$1,116,645.00
THE CITY OF BLUEFIELD
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1998 A

CLOSING DOCUMENT CHECKLIST

Who is to Provide	Status	Document
BC	☐	1. Certified copy of Chapter 16, Article 13, of the West Virginia Code
I	☐	2. Certified copy of the Charter of the City of Bluefield
I	☐	3. Oaths of Office of Board of Directors
I	☐	4. Ordinance creating Sanitary Board
I	☐	5. Appointments and Oaths of Sanitary Board
I	☐	6. Sanitary Board Petition
I	☐	7. Certified copy of Ordinance enacted on July 14, 1998
I	☐	8. Minutes of Council Meeting of June 9, 1998
I	☐	9. Minutes of Council Meeting of June 23, 1998
I	☐	10. Affidavit of Publication of Abstract of Ordinance and Notice of Public Hearing
I	☐	11. Minutes of Public Hearing held on July 14, 1998
I	☐	12. Certified copy of Supplemental Resolution adopted May 11, 1999
I	☐	13. Minutes of Council Meeting of May 11, 1998
I	☐	14. Loan Agreement dated as of April 28, 1999, by and among The City of Bluefield, the West Virginia Water Development Authority and the West Virginia Division of Environmental Protection
BC	☐	15. Municipal Bond Commission New Issue Form

I	☐	16. PSC Certificate of Convenience and Necessity
I	☐	17. NPDES Permit
I	☐	18. Evidence of ARC Grant
BC	☐	19. Cross Receipt for Bonds and Bond Proceeds
BC	☐	20. Specimen Bond
BC	☐	21. Issuer's General Certificate
BC	☐	22. Direction to Authenticate and Deliver the Bonds
BC	☐	23. IRS Form 8038-G and evidence of filing thereof
BC	☐	24. Arbitrage Certificate
Eng	☐	25. Engineer's Certificate in accordance with Exhibit D to the Loan Agreement
BC	☐	26. Registrar's Agreement
BC	☐	27. Certificate of Registration
Reg	☐	28. Registrar's Certificate
BC	☐	29. Opinion of Vaughan Law Firm, Bond Counsel, regarding validity of the Bonds, etc.
IC	☐	30. Opinion of J. W. Feuchtenberger, City Attorney
SBC	☐	31. Opinion of Katz, Kantor & Perkins, Counsel to the Sanitary Board
ACCT	☐	32. Opinion of Sullivan, Ware & Hall, concerning debt service coverage and parity
I	☐	33. Letter from the West Virginia Infrastructure and Jobs Development Council approving the Project
BC	☐	34. Consent form WDA for the issuance of Parity Bonds
SBC	☐	35. Consent from RUS to the transfer of the portion of the PSD to the City and release of lien on revenues and assets of the system

SBC	☐	36. Deed reflecting transfer of portion of the Bluewell PSD to The City of Bluefield
SBC	☐	37. Memorandum of Understanding by and between Bluewell PSD and Bluefield Sanitary Board

Legend:

I	Issuer	The City of Bluefield
IC	Issuer's Counsel	John W. Feuchatenberger
SBC	Sanitary Board Counsel	Katz, Kantor & Perkins
BC	Bond Counsel	Vaughan Law Firm
Reg	Registrar	Bank One, West Virginia, NA
Eng	Engineer	Thompson & Litton
Acct	Accountant	Sullivan, Ware & Hall

State of West Virginia

Certificate

I, Ken Hechler, Secretary of State of the State of West Virginia, hereby certify that

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

Given under my hand and the Great Seal of the State of West Virginia on this Twentieth *day of* May *19* 99

Secretary of State

sanitary district, said county court shall enter an appropriate order as hereinbefore provided, and such additional territory shall thenceforth be deemed an integral part of such sanitary district. (1933, Ex. Sess., c. 24, § 13.)

Editor's notes. — As to the designation of county courts as county commissions, see W. Va. Const., art. IX, § 9.

§ 16-12-14. Disconnection of territory from sanitary district.

Any contiguous territory located within the boundaries of any sanitary district organized under this article, and upon the border of such sanitary district, may become disconnected from such sanitary district in the manner following, to wit: Ten percent or more of the legal voters resident in the territory sought to be disconnected from such sanitary district may petition the county court [county commission] of the county in which the original petition for the organization of said sanitary district was filed, to cause the question of such disconnection to be submitted to the legal voters of such territory whether such territory shall be disconnected. Said petition shall be addressed to the county court of the county in which the original petition for the formation of such sanitary district was filed and shall contain a definite description of the boundaries of such territory to be disconnected and recite as a fact, that there is no bonded indebtedness of such sanitary district incurred while such territory to be disconnected was a part of such sanitary district and that such territory to be disconnected is not, at the time of the filing of such petition, and will not be, either benefited or served by any work or improvement either then existing or then authorized by said sanitary district. Upon filing such petition in the office of the county clerk of the county in which the original petition for the formation of such sanitary district has been filed it shall be the duty of the county court of the county in which the original petition for the formation of such sanitary district was filed, to consider the boundaries of such territory and the facts upon which the petition is founded, and shall consider the limits and boundaries of such proposed territory, in the same manner as provided for locating, fixing and deciding of the limits and boundaries of the original sanitary district, as provided in section one [§ 16-12-1] of this article. If any part of the territory proposed to be disconnected is situated in another county or counties other than that county in which the original petition was filed, then it shall be the duty of the said county court of the county in which the original petition was filed to call to its assistance the county courts of counties in which portions of such territory proposed to be disconnected is situated; such county courts shall constitute themselves a board of commissioners, and after electing a presiding officer from among themselves, shall consider the boundaries of such territory and the facts upon which the petition is founded, and shall consider the limits and boundaries of such proposed territory to be disconnected, in the same manner as provided for locating, fixing and deciding of the limits and boundaries of the original sanitary district, as provided in section one of this article: Provided, however, That it shall be the duty of the county

court or the board of commissioners to deny the prayer of the petition for the disconnecting of any territory from the original sanitary district, if the material allegations therein contained are not founded in fact.

Notice shall be given by the county court of the time and place, when and where all persons interested will be heard substantially as provided in section one [§ 16-12-1] of this article. The conduct of the hearing and the manner of conducting the subsequent election on the question whether such territory shall become disconnected and the issuance, reception, return and canvassing of the ballots shall be, as nearly as possible, in accordance with the provisions of section one of this article. The ballots for the election provided for in this section shall be substantially as follows, to wit:

[ ] For disconnection from sanitary district.

[ ] Against disconnection from sanitary district.

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

Editor's notes. — As to the designation of county courts as county commissions, see W. Va. Const., art. IX, § 9.

ARTICLE 13.

SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND SANITARY DISTRICTS.

Sec.
16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.
16-13-2. Sanitary board to supervise and control construction, etc., of works; appointment of board; definitions.
16-13-3. Powers of sanitary board; contracts; employees; compensation thereof; extensions and improvements; replacement of damaged public works.
16-13-4. Payment of preliminary expenses of surveys, etc.
16-13-5. Ordinance necessary before acquisition or construction of works.
16-13-6. Publication and hearing upon ordinance.
16-13-7. Acquisition by condemnation or purchase.
16-13-8. Cost of works.
16-13-9. Contracts and obligations incurred to be paid for solely by revenue bonds.
16-13-10. Interest on and redemption of bonds; form; statement on face of bond; negotiability; exemption from taxation; registration; execution; sale; disposition of surplus proceeds; additional and temporary bonds.
16-13-11. Additional bonds to extend or improve works.
16-13-12. Additional bonds for extension, etc., of works to have equal priority with original bonds.
16-13-13. Application of revenue from bonds; lien.
16-13-14. Securing bonds by trust indenture.
16-13-15. Sinking fund; transfer of balance of net revenues.
16-13-16. Rates for service; change or readjustment; hearing; lien and recovery; discontinuance of services.
16-13-17. Municipality subject to established rates.
16-13-18. Supervision of works by sanitary

Sec.
board; organization of board; qualifications, terms and compensation of members.
16-13-18a. Publication of financial statement.
16-13-19. Contract with other municipalities for service of works; powers of lessee as to rates; intercepting sewers.
16-13-20. Discharge of lien on property acquired.
16-13-21. Action on certificates or attached coupons; receivers.
16-13-22. Powers conferred in addition to existing powers; jurisdiction outside corporate limits.
16-13-22a. Grants, loans and advances.
16-13-22b. Contracts for abatement of pollution.
16-13-22c. Refunding bonds.
16-13-22d. Subordination of bonds.
16-13-22e. Operating contract.
16-13-22f. Exemption of bonds from taxation.
16-13-22g. Covenants with bondholders.
16-13-23. Article deemed full authority for construction, etc., of works and issue of bonds; alternative method; powers of state department of health unaffected.
16-13-23a. Additional powers of municipality upon receipt of order to cease pollution.
16-13-24. Article to be construed liberally.

Editor's notes. — Acts 1989, 1st Ex. Sess., c. 3, redesignated the board of health and the department of health as the division of health, within the department of health and human resources. See also, Acts 1997, c. 225.

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

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

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

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

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

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

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

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

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

Any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to own, acquire, construct, equip, operate and maintain within and/or without the corporate limits of such municipal corporation, a sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil and industrial waste of such municipal corporation and/or sanitary district, including acquisition of the municipal sewerage system resulting from the severance of a combined waterworks and sewerage system pursuant to section one-b [§ 8-20-1b], article twenty, chapter eight of this code, and shall have authority to acquire by gift, grant, purchase, condemnation, or otherwise, all necessary lands, rights-of-way and property therefor, within and/or without the corporate limits of such municipal corporation and/or sanitary district, and to issue revenue bonds to pay the cost of such works and property; and any such municipality may serve and supply the facilities of such sewerage system within the corporate limits of such municipality and within the area extending twenty miles beyond the corporate limits of such municipality: Provided, That such municipality shall not serve or supply the facilities of such sewerage system within the corporate limits of any other municipality without the consent of the governing body thereof. No obligations shall be incurred by any such municipality and/or sanitary district in such construction or acquisition except such as is payable solely from the funds provided under the authority of this article. (1933, Ex. Sess., c. 25, § 1; 1955, c. 132; 1986, c. 118.)

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

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

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

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

The construction, acquisition, improvement, equipment, custody, operation and maintenance of any such works for the collection, treatment or disposal of sewage and the collection of revenues therefrom for the service rendered thereby, shall be under the supervision and control of a sanitary board appointed by the governing body as set forth in section eighteen [§ 16-13-18] of this article. The term "works" as used in this article shall be construed to mean and include all works for the collection and/or treatment, purification and

disposal of sewage, in its entirety or any integral part thereof. The term "municipality" as used in this article shall be construed to mean any municipal corporation, incorporated city, town, village or sanitary district in the State of West Virginia. The term "governing body" as used in this article shall be construed to mean the mayor and council or other legally constituted governing body of any municipality. The term "board" when hereinafter used in this article shall be construed to mean the sanitary board as set up in section eighteen of this article. (1933, Ex. Sess., c. 25, § 2.)

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960). **Cited** in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957); Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

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

The board shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this article: Provided, That any contract relating to the financing of the acquisition or construction of any such works, or any trust indenture as hereinafter provided for, shall be approved by the governing body of such municipality before the same shall be effective. The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and such other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do such work as the board shall direct. All such compensation and all expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any authority or power herein given it so as to bind said board of said municipality beyond the extent to which money shall have been or may be provided under the authority of this article. No contract or agreement with any contractor or contractors for labor and/or material, exceeding in amount the sum of five thousand dollars, shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power in the board to reject any or all bids. After the construction, installation, and completion of the works, or the acquisition thereof, the board shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that the board may deem expedient, if funds therefor be available or are made available as provided in this article, and shall establish rules and regulations for the use and operation of the works, and of other sewers and drains connected therewith so far as they may affect the operation of such works, and do all things necessary or expedient for the successful operation thereof. The sanitary board may declare an emergency situation in the event of collector line breaks or vital treatment plant equipment failure and shall be exempted from competitive bidding requirements and enter into direct purchase agreements or contracts for such expenses. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article. (1933, Ex. Sess., c. 25, § 3; 1989, c. 133.)

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

Third party. — Where a contract between a municipal sanitary board and a contractor, providing for the construction of a sanitary sewage system, provides inter alia that "existing surface, overhead or subsurface structures damaged or destroyed by reason of the contractor's operations shall be promptly repaired or replaced in a satisfactory manner at the cost and expense of the contractor," and the contractor by job order requests enters into a contract with an existing water company to remove certain of the latter's water pipes which interfere with the construction of the sewage system, the contractor, in a notice of motion for judgment proceeding instituted by the water company, is liable for the expense so incurred. West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

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

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

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

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

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

Repayment. — A municipality is authorized to incur obligations for the purpose of defraying preliminary expenses of sewer projects, provided repayment of such obligations is to be made solely from the proceeds of revenue bonds, and not in any way from tax levies. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957), commented on in 60 W. Va. L. Rev. 105 (1957).

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

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

Quoted in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957).

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

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

After such ordinance shall have been adopted, an abstract of the ordinance, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The notice shall state that said ordinance has been adopted, and that the municipality contemplates the issuance of the bonds described in the ordinance, and that any person interested may appear before the governing body upon a certain date, which shall not be less than ten days subsequent to the first date of publication of such abstract and notice which shall not be prior to the last

date of publication of such abstract and notice, and present protests. At such hearing all objections and suggestions shall be heard and the governing body shall take such action as it shall deem proper in the premises: Provided, however, That if at such a hearing written protest is filed by thirty percent or more of the owners of real estate situate in said municipality, then the governing body of said municipality shall not take further action unless four fifths of the qualified members of the said governing body assent thereto. (1933, Ex. Sess., c. 25, § 6; 1967, c. 105; 1981, 1st Ex. Sess., c. 2.)

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

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

§ 16-13-8. Cost of works.

The cost of the works shall be deemed to include the cost of acquisition or construction thereof, the cost of all property, rights, easements, and franchises

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

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

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

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

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

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

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

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

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

Such revenue bonds shall bear interest at not more than twelve percent per annum, payable at such times, and shall mature at such time or times as may be determined by ordinance. Such bonds may be made redeemable before maturity at the option of the municipality, to be exercised by said board, at not more than the par value thereof and a premium of five percent, under such terms and conditions as may be fixed by the ordinance authorizing the issuance of the bonds. The principal and interest of the bonds may be made payable in any lawful medium. Said ordinance shall determine the form of the bonds, either coupon or registered, shall set forth any registration and conversion privileges, and shall fix the denomination or denominations of such bonds and the place or places of payment of the principal and interest thereof, which may be at any bank or trust company within or without the State. The bonds shall contain a statement on their face that the municipality shall not be obligated to pay the same or the interest thereon except from the special fund provided from the net revenues of the works. All such bonds shall be, and shall have and are hereby declared to have all the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State. Said bonds shall be exempt from all taxation, state, county and municipal. Such bonds shall be executed by the proper legally constituted authorities of the municipality, and be sealed with the corporate seal of the municipality, and in case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers, before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Such bonds shall be sold at a price not lower than a price, which when computed upon standard tables of bond values, will show a net return of not more than thirteen per centum per annum to the purchaser upon the amount paid therefor, and the proceeds derived therefrom shall be used exclusively for the purposes for which said bonds are issued and same may be sold at one time or in parcels as funds are needed. Any surplus

of bond proceeds over and above the cost of the works shall be paid into the sinking fund hereinafter provided. If the proceeds of the bonds, by error of calculation or otherwise, shall be less than the cost of the works, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in said ordinance authorizing the issuance of the bonds first issued or in the trust indenture hereinafter authorized, shall be deemed to be of the same issue and shall be entitled to payment without preference or priority of the bonds first issued. Prior to the preparation of the definitive bonds, temporary bonds may under like restrictions be issued with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. (1933, Ex. Sess., c. 25, § 10; 1970, c. 11; 1980, c. 33; 1981, 1st Ex. Sess., c. 2.)

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

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

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

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

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

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

applied, in favor of the holders of the bonds or the trustees hereinafter provided for. (1933, Ex. Sess., c. 25, § 13.)

Quoted in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957).

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

In the discretion of the governing body such bonds may be secured by a trust indenture by and between the municipality and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the State of West Virginia but no such trust indenture shall convey or mortgage the works or any part thereof. The ordinance authorizing the revenue bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the municipality and the board in relation to the construction or acquisition of the works and the improvement, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that the works shall be contracted for, constructed and paid for under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, successors, assigns or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the works or other moneys pertaining thereto be satisfactory to such purchasers, successors, assigns or nominees. Such indenture may set forth the rights and remedies of the bondholders and/or such trustee, restricting the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. Except as in this article otherwise provided, the governing body may provide by ordinance or in such trust indenture for the payment of the proceeds of the sale of the bonds and the revenues of the works to such officer, board or depository as it may determine for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. (1933, Ex. Sess., c. 25, § 14.)

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

At or before the issuance of any such bonds the governing body shall by said ordinance create a sinking fund, to be remitted to and administered by the West Virginia municipal bond commission, for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to mean the revenues of the works remaining after the payment of the reasonable expense of operation, repair and maintenance, such amount to be paid by the board into said sinking fund at intervals to be determined by

ordinance prior to issuance of the bonds, for: (a) The interest upon such bonds as such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the payment of the bonds as they fall due, or, if all bonds mature at one time, the proper maintenance of a sinking fund in such amounts as are necessary and sufficient for the payment thereof at such time; (d) a margin for safety and for the payment of premiums upon bonds retired by call or purchase as herein provided, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal ten percent of all other amounts so required to be paid into the sinking fund. Such required payments shall constitute a first charge upon all the net revenue of the works. Prior to the issuance of the bonds the board may by ordinance be given the right to use or direct the West Virginia municipal bond commission to use such sinking fund or any part thereof in the purchase of any of the outstanding bonds payable therefrom at the market price thereof, but not exceeding the price, if any, at which the same shall in the same year be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. After the payments into such fund as herein required, the board may at any time in its discretion transfer all or any part of the balance of the net revenues, after reserving an amount deemed by the board sufficient for operation, repair and maintenance for an ensuing period of not less than twelve months and for depreciation, into the sinking fund or into a fund for extensions, betterments and additions to the works. The amounts of the balance of the net revenue as and when so set apart shall be remitted to the West Virginia municipal bond commission to be retained and paid out by said commission consistent with the provisions of this article and with the ordinance pursuant to which such bonds have been issued. The West Virginia municipal bond commission is hereby authorized to act as fiscal agent for the administration of such sinking fund, under any ordinance passed pursuant to the provisions of this article, and shall invest all such sinking funds as provided by general law. Notwithstanding the foregoing, payments of principal and interest on any bonds owned by the United States of America or any agency or department thereof may be made by the governing body directly thereto. [1933, Ex. Sess., c. 25, § 15; 1933, 2nd Ex. Sess., c. 48; 1986, c. 118.]

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

The governing body shall have power, and it shall be its duty, by ordinance, to establish and maintain just and equitable rates or charges for the use of and the service rendered by such works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the municipality, or that in any way uses or is served by such works, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of the works and for the payment of the

sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be deemed the revenues of the works. No such rates or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates or charges. After introduction of the ordinance fixing such rates or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates or charges, shall be given by publication as a Class II-0 legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed in such notice for the hearing. After such hearing, which may be adjourned from time to time, the ordinance establishing rates or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided: Provided, however, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments. All such rates or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate or charge so established shall not be paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: Provided, however, That where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof. Whenever any rates, rentals or charges for services or facilities furnished shall remain unpaid for a period of thirty days after 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 board collecting such charges shall be obligated under reasonable rules and regulations, to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities, or both, and shall not restore either water facilities or sewer facilities to any delinquent user of either until all delinquent charges for both water facilities and sewer facilities, including reasonable

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

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

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

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

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

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

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

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

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

§ 16-13-17. Municipality subject to established rates.

The municipality shall be subject to the same charges and rates established as hereinbefore provided, or to charges and rates established in harmony therewith, for service rendered the municipality, and shall pay such rates or charges when due from corporate funds and the same shall be deemed to be a part of the revenues of the works as herein defined, and be applied as herein provided for the application of such revenues. (1933, Ex. Sess., c. 25, § 17.)

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

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

The governing body shall provide by ordinance the organization of the board, and that the custody, administration, operation and maintenance of such works shall be under the supervision and control of a sanitary board, created as herein provided. Such sanitary board shall be composed of either the mayor of the municipality, or the city manager thereof, if said municipality shall have a city manager form of government, and two persons appointed by the governing body: Provided, That, in the event of an acquisition or merger of an existing sewage works, the governing body may increase the membership to a maximum of four members in addition to the mayor or city manager of the

municipality served by the board. During the construction period one of the members must be a registered professional engineer. The engineer member of the board need not be a resident of said municipality. After the construction of the plant has been completed, the engineer member may be succeeded by a person not an engineer. No officer or employee of the municipality, whether holding a paid or unpaid office, shall be eligible to appointment on said sanitary board until at least one year after the expiration of the term of his public office. Said appointees shall originally be appointed for terms of two and three years respectively, and upon the expiration of each such term and each succeeding term, an appointment of a successor shall be made in like manner for a term of three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment. Each member shall give such bond, if any, as may be required by ordinance. Such mayor or city manager shall act as chairman of the sanitary board, which shall elect a vice chairman from its members and shall designate a secretary and treasurer (but the secretary and the treasurer may be one and the same), who need not be a member or members of the sanitary board. The vice chairman, secretary and treasurer shall hold office as such at the will of the sanitary board. The members of the sanitary board shall receive such compensation for their services, either as a salary or as payments for meetings attended, as the governing body may determine, and shall be entitled to payment for their reasonable expenses incurred in the performance of their duties. The governing body shall fix the reasonable compensation of the secretary and treasurer in its discretion, and shall fix the amounts of bond to be given by the treasurer. All compensation, together with the expenses in this section referred to, shall be paid solely from funds provided under the authority of this article. The sanitary board shall have power to establish bylaws, rules and regulations for its own government. (1933, Ex. Sess., c. 25, § 18; 1939, c. 96; 1953, c. 146; 1957, c. 137; 1992, c. 95.)

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

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

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

Board membership. — When a municipal corporation has a city manager form of government, the municipality's governing board has the option of appointing either its mayor or its city manager (but not both) to the municipal sanitary board. 52 Op. Att'y Gen. 215 (1967).

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

Consulting engineer. — Member of city council may not serve as consulting engineer to the sanitary board on city sewer project. 43 Op. Att'y Gen. 89 (1961).

Extension of service. — A public utility is not required to make reasonable extensions of its facilities in accordance with its franchise and

charter obligations and the needs of the inhabitants within the territory covered by its franchise; and a public service commission may, where its action is not unlawful, arbitrary, or capricious, order an extension of service for the inhabitants of such territory. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

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

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

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

Cited in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957).

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

Every sanitary board shall prepare a financial statement and cause the same to be published as a Class I legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the sanitary district. Such statement shall contain an itemized account of the receipts and expenditures of the board during the previous fiscal year, showing the source from which all money was derived, and the name of the person to whom an order was issued, together with the amount of such order, and why such order was issued, arranging the same under distinct heads, and including all money received and expended from the sale of bonds, and also a specific statement of the debts of such board, showing the purpose for which any debt was contracted, the amount of money in all funds at the end of the preceding year, and the amount of uncollected service charges. Such statement shall be prepared and published by the board as soon as practicable after the close of the fiscal year: Provided, That such statement for the fiscal year ending June thirtieth, one thousand nine hundred fifty-six, may be published any time during the year one thousand nine hundred fifty-seven. The statement shall be sworn to by the chairman and secretary and treasurer of the board. If a board fails or refuses to perform the duties hereinbefore named, every member of the board concurring in such failure or refusal shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars and the circuit court or criminal court and justices of the peace, of the county where the offense was committed, shall have concurrent jurisdiction to try such offense. (1957, c. 138; 1967, c. 105.)

Editor's notes. — The phrase "justice of the peace" and the word "justice," when used in a context meaning "justice of the peace," are construed to mean "magistrate." See § 50-1-17 and W. Va. Const., art. VIII, § 15.

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

Any municipality operating a sewage collecting system and/or a sewage disposal plant or plants as defined in this article, or which as herein provided has ordered the construction or acquisition of such works (in this section called the owner), is hereby authorized to contract with one or more other municipal corporations or political subdivisions within the State (in this section called the lessee), and such lessees are hereby authorized to enter into such contracts with such owners, for the service of such works to such lessees and their inhabitants, but only to the extent of the capacity of the works without impairing the usefulness thereof to the owners, upon such terms and conditions as may be fixed by the boards and approved by ordinances of the respective contracting parties: Provided, however, That no such contract shall be made for a period of more than forty years or in violation of the provisions of said ordinance authorizing bonds hereunder or in violation of the provisions of said trust indenture. The lessee shall by ordinance have power to establish, change and adjust rates and charges for the service rendered therein by the works against the owners of the premises served, in the manner hereinbefore provided for establishing, changing and adjusting rates and charges for the service rendered in the municipality where the works are owned and operated, and such rates or charges shall be collectible and shall be a lien as herein provided for rates and charges made by the owner. The necessary intercepting sewers and appurtenant works for connecting the works of the owner with the sewerage system of the lessee shall be constructed by the owner and/or the lessee upon such terms and conditions as may be set forth in said contract, and the cost or that part of the cost thereof which is to be borne by the owner may be paid as a part of the cost of the works from the proceeds of bonds issued under this article unless otherwise provided by said ordinance or trust indenture prior to the issuance of the bonds. The income received by the owner under any such contract shall, if so provided in said ordinance or trust indenture, be deemed to be a part of the revenues of the works as in this article defined and be applied as herein provided for the application of such revenues. (1933, Ex. Sess., c. 25, § 19; 1981, 1st Ex. Sess., c. 2.)

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

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

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

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

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

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

As to receivers, see Rule 66.

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

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

The authority herein given shall be in addition to and not in derogation of any power existing in any municipality under any statutory or charter provisions which it may now have or hereafter adopt. For all purposes of this article, all municipal corporations shall have jurisdiction for ten miles outside the corporate limits thereof. (1933, Ex. Sess., c. 25, § 22.)

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

Any municipality is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of acquisition or construction of said sewage works and the construction of betterments and improvements thereto, and for the other purposes herein authorized, from any authorized agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of bonds authorized to be issued under the provisions of this article, the revenues

of the said sewage works or grants to the municipality from any agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any agency of the state, the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

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

Stated in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1957).

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

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

§ 16-13-22c. Refunding bonds.

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

§ 16-13-22d. Subordination of bonds.

Notwithstanding any other provisions to the contrary in this article, any municipality authorizing the issuance of bonds under this article in an effort to aid in the abatement or reduction of the pollution of any waters or streams may provide in the ordinance authorizing the issuance of the bonds and in any trust

indenture pertaining thereto that such bonds, or any additional bonds that may thereafter be issued to extend or improve the works, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to the payment of principal and interest and the security thereof, to such other bonds as are designated in the ordinance. (1949, c. 93.)

§ 16-13-22e. Operating contract.

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

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

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

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

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

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

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

(c) The fixing, establishing and collecting of such fees, rentals or other charges for the use of the services and facilities of such sewerage system, including the parts thereof heretofore or hereafter constructed or acquired and the revision of same from time to time, as will always provide revenues at least

sufficient to provide for all expenses of operation, maintenance and repair of such sewerage system, the payment of the principal of and interest on all bonds or other obligations payable from the revenues of such sewerage system, and all reserve and other funds required by the terms of the ordinance authorizing the issuance of such bonds;

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

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

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

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

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

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

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

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

This article, shall, without reference to any other statute, be deemed full authority for the construction, acquisition, improvement, equipment, maintenance, operation and repair of the works herein provided for and for the issuance and sale of the bonds by this article authorized, and shall be construed as an additional and alternative method therefor and for the financing thereof, and no petition or election or other or further proceeding in respect to the construction or acquisition of the works or to the issuance or sale of bonds under this article and no publication of any resolution, ordinance, notice or proceeding relating to such construction or acquisition or to the issuance or sale of such bonds shall be required except such as are prescribed by this article, any provisions of other statutes of the State to the contrary notwithstanding: Provided, however, That all functions, powers and duties of the state department of health shall remain unaffected by this article. (1933, Ex. Sess., c. 25, § 23.)

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

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

Notwithstanding any other provision contained in this article, and in addition thereto, the governing body of any municipal corporation which has received or which hereafter receives an order issued by the director of the division of environmental protection or the environmental quality board requiring such municipal corporation to cease the pollution of any stream or waters, is hereby authorized and empowered to fix, establish and maintain, by ordinance, just and equitable rates or charges for the use of the services and facilities of the existing sewer system of such municipal corporation, and/or for the use of the services and facilities to be rendered upon completion of any works and system necessary by virtue of said order, to be paid by the owner, tenant or occupant of each and every lot or parcel of real estate or building that is connected with and uses any part of such sewer system, or that in any way uses or is served thereby, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient for the payment of all the proper and reasonable costs and expenses of the acquisition and construction of plants, machinery and works for the collection and/or treatment, purification and disposal of sewage, and the repair, alteration and extension of existing sewer facilities, as may be necessary to comply with such order of the director of the division of environmental protection or the environmental quality board, and for the operation, maintenance and repair of the entire works and system; and the governing body shall create, by ordinance, a sinking fund to accumulate and hold any part or all of the

proceeds derived from rates or charges until completion of said construction, to be remitted to and administered by the municipal bond commission by expending and paying said costs and expenses of construction and operation in the manner as provided by said ordinance; and after the completion of the construction such rates or charges shall be sufficient in each year for the payment of the proper and reasonable costs and expenses of operation, maintenance, repair, replacement and extension from time to time, of the entire sewer and works. No such rates or charges shall be established until after a public hearing, at which all the potential users of the works and owners of property served or to be served thereby and others shall have had an opportunity to be heard concerning the proposed rates or charges. After introduction of the ordinance fixing such rates or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates or charges, shall be given by publication of such notice as a Class II-0 legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication is the municipality. The first publication shall be made at least ten days before the date fixed therein for the hearing. After such hearing, which may be adjourned from time to time, the ordinance establishing the rates or charges, either as originally introduced or as modified and amended, may be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the sanitary board having charge of the construction and operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided: Provided, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice is required. If any rate or charge so established is not paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the sanitary board of such municipal corporation in a civil action in the name of the municipality. Any municipal corporation exercising the powers given herein has authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery, or works necessary to comply with such order of the director of the division of environmental protection or the environmental quality board, and the authority provided herein to establish, maintain and collect rates or charges is an additional and alternative method of financing such works and matters, and is independent of any other provision of this article insofar as such article provides for or requires the issuance of revenue bonds or the imposition of rates and charges in connection with such bonds: Provided, however, That except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in

compliance with an order of the director of the division of environmental protection or the environmental quality board, and the rights, powers, and duties of such municipal corporation and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article. (1955, c. 135; 1967, c. 105; 1994, c. 61.)

