in the Bond and Notes Ordinance it is provided that the actual principal amount, maturity date, interest rate, interest payment dates, sale price and other provisions relating to the Bond should be established by a Supplemental Resolution

WHEREAS, in order for the Bond to be sold by the Issuer to West Virginia Water Development Authority ("WDA") pursuant to the Bond and Notes Ordinance, it is necessary for such bond issue to be issued in two series, one subordinate to the other, and with such other changes in the proposed issue as are set forth in a Loan Agreement, dated June 10, 1982, (the "Loan Agreement") heretofore entered into by and between the Issuer and WDA.

WHEREAS, the Governing Body deems it essential and desirable that this Resolution (the "Bond Resolution") be adopted and that the Loan Agreement be authorized, approved and ratified by the Issuer, that the principal amounts, prices, maturity dates, interest rates and interest payment dates of the two series of Sewer Revenue Bonds, Series 1982 (collectively, the "Bonds") be fixed hereby in the manner stated herein and that other matters relating to the Bonds be herein provided for;

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

Section 1. Pursuant to the Bond and Notes Ordinance and the Act, this Bond Resolution is adopted and there are hereby authorized and ordered to be issued the Sewer Revenue Bonds, Series 1982 A (the "Series 1982 A Bonds") of the Issuer in the aggregate principal amount of Two Hundred Eighty-Five Thousand Dollars (\$285,000), and the Sewer Revenue Bonds, Series 1982 B (the "Series 1982 B Bonds"), of the Issuer in the aggregate principal amount of Eighty Six Thousand Five Hundred Dollars (\$86,500).

The Series 1982 A Bonds shall be dated October 28, 1982, shall bear interest at the rates, payable on the respective principal installments on April 1 and October 1 of the years and shall have principal installments payable on October 1 of such years and in such amounts as are set forth in "Schedule X" to the Loan Agreement, which Loan Agreement and said Schedule X are attached hereto as a part hereof and fully incorporated herein.

The Series 1982 B Bonds shall be dated October 28, 1982, shall not bear interest and shall have principal installments payable on October 1, of such years and in such amounts as are set forth in said Schedule X.

Section 2. The Issuer hereby directs the Bonds to be sold to WDA and does hereby authorize, approve and ratify the Loan Agreement, and the execution and delivery thereof, a copy of which is incorporated herein by reference. The purchase price of the Series 1982 A and Series 1982 B Bonds, pursuant to the Loan Agreement shall be \$240,825 (84.5%) and \$86,500 (100%), respectively.

Section 3. The Bonds shall be secured in the manner and payable solely from the Net Revenues derived from operation of the System (as defined in the Bond and Notes Ordinance). The Series 1982 B Bonds shall be junior and subordinate with respect to sources and security for payment to the Series 1982 A Bonds.

The text of the Series 1982 A Bond shall be of substantially the following form, with such omissions, insertions and variations as may be approved by the Mayor as evidenced by his execution thereof:

[Form of Series 1982 A Bond]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF BEVERLY  
SEWER REVENUE BOND, SERIES 1982 A

NO. R-1

\$285,000

KNOW ALL MEN BY THESE PRESENTS: That the TOWN OF BEVERLY, a municipal corporation of the State of West Virginia (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Payee"), or its registered assigns (the "Alternate Payee"), the sum of Two Hundred Eighty-Five Thousand Dollars (\$285,000), in installments on October 1 of each year, with interest on the outstanding balance hereof at the rates per annum set forth in the Schedule of Payments attached hereto opposite the year in which the installment becomes due.

The interest rate on each installment shall run from the original date of delivery of this Bond to the Payee and payment therefor, and until payment of such installment, and such interest shall be payable on the first day of April and the first day of October in each year, beginning April 1, 1983. Both principal of and interest on this Bond are 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, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia, through Charleston National Bank, Charleston, West Virginia.

This Bond is subject to redemption prior to its stated date of maturity in whole or in part in inverse order of maturities only on or after the date on which all outstanding bonds issued by the West Virginia Water Development Authority (the "Authority") to provide funds for the purchase of this Bond are redeemable and at a price equal to the aggregate of (i) the corresponding principal amount of the bonds of the Authority to be redeemed by the Authority as a consequence of the redemption by the Issuer of all or a part of its Bond outstanding, (ii) the interest to accrue on the bonds of the Authority so to be redeemed to the next redemption date thereof and not previously paid, (iii) the applicable premium, if any, payable on the bonds of the Authority so to be redeemed, (iv) the applicable premium, if any, payable on additional bonds of the Authority which also become redeemable by virtue of such redemption, (v) the costs and expenses of the Authority in effecting redemption

of the bonds of the Authority so to be redeemed, and (vi) at the direction of the Authority, an amount equal to the proportionate amount of the additional bonds of the Authority so to be redeemed, if any, less other moneys of the Authority available therefor; provided, however, that in the event the bonds of the Authority have been refunded and the refunding bonds were issued by the Authority in a principal amount in excess of or less than such bonds remaining unpaid at the date of issuance of such refunding bonds, the Issuer shall be obligated to pay under item (i) above the principal amount of such refunding bonds outstanding, and, in the event the interest the Authority is required to pay on said refunding bonds is less than the Authority was required to pay on the bonds of the Authority, the Issuer shall be obligated to pay under item (ii) above the amount of interest to accrue on such outstanding bonds of the Authority.

This Bond is issued to finance a portion of the costs of construction and acquisition of new public service facilities for the collection, treatment, purification or disposal of liquid or solid wastes (the "System") in the territory to be served by the Issuer under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Article 13 of Chapter 16 of the West Virginia Code of 1931, as amended (the "Act"), an Ordinance duly enacted by the Council of the Issuer on October 17, 1980, and as supplemented by resolutions duly adopted by the Council of the Issuer on September 8, 1981, June 10, 1982 and October 26, 1982 (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 payable only from and secured by a pledge of the net revenues to be derived from the operation of the System, which 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 thereon except from said special fund provided, and 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 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 130% of the amount required to pay the maximum amount due

in any ensuing year of principal of and interest on all obligations payable from such revenues. The Issuer has entered into certain further covenants with the holders of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the holders of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Bond Legislation, only upon the books of the Issuer kept for that purpose at the office of the Treasurer of the State of West Virginia, by the Payee, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Treasurer of the State of West Virginia, duly executed by the Payee or its attorney duly authorized in writing. This Bond may be exchanged for an aggregate principal amount of coupon Bonds equal to the unpaid principal amount of this Bond, and having maturities corresponding with the principal installments of this Bond then unpaid.

This Bond shall be exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

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 cost of the Project described in the Bond Legislation, including payment of the Notes authorized and issued pursuant to the Bond Legislation and any other indebtedness incurred by the Issuer for such purposes which is required to be paid from the moneys received from the sale of this Bond, 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 holder 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 TOWN OF BEVERLY has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, all as of the 28th day of October, 1982.