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

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

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

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

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

Sec.
16-13A-1. Legislative findings.
16-13A-1a. Jurisdiction of the public service commission.
16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.
16-13A-1c. General purpose of districts.
16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the secretary of state.
16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.
16-13A-3a. Removal of members of public service board.
16-13A-4. Board chairman; members' compensation; procedure; district name.
16-13A-5. General manager of board.
16-13A-6. Employees of board.
16-13A-7. Acquisition and operation of district properties.
16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.
16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
16-13A-9a. Limitations with respect to foreclosure.
16-13A-10. Budget.
16-13A-11. Accounts; audit.
16-13A-12. Disbursement of district funds.
16-13A-13. Revenue bonds.
16-13A-14. Items included in cost of properties.
16-13A-15. Bonds may be secured by trust indenture.
16-13A-16. Sinking fund for revenue bonds.
16-13A-17. Collection, etc., of revenues and enforcement of covenants; default; suit, etc., by bondholder or trustee to compel performance of duties; appointment and powers of receiver.
16-13A-18. Operating contracts.
16-13A-18a. Sale, lease or rental of water, sewer or gas system by district; distribution of proceeds.
16-13A-19. Statutory mortgage lien created; foreclosure thereof.
16-13A-20. Refunding revenue bonds.
16-13A-21. Complete authority of article; liberal construction; district to be public instrumentality; tax exemption.
16-13A-22. Validation of prior acts and proceedings of county courts for creation of districts, inclusion of additional territory, and appointment of members of district boards.
16-13A-23. Validation of acts and proceedings of public service boards.
16-13A-24. Acceptance of loans, grants or temporary advances.
16-13A-25. Borrowing and bond issuance; procedure.

Editor's notes. — Acts 1989, 1st Ex. Sess., c. 3, redesignated the board of health and the department of health as the division of health, within the department of health and human resources. See also, Acts 1997, c. 225.

Textbooks. — Instructions for Virginia and West Virginia, Publisher's Editorial Staff (Michie).

Constitutionality. — The act from which this article was derived, authorizing the creation of public service districts by the county courts of this State, defining the powers and duties of the governing boards of such districts in the acquisition, construction, maintenance, operation, improvement and extension of property supplying water and sewerage services, and authorizing the issuance of bonds of such districts payable solely from revenue to be derived from the operation of such properties, does not violate any provision of the Constitution of this State or the Fourteenth Amendment to the Constitution of the United States. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Purpose. — The purpose of this article is to provide water and sewerage facilities in unincorporated districts. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

The title to Acts 1953, c. 147, is sufficient to give a fair and reasonable index to all of the purposes of the act. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Public utilities. — Public service districts are "public utilities" because they are required to pay a special license fee pursuant to § 24-3-6 for support of the public service commission. 50 Op. Att'y Gen. 447 (1963).

Cited in Berkeley County Pub. Serv. Dist. v. Vitro Corp. of Am., 152 W. Va. 252, 162 S.E.2d 189 (1968); State v. Neary, 179 W. Va. 115, 365 S.E.2d 395 (1987); McClung Invs., Inc. v. Green Valley Community Pub. Serv. Dist., 485 S.E.2d 434 (W. Va. 1997).

§ 16-13A-1. Legislative findings.

The Legislature of the state of West Virginia hereby determines and finds that the present system of public service districts within the state has provided a valuable service at a reasonable cost to persons who would otherwise have been unable to obtain public utility services. To further this effort, and to ensure that all areas of the state are benefiting from the availability of public service district utility services and to further correct areas with health hazards, the Legislature concludes that it is in the best interest of the public to implement better management of public service district resources by expanding the ability and the authority of the public service commission to assist public service districts by offering advice and assistance in operational, financial and regulatory affairs.

In addition to the expanded powers which shall be given to the public service commission, the Legislature also concludes that it is in the best interest of the public for each county commission to review current technology available and consider consolidating existing public service districts where it is feasible and will not result in the interference with existing bond instruments. Further, if such consolidation is not feasible, the Legislature finds that it is in the best

CERTIFICATE

The undersigned Beverly Tresch, Clerk of the City of Bluefield, West Virginia does hereby certify that the attached is a true copy of the Charter and General Ordinances of the City of Bluefield, West Virginia.

Given under my hand and seal this 22nd day of October 1998.

SEAL

Beverly G. Tresch (SEAL)

Exhibit A

CODE OF ORDINANCES

CITY OF

BLUEFIELD, WEST VIRGINIA

THE CHARTER

AND

GENERAL ORDINANCES OF THE CITY

Adopted, April 30, 1974
Effective, July 1, 1974

Published by Order of the Board of Directors

MUNICIPAL CODE CORPORATION

TALLAHASSEE, FLORIDA 1974

Copyright 1974

Municipal Code Corporation

Tallahassee, Florida

OFFICIALS

Of The

CITY OF BLUEFIELD, WEST VIRGINIA
AT THE TIME OF THIS CODIFICATION

C. Edwin Elliott
Mayor

Allan Connolly
Victor DeVault
Angelo Monaco
J. E. Walker
Directors

Blanche R. Stringfellow
City Clerk

William O. Bivens, Jr.
City Solicitor

PREFACE

Part I of this volume contains the Charter and Related Laws of the City of Bluefield, West Virginia, as amended, and a disposition table setting forth in chronological sequence the disposition of each act included herein, amending or relating to the Charter of the City. Part II contains a revision and codification of the ordinances of a general and permanent nature of the City of Bluefield which were deemed appropraite to be included.

Part II is an entire new codification, and, as expressed in the Adopting Ordinance, supersedes all ordinances not included herein or expressly saved from repeal by the Adopting Ordinance. Only those ordinances of a general and permanent nature prescribed for and affecting the public as a whole are included herein. Special ordinances, dealing with only a portion of the inhabitants of the City, rather than all of them, or relating to special purposes, such as those levying special assessments, providing for bond issues, paving, vacating and opening specified streets, rezoning certain designated districts, etc., are not included herein. For a more specific enumeration of the types of ordinances which are not included herein see Section 3 of the Adopting Ordinance.

The material in Part II, Code of Ordinances, has been classified as to subject matter, edited, revised, and in many instances rewritten. As will be noted, the chapters have been arranged conveniently in alphabetical order and the various sections within each chapter have been appropriately catchlined to facilitate usage. Attention is also invited to the footnotes which tie related sections of the Code together and which also refer to relevant provisions of the Charter.

The numbering system used in this Code is the same system used in many state and municipal codes. Each section number consists of two component parts separated by a dash, the figure before the dash referring to the chapter number and the figure after the dash referring to the position of the section within the chapter. Thus, the first section of Chapter 1 is numbered 1-1, and the fourteenth section of Chapter 13 is numbered 13-14. Under this system

revised sheets are received it will then become the responsibility of the holder to insert the amendments according to the attached instructions. It is earnestly recommended by the publishers that all such amendments be inserted immediately upon receipt to avoid misplacing them, and in addition, that all deleted pages be saved and filed for historical reference purposes.

The indices have been prepared with great care. Each particular item has been placed under several headings, some of the headings being couched in lay phraseology, others in legal terminology, and still others in language generally used by municipal officers and employees. There are numerous cross references within the indices themselves which stand as guideposts to direct the user to the particular item in which he is interested.

Time and effort have not been spared in the preparation of this Code and the publishers are most grateful to all city officers and employees for their cooperation and interest during the preparation of this Code. Special appreciation is due Mr. William O. Bivens, Jr., City Solicitor.

The publication of this Code was under the direct supervision of George R. Langford, President and B. Meade White, Editor, of Municipal Code Corporation, Tallahassee, Florida.

This Code is presented for the use and benefit of the citizens of the City of Bluefield.

April, 1974

MUNICIPAL CODE CORPORATION
Tallahassee, Florida

ORDINANCE NO. 2-74

AN Ordinance Adopting and Enacting a New Code of Ordinances of the City of Bluefield, West Virginia; Establishing the Same; Providing for the Repeal of Certain Ordinances Not Included Therein, Except as Herein Expressly Provided; Providing for the Manner of Amending Such Code of Ordinances; Providing a Penalty for the Violation Thereof; and Providing When This Ordinance Shall Become Effective.

Be It Ordained and Enacted by the Board of Directors of the City of Bluefield, West Virginia:

Section 1. That the Code of Ordinances, consisting of Chapters 1 to 23 inclusive, is hereby adopted and enacted as the "Code of Ordinances, City of Bluefield, West Virginia," and shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other general and permanent ordinances of the City passed on or before October 17, 1972, to the extent provided in Section 2 hereof.

Section 2. That all provisions of such Code shall be in full force and effect from and after the 1st day of July, 1974 and all ordinances of a general and permanent nature of the City of Bluefield, enacted on final passage on or before October 17, 1972, and not included in such Code or recognized and continued in force by reference therein are hereby repealed from and after the 1st day of July, 1974 except as hereinafter provided. No resolution of the City, not specifically mentioned, is hereby repealed.

Section 3. That the repeal provided for in Section 2 hereof shall not affect the following:

(a) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance; such repeal shall not make legal any building or use existing contrary to the zoning ordinances or other such restrictive ordinances;

(b) Any ordinance promising or guaranteeing the payment of money for the City or authorizing the

issuance of any bonds for the City or any evidence of the City's indebtedness, or any contract or obligation assumed by the City;

(c) Any ordinance prescribing traffic regulations for specific areas, such as stop streets, speed limits, etc., not in conflict or inconsistent with the provisions of such Code;

(d) Any ordinance fixing salaries of officers or employees of the City;

(e) Any budget or appropriation ordinance;

(f) Any right or franchise granted by the board of directors to any person, firm or corporation;

(g) Any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the City;

(h) Any ordinance establishing and prescribing the street grades of any street in the City;

(i) Any ordinance providing for local improvements or assessing taxes therefor;

(j) Any ordinance dedicating or accepting any plat or subdivision in the City or providing regulations for the same;

(k) Any ordinance explicitly saved from repeal in the body of the Code of Ordinances;

(l) Any ordinance regulating zoning and subdivisions in the City;

(m) Any ordinance making any act or failure to do any act an offense against the City, when such ordinance is authorized under the state law and is not inconsistent with such Code;

(n) Any ordinance fixing ad valorem taxes or other taxes, or providing for the levying or collecting thereof;

(o) Any ordinance levying an occupational or business license fee or tax, or regulating any business, and not included therein;

(p) Any ordinance enacted after October 17, 1972.

Such repeal shall not be construed to revive any ordinance or part of an ordinance which has been repealed by a subsequent ordinance which is repealed by this ordinance.

Section 4. That whenever in such Code an act is prohibited or is made or declared to be unlawful or an offense by the board of directors, or whenever in such Code the doing of any act is required or the failure to do any act is declared to be unlawful by the board of directors, and no specific penalty is provided therefor, the violation of any such provisions of such Code shall be punished by a fine of not more than one hundred dollars ($100.00), or for imprisonment for a term not exceeding thirty (30) days, or both of these punishments, as provided in Section 1-8 of such Code.

Section 5. That any and all additions or amendments to such Code when passed in such form as to indicate the intention of the board of directors to make the same a part thereof shall be deemed to be incorporated in such Code so that reference to the "Code of Ordinances, City of Bluefield," shall be understood and intended to include such additions and amendments.

Section 6. That in case of the amendment by the board of directors of any section of such Code for which a penalty is not provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

Section 7. That a copy of such Code shall be kept on file in the office of the City Clerk, preserved in looseleaf form, or in such other form as the City Clerk may consider most expedient. It shall be the express duty of the City Clerk, or someone authorized by him, to insert in their designated places all ordinances which indicate the intention of the council to make the same a part of such Code when the same have been printed or reprinted in page form, and to extract from such Code all provisions which may be repealed from time to time by the board of directors. This copy of such Code shall be available for all persons desiring to examine the same.

Section 8. That it shall be unlawful for any person to change or alter by additions or deletions, any part or portion of such Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Bluefield to be misrepresented thereby. Any person violating this section shall be punished as provided in Section 1-8 of the Code of Ordinances of the City of Bluefield and in Section 4 of this ordinance.

Section 9. That all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 10. That this ordinance shall become effective on the 1st day of July, 1974.

PASSED, APPROVED AND ADOPTED BY THE BOARD OF DIRECTORS on the 30th day of April, 1974.

/s/C. Edwin Elliott
Mayor

(SEAL)

/s/Blanche R. Stringfellow
City Clerk

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PART I

THE CHARTER*

1921 ACTS OF THE WEST VIRGINIA LEGISLATURE

(Senate Bill No. 169—Mr. Sanders.)

AN ACT to amend and reenact chapter nine of the acts of one thousand nine hundred and fifteen, relating to the charter of the City of Bluefield.

Be It Enacted by the Legislature of West Virginia:

That chapter nine of the acts of the Legislature of West Virginia, session of one thousand nine hundred and fifteen granting a charter to the City of Bluefield and subsequent acts amendatory thereof, be and the same are hereby amended and reenacted to read as follows:

Sec. 1. Corporate powers.

The inhabitants of the portion of the County of Mercer, in the State of West Virginia, within the limits of the City of Bluefield, as hereinafter set forth, shall be and continue a body politic and corporate, by the name and style of "The City of Bluefield," and as such, and by that name, shall have perpetual succession, and may contract and be contracted with, sue and be sued, plead or be impleaded, answer and be answered unto, and may purchase, acquire by condemnation proceedings for public use, take, receive, hold and use goods and chattels, lands and tenements and choses in action, or any interest, right or estate therein, either for the proper use of said city, or in trust for the benefit of any person or association therein; and the same may grant, sell, convey,

*Editor's note—The charter is reprinted herein as it appeared in the Code of the City of Bluefield of 1958, except that amendments thereto have been inserted in their proper places, deleted provisions omitted, amendments cited in parentheses following the amended sections, and section captions have in some instances been altered or expanded to more fully apprise the reader of the contents.

transfer and assign, let, pledge, mortgage, charge and encumber, in any case and in any manner in which it would be lawful for private individuals so to do, except where its powers may be limited by law; and may have and use a common seal, and alter and renew the same at pleasure; and generally shall have all the rights, franchises, capacities and powers appertaining to municipal corporations in this state.

All real and personal estates, and all funds, rights, titles, taxes, credits and claims, and rights of action owned by the City of Bluefield immediately before this charter takes effect or which are then held in trust or have been appropriated for the use or benefit of said city or of the inhabitants thereof, shall be and the same are hereby transferred to and vested in the City of Bluefield under this charter.

All lawful contracts with and all lawful rights, claims and demands against the City of Bluefield, at the time this charter takes effect, shall be good in law against the said city under this charter.

Sec. 2. Corporate limits.

The corporate territorial limits of the City of Bluefield shall comprise all that district of country situate in the County of Mercer and State of West Virginia, to wit:

Beginning at the intersection of the state line between Virginia and West Virginia with the center of a street between Bluefield, West Virginia, and Graham, Virginia, known as "Bluefield Avenue," east of the state line and "Graham Avenue" west of the state line; thence with the state line north 49 degrees 34 minutes west 3,058 feet to a stone corner 740 feet north of Stony Ridge; thence north 66 degrees 35 minutes east 21,817 feet to a stone corner on the north side of Stony Ridge; thence south 23 degrees 25 minutes east, crossing Stony Ridge at 454 feet and running along the west side of the county road overhead bridge 3,816 feet to a point on top of Valley Ridge; thence following the dividing line of Valley Ridge in a southwestern direction 5,768.5 feet to a point on top of said

ridge, dividing the property of R. W. Tuggle and Marinda Wilson; thence along the said dividing line in a southeastern direction 6,919.5 feet to a black oak at the Cumberland Gap turnpike; thence in a northwesterly direction with said line dividing Virginia from West Virginia to the beginning.

Sec. 3. Wards.

The said city shall be divided into eight wards, the boundaries of which are shown on a certain map of the City of Bluefield which designates the precincts and ward lines as changed and amended, and which map shall be maintained in the office of the city engineer of the City of Bluefield, West Virginia, for a more complete description of same:

Ward No. 1: Shall contain and encompass the boundaries of precincts 10, 11, 15, 16, 17 and 18.

Ward No. 2: Shall contain and encompass the boundaries of precincts 12, 13, 19, 20, 21 and 22.

Ward No. 3: Shall contain and encompass the boundaries of precincts 14, 23 and 24.

Ward No. 4: Shall contain and encompass the boundaries of precincts 33, 34 and 35.

Ward No. 5: Shall contain and encompass the boundaries of precincts 25 and 26.

Ward No. 6: Shall contain and encompass the boundaries of precincts 31 and 32.

Ward No. 7: Shall contain and encompass the boundaries of precincts 28, 29 and 30.

Ward No. 8: Shall contain and encompass the boundaries of precincts 27 and 36.

The board of directors of said city shall, from time to time, create and establish voting precincts in said several wards so that for every three hundred voters a voting precinct shall be created, and said board of directors shall designate the territorial limits and boundaries of such voting precincts as may

be created, all of which may be done by ordinance or resolution unless additional precincts are created before this act takes effect, but no new precinct shall be established or the boundary line of any precinct changed within thirty days of any election. The voting precincts of said city shall be established within the ward divisions. (Amend. 1960)

Editor's note—In 1971, by virtue of annexation, there was created city precincts 15 and 16, as distinguished from county precincts above indicated, which new precincts are in ward 8; for descriptions of such precincts, see §§ 5-5 and 5-6, respectively, of the Code of Ordinances.

Sec. 4. Districts.

The City of Bluefield shall be divided into five districts as follows: District number one shall include all of that section of the city now known as ward number four as herein set forth; district number two shall include all of that section of the city now known and designated as ward number eight as herein defined; district number three shall include and consist of ward numbers one and two as herein defined; district number four shall include and consist of all that section of the city, bounded on the north by the Norfolk and Western railway, on the east by the corporate limits, on the south by district number two, and on the west by Federal Street; district number five shall include and consist of that section of the city lying north of the Norfolk and Western railway line and extending to the corporate limits on the west, north and east.

Sec. 5. Voting.

Every person qualified by law to vote for members of the legislature of the state, who shall have been a resident of said city for at least sixty days preceding the election, shall be entitled to vote at elections for corporate authorities and on questions authorized by law to be determined by popular vote.

Sec. 6. Election times; regulations; providing for voter registration.

The first election for a board of directors under this charter shall be held on the first Tuesday in July, one thousand

nine hundred and twenty-one, provided this charter is approved by the voters as hereinafter set out, and every regular city election of a board of directors shall be held every four years thereafter, on the first Tuesday in June. Said first election shall be conducted and the result ascertained and declared in the manner specified respecting elections in said city for municipal officers immediately preceding the time this charter takes effect, except that the officers to be elected shall be as prescribed by this chapter. Thereafter, such elections for a board of directors shall be held as provided by chapter three of the Code of West Virginia insofar as the same is applicable and in such manner as may be ordained by the board of directors not inconsistent with the general election laws of this state. All other elections or votes on any question by the qualified voters of said city, shall be held or taken at such places under the superintendency of such person and subject to such regulations as are consistent with the laws of the state and ordained by the board of directors. The board of directors shall by ordinance, provide for such regulations for the registration of voters as may be rendered necessary by state law. (Ord. No. 77-2, § 4-26-77)

State law reference—Registration of voters, W.Va. Code, § 8-5-13.

Sec. 7. Governing body.

Said city shall have a board of directors of five members. All directors shall serve for a term of four years and until their successors are elected and have qualified, unless sooner removed from office. They shall be residents of the city and qualified voters therein. The board of directors shall appoint, within ten days after their election, one of their number as their chairman or presiding officer, who shall be known officially as mayor of the city and recognized as such for ceremonial purposes and for the purpose of being served with civil processes against the city, and for the performance of all duties imposed upon him by this charter. A majority vote of all the members of the board of directors elected shall be necessary for the election of such chairman. The mayor shall hold his office as such at the pleasure of the board of directors.

The board of directors shall promulgate, maintain and enforce for themselves and all of the other officers and employees of the city an ordinance prohibiting conflicts of interest. Any member of the board violating such ordinance shall be automatically removed from office. (Ord. No. 88-10, 11-15-88)

Sec. 8. Meetings of board of directors.

The first meeting of such board of directors shall be held on the first Tuesday of August next succeeding their election, or as soon thereafter as practicable, or as soon as a quorum of members shall be in attendance thereafter, in the room or chamber in the city hall in said city, or at such other public place in said city as the majority of such members shall select, the residue of such members having first received reasonable notice of the time and place of the meeting, and the same publicly announced.

Subsequent meetings shall be held at such place in said city hall or elsewhere in said city, and (commencing at such hour as the board of directors shall from time to time determine), on Tuesday of each week, unless a legal holiday shall occur on that day, in which event the meeting shall be held on the succeeding Wednesday. The board of directors may hold special meetings at the place selected for their regular meetings, commencing at such hour as they shall determine. Special meetings of the board of directors may be called by the mayor, or any three members thereof. All meetings of the board of directors shall be open to the public.

Sec. 9. Vacancies.

A majority of the board of directors elected shall have authority at any meeting of the directors to appoint one of

their number to serve pro tempore as chairman or mayor in the event of the absence from the city, or such meeting, or disability of the regular mayor. Vacancies in the board of directors shall be filled by a majority of the remaining members for the unexpired term but any vacancy arising from a recall election shall be filled in the manner provided in such case. In the event of the death or resignation of the regular mayor the vacancy in the office of mayor for the unexpired term shall be filled by the board of directors.

Sec. 10. Salaries and compensation of directors.

Directors shall be paid fifteen dollars each for every regular meeting they attend, and the mayor shall be paid sixteen dollars for like attendance, but no compensation shall be allowed for special meetings, nor for any committee meeting of the board of directors.

No extra compensation shall be granted or allowed to any member of the board of directors, agent or servant of the city, or contractor therewith after the services shall have been rendered or the contract made; nor shall any payment be made of any claim or part thereof, created against the city, under any agreement or contract made without express authority of law; and all such unauthorized agreements shall be null and void. Nor shall the salary or compensation of any member of the board of directors be increased or diminished during his term of office. No member of the board of directors shall receive any additional emolument, allowance or perquisite on any account, save the compensation hereinbefore in this section provided.

The increase in salary of members of the board of directors, including the mayor of the said city as hereinabove set out shall not become effective until the election and qualifications of the board of directors following the general election for said board to be held in said city on the second day of July, 1957, and to continue in full force and effect thereafter unless and until changed by proper charter amendments as provided by law. (Amend. 1957)

Sec. 11. Restrictions on eligibility of directors.

No person holding a lucrative office under this state, the United States, or any foreign government; no member of congress, no person who is a sheriff, justice of the peace, constable, or clerk of any court of record shall be eligible to a seat on the board of directors. No person who has been, or hereafter shall be convicted of bribery, perjury or other infamous crime shall be eligible to a seat on the board of directors. No person who may have collected or been entrusted with public money, whether of a state, county, township, district or any municipal corporation, shall be eligible to the board of directors, or to any office of honor, trust or profit in the city, until he shall have duly accounted for and paid over such money, according to law.

Sec. 12. Legislative procedure.

The board of directors shall be judge of the election and qualifications of its members, subject to the provisions of section six of this charter. A majority of all members elected shall constitute a quorum to do business, and the affirmative votes of a majority of all members elected shall be required for the adoption of any ordinance or resolution. Every ordinance or resolution passed by the board of directors shall be signed by the mayor or mayor pro tempore and filed with the clerk within two days and by him recorded.

Sec. 13. Employees.

The board of directors shall employ the following named officers of the city, to wit: A city manager, who shall be the administrative head of the municipal government and who shall be responsible for the efficient administration of all departments; a clerk, who shall be known as city clerk, who shall keep all records of the meetings of the city board of directors, and perform such other duties as may be required by this charter or the board of directors; a city solicitor; a city treasurer, who shall perform such duties as are prescribed in this charter or as the city board of directors by ordinance shall prescribe; a judge of police court, and such

commissioners of municipal loans and bond issues as may be required by law of the state or city ordinance. All employees of the board of directors shall hold office at the pleasure of the board of directors and receive such compensation therefor as the board of directors may determine.

Sec. 14. City manager's powers and duties.

The duties and powers of the city manager shall be:

(a) To see that the laws and ordinances are enforced;

(b) To appoint all officers of the city, except members of the city board of directors and the officers such city board of directors is hereby authorized to appoint, and to employ, or cause to be employed, all employees of the city, the officers by him appointed and such employees he shall appoint or cause to be appointed, to continue in their offices or employment during his pleasure or that of his successor as such city manager, but all appointments or employments shall be upon merit and fitness alone;

(c) To exercise supervision and control over all departments and divisions created herein or that hereafter may be created by the board of directors, except the board of directors and other officers by it appointed;

(d) To attend all meetings of the board of directors with the right to take part in discussions, but having no vote;

(e) To recommend to the board of directors for adoption such measures as he may deem necessary or expedient;

(f) To keep the board of directors fully advised as to the financial condition and needs of the city;

(g) To supervise the conduct and performance of their duties by other officers and employees of the city, except the members of the city board of directors, reporting to such board of directors any failure of performance of duty by any of the other appointees of such board

of directors, and enforcing the proper performance of their duties by the officers appointed by him and by the city employees, to the end that the city's business shall be efficiently and economically transacted; and

(h) To perform such other duties as may be prescribed by this charter or be required of him by ordinance or resolution of the board of directors.

(i) The city manager shall faithfully adhere to the requirements of any ordinance prohibiting conflicts of interest and shall be automatically removed from his office for any violation of the same. (Ord. No. 88-10, 11-15-88)

Sec. 15. Appointments and bonds.

The city manager shall have authority to provide for the appointment of such officers, the appointments of whom are not vested in the board of directors, as shall be necessary or proper to carry into full effect any authority, power, capacity or jurisdiction which is or shall be vested in the City of Bluefield, or in the board of directors thereof, or in such city manager; to grant, in writing, to the officers so appointed the powers necessary or proper for the purposes above mentioned; to define their duties in writing; to allow them reasonable compensation (said compensation to be approved by the board of directors); and to require and take of all or any of them such bonds, obligations or other writings as he shall deem necessary or proper to insure the proper performance of their several duties.

All bonds, obligations or other writings taken in pursuance of this section, as well as all other bonds given to the City of Bluefield, shall be made payable to such city, and the respective persons or corporations, their heirs, executors, administrators and successors bound thereby, shall be subject to the same proceedings on the said bonds, obligations or other writings for enforcing the conditions and terms thereof, by motion or otherwise, before any court of record whose sessions are or shall be held in said Mercer County, that collectors of

the county levies and their securities are or shall be subject to on their bonds for the enforcing of the payment of such levies.

Sec. 16. Oath; residence requirement.

Every city officer, before he enters upon the duties of his office, shall make, before someone authorized by law to administer oaths, and file with the city clerk (or in the case of the first one of the board of directors elected under this charter with the city auditor), an oath or affirmation to support the Constitution of the United States and of the State of West Virginia, and to perform faithfully, honestly and impartially the duties of his office, to the best of his skill and judgment. No person, except citizens of said city shall be elected or appointed to any municipal office therein, except the city manager, who may be a nonresident of the city at the time of his appointment.

Sec. 17. Bonds of officers.

Each member of the board of directors shall give a good and sufficient bond, payable to the city, in the sum of one thousand dollars, conditioned for the faithful performance of his duties and with a corporate surety authorized to do business in the State of West Virginia, or with such other surety or sureties as may be approved by a judge of the circuit court of Mercer County, and such bonds shall be filed with the clerk of said court, after being approved as to form and security by such judge. Such officers and employees of the city as the board of directors may determine by ordinance, shall, respectively, furnish and file, after approval thereof by the board of directors, as to form and security, their bonds with the said clerk of the city in such penalties, respectively, and with such conditions as are fixed by such ordinance, with such corporate or other surety or securities hereinbefore mentioned, payable to the city. The furnishing of such bond shall be a necessary part of the qualification of such officers and employees. The bonds of all appointive officers required to give bond shall also be approved, as to form, by the city

solicitor. All premiums payable to surety companies shall be paid by the city. No officer or employee of the city of whom a bond is required, shall enter into the discharge of his official duties or of the duties which he is employed to discharge, until his bond has been approved and duly filed.

Sec. 18. Form of representation.

The membership of the city board of directors shall be apportioned among the districts of the city to the exent of one member from each of the five districts. All members of the board of directors shall be nominated and elected at large, but shall be selected from their districts respectively. The filling of any vacancy shall take into account the district of the member whose place has been vacated, and his successor must reside in such district. Removal from a district shall vacate the seat of a member of the board of directors residing in such district at the time of his election, and in all cases the removal of a member of the board of directors from the city shall cause the seat of the removing member to become vacant at once.

Sec. 19. Municipal primary; election officers; election procedure.

Candidates to be voted for at all general municipal elections at which members of the board of directors are to be elected under the provisions of this charter (but not at special recall elections), shall be nominated by a primary election, and no other names shall be printed upon the ballots used at the general election except those selected in the manner hereafter prescribed. The primary election for such nominations shall be held on the second Tuesday of June preceding the general municipal election. The judges and clerks of any primary or general municipal election shall be selected by the board of directors in the manner provided for the selection of such election officers by chapter three of the Code of West Virginia, except that the duties therein provided to be performed by the county court shall be performed by the board of directors, and the duties therein provided to be performed

by the county executive committee or county chairmen of the dominant political parties shall be performed by the city executive committees or city chairman of such dominant political parties, and except that such election officers shall be appointed by the board of directors at least ten days before any such election, and except further that the duties to be performed by the clerks of the circuit or county court shall be performed by the city clerk. The council of said city, as constituted just before this charter takes effect, shall appoint the judges and clerks for the first primary and general election to be held hereunder, as provided in this section.

Nominating Petitions

The name of any person desiring to become a candidate for board of directors shall be printed upon the primary ballots, if ten days prior to said primary election there be filed with the city clerk a petition requesting such privilege, signed by at least twenty-five and not more than fifty qualified voters of his district. Each petition shall be verified by the affidavit of one or more credible persons as to the qualifications and residence of each of the persons so signing the said petition. Said petition shall be in form or effect as follows:

"The undersigned, duly qualified electors of the City of Bluefield and residing at the places set opposite our respective names hereto, do hereby request that the name of (name of candidate) be placed on the ballots as a candidate for nomination for (name of office) at the primary election to be held in such city on the second Tuesday in June, 19..... We further state that we know him to be a qualified elector of said city and a man of good moral character, and qualified, in our judgment, for the duties of such office.

Names of qualified electors .....
Number ..... Street."

Any person whose name has been submitted for candidacy by any such petition shall file his acceptance of such candidacy with the city clerk not later than twenty days before the day of the primary election, and in the absence of such acceptance the name of the candidate shall not appear on the

ballots. Immediately upon the expiration of the time of filing the petitions for and acceptance of the candidates, the city clerk shall cause to be published in all the daily newspapers of the city once, in proper form, the names of the persons as they are to appear upon the primary ballots; and the said clerk shall thereupon cause the primary ballots to be printed, authenticated with a facsimile of his signature. No candidate shall circulate his own petition for nomination, and the name of any such candidate circulating his own name for nomination shall be omitted from the primary ballot.

The ballots shall be printed upon plain, substantial white paper, without party mark or designation, and shall contain the names of the candidates in alphabetical order in their respective districts. The ballots shall be substantially in the following form or to the following effect, to wit:

"Official Primary Ballot

Candidates for Nomination for Board of Directors of the City of Bluefield at the Primary Election.

(Place a cross in square to the left of the name of the person for whom you desire to vote).

For Member of the Board of Directors.

(Vote for one in each district.)
Names of Candidates

Official ballot, attest:

Facsimile of the signature ..... City Clerk."

Proceedings of Election

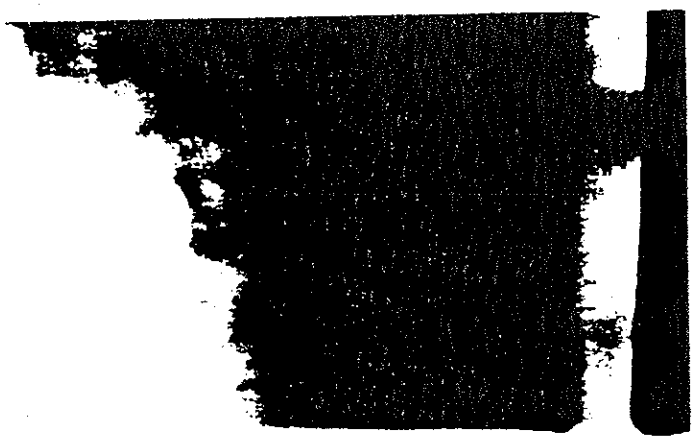
Having caused said ballot to be printed the said city clerk shall cause to be delivered at each polling place a number of said ballots equal to twice the number of votes cast in such polling precinct at the last general municipal election. The persons who are qualified to vote at the general election shall be qualified to vote at such primary election, and challenges can be made by not more than two persons, to be appointed at the time of opening the polls by the judges of election;

and the law applicable to challenges at a general municipal election shall be applicable to challenges made at such primary election. The judges of election in each precinct shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in their precinct for each of the candidates, and make return thereof on proper blanks, properly sealed, to the city clerk within six hours of the closing of the polls, and post duplicate return blanks on the outside of the voting place. On the day following the said primary election the said city clerk shall canvass said returns so received from the polling precincts, and shall make and publish in all the newspapers of said city, at least once, the result thereof. Said canvass by the city clerk shall be publicly made. The two candidates receiving the highest number of votes for board of directors from each district, shall be the candidates and the only candidates whose names shall be placed upon the ballots at the next ensuing general municipal election. In the event of the death of or resignation of a nominee before the election, the name of the candidate receiving the next highest number of votes at the primary, in his district, if such nominee was nominated in a district, shall be placed on the ticket in his stead.

When more than two persons shall have an equal number of votes for the same nomination and more than the other candidates, so that there is no choice at the primary, the city clerk shall determine by lot the two names of those voted on at the primary, and tied as aforesaid, to be placed on the ballot for the next ensuing regular election, and whenever in any other case no choice of candidate is made at a primary by reason of a tie vote, such clerk shall also determine by lot who of those so tied shall have his name placed on the ballots for the next ensuing regular election.

The ballot at such general municipal election shall be in the same general form as for such primary election, so far as practicable.

The necessary and legitimate expense of the holding of any such primary, as well as of any regular or special municipal election in said city for ballot, stationery, forms, ballot boxes,



booths, voting places, judges and clerks and notices of the election shall be paid by the city. At every such primary election and at every other municipal election in said city, regular or special, the polls shall open and close as provided by state law.

Insofar as the first primary election under this charter is concerned, the duties by this section imposed upon the city clerk, shall be performed by the recorder of the city in office when this act takes effect, and the words "city clerk" as hereinbefore used in this section, shall be construed as meaning such recorder in respect of such first primary. (Amend. 1972)

Sec. 20. Removal of directors, recall election.

The city board of directors may be removed from office by the electors qualified to vote for their successors. The procedure to effect the removal shall be as follows:

A petition signed by electors entitled to vote for such successors equal in number to at least twenty per centum of the entire vote cast at the last preceding general municipal election, demanding an election of a successor or successors of the person or persons sought to be removed, shall be filed with the city clerk, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures of the petition need not all be on one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each of such papers shall make oath before an officer competent to administer oaths, that the statements therein made are true as he believes, and that each signature on the paper is the genuine signature of the person whose signature it purports to be. Within ten days from the date of filing such petition, the city clerk shall examine and ascertain whether or not said petition is signed by the requisite number of qualified electors, and, if necessary, the board of directors shall allow him extra help for that purpose, and he shall attach to said petition his certificate, showing the result of said examination. If, by the clerk's certificate, the petition is shown to

be insufficient, it may be amended within ten days from the date of said certificate. The clerk shall, within ten days after such amendment, make like examination of the amended petition, and, if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed sufficient by him, the clerk shall submit the same to the city board of directors without delay. If the petition shall be found by it to be sufficient, the city board of directors shall order and fix a date for holding said election of such a successor or successors, not less than thirty days nor more than forty days from the date of the clerk's certificate to the city board of directors that a sufficient petition is filed.

Special Recall Election

The city board of directors shall make or cause to be made, publication of notice and all arrangements for holding such election, and the same shall be conducted, returned and the result thereof declared in all respects as are other city elections. Nominations of candidates to be voted on at such election shall be made without the intervention of a primary election, by filing with the city clerk at least ten days prior to said special election, a statement of candidacy accompanied by a petition signed by electors entitled to vote at said special election, equal in number to at least ten per centum of the entire vote cast in the district at the last preceding general municipal election, for which said candidate is to be elected, which said statement of candidacy and petition shall be substantially in the form set out in section eighteen of this act, so far as the same is applicable, substituting the word "special" for the word "primary" in such statement and petition and stating therein that such person is a candidate for election instead of nomination, and making such other necessary changes therein to adapt the same to the case of such special recall election. But the person sought to be removed shall have his name placed on the ballots for use at such election, as a candidate to succeed himself, without nomination, unless he requests the city clerk otherwise in writing.

The ballot for such special election shall be in substantially the following form or to the following effect:

"Official Ballot

Special election for the balance of the unexpired term of (here name the person or persons whose unexpired term or terms are to be filled, designating the district). For member of the city board of directors ..... District, (designating the district) of the City of Bluefield, West Virginia.

(Vote for one only)

( ) Names of candidates.

( ) Name of present incumbent.

If more than one vacancy is to be filled, add for each vacancy: For member, of the city board of directors from the ..... district, designating the district.

(Vote for one only)

( ) Names of candidates.

( ) Name of present incumbent.

Official ballot - attest:

Facsimile of the signature .....

City Clerk."

The successor of any member of the city board of directors so removed shall hold office during the unexpired term of his predecessor. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election, if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be removed from the office upon the qualification of his successor. In case the person who received the highest number of votes shall fail to qualify within ten days after the result of the election is ascertained, the office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office. The said method of removal

shall be cumulative and additional to other methods provided by law. No recall petition shall be filed within ninety days succeeding or preceding any regular city election.

The city manager shall be subject to recall, according to the procedure for the recall of members of the city board of directors in this section, so far as practicable, except that the ballots shall give the name and title of this employee, followed by the words, with appropriate voting squares to the left: "For recall," and "Against recall." Should a majority of the votes cast be in favor of recalling the employee subject to this provision, the city board of directors shall forthwith choose a successor to the employee so recalled.

Sec. 21. Initiative and referendum.

Any proposed ordinance may be submitted to the city board of directors by petition, signed by electors of the city equal in number to the percentage hereinafter required. The signatures, verification, authentication, inspection, certification, amendment and submission of such petition shall be the same as provided for the petition first named in the next preceding section.

If the petition accompanying the proposed ordinance be signed by such electors equal in number to fifteen per centum of the votes cast at the last preceding general municipal election in the city, and contains a request that the said ordinance be submitted to a vote of the people, if not passed by the board of directors, the board of directors shall either:

(a) Pass such ordinance without alteration within twenty days after attachment of the clerk's certificate of sufficiency to the accompanying petition, or

(b) Forthwith after the clerk shall attach to the petition accompanying such ordinance his certificate of sufficiency, the board of directors shall call a special election, unless a general municipal election is to be held within ninety days thereafter, and at such special or general municipal election, such ordinance shall be submitted without alteration to the vote of the electors of

said city. But if the petition is signed by less than fifteen per centum and not less than ten per centum of the electors, as above defined, then the board of directors shall within twenty days, pass said ordinance without change, or submit the same at the next general municipal election occurring not less than thirty days after the clerk's certificate of sufficiency is attached to said petition.

Referendum Features

The ballot used when voting upon said ordinance, shall contain these words: "For the ordinance" and "Against the ordinance," stating the nature of the proposed ordinance. If a majority vote be in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city, and the ordinance proposed by petition, or which shall be adopted by a vote of the people, cannot be repealed or amended except by a vote of the people. Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section; but there shall not be more than one special election in any period of six months for such purpose.

The board of directors may submit a proposition for the repeal of any such ordinance or for amendments thereto, to be voted upon at any succeeding general city election; and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall thereby be repealed or amended accordingly.

Whenever the people have properly petitioned for the submission of a bond issue to a referendum vote there shall not be any other bond issue submitted at the same election.

Whenever any ordinance or proposition is required by this charter to be submitted to the voters of the city at any election, the city clerk shall cause such ordinance or proposition to be published once in all daily newspapers published in said city; such publication to be not more than twenty days nor less than five days before such election.

Sec. 22. Stay of ordinance.

No ordinance, resolution or action of the city board of directors changing the district boundaries or otherwise redistricting the city, or annexing any municipality or territory, or granting to any corporation, firm, person or association or combination of persons, any privilege, right, license, easement or franchise, to establish, maintain or conduct in the city any public utility, except when otherwise required by the general laws of this state, or by the provisions of this charter, shall go into effect before thirty days from the time of its final passage, and not then unless within two days after passage, Sundays and holidays excepted, the same shall have been published in all daily newspapers published and generally circulated in said city. And if during said thirty days a petition signed by electors of the city, equal in number to at least fifteen per centum of the entire vote at the last preceding regular general municipal election, protesting against the passage of such ordinance, resolution or action be presented to the board of directors, the said ordinance, resolution or action shall thereupon be suspended from going into operation, and it shall be the duty of the board of directors to reconsider the same, and if the same is not entirely repealed, the board of directors shall submit the ordinance, resolution or action, as is provided in relation to referendum of ordinances, to the vote of the electors of the city either at the next general municipal election or at a special municipal election to be called for that purpose, and such ordinance, resolution or action shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. Said petition shall be in all respects in accordance with the provisions of the last section (except that is must be signed by the number of electors in this section specified), and examined and certified to by the clerk in all respects as in the last preceding section.

Sec. 23. Petition requirements.

Petitions provided for in this charter shall be signed by none but legal voters of the city. Each petition shall contain, in addition to the names of the petitioners, the street and

number of the house, or if no number or street is designated, then the district in which the petitioner resides must be given. It shall also be accompanied by the affidavit of one or more legal voters of the city, stating that the signers thereof were, at the time of the signing, legal voters of said city.

Sec. 24. Control of streets.

The board of directors shall have the custody and control of the streets, alleys and public grounds of the city, with all the powers with reference thereto, which are held by the city immediately before this charter takes effect, and all such powers as are now or hereafter shall be held by boards of directors of cities, towns and villages organized under the general laws of the state; subject, however, to the provisions of this charter.

Sec. 25. Franchise restrictions.

Franchises, rights or privileges may be granted by the board of directors, allowing to persons, firms or corporations, for a limited time, such occupancy of portions of the streets, alleys or public grounds of the city, as may be deemed by it necessary for works of public utility and service, such as steam railroad tracks, street railway tracks, poles and trolley wires, telephone and telegraph poles, electric light and other electric poles, wires and conduits, and subways, and water, gas, steam and heating pipe lines. But no franchise, right or privilege shall hereafter be granted by the city board of directors, except under the following restrictions and conditions:

First: No ordinance granting any franchise, right or privilege, for the use of the streets, alleys or public grounds of the city, for any of the purposes of public utility above named, or for any other purpose of like nature, shall be passed unless it shall have been first offered at a regular meeting of the city board of directors, and notice of the object, nature and full extent of such franchise, right or privilege shall have been published daily for at least thirty days (Mondays excepted) by the applicant, in some daily paper published in the City of Bluefield before being acted

upon. The vote thereon shall be taken by ayes and noes and the same entered upon the journal of the proceedings at the meeting of the board of directors.

Second: If no time be expressly provided in the grant, the franchise, right or privilege shall be granted for one year only, and in no case shall the same extend for a period exceeding thirty years. No shall any grant of a franchise, right or privilege be made without reservation on the part of the city of the right to alter, amend or repeal the same at any time during its term, should the grantee fail to do those things which the said grant of franchise, right or privilege stipulates that the grantee shall do, or, should the grantee do such things as by the said grant of franchise, right or privilege the grantee is prohibited from doing; provided, that after notice by the city to the grantee, specifying wherein the grantee has failed to comply with the terms of the grant, the grantee shall not within three months from the service of such notice comply with such terms.

Third: No grant of any franchise shall be made without, at the time of making it, providing that the grantee shall indemnify the city against all damages caused by the construction, operation or maintenance of any works, under the grant. All reasonable additional provisions and conditions may be made for the protection of the public from unnecessary damages or inconvenience by reason of such works and the maintenance or operation thereof.

Fourth: No grant of any franchise, rights or privilege shall be made without, at the time of making it, providing that the city shall receive in consideration therefor, a compensation, to be paid annually during the whole period; provided, however, that the principle of competition shall be employed by the city board of directors where the same is offered, so that the franchise, right or privilege with prescribed terms and conditions as to its extent, and as to the rates to be charged the public by it for its services will be given to the person, firm or corporation bidding or agreeing to pay therefor to the city the highest compensa-

tion, or so that the franchise, right or privilege with prescribed conditions as to its extent and the compensation that must be paid therefor, will be given to the person, firm or corporation that will agree to render service to the public at the lowest rates. But where revenue or tolls to be charged the public and revenue to the city are joint points of deliberation, the city board of directors may take both into consideration with probable good or ill service of competing applicants, and grant any such franchise to the applicant, the grant to whom will result in the greatest benefit to the largest number of citizens of the city, in the board of director's judgment.

Fifth: The board of directors shall, in suitable terms, make it an express condition of the grant of any such franchise, right or privilege, where it is for a work that is useful chiefly to the local public, that at the expiration of such franchise, grant, right or privilege, the grantee shall, if required by the board of directors, sell to the city the physical plant in the city, at what it is then worth, independent of any value based upon the earning power thereof, and may also provide a means of arbitration or otherwise for determining what such value may be; provided, the city is authorized by law to use, maintain and operate such plant.

Sixth: In case a petition for stay of ordinance is presented, in accordance with section twenty-two, and a special election is called for the purpose of accepting or rejecting the application for a franchise, right or privilege, the applicant for the same shall deposit with the city the amount of expenses of said election, which shall be applied to the payment of such expenses, if the franchise is granted, otherwise to be returned to the applicant.

Seventh: No franchise, right or privilege referred to in this section can be granted unless on the affirmative vote of a majority of the membership of the board of directors.

Eighth: The provisions of this section, however, shall not apply to grants made under section twenty-eight of this act.

Sec. 26. Further franchise provisions.

No renewal of any franchise, right or privilege for any such work of public utility or service as is mentioned in the next preceding section, granted for a period of more than three years, shall in any manner be granted until within three years of the time of its expiration.

Sec. 27. Vacation of franchise.

The nonuser of a franchise, right or privilege, for a period continuously of one year, shall vacate and annul the same.

Sec. 28. Private switch grants.

Permission may be given to a person, firm or private corporation, not engaged in conducting a public utility business, to place a switch or tramway on a part of a public street or alley, at grade, for his own or its own use, but the grant shall be so limited as not to exceed ten years, and a charge, in the nature of an annual rental or license charge for the same, payable to the city, may be fixed by the board of directors.

All grants under this section shall be subject to the following restrictions and conditions:

If no time is expressly provided in the grant, it shall be for one year only.

It shall provide that the grantee shall indemnify and save harmless the city against all suits, loss or damage, by reason of the construction or maintenance of such switch or tramway, and that said grant may be altered, amended or repealed upon satisfactory evidence that the grantee has failed to comply with its provisions. Reasonable provisions must be made to protect the public from unnecessary damage or inconvenience by reason of such switch or tramway and the operation or maintenance thereof.

Sec. 29. Ordinances, etc., available for public inspection before enactment; franchises, etc., by ordinance.

Every ordinance, resolution or action appropriating money or ordering any street improvement or sewer or making or

authorizing the making of any contract, or granting any franchise, or right to occupy or use the streets, highways, bridges or public places in the city, or any part thereof, for any purpose shall be complete in the form in which it is finally passed, and remain on file with the city clerk for public inspection at least one week before the final passage or adoption thereof. No franchise, or right to occupy or to use the streets, highways, bridges, or public places in said city, or any part thereof, shall be granted, renewed, altered, amended, repealed or extended except by ordinance.

Sec. 30. General ordinance powers as to city services.

The board of directors shall have authority to acquire or establish, own and operate waterworks, gasworks, and works for generating and furnishing heat and electricity for the use of said city, and to sell water, heat, electricity and gas from such works to persons or corporations outside as well as within the limits of the city, or to buy heat, electricity, water or gas at wholesale and sell the same at retail; to construct and operate other waterworks for the use of said city at any point to be selected by the board of directors, inside or outside of the city limits, and to place and maintain all needed mains, pipes and other fixtures and appliances at such works and between such works and the city, and for these purposes to acquire and hold, by purchase or condemnation all needed lands and rights-of-way inside or outside of the city limits, and to have power to acquire by purchase or condemnation or damage, private property real or personal inside or outside of the corporate limits of said city, to the end that pure, clean, wholesome water may be obtained and supplied to the inhabitants of said city, and to have the power to proceed as provided by law, against any person, firm or corporation who so uses their property either inside or outside of the corporate limits of said city as to pollute the water supply of said city; to establish and maintain a fire department, police department, health department, public libraries, playgrounds, parks, crematory and city prison, and for these purposes acquire and hold all necessary real estate by purchase or condemnation, and also to establish and maintain hospitals and

cemeteries either within or outside the limits of the city, and for these purposes to acquire and hold all necessary real estate by purchase or condemnation, outside as well as within the city limits.

Sec. 31. Weights and measures.

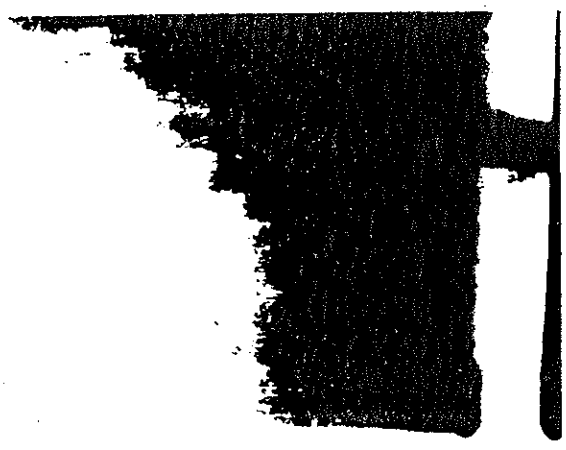
The city board of directors may by ordinance provide for the proper weighing or measurement of all goods of any description whatsoever, which may be offered for sale in said city by either weight or measure; and the board of directors shall further have authority to require by ordinance that goods ordinarily sold by measure shall be sold by weight, and to prescribe proper weights and measures. It shall also be within the power of the board of directors to provide for the inspection of all weights and measures used in said city at such times and in such manner as to the board of directors may seem fit and proper.

Sec. 32. Inspection and regulation of food.

The board of directors may by ordinance provide for the inspection of bread, milk, meat, and all other articles intended for food, including animals from which milk and meat are obtained, and all substances entering into the manufacture of food intended for use in said city; and regulate or prevent the sale, or cause the destruction of any such food or milk as may be unwholesome, adulterated, or dangerous, and provide for the punishment of persons negligently or knowingly selling or offering the same for sale. Under this section the word "food" means anything intended to be eaten or drunk by the inhabitants of the said city.

Sec. 33. Abatement of nuisances; regulating various activities.

The board of directors may by ordinance require and compel the abatement and removal of all nuisances within said city at the expense of the person, or persons causing the same, or of the owner or owners of the ground whereon the same shall be; restrict the driving of hogs, cattle or other



stock within said city, either as to time within which they may be driven, or both; prevent any such stock or dogs and other animals, chickens or other fowl from running at large in said city; or subject the same to such regulations and taxes as they may deem proper. The board of directors shall also have authority to locate, prohibit or license, regulate and tax, slaughterhouses and stockyards, or the exercise of any offensive or unhealthful business, trade or employment within said city; to prevent the firing of guns, crackers, or any combination of gunpowder, or other explosives and dangerous materials in said city; to prevent the driving or riding of horses or other animals, the riding of bicycles or other vehicles, the running of locomotives or automobiles propelled by steam, electricity or other power, and of cars of all kinds at a speed exceeding that prescribed by an ordinance of the city, within its limits; and, generally, to prevent such conduct in the city as is prejudicial to the comfort, health, convenience, safety, peace and good order of said city or the inhabitants thereof, and to make and ordain appropriate provisions and penalties for the enforcement of all the lawful regulations of said city, respecting the matters hereinbefore in this section mentioned.

Sec. 34. Markets.

The board of directors may establish markets in and for said city, maintain or authorize the maintenance of any already established, appoint the time and place for holding the same, provide suitable buildings therefor and ordain and enforce such regulations respecting the markets as in its opinion the convenience or interest of the inhabitants of said city shall require, among others such regulations as it shall deem necessary or proper to prevent forestalling therein.

Sec. 35. Assessment for abatement of property nuisances.

If any ground in the said city shall be subject to be covered by stagnant water, or if the owner or owners, occupier or occupiers thereof, shall permit weeds, rank growth, or offensive or unwholesome substances to remain or accumulate

thereon, the board of directors may cause such ground to be filled up or drained, or such growths or substances to be cut or covered up or removed therefrom, and collect the expense of so doing from the said owner or owners, occupier or occupiers, or any of them, by distress and sale, in the same manner as taxes levied upon real estate for the benefit of said city; provided, however, that at least five days' notice of what is required shall be given to the said owners or occupiers, or their agents.

In case of nonresident owners, who have no agent in said city, such notice may be given by publication, for not less than ten days in some newspaper printed in said city, at the expense of said owners.

Sec. 36. Providing for public safety and welfare.

The board of directors may pass and cause to be enforced such ordinances as it shall deem necessary or proper to secure the inhabitants of said city against thieves, robbers, burglars, persons carrying concealed weapons, and all other persons violating the public peace of said city, for the suppression of riots and gaming, and for the prevention and punishment of lewd, lascivious, indecent or disorderly conduct in said city. The board of directors shall also have the authority to provide in like manner for preventing children under twelve years of age from being at large and unattended in the streets or alleys, commons, parks, fairgrounds, or other public places within the city; to provide for the prevention of cruelty to animals, and of cruelty, neglect, or otherwise, to aged, feebled or imbecile persons or children, within the city; and to provide for the welfare, health and safety of persons in theaters or other places of amusement, including assembly and lodge rooms, requiring proper sanitary hygienic arrangements together with adequate exits and fire escapes.

Sec. 37. Explosives and combustibles.

The board of directors may by ordinance require that suitable magazines or places shall be provided in or near said city for the storage of gunpowder, dynamite, petroleum and

the volatile products thereof, and all explosives and combustible and dangerous articles; make and enforce such regulations as it may deem necessary respecting the place and manner of transporting the same, and assess and collect an annual license tax for the keeping and selling of any or all such articles.

Sec. 38. Shows and exhibitions.

The board of directors may by ordinance regulate theatrical exhibitions, public shows, musical performances and hypnotic exhibitions, and all performances to which admission is obtained by the payment of money or other reward, and grant or refuse license for any such performances, and levy and collect license taxes on the same.

Sec. 39. Licensing conveyances, hawkers, etc.

The board of directors may grant licenses to owners and keepers of horses, hacks, carts, wagons, drays, automobiles, bicycles and every description of wheeled vehicles kept within the said city; levy and collect license taxes as well as other taxes thereon, and subject the same to such regulations as the interest or convenience of the inhabitants of said city, in the opinion of the board of directors, may require. The board of directors shall also have authority to license and collect license taxes from hawkers and peddlers within said city, and persons who rent temporary quarters or who temporarily station themselves upon a street to sell or exhibit articles, and all butchers who do not rent a stall or stand in any of the market houses in the city hawking and peddling meat on the streets of the city must take out and pay the license required by the city of hawkers and peddlers.

Sec. 40. Fortune-telling; clairvoyance.

It shall be unlawful for any person, in said city, to hold himself or herself out as a fortune-teller, clairvoyant, mind-reader or palmist, and purport and claim to tell the future or the past by the above or any other hidden and secret

methods or science, or to practice the above callings, avocations or professions, and the board of directors may pass an ordinance prohibiting the same and prescribing penalties for its violation. Nothing in this section contained shall be construed so as to regulate or control any religious association or body.

Sec. 41. Auctions; loan agencies.

The board of directors may by ordinance regulate sales at auction within said city, and levy and collect taxes upon such sales; grant or refuse licenses to auctioneers, and loan agencies, and levy and collect taxes upon such licenses, in addition to any tax which may be payable to the state; provided, however, that nothing herein contained shall be construed to authorize any interference by the corporate authorities of the city with, or the imposition of any tax upon any sale made under the judgment or decree of any court of justice in this state, or made by a trustee under a deed of trust given in this state, or made by a trustee under a deed of trust given bona fide in this state to secure debt.

Sec. 42. Hotels, restaurants, stables, garages.

The board of directors shall have exclusive authority within said city, by ordinance, to grant or refuse license to the keepers of hotels, inns and taverns, houses of public or private entertainment, not used for immoral purposes, boarding-houses, public eating houses, places of public amusement, and boarding stables or stables for keeping and feeding horses and mules for compensation, and automobile garages; provided, however, that persons keeping an inn, hotel or tavern, with stabling attached, shall not be required to have any other license to keep an inn, hotel, or tavern, by reason of their keeping and feeding horses and mules for compensation. The board of directors shall further have authority, by ordinance, to regulate the manner in which such houses or places shall be kept, and to levy and collect a license tax from every person licensed under the authority of this section, in addition to all other taxes imposed upon him or his property.

Sec. 43. Pawnbrokers.

The board of directors may by ordinance require a city license from persons conducting the business of pawnbroker or loan agent in the city by lending money or other thing of value for profit, for or on account of personal property deposited with the lender in pledge, or left in the possession of the borrower and secured to the lender by lien, pledge, mortgages, or deed of trust.

Sec. 44. City may license state licensees.

The board of directors may by ordinance require city licenses for persons conducting and carrying on any business or vocation in the city for which the state may now or hereafter require licenses.

Sec. 45. Failure to obtain license.

The board of directors may by ordinance subject any person or persons, who without having obtained a city license therefor, shall do any act, or follow any employment or business in said city, for which the board of directors is or shall be authorized to grant license, to any fine or punishment which they are authorized to impose or inflict [in] the enforcement of their ordinance.

Sec. 46. Public ways and grounds, extension powers.

The board of directors may, by ordinance, within said city lay out and cause to be opened any streets, walks, alleys, market grounds, and public squares, or extend or widen the same, first having obtained title to the ground necessary for the purpose, and grade any street, walk, alley, market ground or public square which is or shall be established within said city, pave or otherwise improve the same, and cause them to be kept open and in good repair, and generally ordain and enforce such regulations respecting the same, or any of them, as shall be proper for the health, interest or convenience of the inhabitants of said city.

Sec. 47. Work without contractors or middlemen.

The board of directors may by ordinance have all work done without the intervention of contractors or middlemen, but shall not be compelled so to do.

Sec. 48. Taking or damaging land for public purposes.

The board of directors may cause to be taken or damaged for the use of the city, for streets, alleys, markets, bridges, public squares, parks, playgrounds and other municipal purposes, including occupation by sewer, water pipes, gas pipes, heating pipes, compressed air pipes and electric or other subways, any private property within the city, (and where such use is to secure or improve the water supply, or for park, playground, sanitary or cemetery purposes, outside the limits of the city), but no such property shall be taken or damaged without just compensation. The compensation, if it cannot be determined by agreement with the owner of the property so taken or damaged, shall be ascertained in such manner as is, or may be, prescribed by general law for the condemnation of land for public purposes.