---

Mayor

[SEAL]

ATTEST:

---

Recorder

SCHEDULE OF PAYMENTS

<u>Year</u>	<u>Principal Installment</u>	<u>Interest Rate</u>
1983		
1984		
1985		
1986		
1987		
1988		
1989		
1990		
1991		
1992		
1993		
1994		
1995		
1996	\$ 5,000	11.90%
1997	\$ 5,000	12.00%
1998	\$ 5,000	12.00%
1999	\$ 5,000	12.00%
2000	\$ 5,000	12.00%
2001	\$ 5,000	12.00%
2002	\$ 5,000	12.00%
2003	\$ 5,000	12.00%
2004	\$ 5,000	12.00%
2005	\$ 5,000	12.00%
2006	\$ 5,000	12.00%
2007	\$10,000	12.00%
2008	\$10,000	12.00%
2009	\$10,000	12.00%
2010	\$10,000	12.00%
2011	\$15,000	12.00%
2012	\$15,000	12.00%
2013	\$15,000	12.00%
2014	\$15,000	10.00%
2015	\$20,000	10.00%
2016	\$20,000	10.00%
2017	\$20,000	10.00%
2018	\$25,000	10.00%
2019	\$25,000	10.00%

[Form of Payment Record]

PAYMENT RECORD

<u>Due Date</u>	<u>Principal Payment</u>	<u>Principal Balance Due After Payment</u>	<u>Interest Payment Rate</u>	<u>Date Paid</u>	<u>Name of Paying Agent Authorized Officer And Title</u>
	\$	\$	\$		

[Form of Assignment]

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

the within Bond of the Town of Beverly, and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney to transfer the said Bond on the books of the said Town with full power of substitution in the premises.

Dated:

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

The text of the Series 1982 B Bond shall be of substantially the following form, with such omissions, insertions and variations as may be approved by the Mayor as evidenced by his execution thereof:

[Form of Series 1982 B Bond]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF ELIZABETH  
SEWER REVENUE BOND, SERIES 1982 B

No. R-1

\$86,500

KNOW ALL MEN BY THESE PRESENTS: That the TOWN OF BEVERLY, a municipal corporation of the State of West Virginia (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Payee"), or its registered assigns (the "Alternate Payee"), the sum of Eighty Six Thousand Five Hundred Dollars (\$86,500), in 37 equal annual installments of \$2,337.84 each, commencing October 1, 1983, and continuing on the first day of each October thereafter, to and including October 1, 2019, without interest.

The principal payments of this Bond are payable in any coin or currency which, on the respective dates of payment 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, through The Charleston National Bank, Charleston, West Virginia.

This Bond is subject to redemption prior to its stated date of maturity in whole or in part in inverse order of maturities at any time, at the price of the par value hereof or principal installments remaining to be paid, without premium, but only with the written consent of the West Virginia Water Development Authority (the "Authority").

This Bond is issued to finance a portion of the costs of construction and acquisition of new public service facilities for the collection, treatment, purification or disposal of liquid or solid wastes (the "System") in the territory to be served by the Issuer under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Article 13 of Chapter 16 of the West Virginia Code of 1931, as amended (the "Act"), an Ordinance duly enacted by the Council of the Issuer on October 17, 1980, as supplemented by resolutions duly adopted by the Council of the Issuer on September 9, 1981, June 10, 1982 and October 26, 1982 (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 may be entitled to be paid and secured prior to this Bond from the funds and revenues and other security provided for this Bond under the Bond Legislation.

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System (as defined in the Bond Legislation), which 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 except from said special fund provided, and 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 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 130% of the amount required to pay the maximum amount due in any ensuing year of principal of and interest on all obligations payable from such revenues. The Issuer has entered into certain further covenants with the holders of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the holders of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Bond Legislation, only upon the books of the Issuer kept for that purpose at the office of the Treasurer of the State of West Virginia, by the Payee, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Treasurer of the State of West Virginia, duly executed by the Payee or its attorney duly authorized in writing.

This Bond shall be exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

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 cost of the Project described in the Bond Legislation, including payment of the Notes authorized and issued pursuant to the Bond Legislation and any other indebtedness incurred by the Issuer for such purposes which is required to be paid from the moneys received from the sale of this Bond, 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 holder of this Bond.

THIS BOND IS JUNIOR AND SUBORDINATE WITH RESPECT TO SOURCES OF AND SECURITY FOR PAYMENT TO THE OUTSTANDING SEWER REVENUE BOND, SERIES 1982 A, OF THE ISSUER, ISSUED CONCURRENTLY HERewith AND DESCRIBED IN THE BOND LEGISLATION.

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

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

IN WITNESS WHEREOF, the TOWN OF BEVERLY has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, all as of the 28th day of October, 1982.

---

Mayor

[SEAL]

ATTEST:

---

Recorder

[Form of Payment Record]

PAYMENT RECORD

<u>Due Date</u>	<u>Principal Payment</u>	<u>Principal Balance Due After Payment</u>	<u>Name of Paying Agent Authorized Officer And Title</u>
	\$	\$	

[Form of Assignment]

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

the within Bond of the Town of Beverly, and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney to transfer the said Bond on the books of the said Town with full power of substitution in the premises.

Dated:

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

Section 4. The Issuer does hereby expressly approve and ratify all modifications pertaining to the Bonds, the sources of and security for payment therefor and the establishment of funds as set forth in the Loan Agreement. The System Revenues and application thereof shall be as provided in Article IV of the Bond and Notes Ordinance, except that debt service on the Series 1982 B Bonds shall not be paid from System Revenues until and unless, there is first paid by the Issuer:

(a) all reasonable operating expenses of the System;

(b) debt service on the Series 1982 A Bonds;

(c) required deposits into the Reserve Account as provided in the Bond and Notes Ordinance; and

(d) required deposits into the Renewal and Replacement Account as provided in the Bond and Notes Ordinance.

All other provisions of the Bond and Notes Ordinance shall apply equally to the Series 1982 A Bonds and the Series 1982 B Bonds, unless expressly modified in the Loan Agreement or this Bond Resolution.

Section 5. So long as any of the Bonds are outstanding, the Issuer covenants that:

(i) the Bonds shall be secured by the Net Revenues from the System;

(ii) the Series 1982 B Bonds shall be subordinate to the Series 1982 A Bonds as to lien and source of payment.

(iii) 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 reasonable expenses of operation, repair and maintenance of the System and leave a balance each year equal to at least 130% of the maximum amount required for debt service on all obligations, including the Series 1982 A Bonds and Series 1982 B Bonds, payable from the revenues of the System;

(iv) the Issuer will complete, operate and maintain the System in good condition;

(v) the System will 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 the Bonds outstanding and are applied for such purpose, or, if such condition cannot be met, only upon receipt of the prior written consent of WDA to such sale;

(vi) the Issuer 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 Series 1982 A 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 financed by such parity bonds, shall not be less than 130% of the maximum debt service in any succeeding year on the Series 1982 A Bonds and parity bonds theretofore and then being issued; provided, however, that additional parity bonds may be issued to complete the Project without regard to the foregoing, and further provided that the Issuer may issue obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Series 1982 B Bonds, with the written consent of the Authority;

(vii) the Issuer will carry such insurance as is customarily carried with respect to works and properties similar to the System;

(viii) the Issuer will not render any free services of the System;

(ix) any bondholder may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation, 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

Bonds, the right to obtain the appointment of a receiver to administer the System as provided by law;

(x) all delinquent rates and charges, if not paid when due, shall become a lien on the premises served by the System;

(xi) in the event the Issuer owns a waterworks system (the "Water System"), it will, to the full extent permitted by law, discontinue and shut off the services and facilities of the System and the Water System to all delinquent users of services of the System and will not restore the services of either system until all delinquent charges for the services of the System have been fully paid, to the extent such action is permitted by law;

(xii) the Issuer will not grant any franchise to provide any services which would compete with the System;

(xiii) the Issuer shall annually cause the records of the System to be audited by a certified public accountant;

(xiv) the Issuer shall annually adopt a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding fiscal year;

(xv) to the extent authorized by the laws of the State, prospective users of the System shall be required to connect thereto;

(xvi) except to the extent used to refund notes or other short-term indebtedness issued in anticipation thereof, the proceeds of the Bonds, except for accrued interest, shall be deposited in a construction fund on which the holder of the Bonds shall have a lien until such proceeds are applied to the construction of a water development project; and

(xvii) that the Bond Legislation has been duly enacted in compliance with all necessary corporate and other action and in accordance with applicable provisions of law.