Sec. 49. City planning commission.

There shall be a city planning commission of three members, consisting of the city manager and two citizens to be elected by the board of directors. The said citizen members shall be chosen because of their knowledge of city planning and kindred subjects, shall serve without compensation, and shall hold their positions at the pleasure of the board of directors. The board of directors may in its discretion appropriate such sums of money as shall be needed to defray the necessary expenses of said commission.

The duties of the city planning commission shall be advisory only to the board of directors, and in general said duties shall be as follows:

First: To keep itself informed of the progress of city planning in this and other countries, to make investigations

into existing physical conditions in the City of Bluefield and vicinity and compile information relative thereto.

Second: To determine and report upon what should be done to improve those conditions.

Third: To prepare a comprehensive city plan for the future improvement and growth of the city within and without the city limits, including recommendation for:

(a) Extension of streets and opening of new subdivisions.

(b) Improvement of entrances and terminals to and from the city, particularly those of the public service corporations, looking to the future harmonious development of a city plan.

(c) A rapid transit system, including terminal projects when the same may become advisable.

(d) Extension of car lines into outlying districts.

(e) Playgrounds, parks and boulevard system.

(f) Location of public buildings and other public works as in the opinion of the commission, will tend to make Bluefield a more convenient and attractive city.

Fourth: After money to cover the cost thereof shall have been appropriated by the board of directors, to cause the necessary survey to be made, and to prepare a plat for the extension of the city for such distance beyond the city limits as said commission shall deem advisable, which plat shall harmonize with projected improvements within the present city limits, shall carefully conserve the topography of the land as may be requisite for sanitary influences and purposes, and shall make ample provision for factory and other commercial territory, with efficient transportation service, and may provide residence areas apart from the commercial and industrial zones; provided that such plat shall not include territory within the corporate limits of any other city or town.

Fifth: To suggest, upon the written approval of its chairman and of the city manager, such legislation as may be necessary to facilitate the carrying out of the commission's recommendation. (Amend. 1958)

Sec. 50. Paving—Generally.

The board of directors may cause any street or alley to be paved, or repaved between the sidewalks, or between the parkways, with cobble, asphalt, stone, brick, or other suitable materials, under such regulations as shall be fixed by ordinance, upon the lowest and best terms to be obtained by advertisement for bids on proposals therefor by the board of directors as herein provided; or the board of directors may have such work done without the intervention of contractors or middlemen; and the cost of such paving and repaving shall be paid in compliance and accordance with all of the provisions of chapter eight of the West Virginia Code. (Amend. 1972)

Sec. 51. Same—On request.

If two-thirds, or more, of the owners of the property abutting on any street or alley, or any section thereof which shall lie between intersecting streets or alleys, shall desire the same to be paved or repaved, and shall present a petition to the board of directors, setting forth their desire and describing the street or alley, or the section thereof desired to be paved or repaved, the board of directors may, within a reasonable time cause the said work to be done, after the method set forth in the next preceding section, the provisions of which section shall apply to the last named paving or repaving. (Amend. 1972)

Sec. 52. Sewers—Constructing.

The board of directors of the City of Bluefield may order a sewer or sewers to be constructed in or through any street or alley in the city, under such regulations as may be prescribed

by ordinance either by the city itself, or upon the lowest and best terms to be obtained by advertisement for bids therefor by the board of directors; the cost of the construction of any such sewer or sewers, to be paid by the city.

Sec. 53. Same—Connections.

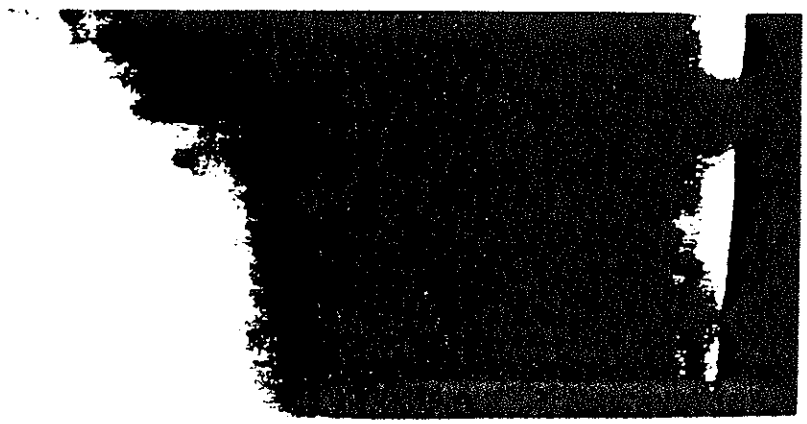
The board of directors shall have the authority to regulate by ordinance, the manner and time in which connections are to be made with the sewers of the said city by the owners of property therein, and shall have the authority to compel the owners of any property abutting upon a street or alley, in which there is a sewer, to connect their pipes therewith under the regulations prescribed by the board of directors, and may charge such person or persons a reasonable amount therefor, to be fixed by the board of directors by ordinance; and in case of the failure of the owner of any such property to so connect his sewer pipe with any such sewer when required, the board of directors may provide by ordinance such fines and penalties as in its discretion may be necessary to effect a compliance with its regulations. The amount fixed by the board of directors for the connection with such sewer shall be paid into the city treasury to the credit of the fund to be used for sewers, and shall be used for no other purpose.

Sec. 54. Sidewalks.

The board of directors may by ordinance establish the width of any sidewalks along any street, alley or public square or part thereof, and cause to be constructed or reconstructed, the curbing thereon, and require that when any such street, alley or public square, or part thereof shall be prepared by the city for the laying of sidewalks, by grading the sidewalk space, either by filling or cutting, as the case may require, the owner or owners of any ground fronting on such sidewalks adjacent to their property shall be required to pave or repave the same; and in case of the failure or refusal of such owners so to do, the city may cause the same to be

properly paved or be repaved by others than such owner or owners, and levy and collect from such owner or owners the cost of the paving or repaving adjacent to his or their property, or where the cost cannot be conveniently ascertained, levy and collect a special tax to defray the expense of such paving or repaving upon the owner or owners of such adjacent ground, who fail to pave as required, by an assessment upon each, proportionate to the number of front feet which he shall own abutting on the sidewalk. The board of directors shall have power, by ordinance, in like manner, to require the owner or owners of property adjacent to any paved sidewalk whether heretofore or hereafter constructed, to keep such sidewalk in repair, and in default of his or their so doing, to cause the same to be repaired, and assess the cost thereof upon such owner or owners. It shall be lawful for the officers authorized by the board of directors to collect any such tax or assessment for the cost of such paving or repaving, to collect the same from the owner or owners of such grounds at once by distress and sale as provided in sections seventy-three and seventy-four of this charter, and such assessment shall be a lien upon such adjacent property, which may be enforced as taxes assessed upon estate for the benefit of the city. All disturbances of any streets or alleys of the city (including sidewalks), or public ground of said city, caused by digging therein for the benefit of a private person or firm, other than the city itself, and except where the digging is done by the city to furnish water, gas or other commodity to such private person or firm, for a consideration, shall be repaired by the city at the expense of the person or firm for whose benefit, or for the benefit of whose property the digging is done; and the board of directors shall by ordinance require the enforcement of this duty, including the duty of making repeated repairs, as often as the defect so caused shall reappear.

The board of directors may by ordinance establish a date from which new or renewed sidewalks along any of the streets or alleys of the city must be made uniform as to width, material and construction for paving and repaving sidewalks.



Sec. 55. Ornamental streetlighting.

The board of directors may, by ordinance, establish a district or zone which shall include the business section of the city, for the purpose of ornamental streetlighting, the limits of said district or zone to be defined in said ordinance.

The board of directors may order ornamental streetlights placed upon any street within the said ornamental lighting district or zone, the same to be fully described in such ordinance, which shall also state the distance such lights shall be placed apart, and assess and collect the cost of the installation of same from the owners of the property abutting on said street in proportion to the frontage owned by each. And such assessment shall be made in the same manner and shall become a lien upon the property abutting upon the said street to the same extent as herein provided for liens against property for sidewalks constructed upon any street by the city, and the remedies herein provided for the collection of sidewalk assessments against property owners or the property abutting upon any street upon which a sidewalk is laid by the city, shall apply to the collection of any assessment made for the construction of ornamental streetlighting upon any street upon which such lights are installed; provided, however, that electric current for any such streetlights or system of streetlighting shall be carried by wires placed beneath the surface of the street or sidewalk, and in no event shall such a system of lights or lighting be established by electricity carried from wires on poles located along said street, unless all parties owning property abutting upon said street shall join in a petition to the board of directors asking that poles be used instead of the underground system as hereinbefore set forth.

Sec. 56. Buildings—Regulating those over ten feet high.

The board of directors may, by ordinance, prohibit the erection within any square or squares of the city, of any building or any addition to any building, more than ten feet high, having in the foundation or outer walls thereof, or the outside covering of the roof thereof, any wood or other combusti-

ble material; and provide for the removal of any building, or addition which shall be erected contrary to such prohibition, at the expense of the builder or builders, or owners thereof.

Sec. 57. Same—Inspection; permits; unsafe structures.

The board of directors, by ordinance, may establish a system of regulations by which all plans for the construction of buildings or additions thereto within the city shall be required to be submitted to the board of directors or some other designated officer or officers of the city, for inspection as to the safety of all flues, elevators, drainage, plumbing, electrical wiring, power and lighting or heating arrangements, and as to the sufficiency of all supporting parts and the general safety of such buildings and additions.

The board of directors may provide by ordinance, that no building or addition thereto, shall be erected within the city without the owner or builder thereof having first obtained from the officer designated to make such inspection, a license or building permit authorizing the erection of such structure. Such ordinance may provide for the keeping of a permanent record of all such permits or licenses, and the keeping on file, or on record, of a full description of all such buildings and structures. The board of directors may, by ordinance, establish and maintain supervision over the construction and maintenance of electrical conductors within said city, whether they be located within or outside of a building.

The board of directors may, by ordinance, regulate buildings, already constructed, which are either dangerous, unsafe or in a bad sanitary condition, and may require the removal or reconstruction of the same, or that they be repaired so as to render them safe or put in proper condition.

Sec. 58. Power to enact laws.

The board of directors shall have authority to pass all ordinances not in conflict with the Constitution and laws of the United States, or of this state, which shall be necessary and proper to carry into effect any power, authority, capacity or jurisdiction which is or shall

be granted to, or vested in, the said city, or in the board of directors or any officer of said city; and to provide for the enforcement of any and all of their ordinances by reasonable fines and penalties, or by imprisoning the offender or offenders violating such ordinances, and by compelling them to labor without compensation, at any of the public works or improvements undertaken by said city, or by any or all of the said modes; provided, however, that no person shall be imprisoned or compelled to labor as aforesaid more than thirty days or fined more than a fine authorized for a similar offense by the West Virginia Code, or fined more than one hundred dollars for any offense not appearing in the West Virginia Code. (Amend. 1972; Ord. No. 81-5, 5-12-81)

State law reference—See W.Va. Code, § 8-11-1.

Sec. 59. Police court judge.

The judge of the police court shall receive a salary to be fixed by the board of directors, and no other compensation shall be allowed him. He shall preside over said police court and try and determine all cases over which said court has jurisdiction. At his request, or where necessary in his temporary absence or disability, the board of directors may appoint assistant judges of police court to discharge some or all of his duties, or to aid him in the discharge of some or all of his duties. The purpose and the limitations, if any, upon the appointment of such assistant police court judges, shall be stated by the board of directors in the appointments of any such assistant police court judges, which appointments shall also set out the compensation to be paid them. (Ord. No. 83-5, 8-9-83)

Sec. 60. Police court jurisdiction—Generally.

The said police court shall have jurisdiction over all offenses against, or violation of, the ordinances of said city, and full authority to punish in any manner lawfully prescribed by such ordinances, the offenders against, or violation of, the same; provided, however, that no jury shall be allowed in any trial in said court for the violation of any ordinance of said city.

Sec. 61. Same—Enforcement of penalties.

The proceedings for the recovery of the fine or for the enforcement of the penalty prescribed by any ordinance shall

conform to the regulations as far as they are applicable, prescribed in the Code of West Virginia for civil proceedings before justices of the peace; but the judge of said court may, for good cause, shown by affidavit, by an endorsement upon the summons, order the defendant or defendants to be arrested and brought before the said court to be dealt with according to law.

Sec. 62. Same—Violation of state law.

In cases where evidence discloses such a violation within the city, of a law of the state, that, in the opinion of the judge of the police court, the person accused should be committed to await the action of the grand jury upon an accusation made, the judge of the police court shall have the same jurisdiction and power as a justice of the peace in the County of Mercer, in regard to the apprehension, commitment and admission to bail of the person so accused; and in the exercise of such jurisdiction and powers, shall be governed by the same regulations.

Sec. 63. Sessions of court.

The sessions of said court shall be at such time and place as the board of directors of said city shall by ordinance direct.

Sec. 64. Enforcement of orders and judgments by police court; fees.

The said court shall have full power and authority to enforce its orders and judgments by any process of law which may be necessary and proper for the purpose, and all processes, executions and orders of said court shall be signed by the judge thereof. Such processes and executions shall be directed to the chief of police of said city, and be executed by him or one of his deputies. In the execution of any process or order of said court, the chief of police or deputy shall have the same powers, be governed in his proceedings by the same rules of law, and be subject to the same liabilities as the sheriff of Mercer County, West Virginia, in the performance of like services. There may be charged for the services of

such officer the same fees as the sheriff is entitled to charge for like services, but all such fees, as well as all fines imposed by said court, shall be collected by the chief of police and accounted for and paid by him to the treasurer of the city. The city shall in no event be liable for any such fees.

Sec. 65. Court docket, seal, records.

A docket and other books required for the records and a seal shall be provided for the said court by the board of directors, and the seal may be altered or renewed as the said court may direct. Full faith and credit shall be given to the records of said court, and the certificates of its judge whether the seal of said court be fixed thereto or not, in like manner and with the same effect as if the same were records of the circuit court or certificates of the judge of a circuit court similarly authenticated.

Sec. 66. Costs of prosecution.

The said police court shall have power, upon rendering judgment against a defendant charged with the violation of an ordinance of the city, to render judgment against him also for the costs of prosecution. In every suit or prosecution for the violation of an ordinance the said court shall cause the person or persons at whose instance it was instituted to be designated upon the warrant or writ issued to arrest or summon the person charged, and if the person or persons charged shall not be convicted in such court, and such court shall be of the opinion that no sufficient or probable cause existed for the institution of the said suit or prosecution, then judgment for the costs of the city, and of the defendant, or of either of them, as the court shall deem just, shall be rendered against the person or persons at whose instance such suit or prosecution was instituted.

Sec. 67. Appeals.

From the judgment of the police court in any case in which there is imposed a fine of ten dollars or more, or imprisonment, or both, or in any case involving the validity of an

ordinance of the said city, an appeal shall lie as a matter of right, to the criminal court of said Mercer County, either on behalf of the defendant or the city, and in any case where a fine is imposed, on demand of the defendant, such fine must be fixed at not less than ten dollars, so that such appeal may be taken; but no defendant shall be entitled to such appeal until and unless he executes before the said police court, bond in such penalty, not exceeding two hundred dollars, as the said police court may prescribe, conditioned for the performance of the judgment or order of the criminal court of said county made or rendered upon such appeal. Every such bond shall be with security approved by the said police court; but in any case in which an appeal is taken or granted on behalf of the city, no bond or security shall be required. Every such appeal shall be proceeded with in the criminal court in the same manner as is provided by law for the proceedings in such criminal court, in cases appealed from justices of the peace. If on such appeal judgment be against the appellant it shall also be against the sureties on his appeal bond for costs, and for any fine or percuniary penalty adjudged against him. No such appeal shall be allowed after ten days from the date of any fiscal order or judgment desired to be appealed from.

Sec. 68. Government buildings, hospitals, parks, libraries, etc.

The board of directors shall have the authority to erect, buy, sell, and lease all buildings necessary for the use of the city government, and to provide for and regulate the same; to establish, regulate and maintain public parks, hospitals, libraries, and reading rooms, and to purchase books, papers, and manuscripts for such libraries and reading rooms, and to receive donations, gifts, or bequests for the same in trust or otherwise.

Sec. 69. City prison.

It shall be lawful for the board of directors to maintain within said city a prison, and to ordain and enforce all necessary or proper regulations respecting the same, and to vest in the officer or officers of said prison, under the supervision of

the city manager, any powers and duties which, by the laws of this state, are or shall be vested in or imposed on the sheriffs or jailors of the several counties in this state in relation to the county jails, or the custody of persons imprisoned therein.

Sec. 70. Annual audits.

At the end of each year the board of directors shall cause a full and complete examination of all the books and accounts of the city to be made by competent accountants, and shall publish the result of such examination in connection with the annual city financial statement required by law.

Sec. 71. Taxation—Statutory power.

The board of directors shall have power and authority to levy taxes on all property subject to taxation within the city in accordance with the provisions of chapter nine of the acts of the Legislature of West Virginia, special session of one thousand nine hundred and eight, and as it may be amended, and in the making of such levies the said board of directors shall comply with all the provisions of said act as the same now exists, or as it may be hereafter amended insofar as it applies to the laying of levies by municipalities. The taxes so levied as aforesaid shall be levied upon the values of the real and personal property within the city as the same shall be ascertained by the assessor [of] Mercer County.

Sec. 72. Same—Scope of property and activities.

The board of directors shall have authority to levy and collect an annual tax on real estate and personal property in said city, and to impose a license and assess a tax thereon on wheeled vehicles for public hire, and for all dogs and horses kept within said city, and upon automobile garages, and gasoline filling stations occupying any street or alley, and to impose a tax upon all other subjects of taxation as provided in this charter, or under the several laws of the state, which taxes shall be uniform with respect to persons and property within the jurisdiction of said city, and shall only be levied on

such property, real, personal and mixed, and on capital on which the state imposes a tax; provided, the levy upon all taxable property of said city shall not exceed for all purposes one dollar upon the one hundred dollars valuation. There shall be a tax of one dollar annually assessed on each inhabitant of said city over the age of twenty-one years who is subject to a capitation tax under the laws of the State of West Virginia. The same shall be set out and included in the personal property book against every such inhabitant, and shall be collected under the authority of the board of directors at the time of collecting other levies and taxes.

Sec. 73. Same—Due date; collection procedure.

The taxes levied by the board of directors for the use of the city shall become due at the same time as taxes levied for the use of the County of Mercer, and the treasurer of said city, or such other person as the board of directors may direct, shall collect the same at the same time, and in the same manner, as taxes are collected by the sheriff of Mercer County for county purposes, and the same discount shall be allowed to those paying taxes to the city and the same penalties added as in the case of taxes collected by the sheriff of Mercer County, it being the intention of this act to make the collection of taxes levied for the purposes of the city uniform in all respects with the collection of taxes for county purposes, and the treasurer of said city, or such other person as may be designated by the board of directors for the collection of taxes, is hereby clothed with all the power within the said city for the purposes of collecting city taxes, that is now possessed by the sheriff of Mercer County for the collection of county taxes.

The treasurer, or collector, on the first Monday in June next succeeding the year for which such taxes were assessed, shall make out and return to the board of directors two alphabetical lists, one a list of real estate, and the other a list of persons and property other than real estate, in the city delinquent for the nonpayment of taxes thereon for such year and shall subscribe on oath to each list in form and effect as

sheriffs are required to make to delinquent lists returned to county courts, and the board of directors shall not give the treasurer or collector, credit for any uncollected taxes unless the same have been abated as prescribed herein or are mentioned in such lists. If any real estate within said city be returned delinquent for the nonpayment of the taxes thereon and such return shall be made by the treasurer or collector thereof, in the manner aforesaid, a copy of such delinquent list shall be certified by the board of directors to the auditor of the state, and the same shall be sold for taxes, interest, and commissions thereon, in the same manner and at the same time, and by the same officer as real estate is sold for the nonpayment of state and county taxes. A copy of said delinquent list within ten days after it has been certified by the board of directors, shall be filed in the office of the clerk of the county court of Mercer County, and recorded in a well-bound permanent book, to be furnished by the city, and kept and preserved in said office for that purpose; provided, however, that a copy of each of said lists shall be posted at the front door of the city hall of said city at least two weeks before said lists are returned to the board of directors, and a copy of said lists shall at the same time be printed for one time in two newspapers of opposite politics, if such there be in said city.

Sec. 74. Same—Power of treasurer to collect.

The treasurer shall have power to collect the city taxes, except as otherwise provided in this act, and he shall also have power to collect city claims which may be placed in his hands by the board of directors for collection, and to execute, within the city, any process which might be executed by the sheriff of Mercer County.

Sec. 75. Same—Power to distrain for taxes.

All goods and chattels belonging to a person, firm, corporation or estate, assessed with any city taxes, whether the same be a capitation tax or a tax upon real or personal property, or an assessment for paving or other improvements shall

be liable for said tax, and may be distrained therefor in whosesoever possession they may be found, and the treasurer shall have the same power to collect said taxes or assessments from any person owing a debt to or having in his possession any estate belonging to a person assessed with any tax or assessment of any kind that the sheriff has to collect state taxes in such cases. The treasurer may distrain and sell for all city taxes and assessments and in all respects have the same power to enforce the collection thereof as the sheriff has to enforce the collection of state taxes.

Sec. 76. Same—Imposing liens for taxes.

There shall be a lien upon all real estate within said city for the city taxes assessed thereon, including such penalties added thereto for nonpayment thereof as are prescribed by this act, from the first day of January of the year in which said taxes are assessed. Said liens may be enforced by appropriate suit in any court of record within Mercer County; provided, such suit be instituted within five years from the time the said liens attached as herein provided, and such suit may either be instituted by and in the name of the City of Bluefield as plaintiff, or said city may intervene by petition in any suit pending to sell or enforce liens against any real estate which is subject to such lien for said taxes.

The liens herein created shall have priority over all other liens except those for taxes due the state.

Sec. 77. Same—Enforcement of liens.

Said liens for city taxes and attendant penalties may also be enforced by certifying the same to the clerk of the county court of Mercer County for certification to the state auditor, and the same may be certified down by said auditor, and sold for the taxes, interest, penalties and commissions thereon, in the same manner, at the same time and by the same officer as real estate is sold for the taxes, interest, damages, costs and commissions due the state thereon, which officer shall account therefor on settlement with the board of directors, and pay over the same to the treasurer of the city.

Sec. 78. Debts of city—Limits on payment.

Neither the city clerk, the treasurer, nor any other disbursing officer of the city, shall issue any order or check for the payment of money for any work, matter or thing contracted for or ordered by the board of directors or any officer or employee of the city, which shall have been so contracted for or ordered wholly or in part in excess of the amount which shall have been previously set by ordinance or resolution as the limit of expenses of the department to which such work, matter or things belongs, or in excess of the amount previously appropriated for the payment thereof, or in the city treasury available for such payment. The foregoing provision of this section is intended as a restrainer provision, and it is further declared that no act of such clerk, treasurer or other disbursing officer shall be in anywise held to render valid any debt contracted by or on behalf of the city in violation of the constitution and laws of the state. If any such officer of the city, as is mentioned in the first sentence of this section, shall violate the provisions thereof, he shall be disqualified from holding his office, and shall forfeit and pay for such violation to the city a fine of not less than twenty dollars, nor more than one hundred dollars, or be imprisoned for a term not exceeding one year, or both.

Sec. 79. Same—Legal limit.

No debt shall be incurred by said city even with the consent of the voters, to an amount, including existing indebtedness, in the aggregate exceeding the amount fixed by law of the State of West Virginia.

Sec. 80. Deposits of city funds.

The board of directors shall provide by ordinance, for the deposit of all public moneys of the city, in such bank, or banks, situated within the city, as offer, at competitive bidding, the highest rate of interest and give a good and sufficient bond to the city, to secure the accounting for and due

payment of such public money, with security approved by board of directors. The security shall always be in a sum less than ten per cent, in excess of the maximum amount any time deposited, but there shall not be deposited in any bank an amount in excess of the paid-up capital stock surplus of such bank, and not in any event to exceed million dollars.

In such ordinance the board of directors may determine method by which such bids shall be received, the authority which shall receive them, the duration of the contracts respecting deposits of public money, and all details for carrying this section into effect. Proceedings in connection with such competitive bidding and the deposit of money shall be conducted in such manner as to insure full publicity, and shall be open at all times to the inspection of any citizen. As to any deposits made under authority of an ordinance of the board of directors, passed pursuant to this section, neither the depositing officer, nor other persons so depositing, nor such officer's sureties shall be liable for any loss occasioned by the deposit, or in anywise growing out of it.

Sec. 81. Improvement, etc., bonds—Procedure.

All provisions of general law governing the issuance and sale of bonds by municipalities and the investment of sinking funds shall be applicable to the issuance and sale of bonds and the investment of sinking funds by said City of Bluefield, except as herein otherwise provided. All the provisions of general law governing the levying and collecting of taxes for the use and benefit of municipal corporations shall be enforced and applied by the board of directors in the levying and collecting of taxes for the use and benefit of said City of Bluefield, except as herein otherwise provided, and the provisions of general law requiring the making and publishing of estimates of expenditures in advance of the laying of levies therefor, and limiting the amount of such levies, shall be enforced and complied with by the board of directors of said city.

Sec. 82. Same—Issuance.

The board of directors may refund the lawful bonded indebtedness of said city by issuing bonds of the city, payable within twenty years, bearing no greater rate of interest than five per cent, but the indebtedness of the city shall not thereby be increased without the consent of the voters of said city being first had and obtained, as provided by law.

Such bonds shall not be sold for less than par nor exchanged for the evidence of said indebtedness of said city, except dollar for dollar, and there shall be provided a sinking fund that will discharge said bonds as they shall become due. Said bonds shall express on their face that they may be paid at any time after five years, at the pleasure of the city. A record shall be kept of all proceedings hereunder; provided, that nothing herein contained shall be construed to authorize an increase of the bonded indebtedness of said city beyond the amount now authorized by law.

Sec. 83. Investigations of official malfeasance; removal from office.

The board of directors shall have authority at its discretion, upon the filing before it, by any person, of charges in writing, of malfeasance or nonfeasance in office, of gross immorality, or any improper conduct, verified by affidavit, against any officer of the city, in any department thereof, to make or cause to be made an investigation of such charges. The board of directors shall have authority to require the attendance of witnesses, and the production of any books or papers pertinent to such inquiry or investigation. Any officer found guilty of any such offense shall be removed from office.

Sec. 84. Bribery—Definition; punishment.

Any person who shall bribe, by directly or indirectly giving to or bestowing upon a member of the board of directors of the city, or other officer thereof, any money, testimonial or other valuable thing, or do any act beneficial to such officer, in order to influence him in the performance of any of his official or public duties, shall be deemed guilty of a felony,

and, upon conviction thereof, shall be imprisoned in the penitentiary of the State of West Virginia, for a term of not less than two years, nor more than five years, and shall, moreover, be forever disqualified from holding any office or position of honor, trust or profit in said city.

Sec. 85. Same—Attempting; punishment.

Any person attempting to bribe, by offering or proposing to give any officer or member of the board of directors of the said City of Bluefield, money, testimonial, or other valuable thing, or to do any act beneficial to such officer or member of the board of directors in the performance of his official or public duties, shall be deemed guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary of the State of West Virginia, for not less than one year, nor more than three years, and shall, moreover, be forever disqualified from holding any office of honor, trust or profit in said city.

Sec. 86. Same—Demanding or receiving bribe; punishment.

If any member of the board of directors of the City of Bluefield, or other officer of the said city shall demand or receive from any corporation, company, firm or person, any money, testimonial or other valuable thing, for the performance of any of his official or public duties, or for refusal or failure to perform the same, or for any vote or influence he may give or withhold as such member of the board of directors or other officer, or for making any particular nomination or appointment, he shall be deemed guilty of felony, and, upon conviction thereof, shall be imprisoned in the penitentiary of the State of West Virginia, for not less than five years, nor more than ten years; and shall, moreover, be forever disqualified from holding any office or position of honor, trust or profit in said city.

Sec. 87. Same—Testifying as to.

Any person bribing or attempting to bribe, or demanding or receiving a bribe, fee, reward or testimonial, as set forth

in any of the three next preceding sections, shall be compelled to testify against any person or persons who have committed any of the offenses in said sections mentioned; provided, that any person so compelled to testify shall be exempted from trial and punishment for the offense of which he may have been guilty, and concerning which he is compelled to testify.

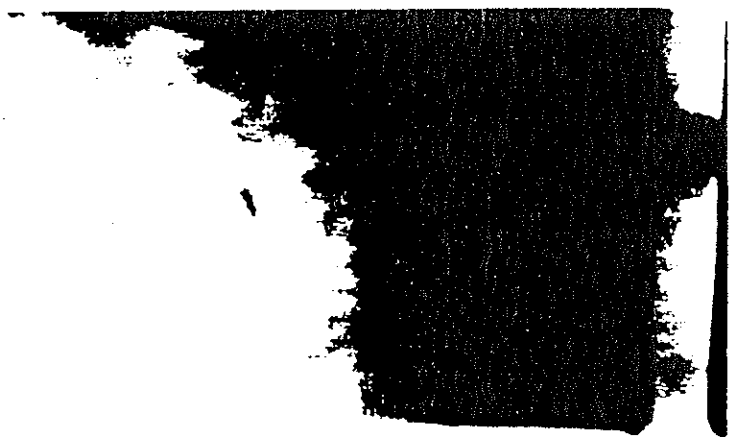
Sec. 88. Annual account by officers who handle money.

All officers of the City of Bluefield, who shall collect or receive or whose official duty it is, or shall be, to collect, receive, hold or pay out any money belonging to, or which is or shall be, for the use of said city, shall make annual account and settlement therefor. Such settlement, when made, shall be subject to exceptions and take such direction, and have only such force and effect as may be provided by law; but in all cases, such settlements shall be recorded, and be open to examination of the people, at such convenient place or places as may be appointed by ordinance of the city.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and fined not less than fifty dollars nor more than one hundred dollars, or imprisoned not less than two nor more than twelve months, or punished by both such fine and imprisonment.

Sec. 89. Prior obligations to continue.

All contracts, grants, easements, rights, privileges or consents on, in or relative to any street, alley, or public ground or property of said city, made by the council of said city, or by any board or officer thereof, prior to this charter taking effect, and all other contracts, grants, easements, rights, privileges or consents entered into or granted by the said city or its duly constituted authorities, at any time prior to this charter taking effect, which are now in force, or which may have been lawfully entered into or granted within any territory hereafter annexed to the City of Bluefield and be in force and effect, when the annexation is made, shall continue in full force and effect, and be respected and complied with by the



City of Bluefield, and the board of directors and other officers thereof under this charter, and all indebtedness incurred by the said city, prior to this charter going into effect, shall be binding upon the City of Bluefield, under this charter, and be paid by it out of its revenues.

Sec. 90. Admission into evidence of ordinances.

All copies purporting to be copies of the ordinances of said city or extracts from the journal or minutes of the board of directors, which shall be printed by the authority of the board of directors, or which shall be certified to be correct by the mayor of said city under the seal thereof, shall be received by all courts and magistrates of this state as prima facie evidence of the tenor of such ordinances, and of the acts and proceedings of the board of directors therein set forth.

Sec. 91. Prior ordinances not affected.

All valid ordinances and regulations passed and adopted by the duly constituted authorities of the City of Bluefield on or before the date this charter goes into effect, and not inconsistent with this act, shall be and remain in full force until amended or repealed.

Sec. 92. Fees to be paid into treasury.

All fees and money paid to an officer of the city, for any official service, shall belong to the city and be paid at once into the city treasury by such officer, the salary or compensation given by the city to its officers respectively, being all the compensation they shall be entitled to for any official service.

Sec. 93. General penalty.

Any person who shall violate any of the provisions of this charter for the violation of which no punishment has been provided herein, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

Sec. 94. Civil service provisions.

The city board of directors, in its discretion, may appoint a civil service commission for the purpose of examining applicants for positions in the fire, police and health departments. Said commission shall consist of three citizens, not all of whom shall be of one political party. Any vacancies occurring in the commission shall be filled by the board of directors. For the purpose of conducting tests in the departments specified they shall conduct practical examinations annually or oftener, fixing grades and classifications as they may determine, and a list of those successfully passing the examinations prescribed shall be furnished to the city manager. Such list shall be known as the "eligible list," and, unless for good cause shown, selections must be made from among the three applicants rated highest for the appointments necessary to be made. Said list and all examination papers shall be kept on file in the office of the city clerk and available to the public at all times; provided, that appointees in the departments under civil service may be subjected to examinations from time to time in the interest of efficiency, and that the passing of the required examination prior to entering the city's employ shall not constitute a life tenure of office. No member of the civil service commission during his incumbency shall be a holder of any state, county or municipal office.

Sec. 95. First and subsequent election—Generally.

The officers elected at the first election held under this charter, shall begin their terms on the first day of August, one thousand nine hundred and twenty-one, and thereafter all elections, except special elections, shall be held on the first Tuesday in July in every fourth year thereafter; unless the first Tuesday falls on the fourth then the day following and the terms of office of the persons elected shall begin on the first day of August next after such election.

For the first election to be held hereunder, the city council now in office shall be a canvassing board to ascertain and disclose the result of said election, to determine and settle ties

as herein provided for, and determine all contests. Thereafter, the board of directors shall act as such canvassing board.

Sec. 96. Same—Duty of recorder at first election.

At the first election held hereunder, the recorder of the City of Bluefield shall perform all the duties prescribed under the charter of the City of Bluefield existing at the time of such election, and the general laws of the State of West Virginia.

Sec. 97. Former officers and offices.

The mayor and council and all other officers, agents and employees of the City of Bluefield shall remain in and hold their offices and discharge the duties thereof, until the first day of August, nineteen hundred and twenty-one, and thereafter until their successors are elected and qualified as provided by this act, and all existing offices not provided for by this act shall be abolished as of the first day of August, nineteen hundred and twenty-one.

Sec. 98. Charter election; repeal of conflicting acts.

Before this charter shall become effective a special election shall be called and held in said city in the several precincts as now established and existing in said city to be held on the sixteenth day of May, one thousand nine hundred and twenty-one, at which election if a majority of the votes cast in said election be in favor of the adoption of this charter then this charter shall thereafter be the charter of the City of Bluefield.

The ballots at said election shall be prepared as provided by the general election laws of this state, except that the duties in connection with the preparation of said ballots to be performed by the clerks of the circuit and county courts shall be performed by the city recorder, and the said ballots shall be in the following form:

Vote on New Charter

( ) For new charter.

( ) Against new charter.

And the voter shall indicate his preference by making a cross or X in the square opposite the wording for or against new charter.

The laws of the State of West Virginia governing the holding of elections, and special elections, and the ascertaining of the result thereof shall govern the conduct of the special election herein, insofar as applicable, except that the recorder shall perform the duties required of the circuit and county clerks under general election laws, and the council of said city in connection with the selection of election officers and ascertaining the result of said election, and the holding of said special election shall perform the duties required of the county court under general election laws.

The council of said city at a special or regular meeting shall enter an order calling said special election to be held in said city on May sixteenth, one thousand nine hundred and twenty-one, and have published once a week for two weeks immediately preceding the date of said election in a newspaper of general circulation in said city, the call for said special election, as well as a full draft of this charter. The expense of holding said election, including the publication of said call for said election and the publication of a draft of this charter, shall be paid by the said city out of its treasury.

The result of said special election, shall be ascertained and be spread upon the minutes of the city council of said city at once after the result of said election is ascertained, so that a permanent record of the choice of the voters for and against this charter shall exist. If a majority of the votes in said election be in favor of adopting this charter it shall become effective for all purposes from the date of the ascertaining of the result of said election.

All acts in conflict or inconsistent with this act are hereby repealed.

The Board of Directors
of the
CITY OF BLUEFIELD

In Session on the 22nd day of
Oct. 35

Motion of

Sanitary Board Ordinance

	Yes	Nay	Not Voting	Absent
Mr. Mayor				
Mr. [illegible] Godsey				
Mr. [illegible] Perkins				
Mr. [illegible] Saunders				
Mr. [illegible] Settle				

Exhibit H

ORDINANCE CREATING A SANITARY
FOR THE CITY OF BLUEFIELD ETC

Introduced October 15, 1935.
Record 6, page 1.

Adopted October 22, 1935.
Record 6, page 10.

Ordinance Docket 2, page 340.

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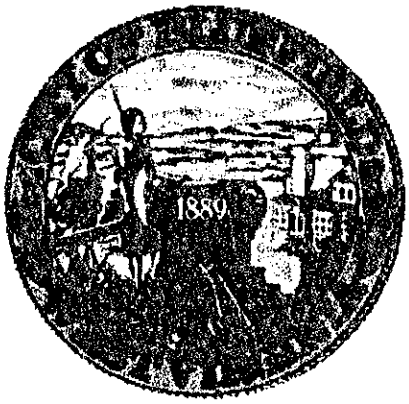


DO YOU SOLEMNLY SWEAR THAT YOU WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES OF AMERICA, THE STATE OF WEST VIRGINIA AND THE LAWS AND ORDINANCES OF THE CITY OF BLUEFIELD; AND THAT YOU WILL DISCHARGE YOUR DUTIES AS _____ TO THE BEST OF YOUR SKILL AND JUDGEMENT; SO HELP YOU GOD?

State of West Virginia

County of Mercer, to wit:

I, Beverly G. Tresch, Clerk of the City of Bluefield, West Virginia do hereby certify that the above is an accurate copy of the Oath of Office on file in the City Clerk's Office of the City of Bluefield, West Virginia.

Beverly G. Tresch

Clerk, City of Bluefield, WV

CERTIFICATE

The undersigned, Beverly Tresch, Clerk of the City of Bluefield, West Virginia, does hereby certify that the following are the dates of office of the Mayor and members of the City Board and Sanitary Board of Bluefield:

OFFICE	NAME	TERM ENDS
Mayor, City of Bluefield	Nelson R. Walker	6/30/01
Board Member, City of Bluefield	George McGonagle	6/30/01
Board Member, City of Bluefield	Doris Sue Kantor	6/30/01
Board Member, City of Bluefield	Garry Moore	6/30/01
Board Member, City of Bluefield	Oliver Law	6/30/01
City Manager, City of Bluefield	Tom Vidovich	NA
City Clerk, City of Bluefield	Beverly Tresch	NA
Chairman, Sanitary Board	Tom Vidovich	NA
Member, Sanitary Board	Ray Bragg	9/26/00
Member, Sanitary Board	Jerry Cameron	1/5/02
Member, Sanitary Board	William H. King	6/30/00
Member, Sanitary Board	J.C. Higgenbotham	6/30/00

GIVEN UNDER MY HAND AND SEAL THIS 27th DAY OF JANUARY, 1999

SEAL

Beverly Tresch, Clerk
City of Bluefield
Bluefield, West Virginia

AN ORDINANCE CREATING A SANITARY BOARD, VESTING IN SAID BOARD THE CUSTODY, ADMINISTRATION, OPERATION AND MAINTENANCE OF THE SEWERAGE WORKS OF THE CITY OF BLUEFIELD, PROVIDING THE METHOD OF APPOINTMENT, TERM OF OFFICE AND COMPENSATION OF MEMBERS OF SAID BOARD, PROVIDING OFFICERS OF SAID BOARD AND THE COMPENSATION AND BOND FOR CERTAIN OF SAID OFFICERS.

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF BLUEFIELD:

Sec. 1. There is hereby created a Sanitary Board for the City of Bluefield, in which is hereby vested the custody, administration, operation and maintenance of the sewerage works of said City. Said Board shall possess all the rights, powers and duties granted to such boards by Chapter 25, Acts of the Legislature of West Virginia, First Extraordinary Session, 1933, and such rights, powers and duties as may hereafter be granted to such boards by any amendment to said Act of the Legislature or by any further Acts passed by the Legislature of the State of West Virginia.

Sec. 2. Said Board shall be composed of the Mayor of said City and two persons appointed to membership thereon by the Board of Directors of said City, at least one of whom shall be a registered professional engineer and may or may not be a resident of said City. No officer or employee of said City, whether holding a paid or unpaid office, shall be eligible to appointment upon said Board until at least one year after the

expiration of the term of his public office.

Sec. 3. Said appointees shall originally be appointed for terms of two and three years respectively, and upon expiration of each such term, and each succeeding term, an appointment of a successor shall be made in like manner for a term of three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment.

Sec. 4. The Mayor of said City shall act as Chairman of said Sanitary Board. Said Board shall select a Vice Chairman from its members and designate a Secretary and Treasurer (but the Secretary and Treasurer may be one and the same person), who need not be a member or members of said Board. The Vice Chairman, Secretary and Treasurer shall hold office as such at the will of said Board.

Sec. 5. The members of said Sanitary Board shall receive as compensation for their services the sum of $25.00 monthly for each member, and they shall be entitled to payment of their reasonable expenses incurred in the performance of their duties. The Secretary and Treasurer, whether two persons or the office is vested in one person, shall be paid a salary in an amount fixed by said Sanitary Board by and with the consent and approval of the Board of Directors of said City. The Treasurer shall give bond in manner, form and amount satisfactory to and approved by the Board of Directors of said City. All compensation and expenses provided in this section shall be payable solely from the funds received from the sewerage works controlled by said Sanitary Board.

Sec. 6. The Sanitary Board shall have power to establish by-laws, rules and regulations for its own government.

Sec. 7. This ordinance shall become effective from passage.

Commonwealth of Virginia

State Corporation Commission

I Certify the Following from the Records of the Commission:

THE SANITARY BOARD OF BLUEFIELD, INCORPORATED is a corporation existing under and by virtue of the laws of Virginia, and is in good standing.

The date of incorporation is July 01, 1936.

Nothing more is hereby certified.

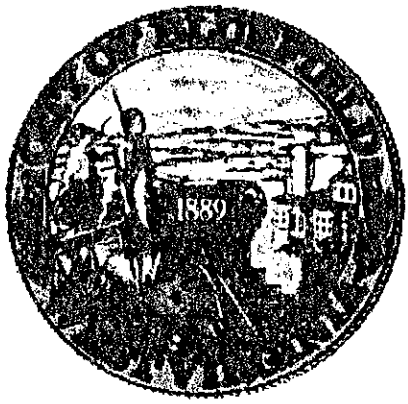
STATE CORPORATION COMMISSION VIRGINIA SIC SEMPER TYRANNIS 1903

Signed and Sealed at Richmond on this Date: June 22, 1992

William J. Bridge

William J. Bridge, Clerk of the Commission

16 B



DO YOU SOLEMNLY SWEAR THAT YOU WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES OF AMERICA, THE STATE OF WEST VIRGINIA AND THE LAWS AND ORDINANCES OF THE CITY OF BLUEFIELD; AND THAT YOU WILL DISCHARGE YOUR DUTIES AS _____ TO THE BEST OF YOUR SKILL AND JUDGEMENT; SO HELP YOU GOD?

State of West Virginia

County of Mercer, to wit:

I, Beverly G. Tresch, Clerk of the City of Bluefield, West Virginia do hereby certify that the above is an accurate copy of the Oath of Office on file in the City Clerk's Office of the City of Bluefield, West Virginia.

Beverly G. Tresch

Clerk, City of Bluefield, WV

CERTIFICATE

The undersigned, Beverly Tresch, Clerk of the City of Bluefield, West Virginia, does hereby certify that the following are the dates of office of the Mayor and members of the City Board and Sanitary Board of Bluefield:

OFFICE	NAME	TERM ENDS
Mayor, City of Bluefield	Nelson R. Walker	6/30/01
Board Member, City of Bluefield	George McGonagle	6/30/01
Board Member, City of Bluefield	Doris Sue Kantor	6/30/01
Board Member, City of Bluefield	Garry Moore	6/30/01
Board Member, City of Bluefield	Oliver Law	6/30/01
City Manager, City of Bluefield	Tom Vidovich	NA
City Clerk, City of Bluefield	Beverly Tresch	NA
Chairman, Sanitary Board	Tom Vidovich	NA
Member, Sanitary Board	Ray Bragg	9/26/00
Member, Sanitary Board	Jerry Cameron	1/5/02
Member, Sanitary Board	William H. King	6/30/00
Member, Sanitary Board	J.C. Higgenbotham	6/30/00

GIVEN UNDER MY HAND AND SEAL THIS 27th DAY OF JANUARY, 1999

SEAL

Beverly Tresch, Clerk
City of Bluefield
Bluefield, West Virginia

BEFORE THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
CHARLESTON

CASE NO. 97- 1471-S-CN
THE SANITARY BOARD OF THE CITY OF BLUEFIELD,
a municipal corporation.
Application for a Certificate of Public Convenience and Necessity to construct sewer collection mains, pump stations and appurtenances to serve the Brushfork area of Mercer County, West Virginia.

PETITION SEEKING REOPENING AND ENTRY OF COMMISSION ORDER APPROVING REVISED FINANCING PACKAGE

By Recommended Decision entered on June 16, 1998, which became a Final Order of the Commission on July 6, 1998, the Public Service Commission of West Virginia issued a certificate of public convenience and necessity to the Sanitary Board of the City of Bluefield to construct sewer collection mains, pump stations and appurtenances to serve the Brushfork area of Mercer County, as set forth in its amended application of October 30, 1987. By that same order, the Commission approved the Sanitary Board's proposed financing for the project, which was comprised of a $1,545,800 SRF loan and a $40,000 cash contribution from Bluefield, to meet the total project costs of $1,585,800.

At the time of the entry of the Commission's order, an Appalachian Regional Commission (ARC) grant application which had been made by the Sanitary Board of Bluefield was still pending, and had not been acted upon. The SRF loan scenario presented to the Commission by the amended certificate application represented the worst-case funding scenario

KATZ, KANTOR
& PERKINS
TTORNEYS AT LAW

at the time the project was approved. If the Sanitary Board of the City of Bluefield was successful in its efforts to secure ARC grant moneys for part of the project costs, it was understood that the Sanitary Board of the City of Bluefield would be able to reduce the level of its borrowing and reduce its corresponding debt service requirements for the project.

On October 2, 1998, the Sanitary Board of the City of Bluefield was notified that the West Virginia Development Office had approved a $585,510 ARC grant for the Sanitary Board's Brushfork project. This grant effectively allows the Sanitary Board to significantly reduce the corresponding debt service and the associated SRF borrowing, and further insure that the Santiary Board's future rates will not be negatively impacted by the acquisition of the Brushfork system. With the DEP's approval, the Sanitary Board will also be securing additional equipment (a flusher truck, a pickup truck, a backhoe and a camera) with a portion of the available SRF funds to further the ongoing upgrades and I & I studies that will be necessary for the acquired Brushfork collection system once the Sanitary Board takes over that collection system. That same equipment will also be available to perform maintenance and I & I studies on other portions of the Sanitary Board's system.

Competitive bids have been solicited for the additional equipment, which is estimated not to exceed $152,930.50. Even with the additional equipment purchases, the Sanitary Board will only be required to borrow $1,106,922.50 in SRF funds to meet the remaining project expenses. A copy of the ARC grant approval letter is attached hereto as Exhibit A. A copy of the revised revised bond issue required to cover the remaining SRF funding obligation, with the revised project costs and available financing is attached hereto as Exhibit B.

Since the availability of the ARC grant moneys will result in a reduced borrowing and debt service, the proposed revisions in project financing will benefit the Sanitary Board's

customers, and will have a lower potential rate impact than the project financing package that was previously approved by the Commission. Therefore, the public interest is promoted by the Commission's approval of the proposed modifications to the project's funding package, and additional public notice is not required to protect the public interests before approving the amended financing package proposed by this petition.

The Sanitary Board of the City of Bluefield respectfully requests the issuance of a further Commission Order approving the amended financing package described herein. The Sanitary Board would respectfully request that the Commission retain the case and issue an appropriate further order, so the parties can proceed to accept the bids which have already been received. The bond closing is presently scheduled for February 17, 1999.

Respectfully submitted,

SANITARY BOARD OF THE CITY OF BLUEFIELD

Terry Honaker, Executive Director

Counsel of record:

For the Sanitary Board of the City of Bluefield:

Norris Kantor, Esq.
Robert F. Williams, Esq.
KATZ, KANTOR & PERKINS
P.O. Box 727
Bluefield, WV 24701
(304) 327-3551

KATZ, KANTOR
& PERKINS
TTORNEYS AT LAW
BLUEFIELD, WV

VERIFICATION

STATE OF WEST VIRGINIA,

COUNTY OF MERCER, to-wit:

I, R. Terry Honaker, after being duly sworn, upon my oath depose and say that I am the Executive Director for the Sanitary Board of the City of Bluefield, West Virginia, that I have read and am familiar with the "PETITION SEEKING REOPENING AND ENTRY OF COMMISSION ORDER APPROVING REVISED FINANCING PACKAGE," filed on behalf of the Sanitary Board of the City of Bluefield, and that the facts and allegations contained therein are true, except so far as they are therein stated to be on information and belief, and that, so far as they are therein stated to be on information and belief, I believe them to be true.

R. Terry Honaker, Executive Director
Sanitary Board of the City of Bluefield

Taken, subscribed and sworn to before me, the undersigned authority, this the 26th of January, 1999.

My Commission expires Nov. 12, 2008.

Notary Public

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
BRENDA J. PULLANO
234 MEMORIAL AVENUE
BLUEFIELD, WV 24701
My Commission Expires November 12, 2008

KATZ, KANTOR & PERKINS
ATTORNEYS AT LAW

EXHIBIT A

H. Underwood, Governor

WEST VIRGINIA
MOUNTAINS OF OPPORTUNITY

WEST VIRGINIA DEVELOPMENT OFFICE

1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WV 25305-0311

October 2, 1998

Mr. Tom Vidovich
Chairman
The Sanitary Board of Bluefield
Post Office Box 998
Bluefield, West Virginia 24701

Dear Mr. Vidovich:

Congratulations on the approval of a $885,510 Appalachian Regional Commission (ARC) grant, for a total project cost of $1,595,800 to the Sanitary Board of Bluefield for the Brushfork Sewer Project. A copy of the approval letter is enclosed.

Should there be a need for any changes in the scope of the project or project funding, a request should be made to the West Virginia Development Office.

Please be aware that ARC funds are considered to be the last source of funding committed to a project. Should there be a cost underrun, the funds not used are considered Appalachian Regional Commission funds and would be returned to the Commission.

If you should have any questions, please feel free to contact me at 558-2001.

Sincerely,

Ben Newhouse
ARC Representative

BN:cc

cc: Mike Johnson, DEP

Enclosure

EXHIBIT B

WEST VIRGINIA

WATER POLLUTION CONTROL REVOLVING FUND

APPLICATION FOR A CONSTRUCTION LOAN

as administered by the

BUREAU OF ENVIRONMENT

DIVISION OF ENVIRONMENTAL PROTECTION

and the

WATER DEVELOPMENT AUTHORITY

May 16, 1991

(REVISED DECEMBER 1996)

May 1, 1991
(Rev: 12/96)

WEST VIRGINIA WATER POLLUTION CONTROL REVOLVING FUND

APPLICATION FOR A CONSTRUCTION LOAN

The undersigned Governmental Agency (the "Applicant") hereby applies to the West Virginia Division of Environmental Protection (the "DEP") and the West Virginia Water Development Authority (the "Authority") for a Water Pollution Control Revolving Fund Loan in the estimated amount shown on Line 20 of Schedule A hereto, pursuant to the provisions of Chapter 22, Article 11, and Chapter 22c, Article 2, of the Code of West Virginia 1931, as amended. Such loan will be utilized by the Applicant to finance on a long-term basis, the cost of constructing the water pollution control project hereinafter described the "Project". This Application shall constitute a commitment of the Applicant to enter into a binding contract.

I. GENERAL

1. Full legal name and address of Applicant: City of Bluefield
c/o Sanitary Board of Bluefield, P.O. Box 998
Bluefield, West Virginia 24701

Year established: 1936 FEIN NUMBER: 55-6000149-01
Telephone number: 304-325-3681 Fax number: 304-325-6838

County Mercer Mag. District Beaver Pond

2. Name and title of chief executive officer of Applicant (Authorized Representative):

R. Terry Honaker, Executive Director

Telephone number: 304-325-3681 Telecopier number: 304-325-6838

(Provide documentation certifying the individual's authority if changed since last transaction).

3. Location of Project: Brushfork

4. Name, address, telephone number and fax number of bond counsel:

Dennis R. Vaughan, Jr.

Suite 200 Capitol Centre, 232 Capitol Street

Charleston, West Virginia 25301

304-342-3900 FAX 304-344-2386

5. Name, address, telephone number, and fax number of local attorney:

Douglas G. Campbell

996 Ben Bolt Avenue

Tazewell, Virginia 24651

540-988-6554 FAX 540-988-6555

6. Name, address, telephone number, and fax number of consulting engineer:

Thompson & Litton of West Virginia, Inc.

Room 221, Law & Commerce Building

Bluefield, West Virginia 24701

304-327-9866

7. Name, address, telephone number and fax number of independent certified public accountant or independent public accountant:

Dan Ware, CPA

P.O. Box 2745

Huntington, West Virginia 25727

304-697-0565 FAX 304-697-0567

8. Describe any bond anticipation notes or other interim financing outstanding (bank loans, etc.) in connection with the Project. The description should include the title, the principal amount currently outstanding, the repayment schedule and the security and source of

payment. If the obligations are secured by a lien on or payable from revenues of the System, as hereinafter defined, the obligations should be paid or otherwise taken out with a portion of the proceeds of the revenue bonds issued to the Authority. If that is not anticipated, please contact the Authority. If no such interim construction obligations are outstanding, check this blank: XX.

9. Describe all outstanding waterworks revenue bonds, sewerage system revenue bonds or combined waterworks and sewerage system revenue bonds relating to the System, as hereinafter defined, and attach copies of all related ordinances or resolutions. The description should include the principal amount of such bonds currently outstanding and a schedule of remaining debt service. Restrictions regarding the issuance of additional bonds (prior, parity or subordinate) should be described. If no such bonds are outstanding, check this blank: _____.

II. ADMINISTRATIVE AND TECHNICAL
(Attach separate sheets of paper as needed.)

1. Proposed Project (check which type):

a. Wastewater Treatment/Collection Facility XX

I/I Correction/Rehabilitation _____

CSO Correction _____

Other _____

b. Description:

Eliminate an existing lagoon by constructing a force main to a gravity line leading to a POTW belonging to the applicant

2. Check permits required for the Project and date received or, if not yet received, date application was submitted:

NPDES West Virginia Division of Environmental Protection;

date received 04/03/1995 or application submitted _____

(Cont) Permits:

_____ Other: Amended NPDES
(Specify)

date received 7/30/1998 or application submitted _____

_____ Other: _____
(Specify)

date received _____ or application submitted _____

4. List all grants awarded or applied for and assumed in Schedule A. If already awarded, attach copy of grant award or approval. If not yet awarded, give date application was submitted and briefly describe status.

5. (a) Date bids for Project were received: November 24, 1998

(b) Expiration date of bids: 2/22/1999

(c) Attach copies of apparent responsible, acceptable low bids.

(d) Attach copy of bid tabulations.

(e) Attach a copy of bid bonds and power-of-attorney.

(f) Attach copy of the newspaper bid advertisement.

(g) Title Opinion by legal counsel indicating the status of right-of-way acquisition.

(h) Other bid documents required as previously discussed between our office and the engineering firm.

6. Proposed construction schedule (include construction activities already completed or in process):

Notice to Proceed date	January 30, 1999
Construction Completed	December 1, 1999
Performance Certification submittal	November 31, 2000

7. Complete attached Schedule A: "Estimated Total Cost of Project, Sources of Funds and Cost of Financing." Include only those costs associated with this application.

8. If the Project is a start-up system, check this blank: _____.

9. Provide current rate ordinance in effect and a proposed ordinance and its effective date, if rates are required to be increased. This data is to be for the first full year of operation after completion of the Project.

   (a) Estimated debt service and estimated debt service coverage during the period should be shown based on all outstanding obligations payable from the revenues of the System and the estimated size of the bond issue calculated on Schedule A.

The above requirements of this paragraph may be omitted if all information is contained in such audits or reports.

10. Provide copy of the Rule 42 submitted to the Public Service Commission.

11. Provide the last three years audits by the independent auditors for the System or, if not available for any said three years, the reports to the Public Service Commission regarding the System must be submitted with this application.

* * * * * * * * * * *

The undersigned, as a duly authorized representative of the Project, certifies that Part II of this Application is a true representation to the best of his knowledge, including the exhibit documents attached, and consents to the use of such information by the DEP and the Authority in connection with the financing of the Project.

_____
(Applicant's Signature)

Date: _____, 19____

Darrell K. Stapleton
(Consultant's Signature)

Date: 12/7, 19 98

SCHEDULE A

NAME OF GOVERNMENTAL AGENCY: _____

ESTIMATED TOTAL COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING

A. Cost of Project

1.	Construction	$ 1,078,232.50	Attachment 1
2.	Technical Services	$ 240,000.00	
3.	Legal and Fiscal	$ 21,500.00	
4.	Administrative	$ NA	
*5.	Site and Other Lands	$ 40,000.00	
*6.	Fac. Plan/Design or Other Loan Repayment (Specify Type: Purchase System)	$ 250,000.00	(To RD for Bluewell PSD)
7.	Interim Financing Costs Bond Reserve	$ 53,000.00	
8.	Contingency	$ 32,700.00	
9.	Total of Lines 1 Through 8		$ 1,715,432.50

B. Sources of Funds

10.	Federal Grants:[1]	ARC	$ 585,510.00	
	(Specify Sources)		$	
11.	State Grants:[1]		$	
	(Specify Sources)		$	
12.	Other Grants:[1]		$	
	(Specify Sources)		$	
13.	Any Other Source[2]	Applicant	$ 40,000.00	
	(Specify)		$	
14.	Total of Lines 10 Through 13			$ 625,510.00
15.	Net Proceeds Required from Bond Issue (Line 9 minus Line 14)			$ 1,089,922.50

C. Cost of Financing

16.	Capitalized Interest (Construction period plus six months)	$	
17.	Funded Reserve Account:[3]	$	
18.	Other Costs:[4] Bond Counsel	$ 17,000.00	
		$	
19.	Total Cost of Financing (lines 16 - 18)	$	
20.	Size of Bond Issue (Line 15 plus Line 19)		$ 1,106,922.50

* not allowable for State Revolving Fund Assistance
* WDA loans are not allowable

_____
Signature of Applicant

Date _____

Darrell K. Stapleton
Signature of Consulting Engineer

Date 12/7 98

ATTACHMENT 1

1-511 gpm Midway Sewage Pump Station	$137,252.00
1-380 gpm Brush Fork Sewage Pump Station	139,990.00
1-Maintenance/Storage Facility	25,000.00
70-6" Class 150 PVC Force Main	140.00
1,350-8" Class 200 PVC Force Main	5,400.00
11,800-8" Class 150 PVC Force Main	41,300.00
1,850-10" gravity sewer line	4,255.00
5-Air release & vacuum valves	10,000.00
12-Manholes	15,600.00
30-Manhole extensions	1,500.00
GPS System	59,865.00
1-pickup truck (1)	23,353.00
1-loader/backhoe (1)	47,774.50
1-camera (1)	34,963.00
1-Flusher (1)	30,500.00
1-Wastewater Disintegrator (1)	16,340.00
Seeding/Landscaping @ P.S. Sites	15,000.00
Equipment Rental	120,000.00
Lagoon Closure	350,000.00
TOTAL	1,078,232.50

(1) Those items are to be in a delayed bid opening

BEFORE THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
CHARLESTON

CASE NO. 97-_____-PSD-S-PC

BLUEWELL PUBLIC SERVICE DISTRICT,
a public sewer utility, and THE SANITARY BOARD
OF THE CITY OF BLUEFIELD, a municipal corporation.

Joint petition seeking the Public Service Commission's prior consent and approval to transfer certain sewer facilities, customers and service obligations in the Brushfork area of Mercer County from the Bluewell Public Service District to the Sanitary Board of the City of Bluefield.