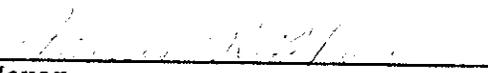
Section 6. The Mayor and the Recorder are hereby authorized and directed to execute and deliver the Bonds and such certificates and other documents required or desirable in connection with the issuance and delivery of the Bonds, and to take all other actions required by the Loan Agreement.

Section 7. The Paying Agent for the Bonds is hereby designated to be The Charleston National Bank, a national banking association with principal office in Charleston, West Virginia.

Section 8. The financing of the Project by the Bond issue is in the public interest, serves a public purpose and will promote the health, welfare and safety of the residents of the Issuer.

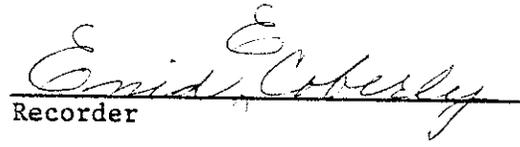
Section 9. This Supplemental Resolution shall be effective immediately.

Adopted October 26, 1982.

  
\_\_\_\_\_  
Mayor

[SEAL]

ATTEST:

*acting*  
  
\_\_\_\_\_  
Recorder

10/27/82  
BEVER1-B

LOAN AGREEMENT

THIS LOAN AGREEMENT, Made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), and TOWN OF BEVERLY, a municipal corporation organized and existing under the laws of the State of West Virginia (the "Governmental Agency").

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Chapter 20, Article 5C, of the Code of West Virginia, 1931, as amended (the "Act"), the Authority is empowered to make loans to governmental agencies for the acquisition or construction of water development projects by such governmental agencies and to issue water development revenue bonds of the State of West Virginia to finance, in whole or in part, by loans to governmental agencies, one or more water development projects, all subject to such provisions and limitations as are contained in the Act; and

WHEREAS, the Governmental Agency is authorized and empowered by the statutes of the State of West Virginia to construct, own and operate such a water development project and to finance the cost of constructing or acquiring the same by borrowing money to be evidenced by revenue bonds and bond anticipation notes or other short-term indebtedness issued by such Governmental Agency; and

WHEREAS, the United States Environmental Protection Agency (the "EPA") has awarded a "Step III" grant offer pursuant to the provisions of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended, for the construction of a water development project by the Governmental Agency (the "Project") at the location and as more particularly described and set forth in the Application for Loan with attachments and exhibits, dated January 9, 1979, completed by the Governmental Agency and filed with the Authority, as revised and supplemented (the "Application"), which Application is incorporated herein by this reference; and

WHEREAS, the Governmental Agency has also received commitments for such other grants, loans and other financial assistance with respect to such water development project as are described and set forth in Schedule A of the Application; and

WHEREAS, the Authority intends to issue its Water Development Revenue Bonds (Sewage Systems Loan Program), 1982 Series A (the "1982 Series A Bonds"), in accordance with the provisions of the Act and the resolution of the Authority duly adopted on November 29, 1978 (the "Bond Resolution"), as supplemented by a series resolution authorizing the 1982 Series A Bonds, the proceeds of such 1982 Series A Bonds to be used by the Authority to purchase the bonds of certain municipalities and public service districts, including the Governmental Agency, which comply with the requirements established by the Authority, subject, however, to the ability of the Authority to sell the 1982 Series A Bonds and to the extent of the availability of the proceeds of such 1982 Series A Bonds; and

WHEREAS, the Governmental Agency has requested a loan from the Authority to be evidenced by revenue bonds issued by the Governmental Agency and purchased by the Authority, the proceeds of such loan to be used by the Governmental Agency to pay the portion of the cost of the Project which is not paid from the sources stated in the Application or to refund certain bond anticipation notes or other short-term indebtedness issued in anticipation of said revenue bonds and any additional costs of the Project not so paid; and

WHEREAS, the Authority has made all findings required by Section 5 of the Act with respect to the Project and is willing to make said loan to the Governmental Agency, subject to the terms and provisions hereinafter contained;

THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Governmental Agency and the Authority hereby agree as follows:

## ARTICLE I

### Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "water development revenue bond," "cost," "governmental agency," and "water development project" have the definitions and meanings ascribed to them in the Act; provided, that "water development project" means only a "wastewater facility," as also defined in the Act.

1.2 "Consulting Engineers" means the consulting engineer designated in the Application and any successor thereto.

1.3 "Governmental Agency Bonds" means, collectively, the Local Bonds and the Supplemental Bonds, both as hereinafter defined.

1.4 "Loan" means the loan to be made by the Authority to the Governmental Agency through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

1.5 "Local Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended, to evidence the Loan, and which will be purchased by the Authority with a portion of the proceeds of its 1982 Series A Bonds, in accordance with the provisions of this Loan Agreement.

1.6 "Project" means the water development project hereinabove referred to, to be or being constructed by the Governmental Agency with, among other funds, the proceeds of the WDA Loans as hereinafter defined, or with the proceeds of the bond anticipation notes or other short-term indebtedness refunded with the proceeds of the WDA Loans, as hereinafter defined.

1.7 "Supplemental Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended, to evidence the Supplemental Loan, as hereinafter defined, and which will be purchased by the Authority with funds other than the proceeds of its 1982 Series A Bonds, in accordance with the provisions of this Loan Agreement.

1.8 "Supplemental Loan" means the loan to be made by the Authority to the Governmental Agency through the purchase of Supplemental Bonds, pursuant to this Loan Agreement.

1.9 "System" means the complete sewage system and works owned by the Governmental Agency and any additions, betterments and improvements thereto hereafter constructed or acquired from any sources whatsoever and includes the Project.

1.10 "WDA Loans" means, collectively, the Loan and the Supplemental Loan.

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

## ARTICLE II

### Identification of Project; Ownership of Project; Rights of Access Thereto; Governmental Agency Financing

2.1 The Project undertaken by the Governmental Agency shall generally consist of the acquisition, construction and

installation of the facilities described in the Application constructed in accordance with plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers, the Authority having found that the Project is consistent with the applicable comprehensive plan of water management approved by the Director of the West Virginia Department of Natural Resources (or in the process of preparation by such Director) and consistent with the standards set by the West Virginia Water Resources Board for the waters of the State of West Virginia affected thereby.

2.2 The Governmental Agency agrees that the Authority and its 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 Governmental Agency further agrees that the Authority and its duly authorized agents shall have such rights of access to the Project site and Project facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority in respect of the Project pursuant to the pertinent provisions of the Act.

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 Governmental Agency, subject to such mortgage lien or other security interest as is provided for in the statute authorizing the issuance of the Governmental Agency Bonds.