JOINT PETITION TO TRANSFER CERTAIN SEWER LINES, FACILITIES AND CUSTOMERS SERVED BY THE BLUEWELL PUBLIC SERVICE DISTRICT TO THE SANITARY BOARD OF THE CITY OF BLUEFIELD

Now come the Bluewell Public Service District (Bluewell), a public utility, and the City of Bluefield, West Virginia, a municipal corporation, acting by its Sanitary Board, as co-Petitioners herein, to file a joint petition, in accordance with the provisions of West Virginia Code §§ 24-2-12 and 16-13A-18a, seeking the Public Service Commission's consent and approval to a proposed transfer of certain sewer lines, facilities and appurtenances in the Brushfork area of Mercer County from the Bluewell Public Service District to the Sanitary Board of the City of Bluefield, along with corresponding transfer of the customers and service obligations which run with those transferred facilities. The terms and conditions of that proposed transfer are set forth in a Memorandum of Understanding (Joint Exhibit No. 1) that has been executed by the parties, and the parties are also seeking the Commission's approval of that same

agreement by this petition. The Petitioners respectfully provide the following information to the Commission in support of their joint petition:

1. The Bluewell Public Service District is a public service district which provides water and sewer service as a public utility in certain portions of Mercer County, West Virginia, and as such is subject to the provisions of Chapter 16, Article 13 and Chapter 24 of the Code of West Virginia, as amended, and the Rules and Regulations of the Public Service Commission of West Virginia.

2. The Sanitary Board of the City of Bluefield is a municipal public utility operating a sewer utility in and around the environs of Bluefield, Mercer County, West Virginia, and as such is subject to Chapter 24 of the Code of West Virginia, 1931, as amended, and the Rules and Regulations of the Public Service Commission of West Virginia.

3. As part of its existing sewer facilities, the Bluewell Public Service District provides sewer service to approximately 677 equivalent residential connections in the Brushfork area of Mercer County. Sewage treatment for the District's Brushfork customers is presently provided by the District's Brushfork Sewerage Treatment Lagoon, a 0.196 million gallons per day (MGD) sewerage treatment facility, located approximately two (2) miles north of Bluefield, West Virginia, on State Route 123. For several years, the operation of that lagoon treatment system periodically violates several discharge limit parameters which are set forth in the NPDES permit for that facility.

4. Since 1990, Bluewell Public Service District has been under directive by Consent Decree to achieve full compliance with the discharge parameters set forth in its NPDES permit, by replacing or upgrading the treatment facilities serving the Brushfork

area. The original Consent Decree also included the District's Montcalm facility, which the District rectified by the completing the construction of an upgrade to its existing sewage treatment facility serving the Montcalm area. In 1994, Bluewell Public Service District entered into an Amended Consent Decree with the West Virginia Division of Environmental Protection (DEP) and its predecessor, the West Virginia Department of Natural Resources. Under the terms of the Amended Consent Decree, the District was to have achieved full compliance with the discharge parameters contained in its NPDES permit by August 1, 1995. A copy of the Amended Consent Decree is attached as an exhibit to Joint Exhibit No. 1. As of this date, the District has not been able to comply with the Amended Consent Decree, and is still in violation of its NPDES permit.

5. The Bluewell Public Service District and the Sanitary Board of the City of Bluefield have entered into an agreement by which the Sanitary Board will undertake the construction required to connect the Brushfork collection system to the Sanitary Board's existing collection system and transport sewerage from the Brushfork area to the Sanitary Board's West Side Treatment Plant for treatment. As a part of that negotiated agreement, the Brushfork customers and facilities serving those customers are to be transferred from the District to the Sanitary Board at the completion of the construction, along with a proportionate share of the District's debt that is presently allocated to its Brushfork customer base. Once connected, the sewerage from the Brushfork area will be treated at the Sanitary Board's West Side Sewerage Treatment Plant, and the customers in the Brushfork area will be directly served as customers of the Bluefield Sanitary Board.

6. The Sanitary Board's West Side Sewerage Treatment Plant is a recently upgraded facility with a treatment capacity of 5.3 MGD which was designed to serve the

combined sewerage treatment needs of Bluefield, Virginia, and Bluefield, West Virginia, and the surrounding vicinities. A facilities plan proposing to have the raw sewerage from the Brushfork area transported and treated at the West Side Sewerage Treatment Plant was previously submitted and approved by the West Virginia Division of Environmental Protection. A copy of that facilities plan is attached as Joint Exhibit No. 2.

7. The facilities which the Sanitary Board of the City of Bluefield proposes to construct in order to physically connect the Brushfork collection system to the Bluefield Sanitary Board and transport the Brushfork sewerage flows to the Westside Sewerage Treatment Plant for treatment are the subject of a separate certificate proceeding which has been concurrently filed by the Sanitary Board. The preliminary engineering report for these proposed facilities, as prepared by Thompson & Litton of West Virginia, Inc., a professional engineering firm, has been filed with that application as Applicant's Exhibit No. 3, and is incorporated herein by reference.

8. As described in that separate certificate application, the City of Bluefield will be able to minimize the necessary construction costs by using its available in-house labor to construct the facilities, and the bulk of its construction costs will be for the parts needed to construct the facilities. The total estimated project costs of $904,100 are to be financed by an $864,100 loan to be secured through the West Virginia State Revolving Fund (SRF) Loan Program, with an additional $40,000 to be provided by the Bluefield Sanitary Board. The Sanitary Board has been able to secure favorable loan terms. It is anticipated that the SRF loan will be repaid over a period of twenty (20) years, and will carry an interest rate of 0%, with a 1% service charge.

9. The Bluewell Public Service District and the Sanitary Board of the City of Bluefield have entered into a Memorandum of Understanding, by which the parties propose to transfer the customer base and the collection system serving the Brushfork area to the Sanitary Board of the City of Bluefield, once construction of this project is completed, and the sewage flows for the Brushfork area are transported to the West Side Sewage Treatment Plant for treatment. The residential and commercial customer base presently served by the Brushfork collection system and the Brushfork lagoon treatment system represents approximately 677 equivalent residential connections. As proposed, once construction is completed, those customers in the Brushfork area will be directly served as residential and commercial customers of the Sanitary Board of the City of Bluefield, and will be charged rates and charges which are the same as those which are presently assessed to all residential and commercial customers served by the Sanitary Board of the City of Bluefield. A copy of the Memorandum of Understanding between the Bluewell Public Service District and the Sanitary Board of the City of Bluefield is attached hereto as Joint Exhibit No. 1.

10. As set forth in the Memorandum of Understanding, in order to retire the proportionate share of the existing Bluewell Public Service District debt service which is presently recouped from the Brushfork customers, the Sanitary Board for the City of Bluefield has agreed to tender montly payments to the District which are equal to the proportionate share of the unpaid balance on the Bluewell Public Service District's $1,002,000 Revenue Bonds, Series 1969, which would have otherwise been recouped from the transferred Brushfork customers, until that debt is scheduled to retire in the year 2009. The proportionate share of the District's debt service associated with the

transferred customers will be determined at the time the Brushfork collection system is transferred to the Sanitary Board, by comparing the combined billed revenues of the transferred customers to the District's total billed revenues over the twelve months which immediately precede the actual date of the transfer. At the present time, the revenues derived from the customers served by the Brushfork lagoon system represent approximately thirty-six percent (36%) of the District's total billed revenues.

11. The Sanitary Board of the City of Bluefield does not anticipate any need to increase its rates and charges as a result of the proposed project. Although the City of Bluefield's municipal sewer rates would not be affected by this project, the City of Bluefield and the Bluewell Public Service District acknowledge that the rates of the transferred customers in the Brushfork area will increase once their sewage is treated at the Westside Sewerage Treatment Plant and they are assessed the same rates and charges that are assessed to all other customers served by the Bluefield Sanitary Board. By way of comparison, the monthly sewer bill for an average residential customer served by the Bluewell Public Service District is currently $14.01, based on an average consumption of 4500 gallons per month. The average residential sewer bill under the Sanitary Board of the City of Bluefield's existing rates and charges would be $24.93 for that same consumption level. The minimum residential bill on the Sanitary Board's system is currently $11.41 per month, and the District's minimum sewer bill is presently $9.66 per month.

12. While the rates and charges of the Brushfork customers will increase after their sewage is treated by the Sanitary Board's West Side Sewage Treatment Plant, those customers would be facing a substantial rate increase regardless of which option was

pursued to replace the District's Brushfork lagoon treatment system. Based on cost projections reflected in the District's approved facilities plan, the District's rates and charges would have to be increased to the level of the Sanitary Board's sewer rates or higher if the District attempted to replace its deficient lagoon system with a new treatment facility. The facilities plan and the preliminary engineering report indicate that the construction of a new treatment plant to serve the Brushfork area would require the District to increase the Brushfork customers' average monthly bill to over $40 per month, if it attempted to limit the rate increase to its Brushfork customers, or increase the average bills of all of its sewer customers to approximately $24 per month, if it attempted to spread the cost of such a project over its entire customer base.

13. After the transfer is completed, the District anticipates that it may need to increase the rates of its remaining sewer customers who are served by the District's Montcalm treatment plant. It is anticipated, however, that the rates of the remaining District customers will not increase any more than the fully distributed cost of serving those customers, and the District has projected that the resulting rate would still be less than the rates the District would have to charge to all of its customers if it also attempted to bear the cost of properly upgrading the plant and facilities serving the Brushfork area.

14. This proposed transfer and the related project are being undertaken, in part, to satisfy an outstanding Consent Decree which was instituted in 1990 and was subsequently amended in 1994 by eliminating a deficient and inadequate lagoon treatment system which has and continues to discharge an unacceptable level of pollutants into the Brush Fork of the Bluestone River and into the Bluestone River in

general. These rivers feed into the Bluestone reservoir, which is a public lake that is heavily used as a fishing, swimming, boating and recreation area.

15. The Petitioners represent and aver that the terms and conditions of the Memorandum of Understanding are reasonable and appropriate and are the product of arms length negotiations that were undertaken between the parties in good faith, neither party was given an undue advantage over the other, and the terms and conditions of the proposed transfer and the related terms and conditions of the Memorandum of Understanding do not adversely affect the public. To the contrary, the parties are of the opinion that the terms and conditions of the Memorandum of Understanding and the corresponding construction and transfer of facilities pursuant to that same agreement presents a reasonable means for eliminating and replacing a deficient lagoon treatment facility in a reasonable and cost-effective manner which fairly protects the interests of all of the existing, transferred and remaining customers of both the District and the Sanitary Board.

16. In accordance with the provisions of West Virginia Code § 24-2-12(b), the Sanitary Board of the City of Bluefield may not purchase, lease or otherwise directly or indirectly acquire control over the franchises, licenses, permits, plants, equipment, business or property of another public utility without the Public Service Commission's prior consent and approval. Similarly, under West Virginia Code § 24-2-12(c), the Bluewell Public Service District may not assign, transfer, lease, sell or otherwise dispose of its franchises, licenses, permits, plants, equipment, business or other property which is used and useful in performing its duties to the public without first obtaining the Public Service Commission's consent and approval. The District is also required under West

Virginia Code § 16-13A-18a to obtain the Public Service Commission's consent and approval before selling, leasing or renting its sewer system to any municipality or privately owned utility system.

17. Rule 14.1 (formerly Rule 31) of the Commission's Rules and Regulations for the Government of the Construction and Filing of Tariffs of Public Utilities and Common Carriers by Motor Vehicle (Tariff Rules), establishes uniform standards for continuing the previously approved rates and charges for a utility whenever the control or ownership of all or part of a utility system is transferred to a new owner or operator. In part, those provisions would require the new owner or operator to continue the rates, charges and regulations of the prior owner unless the Commission authorizes a change in those rates, charges and regulations. Therefore, in order to satisfy the technical requirements of Tariff Rule 14.1, while implementing the intent of the parties, any Commission order approving the proposed transfer should either explicitly waive the requirements of Tariff Rule 14.1, in this particular case for good cause shown, or specifically authorize the Sanitary Board to assess its existing rates and charges to the transferred customers once their sewerage is treated at the Sanitary Board's West Side Treatment Plant.

WHEREFORE, for the reasons set forth above, the Bluewell Public Service District and the Sanitary Board of the City of Bluefield, respectfully request that the Public Service Commission review and approve the terms of the Memorandum of Understanding which has been executed by the parties; approve the transfer of sewer customers and facilities in the Brushfork area from the Bluewell Public Service District to the Sanitary Board of the City of Bluefield, pursuant to with the terms and conditions set

forth in that Memorandum of Understanding, in accordance with the Commission's standards of review under West Virginia Code §24-2-12; grant the Bluewell Public Service District the Commission's consent and approval to transfer a portion of its sewer system to the Sanitary Board of the City of Bluefield in accordance with the provisions of West Virginia Code §16-13A-18a; and waive the provisions of Tariff Rule 14.1 (previously Tariff Rule 31) and/or specifically authorize the Sanitary Board to bill the transferred customers at the same rates and charges that are in effect and assessed to all customers of the Sanitary Board of the City of Bluefield, as of the date their sewerage is transported to and treated at the Sanitary Board's West Side Sewage Treatment Plant.

RESPECTFULLY SUBMITTED,

THE BLUEWELL PUBLIC SERVICE DISTRICT

_____

Leonard H. Bailey, Chairman

THE SANITARY BOARD OF THE
CITY OF BLUEFIELD

_____

R. Terry Honaker, Executive Director

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VERIFICATION

STATE OF WEST VIRGINIA,

COUNTY OF MERCER, to-wit:

I, Leonard H. Bailey, after being duly sworn, upon my oath depose and say that I am the Chairman for the Bluewell Public Service District, that I have read and am familiar with the "Joint Petition to Transfer Certain Sewer Lines, Facilities and Customers Served by the Bluewell Public Service District to the Sanitary Board of the City of Bluefield," filed on behalf of the Bluewell Public Service Distict and the Bluefield Sanitary Board, and that the facts and allegations contained therein are true, except so far as they are therein stated to be on information and belief, and that, so far as they are therein stated to be on information and belief, I believe them to be true.

_____

Leonard H. Bailey, Chairman
Bluewell Public Service District

Taken, subscribed and sworn to before me, the undersigned authority, this the _____ of October, 1997.

My Commission expires _____ .

_____

Notary Public

VERIFICATION

STATE OF WEST VIRGINIA,

COUNTY OF MERCER, to-wit:

I, R. Terry Honaker, after being duly sworn, upon my oath depose and say that I am the Executive Director for the Sanitary Board of the City of Bluefield, West Virginia, that I have read and am familiar with the "Joint Petition to Transfer Certain Sewer Lines, Facilities and Customers Served by the Bluewell Public Service District to the Sanitary Board of the City of Bluefield" filed on behalf of the Bluefield Sanitary Board and the Bluewell Public Service District, and that the facts and allegations contained therein are true, except so far as they are therein stated to be on information and belief, and that, so far as they are therein stated to be on information and belief, I believe them to be true.

_____

R. T
erry Honaker, Executive Director
Sanitary Board of the City of Bluefield

Taken, subscribed and sworn to before me, the undersigned authority, this the _____ of October, 1997.

My Commission expires _____ .

_____

Notary Public

CERTIFICATE

The undersigned Beverly Tresch, Clerk of the City of Bluefield, West Virginia does hereby certify that the attached is a true copy of a Bond Ordinance adopted at a duly held meeting of the City Board of the City of Bluefield, Bluefield, West Virginia, on the 23rd day of June, 1998

Given under my hand and seal this 22nd day of October 1998.

SEAL

Beverly G. Tresch (SEAL)

CITY OF BLUEFIELD

BOND ORDINANCE

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CITY OF BLUEFIELD

BOND ORDINANCE

AN ORDINANCE AUTHORIZING THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND BETTERMENT TO THE PUBLIC SEWERAGE SYSTEM FACILITIES OF THE CITY OF BLUEFIELD AND THE FINANCING CERTAIN COSTS THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $1,600,000.00 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, SERIES 1998 A, PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO THE SERIES 1998 A BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COMMON COUNCIL OF THE CITY OF BLUEFIELD:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

SECTION 1.01. AUTHORITY FOR THIS ORDINANCE.

This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is adopted pursuant to the provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law.

SECTION 1.02. FINDINGS.

It is hereby found, determined and declared that:

A. The City of Bluefield (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Mercer County of said State.

B. The Issuer presently owns and operates a public sanitary sewerage collection and treatment system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be designed, constructed and acquired certain additions, betterments and improvements for the existing sewerage facilities of the Issuer consisting of acquisition of a certain portion of the Bluewell Public Service District sewer system,

constructing certain lines, pump stations and other facilities to connect with the system to be acquired and performing certain work to take a portion of the acquired facilities out of service (the "Project") which constitute properties for the collection and treatment of wastewater (the existing sewerage system facilities of the Issuer, the Project and any further additions thereto or extensions thereof is herein called the "System") at an estimated cost of $1,585,800.00, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have been approved by the Issuer.

C. The Issuer intends to issue its Sewerage System Revenue Bonds, Series 1998 A, in order to pay the costs of the Project, to provide funds to reimburse itself for costs previously incurred and to pay the costs of issuance of the Series 1998 A Bonds

D. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Bonds and all Sinking Fund, Reserve Account and other payments provided for herein, all as such terms are hereinafter defined.

E. It is deemed necessary for the Issuer to issue its Sewerage System Revenue Bonds Series 1998 A in the total aggregate principal amount of not more than $1,600,000.00 (the "Series 1998 A Bonds"). The proceeds of the Series 1998 A Bonds will used to finance certain costs for the construction and acquisition of the Project and to reimburse the Issuer for certain costs already incurred. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Bonds prior to and during construction or acquisition and for a period not exceeding 6 months after completion of construction of the Project; amounts which may be deposited in the Reserve Accounts; engineering, and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees of the Authority (as hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or the repayment of indebtedness incurred by the Issuer for such purposes, shall be deemed Costs of the Project, as hereinafter defined.

F. The Issuer intends to finance such costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority") in connection with West Virginia Water Pollution Control Revolving Fund Program (the "SRF Program"), pursuant to the Act, in order to take advantage of the favorable terms available to the Issuer under the SRF Program.

G. The period of usefulness of the System after completion of the Project is not less than 20 years.

H. It is in the best interests of the Issuer that its Series 1998 A Bonds be sold to the Authority (as hereinafter defined) pursuant to the terms and provisions of a loan agreement to be entered into by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of the Environment ("DEP"), in form satisfactory to the Issuer, the Authority and the DEP, as shall be approved herein.

I. Other than the Series 1992 Bonds and the Series 1995 Bonds, as defined herein, there is not outstanding any obligations of the Issuer which will rank prior to or on a parity with the Bonds as to lien and source of and security for payment. The Series 1992 Bonds, the Series 1995 Bonds and the Series 1998 A Bonds shall be secured by a first lien on the revenues of the System, which lien shall be shared on a proportionate basis between each series of bonds.

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, or will have so complied prior to issuance of any thereof, including obtaining of a Certificate of Convenience and Necessity from the Public Service Commission of West Virginia.

K. Pursuant to the Act, the Issuer has heretofore established a Sanitary Board, and the Sanitary Board has petitioned the Council to issue the Series 1998 A Bonds for the purposes set forth herein.

L. The Project has been approved by the West Virginia Infrastructure and Jobs Development Counsel as required under Chapter 31, Article 15A of the West Virginia Code of 1931, as amended, or is grandfathered from review thereby.

SECTION 1.03. BOND LEGISLATION CONSTITUTES CONTRACT.

In consideration of the acceptance of the Bonds by those who shall be the registered owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the registered owners of any and all of such Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

SECTION 1.04. DEFINITIONS.

The following terms shall have the following meanings herein unless the context expressly requires otherwise:

"Act" means Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Series 1998 A Bonds, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Mayor of the Issuer or any acting Mayor duly appointed by the Governing Body.

"Bond Construction Trust Fund" means the Bond Construction Trust Fund established by Section 4.01 hereof.

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

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

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

"Bond Year" means the 12 month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year except that the first Bond Year shall begin on the Closing Date.

"Bonds" means the Series 1992 Bonds, the Series 1995 Bonds and the Series 1998 A Bonds and any bonds on a parity therewith authorized to be issued hereunder.

"Closing Date" means, with respect to the Series 1998 A Bonds, the date upon which there is an exchange of the Bonds for the proceeds representing the purchase of the Bonds by the Authority.

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

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

"Consulting Engineers" means Thompson & Litton of West Virginia, Inc., Bluefield, West Virginia, or any engineer or firm of engineers that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

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

"Debt Service" means the scheduled amount of interest and amortization of principal payable on the Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

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

"DEP" means the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of the Environment.

"Excess Investment Earnings" means an amount equal to the sum of:

(A) The excess of

(i) The aggregate amount earned from the Closing Date on all Nonpurpose Investments in which Gross Proceeds of the Series 1998 A Bonds are invested [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings], over

(ii) The amount that would have been earned if the Yield on such Nonpurpose Investments [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings] had been equal to the Yield on the Series 1998 A Bonds, plus

(B) Any income attributable to the excess described in clause (A) of this definition of Excess Investment Earnings.

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

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

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

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

"Gross Proceeds" means any proceeds and replacement proceeds of the Series 1998 A Bonds.

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, purchased pursuant to Article 7.01 hereof) or any tap fees.

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

"Independent Certified Public Accountants" shall mean any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

"Investment" means any investment property as defined in Sections 148 (b) (2) and 148 (b) (3) of the Code and any other tax exempt bond.

"Issuer" means The City of Bluefield, in Mercer County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means the Loan Agreement to be entered into among the West Virginia Department of Environmental Protection, the Authority and the Issuer providing for the purchase of the Series 1998 A Bonds from the Issuer by the Authority, the forms of which shall be approved, and the execution and delivery by the Issuer authorized and directed by the Supplemental Resolution.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means Sale Proceeds, less the portion of those Sale Proceeds invested in a reasonably required reserve or replacement fund..

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

"Nonpurpose Investment" means any Investment not acquired in order to carry out the governmental purpose of the Bonds.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar and the Paying Agent (all as herein defined), other than those capitalized as part of the Costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered except (i) any Bond cancelled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which moneys, equal to its principal amount and redemption premium, if applicable, with

interest to the date of maturity or redemption shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article IX hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 6.07 hereof.

"Paying Agent" means the West Virginia Municipal Bond Commission, as paying agent for the Series 1998 A Bonds.

"Prior Ordinances" means the ordinance enacted by the Council of the Issuer on June 2, 1992, as amended and supplemented by a Supplemental Resolution adopted June 2, 1992, pursuant to which the Series 1992 Bonds were issued, and the ordinance enacted by the Council of the Issuer on June 27, 1995, as amended and supplemented by a Supplemental Resolution adopted August 22, 1995, pursuant to which the Series 1995 Bonds were issued.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements," if any.

"Project" means the acquisition and construction of certain extensions, improvements and betterments to the Issuer's wastewater collection and treatment facilities of the Issuer, as described in paragraph 1.02B hereof.

"Qualified Investments" means and includes any of the following:

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia State Investment Management Board pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(i) Obligations of States or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Recorder" means the Recorder of the Issuer.

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

"Registrar" means the Bond Registrar.

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

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established and continued by the Prior Ordinances.

"Revenue Fund" means the Revenue Fund established and continued by the Prior Ordinances.

"Sale Proceeds" means any amounts actually or constructively received from the sale of the Series 1998 A Bonds, including amounts used to pay underwriters' discount or compensation and accrued interest other than pre-issuance accrued interest.

"Series 1992 Bonds" means the $4,985,000.00 in aggregate principal amount of Sewerage System Refunding Revenue Bonds, Series 1992, of the Issuer issued pursuant to the Prior Ordinance, of which $4,600,000.00 are still outstanding.

"Series 1995 Bonds" means the $7,945,000.00 in aggregate principal amount of Sewerage System Refunding Revenue Bonds, Series 1995, of the Issuer issued pursuant to the Prior Ordinance, of which $7,150,496.00 are still outstanding.

"Series 1998 A Bonds" means the not more than $1,600,000.00 in aggregate principal amount of Sewerage System Revenue Bonds, Series 1998 A, of the Issuer issued pursuant to this Ordinance.

"Series 1992 Bonds Reserve Account" means the Series 1992 Bonds Reserve Account established in the Series 1992 Bonds Sinking Fund pursuant to the Prior Ordinance.

"Series 1995 Bonds Reserve Account" means the Series 1995 Bonds Reserve Account established in the Series 1995 Bonds Sinking Fund pursuant to the Prior Ordinance.

"Series 1998 A Bonds Reserve Account" means the Series 1998 A Bonds Reserve Account established in the Series 1998 A Bonds Sinking Fund pursuant to Section 4.02 hereof.

"Series 1992 Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1992 Bonds in the then current or any succeeding year.

"Series 1995 Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1995 Bonds in the then current or any succeeding year.

"Series 1998 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1998 A Bonds in the then current or any succeeding year.

"Series 1992 Bonds Sinking Fund means the Series 1992 Bonds Sinking Fund established by the Prior Ordinance.

"Series 1995 Bonds Sinking Fund means the Series 1995 Bonds Sinking Fund established by the Prior Ordinance.

"Series 1998 A Bonds Sinking Fund means the Series 1998 A Bonds Sinking Fund established by Section 4.02 hereof.

"SRF Administrative Fee" means any administrative fee required to be paid pursuant to the Loan Agreement.

"SRF Program" means the State's Water Pollution Control Revolving Fund Program, under which the Authority purchases the water pollution control revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of a capitalization grant award from the United States Environmental Protection Agency and funds from the State.

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

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolutions authorizing the sale of the Series 1998 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 1998 A Bonds, and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including the Renewal and Replacement Fund and the Reserve Accounts, the proceeds of which Bonds or other obligations are to be used to pay Costs of the Project.

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

"Yield" means that yield computed under Section 1.148–4 of the Regulations for the Series 1998 A Bonds and yield computed under Section 1.148-5 of the Regulations for an investment.

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

ARTICLE II

AUTHORIZATION OF CONSTRUCTION AND ACQUISITION OF THE PROJECT

SECTION 2.01. AUTHORIZATION FOR THE CONSTRUCTION AND ACQUISITION OF THE PROJECT.

There is hereby authorized acquisition and construction of the Project in accordance with the plans and specifications prepared by the Consulting Engineers. The Project consists generally of acquisition of a certain portion of the Bluewell Public Service District sewer system, constructing certain lines, pump stations and other facilities to connect with the system to be acquired and performing certain work to take a portion of the acquired facilities out of service. The proceeds of the Bonds hereby authorized shall be applied as provided in Article V hereof.

It is estimated that the proposed construction will cost approximately $1,585,800.00, and will consist of the following:

Construction	909,600.00
Engineering	240,000.00
Legal and Fiscal	21,500.00
Administrative	N/A
Interim Financing Costs	N/A
Bond Counsel for 1998 Bonds	8,500.00
Project Contingency	43,000.00
Site and Easement Costs	40,000.00
Acquisition of Existing Facilities	250,000.00
Prefunded Debt Service Reserve	73,200.00
Total Project	1,585,800.00

The Issuer intends to pay the costs of the Project from the proceeds of the Series 1998 A Bonds.

The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the SRF Program.

ARTICLE III

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

SECTION 3.01. AUTHORIZATION OF SERIES 1998 A BONDS.

For the purposes of paying certain Costs of the Project not otherwise provided for, paying certain costs of issuance of the Series 1998 A Bonds and related costs, there shall be issued negotiable Series 1998 A Bonds of the Issuer, in an aggregate principal amount of not more than $1,600,000.00. Said Series 1998 A Bonds shall be issued as a single bond and designated as "Sewerage System Revenue Bonds, Series 1998 A." The Series 1998 A Bonds shall bear no interest until _____. From _____ the Series 1998 A Bonds shall bear interest at the rate of zero percent (0%) per annum. There shall also be payable on the Series 1998 A Bonds a one percent (1%) administrative fee. The Series 1998 A Bonds shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 1998 A Bonds shall be deposited in the Bond Construction Trust Fund.

SECTION 3.02. TERMS OF THE SERIES 1998 A BONDS.

The Series 1998 A Bonds shall bear interest as set forth above; shall be payable and mature on such dates and in such amounts as set forth in Schedule Y attached hereto; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution, or as specifically provided in the Loan Agreement. The Series 1998 A Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 1998 A Bonds shall be paid by check or draft of the Paying Agent mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 1998 A Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 1998 A Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 1998 A Bonds shall be exchangeable at the option and expense of the Holder for other fully registered Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. The Bonds shall be dated as of the date specified in a supplemental resolution and shall bear interest from the date so specified therein.

SECTION 3.03. EXECUTION OF BONDS.

The Bonds shall be executed, either manually or by facsimile, in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

SECTION 3.04. AUTHENTICATION AND REGISTRATION.

No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the forms set forth in Section 3.10 shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

SECTION 3.05. NEGOTIABILITY, TRANSFER AND REGISTRATION.

Subject to the provisions for transfer of registration set forth below, the Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting any of said Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Bonds remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of the Bonds.

The registered Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

SECTION 3.06. BONDS MUTILATED, DESTROYED, STOLEN OR LOST.

In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

SECTION 3.07. BONDS NOT TO BE INDEBTEDNESS OF THE ISSUER.

The Series 1998 A Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts, if any, in the Series 1998 A Bonds Reserve Account. No holder or holders of any of the Series 1998 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1998 A Bonds or the interest thereon.

SECTION 3.08. BONDS SECURED BY PLEDGE OF NET REVENUES; SERIES 1998 A BONDS TO BE ON PARITY WITH THE SERIES 1992 BONDS AND THE SERIES 1995 BONDS.

The payment of the debt service of all the Series 1992 Bonds, the Series 1995 Bonds and Series 1998 A Bonds shall be secured forthwith equally and ratably with each other, by a first lien on the Net Revenues derived from the System, which first lien shall be shared prorata among all the above described indebtedness. Such Net Revenues in an amount sufficient to pay the

principal of and interest on and other payments for the Bonds and to make the payments into the Sinking Funds, the Reserve Accounts therein and the Renewal and Replacement Fund hereinafter and in the Prior Ordinance established, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due.

SECTION 3.09. DELIVERY OF BONDS.