### ARTICLE III

#### Conditions to WDA Loans; Issuance of Governmental Agency Bonds

3.1 The agreement of the Authority to make the Loan is subject to the Authority's issuing and delivering the 1982 Series A Bonds and subject to the requirements of Section 3.4 hereof and to the fulfillment, to the satisfaction of the Authority, of each and all of those certain conditions precedent on or before the delivery date for the Local Bonds, which shall be a date mutually agreed upon by the Authority and the Governmental Agency and which date shall not be prior to one (1) business day before the scheduled maturity of the Governmental Agency's bond anticipation notes or other short-term indebtedness issued in anticipation of the Governmental Agency Bonds, if any (or earlier redemption date thereof if such notes or other short-term indebtedness are in fact called for redemption), nor later than twenty-seven (27) months from the date the 1982 Series A Bonds are delivered to the initial purchasers thereof; provided that, if such Local Bonds are not

delivered on or before the date so mutually agreed upon, the Authority may use monies for the purchase of local bonds of other governmental agencies in accordance with Section 3.4 hereof. Said conditions precedent are as follows:

(a) The Governmental Agency shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Loan Agreement;

(b) The Governmental Agency shall have authorized the issuance of and delivered to the Authority for purchase the Governmental Agency Bonds described in Section 3.2 hereof;

(c) The Governmental Agency shall have received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application;

(d) The Governmental Agency shall have obtained all requisite orders of and approvals from the West Virginia Public Service Commission necessary for the issuance of the Governmental Agency Bonds, construction of the Project and imposition of the rates required to comply with the provisions of Subsection 4.1(b)(iii) hereof and shall have taken any other action required for the imposition of such rates;

(e) The Governmental Agency shall have obtained all requisite permits necessary for the construction of the Project from the EPA and the West Virginia Department of Natural Resources;

(f) The Governmental Agency shall have obtained a Step III grant offer from the EPA; and

(g) The Governmental Agency shall have received a certificate, in form and substance satisfactory to the Authority, from the consulting engineer designated by the Authority, regarding the engineering report for the Project.

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the Authority and the rules, regulations and procedures promulgated from time to time by EPA, it is hereby agreed that the Authority shall make the WDA Loans to the Governmental Agency and the Governmental Agency shall accept the WDA Loans from the Authority, and in furtherance thereof it is agreed that the Governmental Agency shall sell to the Authority and the Authority shall make the WDA Loans by purchasing the Governmental Agency Bonds in the principal amount set forth in Schedule X hereto and provide proceeds of not less than \$320,000.00 such Governmental Agency Bonds to consist of a mix of Local Bonds and Supplemental Bonds as will result in annual debt service on the Governmental Agency Bonds of not in excess of \$40,000. The Local Bonds will be

purchased by the Authority at a price of not less than seventy percent (70%) of the principal amount thereof, and the Supplemental Bonds will be purchased by the Authority at a price equal to one hundred percent (100%) of the principal amount thereof, all as more particularly set forth on Schedule X hereto. The Local Bonds and the Supplemental Bonds shall be issued and sold to the Authority simultaneously. The Governmental Agency represents that the proceeds of the Governmental Agency Bonds will, together with the funds from the sources set forth in the Application, including any bond anticipation notes or other short-term indebtedness issued in anticipation of the Governmental Agency Bonds, and any other funds available to the Governmental Agency and approved by the Authority, pay the entire cost of the Project and refund said bond anticipation notes or other short-term indebtedness.

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

3.4 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Authority for loans to finance water development projects and that the obligation of the Authority to make any such loan is subject to the sale and the availability of proceeds of the 1982 Series A Bonds at the time the Governmental Agency has fulfilled all of the terms and conditions of this Loan Agreement and to the right of the Authority to make such loans to other governmental agencies as in the aggregate shall permit the fullest and most timely utilization of such proceeds to enable the Authority to pay debt service on the 1982 Series A Bonds.

3.5 In the event the earnings on that portion of the proceeds of the 1982 Series A Bonds issued to purchase the Local Bonds are not sufficient to pay the interest accruing on said portion of the 1982 Series A Bonds pending issuance and delivery of the Local Bonds, the Governmental Agency agrees to issue additional Supplemental Bonds in principal amount equal to such deficiency (as determined by the Authority) and sell such additional Supplemental Bonds to the Authority and assign the proceeds thereof to the Authority, which shall use such proceeds to reimburse itself for such deficiency.

#### ARTICLE IV

Governmental Agency Bonds; Security for WDA Loans;  
Repayment of WDA Loans; Interest on WDA Loans;  
Fees and Charges

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the WDA Loans, authorize

the issuance of and issue the Governmental Agency Bonds pursuant to an official action of the Governmental Agency in accordance with the applicable statute of the State of West Virginia (the "Local Act"), which shall, as enacted, contain provisions and covenants in substantially the form as follows:

(a) That the revenues generated from the operation of the System will be used monthly first to pay operation and maintenance expenses of the System; second, to the extent not otherwise limited by an outstanding local ordinance or resolution, to provide debt service on the Local Bonds, which shall include the establishment of a reserve account for the payment of the Local Bonds into which shall be deposited an amount equal to 20% of all amounts required to be deposited for debt service until such reserve account equals the maximum amount of principal and interest which will come due on such Local Bonds in any year; third, to create a renewal and replacement, or similar, fund in an amount equal to 2-1/2% of the gross revenues from the System, exclusive of the 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 aforesaid reserve account; and, fourth, to pay debt service on the Supplemental Bonds or to purchase Local Bonds on the open market, or to redeem Local Bonds, or to pay debt service on obligations junior and subordinate to the Local Bonds (other than the Supplemental Bonds). The gross revenues of the System shall always be used for purposes of the System.

(b) Covenants substantially as follows:

(i) That the Governmental Agency Bonds shall be secured by the net revenues from the System;

(ii) That the Supplemental Bonds shall be subordinate to the Local Bonds as to lien and source of payment.

(iii) 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 reasonable expenses of operation, repair and maintenance of the System and leave a balance each year equal to at least 130% of the maximum amount required for debt service on all obligations, including the Governmental Agency Bonds, payable from the revenues of the System;

(iv) That the Governmental Agency will complete, operate and maintain the System in good condition;

(v) That 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 Governmental Agency Bonds outstanding, with further restrictions on the disposition of portions of the System as are normally contained in such covenants;

(vi) That the Governmental Agency 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 financed by such parity bonds, shall not be less than 130% of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued; provided, however, that additional parity bonds may be issued to complete the Project without regard to the foregoing;

(vii) That the Governmental Agency will carry such insurance as is customarily carried with respect to works and properties similar to the System;

(viii) That the Governmental Agency will not render any free services of the System;

(ix) That any bondholder may, by proper legal action, compel the performance of the duties of the Governmental Agency 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 or interest on the Governmental Agency Bonds, the right to obtain the appointment of a receiver to administer the System as provided by law;

(x) That all delinquent rates and charges, if not paid when due, shall become a lien on the premises served by the System;

(xi) That, in the event the Governmental Agency owns a waterworks system (the "Water System"), it will, to the full extent permitted by law, discontinue and shut off the services and facilities of the System and the Water System to all delinquent users of services of the System and will not restore the services of either system until all delinquent charges for the services of the System have been fully paid;

(xii) That the Governmental Agency will not grant any franchise to provide any services which would compete with the System;

(xiii) That the Governmental Agency shall annually cause the records of the System to be audited by a certified public accountant;

(xiv) That the Governmental Agency shall annually adopt a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding fiscal year;

(xv) That, to the extent authorized by the laws of the State, prospective users of the System shall be required to connect thereto;

(xvi) That, except to the extent used to refund notes or other short-term indebtedness issued in anticipation thereof, the proceeds of Governmental Agency Bonds, except for accrued interest, must be deposited in a construction fund on which the holder of the Governmental Agency Bonds shall have a lien until such proceeds are applied to the construction of a water development project.

The Governmental Agency hereby represents and warrants that the Local Act has been or shall be duly 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, sale and delivery of the Local Bonds shall be approved without qualification by recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit A.

4.2 The WDA Loans shall be secured by the pledge and assignment by the Governmental Agency, as effected by the Local Act, of all the fees, charges and other revenues of the Governmental Agency from the System remaining after the payment of operation and maintenance expenses and as otherwise provided in the Local Act, subject only to such reservations and exceptions as are described in Schedule X hereto or are otherwise expressly permitted in writing by the Authority.

4.3 The principal of the WDA Loans shall be repaid by the Governmental Agency annually on the day and in the years provided in Schedule X hereto, and interest payments on the Loan shall be made by the Governmental Agency on a semi-annual basis as provided in said Schedule X.

4.4 The Loan shall bear interest from the date of the delivery to the Authority of the Local Bonds, at a coupon rate or rates per annum which shall be equal to the coupon rate or

rates per annum borne by the 1982 Series A Bonds for corresponding maturities issued to provide the funds to make the Loan; provided, however, that in no event shall the coupon interest rate or the interest cost exceed any statutory limitation with regard to the issuance of the Local Bonds. The Supplemental Loan will not bear interest.

4.5 The Governmental Agency Bonds shall be delivered to the Authority in fully registered form, exchangeable as provided in the Local Act at the expense of the Governmental Agency.

4.6 The Governmental Agency agrees to pay from time to time, as required by the Authority, the Governmental Agency's allocable share of the administrative expenses (based on the percentage of the Governmental Agency's Local Bonds to all other local bonds purchased by the Authority and then outstanding) of the Authority relating to all loans to be made by the Authority to governmental agencies with the proceeds of the 1982 Series A Bonds. Such administrative expenses shall be as determined by the Authority and shall include without limitation program expenses and fees paid to the trustee and paying agents for such revenue bonds.

4.7 As long as the Authority is the registered owner of all of the Governmental Agency Bonds outstanding, the Governmental Agency will not redeem such Governmental Agency Bonds outstanding without the written consent of the Authority, and any such redemption of Local Bonds authorized by the Authority shall provide for the payment of interest to the first allowable redemption date for the Authority's 1982 Series A Bonds and the redemption premium payable on the 1982 Series A Bonds redeemable as a consequence of such redemption of Local Bonds. Nothing in this Loan Agreement shall be construed to prohibit the Authority from refunding its 1982 Series A Bonds, and such refunding need not be based upon or result in any benefit to the Governmental Agency.

## ARTICLE V

### Acquisition of Site of Eligible Project; Certain Construction Requirements

5.1 Subject to the terms, conditions and provisions of this Loan Agreement and of the Local Act, the Governmental Agency shall do all things necessary to acquire the proposed site of the Project and to construct the Project in accordance with the plans, designs and specifications prepared for the Governmental Agency by the Consulting Engineers.

5.2 The Governmental Agency 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 Governmental Agency shall permit the Authority, acting by and through its Director or his duly authorized representatives, to inspect all books, documents, papers and records relating to the Project at any and all reasonable times for the purpose of audit and examination, and the Governmental Agency shall submit to the Authority such documents and information as it may reasonably require in connection with the administration of the WDA Loans or of Federal and State grants or other sources of financing for the Project.

5.3 The Governmental Agency 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.

5.4 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workmen's compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builders 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 Governmental Agency, the prime contractor and all subcontractors, as their interests may appear.

5.5 The Governmental Agency shall provide and maintain competent and adequate resident engineering services satisfactory to 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 resident engineer shall certify to the Authority, EPA and the Governmental Agency 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.

## ARTICLE VI

### Certain Covenants of the Governmental Agency; Imposition and Collection of User Charges; Payments to be Made by Governmental Agency to the Authority

6.1 The Governmental Agency hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Governmental Agency hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the WDA Loans, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System, of which the Project constitutes a whole or a part, as set forth in the Local Act and in compliance with the provisions of Subsection 4.1(b)(iii) hereof.

6.2 In the event the Governmental Agency defaults in the payment of any of said fees and charges to the Authority, the amount of such default shall bear interest at the coupon rate of the Local Bonds, from the date of the default until the date of the payment thereof.

6.3 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Governmental Agency Bonds shall prove to be insufficient to produce the minimum sums set forth in the Local Act, the Governmental Agency hereby covenants and agrees that it will, upon notice by the Authority, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges so as to provide funds sufficient to produce the minimum sums set forth in the Local Act.

6.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under Section 6a of the Act, including without limitation the right to directly impose, enforce and collect charges upon users of the System of which the Project constitutes a whole or a part.

## ARTICLE VII

### Other Agreements of the Governmental Agency

7.1 The Governmental Agency hereby acknowledges to the Authority its understanding of the provisions of the Act,

vesting in the Authority certain powers, rights and privileges in respect of water development projects in the event of default by governmental agencies in the terms and covenants of loan agreements, and the Governmental Agency hereby covenants and agrees that, if the Authority should in futuro have recourse to said rights and powers, the Governmental Agency shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Loan Agreement.

7.2 To the extent required by law, the Governmental Agency hereby covenants and agrees to secure approval of the Authority and all other State agencies having jurisdiction before applying for Federal financial assistance for pollution abatement in order to maximize the amounts of such Federal financial assistance received or to be received for all water development projects in the State of West Virginia.

7.3 The Governmental Agency hereby covenants and agrees to comply with all applicable laws, rules and regulations issued by the Authority or other State, Federal or local bodies in regard to the construction, operation, maintenance and use of the Project.

7.4 The Governmental Agency hereby warrants and represents that all information provided to the Authority in this Loan Agreement, in its Application for the WDA Loans or in any other application or documentation with respect to financing the Project was at the time provided, 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 WDA Loans and receiving the Governmental Agency Bonds, the Authority shall have the right to cancel all or any of its obligations under this Loan Agreement if (a) any representation made to the Authority by the Governmental Agency in connection with the WDA Loans shall be incorrect or incomplete in any material respect or (b) the Governmental Agency has violated any commitment made by it in its Application for the WDA Loans or in any supporting documentation or has violated any of the terms of this Loan Agreement.

7.5 The Governmental Agency hereby covenants that, to the extent the proceeds of the Governmental Agency Bonds are used to refund notes or other short-term indebtedness of the Governmental Agency issued in anticipation of the issuance of the Governmental Agency Bonds (the "refunding proceeds"), the yield to the Governmental Agency upon any investment of the refunding proceeds shall be restricted and may in no event exceed the yield on the Governmental Agency Bonds. "Yield" shall be calculated in the manner provided in Treasury Regulations §§ 1.103-13 and 1.103-14.

## ARTICLE VIII

### Maintenance and Operation

8.1 The Governmental Agency agrees that it will at all times provide operation and maintenance of the Project to comply with the water quality standards established by the West Virginia Department of Natural Resources and EPA. The Governmental Agency agrees that qualified operating personnel properly certified by the State of West Virginia will be retained to operate the Project during the entire term of this Loan Agreement.

8.2 The Governmental Agency agrees that it will permit the Authority and EPA and their respective agents to have access to the records of the Governmental Agency pertaining to the operation and maintenance of the Project at any reasonable time following completion of construction of the Project and commencement of operation thereof.

## ARTICLE IX

### Miscellaneous

9.1 Schedule X shall be attached to this Loan Agreement at the time of execution hereof by the Authority and shall be approved by an official action of the Governmental Agency supplementing the Local Act.

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

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

9.4 No waiver by either party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different

section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

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

9.6 The Governmental Agency hereby agrees to cooperate with the Authority in amending this Loan Agreement as required by the terms of sale of the 1982 Series A Bonds: provided, that the maximum annual debt service set forth in Section 3.2 shall not be increased by more than five percent (5%).

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be executed by their respective duly authorized officers as of the date executed below by the Governmental Agency, but this Loan Agreement shall not be binding on the Authority until executed by it.

TOWN OF BEVERLY

(SEAL)

By

James R. Ware  
Its Mayor

Attest:

Date:

JUNE 10, 1982

x

Its

Donald E. Suttle  
Recorder

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

(SEAL)

By

Clara M. Henry  
Its Director

Attest:

Date:

June 9 1982

Samuel B. ...  
Its Secretary-Treasurer

EXHIBIT A

[Opinion of Bond Counsel for Governmental Agency]

[To Be Dated as of Date of Loan Closing]

West Virginia Water Development Authority  
1201 Dunbar Avenue  
Dunbar, West Virginia 25064

Gentlemen:

We are bond counsel to \_\_\_\_\_  
(the "Governmental Agency"), a municipal corporation organized  
and existing under the laws of the State of West Virginia.

We have examined a certified copy of proceedings and  
other papers relating to (i) the authorization of a loan  
agreement (the "Loan Agreement"), dated \_\_\_\_\_,  
19\_\_\_\_, between the Governmental Agency and the West Virginia  
Water Development Authority (the "Authority") and (ii) the  
issue of two separate series of revenue bonds of the Govern-  
mental Agency, dated \_\_\_\_\_, 19\_\_\_\_ (the "Governmental  
Agency Bonds"), to be purchased by the Authority in accordance  
with the provisions of the Loan Agreement. The series of  
Governmental Agency Bonds described in the Loan Agreement as  
Local Bonds is in the principal amount of \$\_\_\_\_\_, issued  
in the form of one bond registered as to principal and interest  
to the Authority, interest payable April 1 and October 1 of  
each year, beginning \_\_\_\_\_, 19\_\_\_\_, at the respective  
rate or rates and with principal payable in installments on  
October 1 in each of the years, all as follows:

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
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The series of Governmental Agency Bonds described in  
the Loan Agreement as the Supplemental Bonds is in the  
principal amount of \$\_\_\_\_\_, issued in the form of one  
bond registered as to principal to the Authority, without  
interest thereon, with principal payable in installments on  
October 1 in each of the years, as follows:

Year

Installment

The Governmental Agency Bonds are issued for the purpose of \_\_\_\_\_ and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13, of the West Virginia Code of 1931, as amended (the "Code Provision"), under which the Governmental Agency Bonds are issued and the Loan Agreement that has been undertaken, including all schedules and exhibits to the Loan Agreement. The Governmental Agency Bonds have been authorized by a bond ordinance (the "Local Act") duly enacted by the Governmental Agency, which contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement. The Governmental Agency Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

1. The Loan Agreement has been duly authorized by and executed on behalf of the Governmental Agency and is a valid and binding obligation of the Governmental Agency enforceable in accordance with the terms thereof.

2. The Loan Agreement inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Governmental Agency without the consent of the Authority.

3. The Governmental Agency is a duly organized and presently existing municipality, with full power and authority to construct, acquire, operate and maintain the project referred to in the Loan Agreement and to issue and sell the Governmental Agency Bonds, all under the Code Provision and other applicable provisions of law.

4. The Governmental Agency has legally and effectively enacted the Local Act and all other necessary ordinances and resolutions in connection with the issuance and sale of the Governmental Agency Bonds.

5. The rates, fees and other charges for the services and facilities of the system referred to in the Local Act are not subject to approval by the Public Service Commission of West Virginia.

6. The Governmental Agency Bonds are valid and legally enforceable special obligations of the Governmental Agency, payable from the net revenues of the system referred to in the Local Act and secured by a lien on and pledge of the net revenues of the system referred to in the Local Act, all in accordance with the terms of the Local Bond and the Local Act, and have been duly issued and delivered to the Authority.

7. The Governmental Agency has reserved the right to issue additional bonds ranking on a parity with the Local Bond, as provided in the Local Act.

8. The Governmental Agency Bonds and the interest on the Local Bonds are, by statute, exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof, and under the laws, regulations, rulings and decisions of the United States of America, as presently written and applied, the interest on the Local Bond is exempt from Federal income taxation.

No opinion is given herein as to the enforceability of remedies with respect to the Governmental Agency Bonds under any applicable bankruptcy, insolvency, moratorium or other laws affecting creditors' rights.

We have examined executed Local Bond numbered R-1 and Supplemental Bond numbered S-1, and in our opinion the form of said bonds and their execution are regular and proper.

Very truly yours,



AN ORDINANCE OF THE COUNCIL OF THE  
TOWN OF BEVERLY ESTABLISHING AND  
FIXING RATES AND CHARGES FOR  
SEWER SERVICE, FOR CUSTOMERS  
OF THE SEWER SYSTEM OF THE  
TOWN OF BEVERLY, WEST VIRGINIA

WHEREAS, the Town Council, pursuant to the provisions and requirements of Chapter 16, Article 13 of the Code of West Virginia of 1931, as amended, and other applicable provisions of law, adopted an ordinance establishing and fixing rates and charges for sewer service for customers of the sewer system of the Town of Beverly, West Virginia (hereafter sometimes the "Town"); and

WHEREAS, the Town, had previously filed said rates and charges with the Public Service Commission of West Virginia ("Commission") in PSC Case No. 9488 and had held the requisite hearings, after proper notice, before the Commission; and

WHEREAS, the West Virginia Legislature amended and reenacted certain provisions of Chapter 24 of the Code of West Virginia of 1931, as amended, which, among other things, removed from the jurisdiction of the Commission the authority to fix the rates and charges of municipalities for rendering public utility services to its citizens prior to the Commission issuing an Order approving the rates requested in PSC Case No. 9488; and

WHEREAS, the Town, under the revised provisions of Chapter 24 of the Code of West Virginia of 1931, as amended, must adopt a new ordinance establishing and fixing interim and final rates and charges for sewer service, which rates and charges will become effective upon completion of construction of the system; now, therefore

Be It Ordained by the Council of the Town of Beverly, West Virginia;

ARTICLE I

Statutory Authority, Findings and Determinations

Section 1.01. This Ordinance is enacted pursuant to the provisions and requirements of Chapter 16, Article 13 of the Code of West Virginia of 1931, as amended, and other applicable provisions of law.

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

(a) The Town of Beverly (hereinafter sometimes the "Town") proposes to own and, through its Sanitary Board, operate a sewer system (the "System"), which will furnish sewer service to residences, premises and businesses residing or located within and without the area of the Town;

(b) The City proposes to sell its Sewer Revenue Bonds, Series 1979, pursuant to an Ordinance entitled:

"ORDINANCE AUTHORIZING THE CONSTRUCTION AND ACQUISITION OF CERTAIN SEWERAGE FACILITIES OF THE TOWN OF BEVERLY, RANDOLPH COUNTY, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$ \_\_\_\_\_ IN PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1979; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH SEWER REVENUE BONDS, SERIES 1979; AUTHORIZING THE SALE OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY PURSUANT TO THE TERMS OF A LOAN AGREEMENT BETWEEN THE TOWN AND SAID AUTHORITY AND MAKING OTHER PROVISIONS RELATING THERETO."

authorizing the issuance of not in excess of \$ 438,000.00 in principal amount of Sewer Revenue Bonds, Series 1979, of the Town of Beverly, to undertake the construction of a sewage collection and treatment system with a capacity of treating the sewerage of the users of the System, including, but not limited to, the Town of Beverly; and

(c) In order to generate sufficient revenues necessary to provide for operation and maintenance expenses of the System, to provide for reasonable routine capital improvements, to provide the bond service on the issuance of not in excess of \$ 438,000.00 in principal amount of said Sewer Revenue Bonds, Series 1979, of the Town of Beverly, including reasonable coverage thereon, and to provide for the anticipated operation and maintenance expenses of the System after the Project is substantially completed and placed in service, it is necessary to establish the rates and charges for the services of the System.

Section 1.03. The following rates and charges for the services of the System of the Town shall apply when the consulting engineer certifies that the project is substantially complete and in service.



SCHEDULE NO. 2

Applicability

Applicable inside and outside the boundaries of the Town of Beverly.

Service Connection Fee (A) - \$25.00

To apply to all users who apply for service before sewer line is completed adjacent to applicant's premises. After contractor passes said premises, Service Connection Fee (B) would be applicable.

Service Connection Fee (B)

To apply where an opening in the soil and paving, if any, must be made by District to tap said District's collector sewer, and lay service line from said tap to owner's property line.

SCHEDULE NO. 4

SURCHARGE FORMULA TO BE APPLIED IN THE CASES OF USERS PRODUCING UNUSUAL WASTE

The charge for the treatment of unusual waste will be calculated on the basis of the following formula:

$$C_i = V_o V_i + B_o B_i + S_o S_i$$

$C_i$  = Charge to unusual users per year

$V_o$  = Average unit cost of transport and treatment chargeable to volume, in dollars per gallon

$V_i$  = Volume of waste water for unusual users, in gallons per year

$B_o$  = Average unit cost of treatment, chargeable to Biochemical Oxygen Demand (BOD), in dollars per pound

$B_i$  = Weight of BOD from unusual users, in pounds per year

$S_o$  = Average unit costs of treatment (including sludge treatment) chargeable to total solids, in dollars per pound

$S_i$  = Weight of total solids from unusual users, in pounds

per year

When an unusual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made. Waste containing materials which, in the judgment of the Town of Beverly, should not be introduced into the sewer system need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefor, based upon the formula set out above.

Thereafter, unusual sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and audit of the Town of Beverly records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the unusual user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each unusual user, or refund given by the Town of Beverly, as the case may be. Such audited figures will then be used for preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

IV. Sewer Reserve Capacity Charge =  $P \times \frac{F_d}{Q_d}$

P = Total annual interest, principal, and capital payments attributable to the user's share of sewers and easements

F<sub>d</sub> = Design flow contribution from the user (mgd)

Q<sub>d</sub> = Total treatment facility design flow (mgd)

Applicable O & M costs (A,S) are those operation, maintenance, administration and billing expenses derived in whole or in part from the cost of conveying and treating the user's wastewater, exclusive of those expenses incurred solely for other purposes.

Section 1.04. Said aforementioned rates and charges, whenever delinquent, shall be liens for the amount thereof upon the premises of the customer served, as provided by Chapter 16, Article 13, Section 16 of the West Virginia Code of 1931, as amended.

Section 1.05. The Recorder is hereby authorized and directed to publish a notice of the proposed adoption of this Ordinance as a Class II-O legal advertisement in compliance with Chapter 16, Article 13 and Chapter 59, Article 3 of the Code of West Virginia of 1931, as amended, in The Elkins Inter-Mountain, a qualified newspaper published in the area. This notice shall

state the subject matter and title of the Ordinance, set forth the proposed schedules of said rates and charges, indicate the date, time and place of the Council meeting which will consider the adoption of the Ordinance, and state that any person interested may appear before the Council on such date, at which time and place all parties and interests may be heard with respect to this Ordinance being adopted and said notice shall also provide that a copy of this Ordinance shall be on file in the Office of the Recorder for review by interested persons during the regular office hours of such office. The first publication of said notice shall be at least ten (10) days before the date fixed in said notice as the date on which the Council will consider adoption of the Ordinance.

Section 1.06. The Mayor is hereby authorized and directed to file the foregoing rates and charges with the Commission and to take such other actions as are necessary to provide the Commission with the information showing the basis of such rates and charges as the Commission considers necessary.

Section 1.07. This Ordinance shall become effective upon enactment hereof, however the rates and charges for services shall apply only when the Consulting Engineer certifies that the project is substantially complete and in service.

Passed on First Reading APRIL 12, 1979

Passed on Second Reading APRIL 26, 1979

DK Williams  
Mayor

Donna M. Reese  
Recorder

RATE ORDINANCE

(SPECIMEN BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF BEVERLY  
SEWER REVENUE BOND, SERIES 1982 A

NO. R-1

\$285,000

KNOW ALL MEN BY THESE PRESENTS: That the TOWN OF BEVERLY, a municipal corporation of the State of West Virginia (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Payee"), or its registered assigns (the "Alternate Payee"), the sum of Two Hundred Eighty-Five Thousand Dollars (\$285,000), in installments on October 1 of each year, with interest on the outstanding balance hereof at the rates per annum set forth in the Schedule of Payments attached hereto opposite the year in which the installment becomes due.

The interest rate on each installment shall run from the original date of delivery of this Bond to the Payee and payment therefor, and until payment of such installment, and such interest shall be payable on the first day of April and the first day of October in each year, beginning April 1, 1983. Both principal of and interest on this Bond are 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, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia, through ~~Charleston National Bank~~, Charleston, West Virginia.

KVB

This Bond is subject to redemption prior to its stated date of maturity in whole or in part in inverse order of maturities only on or after the date on which all outstanding bonds issued by the West Virginia Water Development Authority (the "Authority") to provide funds for the purchase of this Bond are redeemable and at a price equal to the aggregate of (i) the corresponding principal amount of the bonds of the Authority to be redeemed by the Authority as a consequence of the redemption by the Issuer of all or a part of its Bond outstanding, (ii) the interest to accrue on the bonds of the Authority so to be redeemed to the next redemption date thereof and not previously paid, (iii) the applicable premium, if any, payable on the bonds of the Authority so to be redeemed, (iv) the applicable premium, if any, payable on additional bonds of the Authority which also become redeemable by virtue of such redemption, (v) the costs and expenses of the Authority in effecting redemption

of the bonds of the Authority so to be redeemed, and (vi) at the direction of the Authority, an amount equal to the proportionate amount of the additional bonds of the Authority so to be redeemed, if any, less other moneys of the Authority available therefor; provided, however, that in the event the bonds of the Authority have been refunded and the refunding bonds were issued by the Authority in a principal amount in excess of or less than such bonds remaining unpaid at the date of issuance of such refunding bonds, the Issuer shall be obligated to pay under item (i) above the principal amount of such refunding bonds outstanding, and, in the event the interest the Authority is required to pay on said refunding bonds is less than the Authority was required to pay on the bonds of the Authority, the Issuer shall be obligated to pay under item (ii) above the amount of interest to accrue on such outstanding bonds of the Authority.

This Bond is issued to finance a portion of the costs of construction and acquisition of new public service facilities for the collection, treatment, purification or disposal of liquid or solid wastes (the "System") in the territory to be served by the Issuer under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Article 13 of Chapter 16 of the West Virginia Code of 1931, as amended (the "Act"), an Ordinance duly enacted by the Council of the Issuer on October 17, 1980, and as supplemented by resolutions duly adopted by the Council of the Issuer on September 8, 1981, June 10, 1982 and October 26, 1982 (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 payable only from and secured by a pledge of the net revenues to be derived from the operation of the System, which 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 thereon except from said special fund provided, and 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 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 130% of the amount required to pay the maximum amount due

in any ensuing year of principal of and interest on all obligations payable from such revenues. The Issuer has entered into certain further covenants with the holders of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the holders of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Bond Legislation, only upon the books of the Issuer kept for that purpose at the office of the Treasurer of the State of West Virginia, by the Payee, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Treasurer of the State of West Virginia, duly executed by the Payee or its attorney duly authorized in writing. This Bond may be exchanged for an aggregate principal amount of coupon Bonds equal to the unpaid principal amount of this Bond, and having maturities corresponding with the principal installments of this Bond then unpaid.

This Bond shall be exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

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 cost of the Project described in the Bond Legislation, including payment of the Notes authorized and issued pursuant to the Bond Legislation and any other indebtedness incurred by the Issuer for such purposes which is required to be paid from the moneys received from the sale of this Bond, 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 holder 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 TOWN OF BEVERLY has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, all as of the 28th day of October, 1982.

---

Mayor

[SEAL]

ATTEST:

---

Recorder

SCHEDULE OF PAYMENTS

<u>Year</u>	<u>Principal Installment</u>	<u>Interest Rate</u>
1983		
1984		
1985		
1986		
1987		
1988		
1989		
1990		
1991		
1992		
1993		
1994		
1995		
1996	\$ 5,000	11.90%
1997	\$ 5,000	12.00%
1998	\$ 5,000	12.00%
1999	\$ 5,000	12.00%
2000	\$ 5,000	12.00%
2001	\$ 5,000	12.00%
2002	\$ 5,000	12.00%
2003	\$ 5,000	12.00%
2004	\$ 5,000	12.00%
2005	\$ 5,000	12.00%
2006	\$10,000	12.00%
2007	\$10,000	12.00%
2008	\$10,000	12.00%
2009	\$10,000	12.00%
2010	\$10,000	12.00%
2011	\$15,000	12.00%
2012	\$15,000	12.00%
2013	\$15,000	10.00%
2014	\$20,000	10.00%
2015	\$20,000	10.00%
2016	\$20,000	10.00%
2017	\$25,000	10.00%
2018	\$25,000	10.00%
2019	\$30,000	10.00%

[Form of Payment Record]

PAYMENT RECORD

<u>Due Date</u>	<u>Principal Payment</u>	<u>Principal Balance Due After Payment</u>	<u>Interest Payment Rate</u>	<u>Date Paid</u>	<u>Name of Paying Agent Authorized Officer And Title</u>
	\$	\$	\$		

[Form of Assignment]

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

the within Bond of the Town of Beverly, and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney to transfer the said Bond on the books of the said Town with full power of substitution in the premises.

Dated:

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

10/27/82  
BEVER1-C

(SPECIMEN BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF BEVERLY  
SEWER REVENUE BOND, SERIES 1982 B

No. R-1

\$86,500

KNOW ALL MEN BY THESE PRESENTS: That the TOWN OF BEVERLY, a municipal corporation of the State of West Virginia (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Payee"), or its registered assigns (the "Alternate Payee"), the sum of Eighty Six Thousand Five Hundred Dollars (\$86,500), in 37 equal annual installments of \$2,337.84 each, commencing October 1, 1983, and continuing on the first day of each October thereafter, to and including October 1, 2019, without interest.

The principal payments of this Bond are payable in any coin or currency which, on the respective dates of payment 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, through The ~~Charleston National Bank~~, Charleston, West Virginia.

KVB

This Bond is subject to redemption prior to its stated date of maturity in whole or in part in inverse order of maturities at any time, at the price of the par value hereof or principal installments remaining to be paid, without premium, but only with the written consent of the West Virginia Water Development Authority (the "Authority").

This Bond is issued to finance a portion of the costs of construction and acquisition of new public service facilities for the collection, treatment, purification or disposal of liquid or solid wastes (the "System") in the territory to be served by the Issuer under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Article 13 of Chapter 16 of the West Virginia Code of 1931, as amended (the "Act"), an Ordinance duly enacted by the Council of the Issuer on October 17, 1980, as supplemented by resolutions duly adopted by the Council of the Issuer on September 9, 1981, June 10, 1982 and October 26, 1982 (collectively called the "'Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance

[Form of Assignment]

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

the within Bond of the Town of Beverly, and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney to transfer the said Bond on the books of the said Town with full power of substitution in the premises.

Dated:

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

10/27/82  
BEVER1-C

of the bonds of the Authority so to be redeemed, and (vi) at the direction of the Authority, an amount equal to the proportionate amount of the additional bonds of the Authority so to be redeemed, if any, less other moneys of the Authority available therefor; provided, however, that in the event the bonds of the Authority have been refunded and the refunding bonds were issued by the Authority in a principal amount in excess of or less than such bonds remaining unpaid at the date of issuance of such refunding bonds, the Issuer shall be obligated to pay under item (i) above the principal amount of such refunding bonds outstanding, and, in the event the interest the Authority is required to pay on said refunding bonds is less than the Authority was required to pay on the bonds of the Authority, the Issuer shall be obligated to pay under item (ii) above the amount of interest to accrue on such outstanding bonds of the Authority.

This Bond is issued to finance a portion of the costs of construction and acquisition of new public service facilities for the collection, treatment, purification or disposal of liquid or solid wastes (the "System") in the territory to be served by the Issuer under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Article 13 of Chapter 16 of the West Virginia Code of 1931, as amended (the "Act"), an Ordinance duly enacted by the Council of the Issuer on October 17, 1980, and as supplemented by resolutions duly adopted by the Council of the Issuer on September 8, 1981, June 10, 1982 and October 26, 1982 (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 payable only from and secured by a pledge of the net revenues to be derived from the operation of the System, which 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 thereon except from said special fund provided, and 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 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 130% of the amount required to pay the maximum amount due

in any ensuing year of principal of and interest on all obligations payable from such revenues. The Issuer has entered into certain further covenants with the holders of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the holders of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Bond Legislation, only upon the books of the Issuer kept for that purpose at the office of the Treasurer of the State of West Virginia, by the Payee, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Treasurer of the State of West Virginia, duly executed by the Payee or its attorney duly authorized in writing. This Bond may be exchanged for an aggregate principal amount of coupon Bonds equal to the unpaid principal amount of this Bond, and having maturities corresponding with the principal installments of this Bond then unpaid.

This Bond shall be exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

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 cost of the Project described in the Bond Legislation, including payment of the Notes authorized and issued pursuant to the Bond Legislation and any other indebtedness incurred by the Issuer for such purposes which is required to be paid from the moneys received from the sale of this Bond, 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 holder 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 TOWN OF BEVERLY has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, all as of the 28th day of October, 1982.

---

Mayor

[SEAL]

ATTEST:

---

Recorder

SCHEDULE OF PAYMENTS

<u>Year</u>	<u>Principal Installment</u>	<u>Interest Rate</u>
1983		
1984		
1985		
1986		
1987		
1988		
1989		
1990		
1991		
1992		
1993		
1994		
1995		
1996	\$ 5,000	11.90%
1997	\$ 5,000	12.00%
1998	\$ 5,000	12.00%
1999	\$ 5,000	12.00%
2000	\$ 5,000	12.00%
2001	\$ 5,000	12.00%
2002	\$ 5,000	12.00%
2003	\$ 5,000	12.00%
2004	\$ 5,000	12.00%
2005	\$ 5,000	12.00%
2006	\$10,000	12.00%
2007	\$10,000	12.00%
2008	\$10,000	12.00%
2009	\$10,000	12.00%
2010	\$10,000	12.00%
2011	\$15,000	12.00%
2012	\$15,000	12.00%
2013	\$15,000	10.00%
2014	\$20,000	10.00%
2015	\$20,000	10.00%
2016	\$20,000	10.00%
2017	\$25,000	10.00%
2018	\$25,000	10.00%
2019	\$30,000	10.00%

[Form of Payment Record]

PAYMENT RECORD

<u>Due Date</u>	<u>Principal Payment</u>	<u>Principal Balance Due After Payment</u>	<u>Interest Payment Rate</u>	<u>Date Paid</u>	<u>Name of Paying Agent Authorized Officer And Title</u>
	\$	\$	\$		