The Issuer shall execute and deliver the Series 1998 A Bonds to the Bond Registrar, and the Registrar shall authenticate, register and deliver the Bonds to the original purchasers thereof upon receipt of the documents set forth below:

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

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

C. The unqualified approving opinion of bond counsel on the Bonds.

SECTION 3.10. FORM OF BONDS.

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

[Form of Series 1998 A Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF BLUEFIELD
SEWERAGE SYSTEM REVENUE BOND
SERIES 1998 A

No. AR-__ $_____

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF BLUEFIELD, a municipal corporation and political subdivision of the State of West Virginia in Mercer County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ Dollars ($_____), or such lesser amount as shall have been advanced to the Issuer

hereunder and not previously repaid, as set forth in the "Record of Advances" attached hereto as Exhibit A and incorporated herein by reference, together interest thereon at the rate of zero percent (0%) per annum and an administrative fee of one percent (1%) per annum, which interest and administrative fee shall begin to accrue _____, in installments on March 1, June 1, September 1 and December 1 of each year, beginning _____, as set forth on the "Schedule of Annual Debt Service" attached as Exhibit B hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit B.

The interest rate on each installment shall run from _____, and shall be payable on March 1, June 1, September 1 and December 1 of each year, beginning _____, as shown on the aforesaid Schedule. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of _____, West Virginia, as registrar (the "Registrar") on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection, dated _____, 1998.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, improvements and betterments to the sewerage system facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance and Supplemental Resolution, duly enacted and adopted, respectively, by the Issuer on _____, 1998, and _____, 1998, (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH THE SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1992 OF THE ISSUER (THE "SERIES 1992 BONDS"), ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF $4,985,000, AND SEWERAGE SYSTEM REFUNDING REVENUE BONDS SERIES 1995 OF THE ISSUER (THE "SERIES 1995 BONDS"), ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF $7,945,000, WITH RESPECT TO LIENS AND SOURCES OF AND SECURITY FOR PAYMENT OF EACH RESPECTIVE SERIES OF BONDS.

This Bond is payable only from and secured by a first lien pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, , which first lien is shared with the holders of the Series 1992 Bonds and the Series 1995 Bonds, moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1998 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1998 A Bonds Reserve Account and unexpended Bond proceeds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 120% of the maximum amount required in any year for principal of and interest on the Series 1998 A Bonds and the Series 1992 Bonds and the Series 1995 Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1998 A Bonds, the Series 1992 Bonds or the Series 1995 Bonds; Provided however that when the Series 1992 Bonds are no longer outstanding the percentage may be reduced to 115%; and, provided further, that so long as there exists in the Series 1998 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Series 1998 A Bonds in the then current or any succeeding year, and in the respective reserve accounts established for the Series 1995 Bonds and any other obligations outstanding prior to or on a parity with the Series 1998 A Bonds or the Series 1995 Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

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

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

IN WITNESS WHEREOF, THE CITY OF BLUEFIELD has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated _____, 1998.

[SEAL]

Mayor

ATTEST:

Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of The City of Bluefield Sewerage System Revenue Bonds, Series 1998 A, described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____

_____,
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ADVANCES

Amount	Date

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

Date	Amount

(Form of)

ASSIGNMENT

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

the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, ___.

In the presence of:

SECTION 3.11. SALE OF SERIES 1998 A BONDS; RATIFICATION OF EXECUTION OF LOAN AGREEMENT WITH AUTHORITY.

The Series 1998 A Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, ratified and approved.

SECTION 3.12. "AMENDED SCHEDULE A" FILING.

Upon completion of acquisition and construction of the Project, the Issuer will file with the Authority a schedule substantially in the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funding therefor.

ARTICLE IV

SYSTEM REVENUES AND APPLICATION THEREOF

SECTION 4.01. CONTINUATION OR ESTABLISHMENT OF FUND AND ACCOUNTS WITH DEPOSITORY BANK.

The following special funds or accounts are hereby continued or created with and shall be held by, the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from each other:

(1) Revenue Fund;

(2) Renewal and Replacement Fund; and

(3) Bond Construction Trust Fund.

SECTION 4.02. CONTINUATION OR ESTABLISHMENT OF FUNDS AND ACCOUNTS WITH COMMISSION.

The following special funds or accounts are hereby continued or established with the Commission:

(1) Series 1992 Bonds Sinking Fund;

(a) Within the Series 1992 Bonds Sinking Fund, the Series 1992 Bonds Reserve Account.

(2) Series 1995 Bonds Sinking Fund;

(a) Within the Series 1995 Bonds Sinking Fund, the Series 1995 Bonds Reserve Account.

(3) Series 1998 A Bonds Sinking Fund;

(a) Within the Series 1998 A Bonds Sinking Fund, the Series 1998 A Bonds Reserve Account.

SECTION 4.03. SYSTEM REVENUES; FLOW OF FUNDS.

A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided.

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

(2) (a) From the moneys remaining in the Revenue Fund, the Issuer shall next commencing 6 months prior to the first date of payment of interest on the Series 1992 Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1992 Bonds Sinking Fund, a sum equal to $1/6^{th}$ of the amount of interest which will become due on said Series 1992 Bonds on the next ensuing semi-annual interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1992 Bonds Sinking Fund and the next semi-annual interest payment date is less than 6 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semi-annual interest payment date, the required amount of interest coming due on such date.

(b) Simultaneously, the Issuer shall, commencing 12 months prior to the first date of payment of principal on the Series 1992 Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1992 Bonds Sinking Fund, a sum equal to $1/12^{th}$ of the amount of principal which will mature and become due on said Series 1992 Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1992 Bonds Sinking Fund and the next annual principal payment date is less than 12 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(c) Simultaneously, the Issuer shall, commencing 3 months prior to the first date of payment of principal, interest and administrative fee on the Series 1995 Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1995 Bonds Sinking Fund, a sum equal to $1/3^{rd}$ of the amount of principal, interest and administrative fee which will become due on said Series 1995 Bonds on the next ensuing quarterly payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1995 Bonds Sinking Fund and the next quarterly payment date is less than 6 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly payment date, the required amount coming due on such date.

(d) Simultaneously, the Issuer shall, commencing 3 months prior to the first date of payment of principal, interest and administrative fee on the Series 1998 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1998 A Bonds Sinking Fund, a sum equal to 1/3rd of the amount of principal, interest and administrative fee which will become due on said Series 1998 A Bonds on the next ensuing quarterly payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1998 A Bonds Sinking Fund and the next quarterly payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly payment date, the required amount coming due on such date.

In the event there is insufficient money in the Revenue Fund to make the payments described in this paragraph above, the Issuer shall use the available moneys and make the payments provided for on a prorata basis.

(3) Thereafter, the Issuer shall, commencing 3 months prior to the first date of payment of principal of the Series 1998 A Bonds apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1998 A Bonds Reserve Account, an amount equal to 1/120th of the Series 1998 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1998 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1998 A Bonds Reserve Requirement.

(4) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the month succeeding the first full calendar month after completion of the Project, transfer to the Renewal and Replacement Fund a sum equal to 2½% of the Gross Revenues each month, exclusive of any payments for account of the Series 1992 Bonds Reserve Account, the Series 1995 Bonds Reserve Account or the Series 1998 A Bonds Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Series 1992 Bonds Reserve Account, the Series 1995 Bonds Reserve Account or the Series 1998 A Bonds Reserve Account [except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required by Subsection 4.03(A)(2)(d)] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 1992 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective Series 1992 Bonds as the same shall become due. Moneys in the Series 1992 Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Series 1992 Bonds, as the same shall come due, when other moneys in the Sinking Fund are insufficient therefor, and for no other purpose.

Moneys in the Series 1995 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective Series 1995 Bonds as the same shall become due. Moneys in the Series 1995 Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Series 1995 Bonds, as the same shall come due, when other moneys in the Sinking Fund are insufficient therefor, and for no other purpose.

Moneys in the Series 1998 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective Series 1998 A Bonds as the same shall become due. Moneys in the Series 1998 A Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Series 1998 A Bonds, as the same shall come due, when other moneys in the Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 1998 Bonds Sinking Fund and the Reserve Account therein shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Bond Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Series 1998 A Bonds Sinking Fund and applied to the next ensuing interest payments, if any, due on the Series 1998 A Bonds, and then to the next ensuing principal payments due thereon.

Any withdrawals from the Series 1992 Bonds Reserve Account which result in a reduction in the balance of the Series 1992 Bonds Reserve Account to below the Series 1992 Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments set forth in Section 4.03(A)(2) above have been made in full.

Any withdrawals from the Series 1995 Bonds Reserve Account which result in a reduction in the balance of the Series 1995 Bonds Reserve Account to below the Series 1995 Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments set forth in Section 4.03(A)(2) above have been made in full.

Any withdrawals from the Series 1998 A Bonds Reserve Account which result in a reduction in the balance of the Series 1998 A Bonds Reserve Account to below the Series 1998 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments set forth in Section 4.03(A)(2) above have been made in full.

As and when additional Bonds ranking on a parity with the Bonds are issued, provision shall be made for additional payments into the respective Sinking Fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate Reserve Account in an amount equal to the maximum provided and required to be paid into the concomitant Sinking Fund in any year for account of the Bonds of such series, including such additional Bonds which by their terms are payable from such Sinking Fund.

The Issuer shall not be required to make any further payments into the Series 1992 Bonds Sinking Fund or into the Reserve Account therein when the aggregate amount of funds in said Series 1992 Bonds Sinking Fund and Reserve Account are at least equal to the aggregate principal amount of the Series 1992 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

The Issuer shall not be required to make any further payments into the Series 1995 Bonds Sinking Fund or into the Reserve Account therein when the aggregate amount of funds in said Series 1995 Bonds Sinking Fund and Reserve Account are at least equal to the aggregate principal amount of the Series 1995 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

The Issuer shall not be required to make any further payments into the Series 1998 A Bonds Sinking Fund or into the Reserve Account therein when the aggregate amount of funds in said Series 1998 A Bonds Sinking Fund and Reserve Account are at least equal to the aggregate principal amount of the Series 1998 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Sinking Fund created hereunder, and all amounts required for said Sinking Fund shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

The payments into the Sinking Fund shall be made on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

Moneys in the respective Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 7.01 hereof.

The Series 1998 A Bonds Sinking Fund, including the Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 1998 A Bonds and any additional Bonds ranking on a parity therewith that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Fund, including the Reserve Accounts therein, and the Renewal and Replacement Fund during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

C. The Issuer shall complete the "Monthly Payment Form," a copy of which is attached to the Loan Agreement as Exhibit F, and submit a copy of said form along with a copy of its check to the Authority by the 5th day of each calendar month.

D. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar or the Depository Bank, on such dates as the Commission, the Registrar or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay the Depository Bank's charges then due. The Issuer shall also remit from the Revenue Fund to the Authority, on such dates as the Authority shall require, the Issuer's allocable share of reasonable administrative expenses, if any, incurred by the Authority with respect to the SRF Program.

E. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in the Revenue Fund and the Renewal and Replacement Fund shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

F. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates.

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

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

I. The Issuer shall each month on the day set forth in Section 4.03A(2) hereof, and if such day is not a business day, then the next succeeding business day), deposit with the Commission the SRF Administrative Fee as set forth in Schedule Y attached to the Loan Agreement.

ARTICLE V

BOND PROCEEDS; FUNDS AND ACCOUNTS

SECTION 5.01. APPLICATION OF SERIES 1998 A BOND PROCEEDS; PLEDGE OF UNEXPENDED BOND PROCEEDS.

The moneys received from the sale of the Series 1998 A Bonds, as requisitioned by the Issuer, shall be deposited in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 5.02.

The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in the Bond Legislation. Moneys in

the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so expended, are hereby pledged as additional security for the Series 1998 A Bonds.

SECTION 5.02. DISBURSEMENTS FROM THE BOND CONSTRUCTION TRUST FUND.

On or before the Closing Date, the Issuer shall have delivered to the DEP and the Authority a report listing the specific purposes for which the proceeds of the Series 1998 A Bonds will be expended and the disbursement procedures for such proceeds, including a estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 5.01 hereof, disbursements from the Bond Construction Trust Fund shall be made only after submission to, and approval from the Authority and DEP of the following:

(1) a completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement as Exhibit C, and

(2) a certificate signed by an Authorized Officer and the Consulting Engineers, stating:

(A) That none of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

(B) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

(C) That each of such costs has been otherwise properly incurred; and

(D) That payment for each of the items proposed is then due and owing, or that Issuer or the Sanitary Board has previously paid such item in connection with the Project is being reimbursed for such payment.

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Bond Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Bond Construction Trust Fund shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Bond Construction Trust Fund. The Consulting Engineers shall from time to time file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

Pending such application, moneys in the Bond Construction Trust Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

After completion of the Project, as certified by the Consulting Engineers, the Depository Bank shall transfer any moneys remaining in the Bond Construction Trust Fund to the Series

1998 A Bonds Reserve Account, and when fully funded, shall apply such remaining moneys as directed by the Authority.

ARTICLE VI

ADDITIONAL COVENANTS OF THE ISSUER

SECTION 6.01. GENERAL COVENANTS OF THE ISSUER.

All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Bonds as hereinafter provided in this Article VI. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Bonds or the interest thereon is Outstanding and unpaid.

SECTION 6.02. BONDS NOT TO BE INDEBTEDNESS OF THE ISSUER.

The Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay said Bonds or the interest thereon.

SECTION 6.03. BONDS SECURED BY PLEDGE OF NET REVENUES.

The payment of the debt service of the Series 1998 A Bonds issued hereunder and the Series 1992 Bonds and the Series 1995 Bonds heretofore issued shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds and to make the payments into the Sinking Funds, including the Reserve Accounts therein, and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in the Bond Legislation.

SECTION 6.04. INITIAL SCHEDULE OF RATES AND CHARGES.

The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the ordinance of the Issuer enacted _____.

SECTION 6.05. SALE OF THE SYSTEM.

Except as otherwise required by law, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Bonds Outstanding, or to effectively defease this Bond Legislation in accordance with Section 9.01 hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Bonds, immediately be remitted to the Commission for deposit in the Sinking Funds, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Bonds. Any balance remaining after the payment of all the Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $25,000, the Sanitary Board shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $25,000 but not in excess of $50,000, the Sanitary Board shall first, in writing determine with the written approval of the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of $25,000 and not in excess of $50,000, shall with the written consent of the Authority, be remitted by the Issuer to the Commission for deposit in the Sinking Fund and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value or otherwise. Such payment of such proceeds into the Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Bond Legislation. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of $50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of over 50% in amount of the Bonds then Outstanding and the Consulting Engineers. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

SECTION 6.06. ISSUANCE OF OTHER OBLIGATIONS PAYABLE OUT OF REVENUES AND GENERAL COVENANT AGAINST ENCUMBRANCES.

Except as provided in this Section 6.06, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that additional Bonds on a parity with the Bonds may be issued as provided for in Section 6.07 hereof. All obligations issued by the Issuer after the issuance of the Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Series 1992 Bonds and the Series 1995 Bonds and the Series 1998 A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the Sinking Funds, Reserve Accounts and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Authority and the DEP prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System from any grants for the Project, or any other obligations related to the Project or the System.

SECTION 6.07. PARITY BONDS.

A. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Bond Legislation, except under the conditions and in the manner herein provided and with the written consent of the Authority and the DEP.

So long as the Series 1992 Bonds and the Series 1995 Bonds are outstanding, no parity bonds shall issued except in conformity with the requirements of the ordinances authorizing the Series 1992 Bonds, the Series 1995 Bonds and this Ordinance.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the construction or acquisition of extensions, improvements or betterments to the System or refunding one or more series of Bonds issued pursuant hereto, or both such purposes.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Authority and the Bank a written statement by the Independent Certified Public Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus

the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

(1) The Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Recorder prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Consulting Engineers and the said Independent Certified Public Accountants, as stated in a certificate jointly made and signed by the Consulting Engineers and said Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the period for appeal of which has expired prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate construction or acquisition of such additions, betterments or improvements, if any, to the System that are to be financed by such Parity Bonds.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and

superior liens of the Series 1992 Bonds, the Series 1995 Bonds and the Series 1998 A Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 1998 A Bonds, the Series 1992 Bonds or the Series 1995 Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Bond Legislation with respect to the Bonds then Outstanding, and any other payments provided for in this Bond Legislation, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Bond Legislation.

SECTION 6.08. BOOKS AND RECORDS.

The Issuer shall keep complete and accurate records of the cost of acquiring the Project Site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the DEP such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all records pertaining to the operation of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing System, at any reasonable time following commencement of construction.

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

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Consulting Engineers, the Authority and the DEP, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation with respect to said Bonds and the status of all said funds and accounts.

(C) The amount of any Bonds or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds and shall submit said report to the Authority and DEP, or any other original purchaser of the Bonds. Such audit report submitted to the Authority and DEP shall include a statement that the Issuer is in compliance with the terms and provisions of the Loan Agreement and this Bond Legislation.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for 2 years following completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement as Exhibit B, and forward a copy to the Authority and DEP by the 10th day of each month.

The Issuer shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit E of the Loan Agreement or as promulgated from time to time.

The Issuer shall permit the Authority or the DEP, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of the Project, the Issuer shall also provide the Authority and the DEP, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the DEP with respect to the System pursuant to the Act.

SECTION 6.09. RATES.

So long as the Series 1992 Bonds and the Series 1995 Bonds are outstanding, the City shall maintain rates and charges for the use of the System consistent with the requirements of the ordinances authorizing the issuance of such bonds.

Equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to

inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds; provided that, in the event an amount equal to or in excess of the Reserve Requirement is on deposit in the Reserve Account and reserve accounts for obligations prior to or on a parity with the Bonds are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds. In any event, subject to any requirements of law, the Issuer shall not reduce the rates and charges for services set forth in the rate ordinance described in the Section 6.04 hereof.

SECTION 6.10. OPERATING BUDGET AND AUDIT.

The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and DEP within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and to any Holder of any Bonds, who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

SECTION 6.11. NO COMPETING FRANCHISE.

To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

SECTION 6.12. ENGINEERING SERVICES AND OPERATING PERSONNEL.

Prior to the issuance of the Series 1998 A Bonds, Issuer shall provide the Authority a certificate of the Consulting Engineer, substantially in the form as shown on Exhibit D to the Loan Agreement.

The Issuer shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and the DEP covering the supervision and inspection of the development and construction of the Project and bearing responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, the DEP and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a "Performance Certificate," a form of which is attached to the Loan Agreement as Exhibit A, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed.

The Issuer agrees that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of the Loan Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

SECTION 6.13. ENFORCEMENT OF COLLECTIONS.

The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules of the Issuer, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System and any services and facilities of the water system, if so owned by the Issuer, to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law, or, if the waterworks facilities are not owned by the Issuer, the Issuer will, to the extent allowed by law, use diligent efforts to enter into a similar termination agreement with the provider of such water, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

The Issuer further acknowledges that it has a water termination agreement with all entities providing water service in the areas in which the Issuer provides sewer service and will maintain and use such agreement subject to all the rules, regulations and orders of the Public Service Commission.

SECTION 6.14. NO FREE SERVICES.

The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

SECTION 6.15. INSURANCE AND CONSTRUCTION BONDS.

A. The Issuer hereby covenants and agrees that so long as any of the Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than $1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than $100,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(4) FLOOD INSURANCE, to the extent available at reasonable cost to the Issuer.

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

(6) FIDELITY BONDS will be provided as to every officer, member and employee of the Issuer or the Governing Body having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

B. The Issuer shall also require all contractors engaged in the construction of the Project to carry such workers compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project, provided that the amounts and terms of such coverage are satisfactory to the Authority and the DEP. In the event the Loan Agreement so requires, such

insurance shall be made payable to the order of the Authority, the DEP, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount at least equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract.

SECTION 6.16. COMPLETION OF PROJECT.

The Issuer will complete the Project as promptly as possible and operate and maintain the System in good condition and in compliance with all federal and state requirements and standards.

The Issuer will obtain all permits required by state and federal laws for the acquisition and construction of the Project, and all orders and approvals from the Public Service Commission of West Virginia necessary for the acquisition and construction of the Project and the operation of the System.

SECTION 6.17. TAX COVENANTS.

The Issuer hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of 5% of the Net Proceeds of the Series 1998 A Bonds are used, directly or indirectly, to make or finance a

loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 1998 A Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code and Regulations promulgated thereunder.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 1998 A Bonds and the interest thereon, including without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including those deemed necessary by the Authority) so that the interest on the Series 1998 A Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those determined by the Authority) which would adversely affect such exclusion.

SECTION 6.18. MANDATORY CONNECTIONS.

The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State of West Virginia and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30 day notice of the availability of the System, pay the rates and charges established therefor.

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

SECTION 6.19. COMPLIANCE WITH LOAN AGREEMENT AND LAW.

The Issuer agrees to comply with all the terms and conditions of the Loan Agreement. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP with copies of all documents submitted to the Authority.

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

ARTICLE VII

INVESTMENT OF FUNDS; NON ARBITRAGE

SECTION 7.01. INVESTMENTS.

Any moneys held as a part of the funds and accounts created by this Bond Legislation, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 7.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Depository Bank or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Bonds are Outstanding.

SECTION 7.02. ARBITRAGE.

The Issuer covenants that (i) it will restrict the use of the proceeds of the Series 1998 A Bonds in such manner and to such extent as may be necessary, in view of the Issuer's reasonable expectations at the time of issuance of the Series 1998 A Bonds, so that the Series 1998 A Bonds will not constitute "arbitrage bonds" under Section 148 of the Code and Regulations, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a Federal information return with respect to the Series 1998 A Bonds) so that the interest on the Series 1998 A Bonds will be and remain excluded from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

SECTION 7.03. REBATE OF EXCESS INVESTMENT EARNINGS TO THE UNITED STATES.

In accordance with Section 148(f)(4)(C) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that the Bonds are not private activity bonds as defined in Section 141 of the Code; that 95% or more of the Net Proceeds of the Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and that the aggregate face amount of all the tax-exempt obligations (other than private activity bonds as defined in Section 141 of the Code) issued by the Issuer during the calendar year in which the Bonds are issued will not exceed $5,000,000, determined in accordance with Section 148(f)(4)(C) of the Code and the Regulations promulgated thereunder. For purposes of this Section 7.03 and for purposes of applying Section 148(f)(4)(C) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a subordinate entity shall, for purposes of applying this Section 7.03 and Section 148(f)(4)(C) of the Code to any other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(C) of the Code and all other entities benefiting thereby shall be treated as one issuer.

In the event the foregoing paragraph does not apply, in accordance with the rebate requirements of Section 148(f) of the Code, the Issuer shall take the following actions:

A. CREATION OF FUNDS. There are hereby created, to be held by the Depository Bank as separate funds distinct from all other funds and accounts held by the Depository Bank under this Bond Legislation, the Earnings Fund and the Rebate Fund. All interest earnings and profits on amounts in all funds and accounts established under this Bond Legislation, other than (i) interest earnings and profits on any funds referenced in Subsection C(5) of this Section if such earnings in any Bond Year are less than $100,000, (ii) interest earnings and profits on amounts in funds and accounts which do not constitute Gross Proceeds, and (iii) interest earnings and profits on the Rebate Fund shall, upon receipt by the Depository Bank, be deposited in the Earnings Fund. In addition, all interest earnings and profits on Gross Proceeds in funds held by the Issuer shall, upon receipt, be paid to the Depository Bank for deposit in the Earnings Fund. Annually, on or before the 30th day following the end of each Bond Year or on the preceding business day in the event that such last day is not a business day, or such earlier date as may be required under the Code, the Depository Bank shall transfer from the Earnings Fund to the Rebate Fund for

purposes of ultimate payment to the United States an amount equal to Excess Investment Earnings, all as more particularly described in this Section. Following the transfer referenced in the preceding sentence, the Depository Bank shall transfer all amounts remaining in the Earnings Fund to be used for the payment of Debt Service on the next interest payment date and for such purpose, Debt Service due from the Issuer on such date shall be credited by an amount equal to the amount so transferred.

B. DUTIES OF ISSUER IN GENERAL. The Issuer shall calculate Excess Investment Earnings in accordance with Subsection C and shall assure payment of an amount equal to Excess Investment Earnings to the United States in accordance with Subsections D and E.

C. CALCULATION OF EXCESS INVESTMENT EARNINGS. Within 15 days following the last day of the first Bond Year, the Issuer shall calculate, and shall provide written notice to the Authority and Depository Bank of, the Excess Investment Earnings referenced in clause (A) of the definition of Excess Investment Earnings. Thereafter, within 15 days following the last day of each Bond Year and within 15 days following the date of the retirement of the Bond, the Issuer shall calculate, and shall provide written notice to the Authority and Depository Bank of, the amount of Excess Investment Earnings. Said calculations shall be made or caused to be made by the Issuer in accordance with the following:

(1) Except as provided in (2), in determining the amount described in clause A(i) the definition of Excess Investment Earnings, the aggregate amount earned on Nonpurpose Investments shall include (i) all income realized under federal income tax accounting principles (whether or not the person earning such income is subject to federal income tax) with respect to such Nonpurpose Investments and with respect to the reinvestment of investment receipts from such Nonpurpose Investments (without regard to the transaction costs incurred in acquiring, carrying, selling or redeeming such Nonpurpose Investments), including, but not limited to, gain or loss realized on the disposition of such Nonpurpose Investments (without regard to when such gains are taken into account under Section 453 of the Code relating to taxable year of inclusion of gross income), and income under Section 1272 of the Code (relating to original issue discount) and (ii) any unrealized gain or loss as of the date of retirement of the Bonds in the event that any Nonpurpose Investment is retained after such date.

(2) In determining the amount described in clause (A) of the definition of Excess Investment Earnings, an Investment shall be treated as acquired for its fair market value at the time it becomes a Nonpurpose Investment, so that gain or loss on the disposition of such Investment shall be computed with reference to such fair market value as its adjusted basis.

(3) In determining the amount described in clause (A)(ii) of the definition of Excess Investment Earnings, the Yield on the Bonds shall be determined based on the actual Yield of the Bonds during the period between the Closing Date of the Bonds and the date the computation is made (with adjustments for original issue discount or premium).

(4) In determining the amount described in clause (B) of the definition of Excess Investment Earnings, all income attributable to the excess described in clause (A) of said

definition must be taken into account, whether or not that income exceeds the Yield of the Bond, and no amount may be treated as "negative arbitrage."

(5) In determining the amount of Excess Investment Earnings, there shall be excluded any amount earned on any fund or account which is used primarily to achieve a proper matching of revenues and Debt Service within each Bond Year and which is depleted at least once a year except for a reasonable carryover amount not in excess of the greater of 1 year's earnings on such fund or account or 1/12th of annual Debt Service as well as amounts earned on said earnings if the gross earnings on such fund or account for the Bond Year is less than $100,000.

D. PAYMENT TO THE UNITED STATES. The Issuer shall direct the Depository Bank to pay from the Rebate Fund an amount equal to Excess Investment Earnings to the United States in installments with the first payment to be made not later than 30 days after the end of the 5th Bond Year and with subsequent payments to be made not later than 5 years after the preceding payment was due. The Issuer shall assure that each such installment is in an amount equal to at least 90% of the Excess Investment Earnings with respect to the Gross Proceeds as of the close of the computation period. Not later than 60 days after the retirement of the Bonds, the Issuer shall direct the Depository Bank to pay from the Rebate Fund to the United States 100% of the theretofore unpaid Excess Investment Earnings in the Rebate Fund. In the event that there are any amounts remaining in the Rebate Fund following the payment required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States at the address prescribed by the Regulations as the same may be in time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required by this Subsection D, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor.

In the event of a failure to pay any such amount or amounts, the Issuer will pay, from any lawful sources available therefor, to the United States, an amount equal to the sum of 50% of the amount not paid, plus interest at the required rate on the portion of the amount which was not paid on the required date, beginning on such date, unless waived.

E. FURTHER OBLIGATIONS OF ISSUER. The Issuer shall assure that Excess Investment Earnings are not paid or disbursed except as required in this Section. To that end the Issuer shall assure that investment transactions are on an arm's length basis and that Nonpurpose Investments are acquired at their fair market value. In the event that Nonpurpose Investments consist of certificates of deposit or investment contracts, investment in such Nonpurpose Investments shall be made in accordance with the procedures described in applicable Regulations as from time to time in effect. The Depository Bank shall keep the moneys in the Earnings Fund and Rebate Fund invested and reinvested to the fullest extent practicable in Government Obligations with maturities consonant with the required use thereof and investment profits and earnings shall be credited to the account of such fund on which earned.

F. MAINTENANCE OF RECORDS. The Issuer shall keep and retain for a period of 6 years following the retirement of the Bonds, records of the determinations made pursuant to this Section 7.03.

G. INDEPENDENT CONSULTANTS. In order to provide for the administration of this Section 7.03, the Issuer and the Depository Bank (at the expense of the Issuer) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer or the Depository Bank may deem appropriate.

H. FURTHER AGREEMENT. Notwithstanding the foregoing, the Issuer further covenants to comply with all Regulations from time to time in effect and applicable to the Bonds, as may be necessary in order to fully comply with Section 148(f) of the Code.

I. REPORTING TO AUTHORITY. The Issuer shall furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information as may be requested by the Authority, including, without limitation, information with respect to earnings on all funds constituting "gross proceeds" of the Series 1998 A Bonds (as such term "gross proceeds" is defined in the Code). In addition, the Issuer shall cooperate with the authority in preparing rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer.

SECTION 7.04. SECURITIES LAWS COMPLIANCE.

The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

ARTICLE VIII

DEFAULT AND REMEDIES

SECTION 8.01. EVENTS OF DEFAULT.

Each of the following events shall constitute an "Event of Default" with respect to the Series 1998 A Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest on the Series 1998 A Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 1998 A Bonds set forth in this Bond Legislation, any

supplemental resolution or in the Series 1998 A Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, Registrar or any other Paying Agent or a Holder of a Bond; or

(3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

SECTION 8.02. REMEDIES.

Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners.

SECTION 8.03. APPOINTMENT OF RECEIVER.

Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might do.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Bond Legislation for Reserve, Sinking or other funds and upon any other obligations and

interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE IX

DEFEASANCE

SECTION 9.01. DEFEASANCE OF SERIES 1998 A BONDS.

If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1998 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1998 A Bonds only, the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1998 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1998 A Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agents at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date, the principal installments of and interest on such Series 1998 A Bonds shall be

deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1998 A Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Series 1998 A Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 1998 A Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

ARTICLE X

MISCELLANEOUS

SECTION 10.01. AMENDMENT OR MODIFICATION OF BOND LEGISLATION.

No material modification or amendment of this Bond Legislation, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the respective rights of Registered Owners of the Bonds shall be made without the consent in writing of the Registered Owners of 66-2/3% or more in principal amount of the Series 1998 A Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein respectively pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest on the Bonds from gross income of the holders thereof.

SECTION 10.02. BOND LEGISLATION CONSTITUTES CONTRACT.

The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Bonds, and no change, variation or alteration of any kind of the

provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

SECTION 10.03. SEVERABILITY OF INVALID PROVISIONS.

If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Bonds.

SECTION 10.04. HEADINGS, ETC.

The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

SECTION 10.05. CONFLICTING PROVISIONS REPEALED.

All ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed, except for the provisions of the Ordinances to the extent such provisions affect the Series 1992 Bonds and the Series 1995 Bonds.

SECTION 10.06. COVENANT OF DUE PROCEDURE, ETC.

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

SECTION 10.07. EFFECTIVE DATE.

This Ordinance shall take effect immediately following public hearing hereon.

SECTION 10.08. STATUTORY NOTICE AND PUBLIC HEARING.

Upon adoption hereof, an abstract of this Bond Legislation determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6

full days intervening between each publication, in Bluefield Daily Telegraph, which is a qualified newspaper of general circulation in The City of Bluefield, together with a notice stating that this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Bonds, and that any person interested may appear before the City Council upon a date certain, not less than ten days subsequent to the date of the first publication of the abstract and notice, and present protests, and that a certified copy of the Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Passed on First Reading - _____

Passed on Second Reading - _____

Effective Date Following
Public Hearing -

Mayor

Recorder

Riley, Art – 200 Federal – roof to cost $6,000.00

Crisco, Donald- 2004 College – roof to cost $650.00

The Board of Directors of the City of Bluefield, West Virginia met in regular session on June 9, 1998 in the Municipal Board Room. Present were Mayor Nelson Walker, Vice-Mayor George McGonagle, Ollie Law, Garry Moore, Doris Sue Kantor, City Manager Tom Vidovich, Treasurer: Charles Cromer, City Solicitor: Janet Williamson. City Clerk: Beverly Tresch was absent. Charlie Cromer acted as City Clerk and recorded the proceedings.

INVOCATION/PLEDGE:

Director Garry Moore gave the Invocation followed by the pledge of allegiance.

MINUTES:

George McGonagle moved that the minutes of the May 26, 1998 meeting be approved as previously presented. Seconded Ollie Law. So ordered.

BLUEFIELD HIGH SCHOOL TENNIS TEAM RECOGNIZED:

Mayor Walker stated that Bluefield High School has added another state championship to its list of accomplishments by seizing the moment and with strength and confidence captured the high school Class AA-A 1998 State Tennis Championship.

Under the leadership of head coach Randy Belt all of those stroke techniques, drills, strategies for singles and doubles play, plus footwork, running and agility drills paid off as the Bluefield High School boys tennis team brought home the Class AA-A State Championship.

The Tennis Team has a GPA of 3.9 saluting their excellence in the classroom as well as on the courts.

PUBLIC HEARING:

Attorney Walter Sowers II of Katz, Kantor and Perkins on behalf of Bluefield Regional Medical Center, Inc. Mountaineer Resources, Inc., and Bluefield Health Systems, Inc requested that the City close certain portions of Pine Grove Street, Sherman Street and Sylvia Lane, as well as a 20-foot alley off Sherman Street to allow for construction of a new access road to Bluefield Regional Medical Center .

PETITION FOR THE CLOSING AND ABANDONMENT OF CERTAIN PORTIONS OF PINE GROVE STREET, SHERMAN STREET, AND SYLVIA LANE, AS WELL AS TWO TWENTY-FOOT ALLEYS OFF OF SHERMAN STREET.

Petitioners, Bluefield Regional Medical Center, Inc., Mountaineer Resources, Inc., and Bluefield Health Systems, Inc., by counsel, respectfully request that the Board of Directors for the City of Bluefield, West Virginia Close and abandon certain portions of Pine Grove Street, Sherman Street, and Sylvia Lane, as well as two separate twenty-foot alleys located off of Sherman Street.

In support of this Petition and the request set forth herein, Petitioners state as follows:

1. Petitioners request that the City of Bluefield close and abandon certain portions of Pine Grove Street, Sherman Street, and Sylvia Lane, as well as two separate twenty-foot alleys of Sherman Street.
2. Petitioners request to close and abandon these streets and alleys in order to build, construct, and provide a new access road to the Bluefield Regional Medical Center, Inc. hospital premises.
3. Bluefield Regional Medical Center, Inc. is a non-stock, nonprofit corporation that manages and operates a general acute care regional medical center serving the citizens and residents of the City of Bluefield and surrounding communities. The Petitioners' request will promote Bluefield Regional Medical Center, Inc.'s mission to provide health care services to the citizens and residents of the City of Bluefield and surrounding communities.
4. Particularly, the new access road will allow better access to the hospital campus, and decrease congestion along the Cherry Street entrance to the hospital campus. Furthermore, the new access road will permit the development of the land to the west of the main hospital campus.
5. Most of the areas to be closed and abandoned are surrounded by properties that are owned and/or leased by Petitioners.
6. The boundary lines correspond to the following blocks and lots on the City Street Maps:

   (a) Garland Addition, Block 1, Lots 6, 7, 8, 9 and 10
   (b) Garland Addition, Block 2, Lots 1,2,3,4,5,6,7,8,9,10 and 11
   (c) Garland Addition, Block 3, Lots 1,2,3,4,5,6,7,8,9,10,12,and 13
   (d) Garland Addition, Block 4, Lots 1,2,3,4,5,6,7,8,11,12,13,15,16,and 17.
   (e) Stadium Drive Addition, Section 1151, Lot 2.

All of these properties are owned and/or leased by Petitioners.

7. The only area not owned or leased by Petitioners is an area immediately to the west of Sylvia Lane. This area is owned by the Bluefield Church of the Nazarene, and is shown on the City Maps as Garland Addition, Block 4, Lot 18 and Stadium Drive Addition, Section 1022, Lots 4,5,and 6. However, please be advised that the Bluefield Church of the Nazarene does not object to closing and abandoning of Sylvia Lane as shown upon the Conceptual Map.
8. It also should be noted that the areas to be closed surrounding Sherman Street, as well as the two twenty foot alleys, exist only on the City Maps. In other words, the public has never opened those street areas and alleys for use.
9. No other individual or entity owns property that is adjacent to the areas to be closed and abandoned.
10. Petitioners' request will benefit the provision of health care services to the citizens and residents of the City of Bluefield and surrounding communities.

Respectfully filed this the 9th day of June, 1998 and presented to the board by Counsel Walter P. Sowers, II.

Jeff Beckett pastor of the Bluefield Church of the Nazarene on Stadium Drive stated that the church after seeing the plans have no objections to the petition/request.

Sowers: The issues of drainage have been worked out with Marshal Miller and Associates and plans/maps are available.

Troy Lange- 90 Bryan Street asked if there was any guarantee that his property would not be flooded with water coming from the overflow of the pond they plan to build above his house on a vacant lot. Who would be responsible?

Tom Vidovich responded if one property owner throws water on another property owner that is a civil action. In addition the city does try to provide some oversight before the fact. If you have specific concerns please contact Tony Wagner; City Engineer and we will try to address them.

Doris Sue Kantor moved that the above petition from Bluefield Regional Medical Center, Inc., Mountaineer Resources, Inc., and Bluefield Health Systems, Inc. be approved as presented.

Seconded Garry Moore. So ordered.

SANITARY BOARD PROPOSED BOND ORDINANCE:

With the Board's permission Norris Kantor held first reading by title of a proposed bond ordinance that would authorize the Bluefield Sanitary Board to issue $1.6 million in sewer revenue bonds which will finance the board's takeover of part of the Bluewell Public Service District.

The Sanitary Board will be applying for a grant for about $580,000 and if this grant is secured then the bond issue will be reduced by that amount. The bonds will carry 0% interest rate with a 1% service fee.

The Sewer Use Ordinance that the city already has will apply to the new area and the new additional customers will be approximately 600.

Kantor said the board's regulating agencies require that the new customers pay the same rates as the current ones.

Garry Moore moved and Vice-Mayor George McGonagle seconded that the ordinance be adopted on first reading. So ordered. (The ordinance cannot be formally implemented, however, until after a second reading by title June 23, 1998)

The board actually will take over the Brushfork sewage service part of the Bluewell PSD operation. And the takeover does not include the water service part of the Brushfork area.

RECOMMENDATION OF BLUEFIELD PLANNING COMMISSION:

A SECOND APPLICATION BY Thomas Conklin, DDS, Inc. for PUD Planned Unit Development to build a dental office, 2 medical offices and an answering service located at Tax Map 43, Parcel 81 Lots 7, 8, 9, 10. Sec. 1403 Maryland owned by Samuel F. and Lois Payne, Jr. The Application was rejected on June 3, 1998.

This came before the board once before and the board agreed with the Planning Commission's action however, we have a letter from Conklin that reads as follows:

Dear City Manager Vidovich:

I would like to officially protest the vote taken at the Planned Unit Development (PUD) meeting held June 3, 1998 referencing my PUD application for a dental and medical office complex o be located on Cumberland Road

The City Board members are aware that I expressed concern that PUD Board Member James Godwin was an obvious conflict of interest since his son is a local dentist and located at 2400 Washington Street, Bluefield, WV and the fact that he (James

Godwin) gave a convincing speech (refer to PUD minutes dated May 13, 1998) to the PUD Members after motion was called, but before votes were cast calling for the committee not to recommend the proposal submitted.

Again, Mr. Godwin represented this committee during the second presentation held June 3, 1998 and again, in my opinion, as well as many people I have spoken to, used bad judgment in not abstaining from voting on this issue.

I feel that I have unfairly treated and have suffered by this lack of judgment by both the PUD Committee and the City Board Members who normally follow the recommendation of the PUD Committee.

I am contemplating seeking legal council regarding this issue.
Sincerely,
Thomas L. Conklin, DDS
P.S. Please inform the City Board Members of this protest prior to the scheduled meeting June 9, 1998. I will not be in attendance for this meeting.

Vice-Mayor George McGonagle moved that this application be tabled until the next board meeting thus giving the City Solicitor time to study this conflict of interest situation and seek legal opinion from the State of West Virginia Ethics Commission. Seconded Ollie Law. So ordered.

PUBLIC HEARING June 23, 1998:

Application to close and abandon the upper end of Whitethorn Street Extension beginning at the east lot line of Tax Map 42, Parc. 111, Lot 6, Sec. 110 Whitethorn at address 1604 Whitethorn Street Extension, running in a northeastward direction approximately 99.2' toward the Elks Club (former Bluefield Country Club).

STARFLEET FAN CLUB:

It is the consensus of the Board that the Starfleet Fan Club of Bluefield State College be given permission to restore the M-41 "Walker" tank in City Park by removing blistering paint and surface rust and to make other improvements so that the vehicle will be well protected before the arrival of winter.

There being no further business the meeting adjourned.

Beverly G. Tresch, City Clerk
Charlie Cromer, Jr. Acting Clerk

Nelson Walker, Mayor

BUSINESS LICENSES: JUNE 9, 1998

A & E Catering Service – Rt. #5 Box 408 Bluefield WV (wedding cakes, party trays)

Akers & Sloane Contractors P.O. Box 1314 Princeton, WV 24740 - Residential Contractors – John Akers (owner)

Azimuth Data Systems, Inc. – P.O. Box 1867 – Bluefield, WV – Computer sales and service Peyton Hash (owner)

B.A. Morrison Enterprises – 132 Riverside Drive Welch, WV 24801 – Electrical, General Building, Plumbing – James W. Morrison owner

Classic Construction Company – 1403 8th Avenue Huntington, WV 25704 General Bldg. Multifamily residential Garry Ward (owner)

Herb Petticord – Rt. 2 Box 715 Bluefield, WV 24701 Contracting Building.

Triple M. Homes – Route #1 Box 670 Princeton, WV 24740 9 manufactured Home Installation Harry W. Mills, Sr. (owner)

BUILDING PERMITS: JUNE 9, 1998

Cseh, John – 2600 Parnell Road – roofing/carport to cost $7,151.00

Bailey, Nora – 504 Albemarle – 14x20 deck to cost $2,962.00

Bowling, Bobby – 217 Spruce – soffit/gutters to cost $6,736.00

Hudgins, Jean – 1629 College – 25x29 room addition and 20x24 carport to cost $2,600.00

Grace United Methodist Parsonage – 814 Albemarle – repair existing steps to cost $1,310.00

Lewis, Phillip – 429 Harry Street – 16x28 addition to cost $10,000.00

Myer, Bill – 2707 Cliffmont – 8x10 porch and 10x16 deck to cost $6,500.00

O'Donnell, Michael – 1920 Ohio - roof to cost $400.00.

Arney, Ronnie – 1433 Southview – sidewalk/driveway repairs to cost $1,500.00.

Webb, Mark – 558 Union Street – interior renovation and roof repair to cost $9,300.00.

Grace Methodist Church - 206 Thomas Street – sidewalk/steps to cost $1,910.00

Baylor, James – 643 Shenandoah - siding to cost $11,274.00.

Eddins, Louise – 2900 Bland Road - repair garage to cost $121.00

Law, Ollie – 1918 Walton – roof/gutters to cost $5,735.00

Smokey, Brown – 2517 Grandview – roof to cost $800.00.

Buchanan, Anna - 520 W. Cumberland Rd. – replaces carport to cost $4,000.00

Frye, Nellie – 1009 Frederick - retaining Wall repair to cost $700.00

Billings, Jerry – 1331 Glendale – roof to cost $1,700.00.

Miller, Shirley – 233 Vine Street – replaces storage shed to cost $200.00

Orlander, Donald 1240 Castlewood Lane replace 8x10 storage shed to cost $500.00

Norman, Gerald – 900 Shenandoah - erect 24x28 garage to cost $7,700.00

Perdue, Bonnie - 517 Wheeling Avenue – roof to cost $400.00

Toney, Charles – 512 College – front porch floor to cost $800.00

Container Limited Liability Co - 3052 – 3062 W. Cumberland Road (Kroger Complex) to cost $218,989.00

Willis, Barbara – 221 Oakhurst roof to cost $14,500.00

Hammond, Craig – 2200 E. River - 15 windows to cost $2,500.00

Three Springs Farm – 729 Cumberland Road 2 Townhouses 45x41 each to cost $162,60.00

Azimuth Data Systems – 405 Federal inside renovations to cost $2,100.00

Miller, Frazier – 901 Pearl Street – 16x19 deck to cost $1,500.00

The Board of Directors of the City of Bluefield, West Virginia met in regular session on June 23, 1998 in the Municipal Board Room. Present were Mayor Nelson Walker, Vice-Mayor George McGonagle, Ollie Law, Garry Moore, Doris Sue Kantor, City Manager Tom Vidovich, Treasurer: Charles Cromer, City Solicitor: Janet Williamson and City Clerk: Beverly G. Tresch.

INVOCATION/PLEDGE:

Director Garry Moore gave the Invocation followed by the pledge of allegiance.

MINUTES:

Vice-Mayor George McGonagle moved that the minutes of the June 9, 1998 meeting be approved as previously presented. Seconded Garry Moore. So ordered.

PUBLIC HEARING: Elks club (former Bluefield Country Club)

Mayor Walker opened the Public Hearing by recognizing Tony Henderson who asked permission to close and abandon the upper end of Whitethorn Street Extension beginning at the east lot line of Tax Map 42, Parc. 111, Lot 6, Sec 110 Whitethorn at address 1604 Whitethorn Street Extension, running in a northeastward direction approximately 99.2' towards the Elks Club (former Bluefield Country Club).

Mr. Henderson shared a map of the area and stated that it was the hope of the Elks Club that this section of the upper end of Whitethorn could be converted to an employee's parking area thus helping with some of the parking around the Club.

Herbert Humphrey 1704 Whitethorn did not object to the closing of the street but it is his hope that the city would look about opening another road leading from College Avenue that would intersect Whitethorn.

Homer and Sherry Roach – 1604 Whitethorn – What are the plans for this project after the street is closed?

With a sketch map Mr. Henderson showed the property lines of the Club, showing the pool area and lodge stating that in order to try and elevate some of the parking problems by making about seven parking spaces for employees in this area. The street would not be opened and the intent would be to keep the street closed because this particular street dead-ends into the swimming pool.

The surface run-off water (there is an open ditch on the golf course immediately to the south of this street) will be funneled with asphalt drainage across the West End of that street into the open ditch line.

Robert Nunley – 1608 Whitethorn did express his frustration over the lack of parking available for events at the club and people some time will park in the middle of the street blocking the entrance to his home as well as using his driveway as a turn around.

Ollie Law moved that the Elks Club (former Bluefield Country Club) be given permission to close and abandon the upper end of Whitethorn Street Extension beginning at the east lot line of Tax Map 42, Parc. 111, Lot 6, Sec. 110 Whitethorn at address 1604 Whitethorn Street Extension, running in a northeastward direction approximately 99.2' towards the Elks Club. Seconded Vice-Mayor George McGonagle. So ordered

SANITARY BOARD RESOLUTION – BLUEWELLPROJECT: SECOND READING

After second reading by Jim Withrow George McGonagle moved that an ordinance authorizing the Bluefield Sanitary Board to issue up to $1.6 million in sewer revenue bonds to finance the board's takeover of part of the Bluewell Public Service District be approved. Seconded Ollie Law. So ordered (Public Hearing set for July 14, 1998).

Bond counsel Withrow told the board that the issuance of the revenue bonds would not cause any adjustment in rates currently paid by sanitary board customers.

CEMETERY COMMISSION MEMBER APPOINTMENTS:

Upon recommendation of Betty Bailey, Chairperson for the Bluefield Cemetery Commission, George McGonagle moved that Helen B. Bell (Mrs. David F. Bell, Jr.) 2708 Mountain View be appointed to fill the unexpired term of Dr. Jerry Rector with term expiring 2/27/2001 and Donald H. Tabor 424 Albemarle unexpired term of Frankie Frederick (Mrs. Eustace Frederick) with term expiring 2/14/2002. Seconded Doris Sue Kantor. So ordered.

RECOMMENDATION OF BLUEFIELD PLANNING COMMISSION:

Application by Thomas L. Conklin, DDS, Inc. for PUD to build a dental office, 2 medical offices and an answering service located at Tax Map 43, Parcel 81 Lots 7, 8, 9, 10, Sec. 1403 Maryland owned by Samuel F. and Lois Payne, Jr. Rejected June 3, 1998

Ollie Law moved to accept the recommendation of the Planning Commission to reject the application from Thomas Conklin, DDS,Inc., for a planned unit development to build a dentist office, two medical offices and an answering service on Maryland Avenue. Seconded Vice Mayor George McGonagle.

Vote:	Doris Sue Kantor	Nay
	Ollie Law	Yea
	George McGonagle	Yea
	Garry Moore	Nay
	Nelson Walker	Yea

Vote: 3 yes 2 no To accept the recommendation of the Planning Commission. So ordered.

Kantor said she was concerned because "we're losing some of our professional people and others outside the city and across the state line…Somewhere down the road, this lot is going to sell and I don't think that for the price it will sell for a residence. So it could be that a business would locate there that might be open all hours of the night, whereas this one would close at 5p.m.

Law said it would be "logical to realize" that much of the city's future growth "will be toward the south, and that one day, the John Nash Boulevard will be full of commercial establishments. But I feel that a number of other lots in the city would be just as conducive to the kind of business that Conklin wants. I don't want to lose any business in the city either, but this is a nice residential area.

Ralph Lynch – 1229 Larchmont – Asked that the city review the ordinance governing the Planned Unit Development (Clarify the PUD requirements/management).

CITY MANAGER:

Vidovich stated that within the next few weeks the GPS System would survey the catch basins over the city.

TREASURER:

Cromer announced to the board that the Treasurer's Office is in process of closing out this fiscal year ending June 30, 1998.

CITY SOLICITOR:

With the board's permission Janet Williamson held first reading on the following ordinances by title:

ORDINANCE TO AMEND PART II CODE OF ORDINANCES CITY OF BLUEFIELD
CHAPTER 13, OCCUPATIONAL LINCESE,
TAXES AND REGULATIONS, ARTICLE II,
BUSINESS FRANCHISE OR PRIVILEGE TAX, BY THE AMENDMENT OF
SECTION 13-134(B) TO EXPAND BUSINESS AND
OCCUPATIONAL TAX RATE RELIEF CITY

And first reading by title:

ORDINANCE TO AMEND PART II, CODE OF ORDINANCES, CITY OF BLUEFIELD BY
THE AMENDMENT OF CHAPTER II, JUDICIAL SECTION II-18

ANNOUNCEMENTS AND OTHER:

Vice-Mayor George McGonagle expressed the appreciation of the board to Lecia Smith and the volunteer-driven project that resulted in something beautiful being built -- Yakkity Yak Playground in Bluefield's Lotito Park.

New fire trucks presented to the city by Bluefield Regional Medical Center (BRMC) will arrive in Bluefield, July 1, 1998

There being no further business the meeting adjourned.

Beverly D. Tresch
Beverly D. Tresch, City Clerk

Nelson Walker, Mayor

BUSINESS LICENSES: JUNE 23, 1998

Arndt Masonry Construction – 126 Filson Drive – Daniels W. VA 25832

Bluefield Business Machines Office and Supply – 327 North Street – Bluefield, WV 24701 (under new ownership) Samuel J. Gentle, Jr.

Catawba Builders – Route #1 Box 572 Catawba, VA 2470 – Plumbing – Edwin Meyer (owner)

Majestic Cleaning and Maintenance – 109 Wagner Street – Princeton, WV 24740
Cleaning Service.

Neel's Chainlink Fence Co – 906 Kentucky Road – Summersville, Ky – 26651 – Installing Fence

Russ's Place – 1700 Princeton Avenue – Tavern – Replacing H&H Tavern Regina M. Roberts, Owner

BUILDING PERMITS: JUNE 23, 1998

ABSTRACT OF ORDINANCE AND NOTICE OF PUBLIC HEARING

Notice is hereby given to any person interested that on June 23, 1998, the Council (the "Council") of the City of Bluefield, West Virginia (the "City"), adopted an Ordinance that:

1. Determined that the City now owns and operates a public sewer collection, transportation and treatment system (the "System").

2. Determined that it is necessary for the City to issue its Sewer Revenue Bonds, Series 1998 A in the amount not to exceed $1,600,000.00, in order to provide funds to pay the costs of certain additions, improvements and betterments to the System consisting of the acquisition of a certain portion of the Bluewell Public Service District sewer system, constructing certain lines, pump stations and other facilities to connect with the system to be acquired and performing certain work to take a portion of the acquired facilities out of service (the "Project"), to reimburse the Sanitary Board for certain costs previously expended and to pay the costs of issuing the bonds.

3. Provided for the sale of the Series 1998 A Bonds to the West Virginia Water Development Authority pursuant to the terms and provisions of a loan agreement and as established by the Ordinance and in a supplemental resolution of Council.

4. Directed that the Series 1998 A Bonds be dated their date of issuance, bear interest payable on March 1, June 1, September 1 and December 1 of each year at the rate of zero percent (0%) per annum, together with an administrative fee equal to one percent (1%) per annum, and shall contain such other terms, provisions, conditions and limitations as provided by the Ordinance and prescribed by supplemental resolution of Council; that the Bonds be executed in the name of the City by the Mayor and the seal of the City be affixed thereto and attested to by the City Recorder; and that said Bonds be duly authenticated by the registrar.

5. Provided for the monthly payment of principal and interest on the Series 1998 A Bonds; provided for the creation of a sinking fund for the Series 1998 A Bonds.

6. Provided for the disposition of bond proceeds; created a construction fund, a revenue fund and a reserve fund for the Series 1998 A Bonds.

7. Provided that the Series 1998 A Bonds shall not be or constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the revenues of the System.

8. Provided that the 1998 Series A Bonds will be secured by a first lien on the net revenues of the System, which first lien shall be shared with the City's Series 1992 Bonds and the Series 1995 Bonds presently outstanding in the amount of approximately $4,600,000 and $7,150,000, respectively.

9. Provided that the rates and charges for the System shall always be sufficient to produce gross revenues to pay operating expenses and make payments into the funds and accounts created in the Ordinance and, so long as the Series 1992 Bonds are outstanding, leave a balance each year equal to at least 120% of the average annual debt service on the Series 1992 Bonds, the Series 1995 Bonds and the 1998 Series A Bonds and all obligations of the City payable from revenues of the System. When the Series 1992 Bonds are no longer outstanding, the percentage may be reduced to 115%, unless the Series 1995 Bonds Reserve Fund and the 1998 Series A Bonds Reserve Fund are fully funded, in which case, the debt service coverage may be reduced to 110%.

10. Provided that the System may be sold, transferred, mortgaged or leased under certain terms and conditions; provided that the issuance of additional bonds on a parity with the Bonds may be authorized under certain terms and conditions.

11. Provided for insurance coverage on the System; provided that the City will render no free service; provided for the enforcement of collection of fees, rates, rentals or other charges for service, provided for mandatory connections under certain circumstances; and provided for the discontinuance of service for non-payment of the fees, rates, rentals and other charges of the System.

12. Established that terms for defaults and the remedies of the owners of the Series 1998 A Bonds; provided for the security for and the rights and remedies of the owners of the Series 1998 A Bonds including the appointment of a receiver.

13. Provided that the City will take all actions that may be required of it so that the interest on the Series 1998 A Bonds will be and remain excluded from gross income for federal income tax purpose.

The City of Bluefield contemplates the issuance of the Series 1998 A Bonds described in, and under the conditions set forth in, the Ordinance abstracted above. Any person interested may appear before the Council of the City of Bluefield at a meeting thereof at 7:30 o'clock p.m. EPT, on Tuesday July 14, 1998, in the City Hall, 200 Rogers Street, in the City of Bluefield, West Virginia, and present protests and be heard as whether the Ordinance shall be put into effect. At said hearing all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

A certified copy of the Ordinance as adopted by the Council of the City on June 23, 1998, is on file in the office of the City Recorder and at the office of the Sanitary Board for review by interested persons during the regular office hours of such office.

Beverly Tresch City Clerk, City of Bluefield, W.Va.

CERTIFICATE OF PUBLICATION

State of West Virginia, }
County of Mercer, } To-wit:—

I, Shirley Smith of the Bluefield Daily Telegraph, a daily morning newspaper published in the City of Bluefield, Mercer County, West Virginia, do certify that the notice attached hereto under the caption;

was published in the said Bluefield Daily Telegraph

Two (2) Times

on the following days, namely; ~~June 27th, Jul~~ 4th

in the year 19 98

Publication Fee $166.03

Shirley Smith

Subscribed and sworn to before me this 6th day of July 19 98

My Commission expires Feb. 20 19 2005

Ruth J. Hopper
Notary Public

Bland Street Exon – 1810 Bland Street – Ceiling repairs to cost $1,500.00.

Puckett, Lee – 1545 Stadium Drive –soffit, guttering to cost $1,150.00

Larson, Anna – 2800 Grandview – Roof to cost $4,400.00

Green, Wayne – 1323 Larchmont – 12x46 deck to cots $600.00

Citizens Bldg – 600 Bluefield Ave – 6' chainlink fence to cost $2000

Walker, Dorothy – 1603 Wayne Street – 28x56 Manufactured Home to cost $44,495.00

Brown, Theda – 1800 Vineyard – Siding to cost $3,000.00

Burton, Sylvia – 4103 E. Cumberland replace patio, roof to cost $1,800.00

Pizza Hut – 3152 Cumberland Road – 5'3" x 16'walkin cooler w/5' foyer to cost $1,225.00

Rogers, Robert – 321 Rogers St – Inside renovations to cost $7,000.00

Lambert, Jamie – 3902 Carey Street – Convert garage into 1-2 bedroom apt to cost $5,000.00

Hayes, Grant – 4427 Cumberland Road – Roof to cost $300.00

Gattuso, Ernest – 324 Parkway – Roof to cost $3,500.00

Hager, Steve – 1000 Princeton Ave – Roof to cost $3,000.00
Burton, Sylvia – 4103 E. Cumberland – Rebuild existing patio pave an existing pad to cost $4,100.00

Davidson, H.W. – 220 Oakdell – roof to cost $20,000.00

Associate Relocation Co 101 Spring Grove – Roof to cost $6,500.00

First Pentecostal Church – 1225 Lyndale – 80x100 church to cost $236,789.50

Wilkinson, R. W. – 220 Orchard Way – Remodeling Gazebo to cost $3000.00

Willis, Carol – 2817 Marellen Siding, roofing, sidewalk to driveway to cost $2,200.00

Appalachian Tire Products – 214 Princeton Ave - Replace sign to cost $1,000.00

Victor Pruett – 400 Union Street – 3' wood fence front of house to cost $1,375.00

Holiday Inn – US 460 – 4'high wood fence around pool to cost $3,605.00.

Gillespie, Colen – 116 Ramsey – pave driveway to cost $800.00

PUBLIC HEARING

Mayor Nelson Walker opened a Public Hearing on July 14, 1998 at 7:00p.m.in the Municipal Board Room. Present were Mayor Nelson Walker, Vice-Mayor George McGonagle, Ollie Law, Garry Moore, Doris Sue Kantor, City Manager Tom Vidovich, Treasurer: Charles Cromer, City Solicitor: Janet Williamson, City Clerk: Beverly G. Tresch. Attorney Norris Kantor and Jim Withrow, bond counsel.

The City of Bluefield contemplates the issuance of the Series 1998 A Bonds set forth in the Ordinance passed on June 23, 1998 by the Bluefield City Board and any person interested was invited to appear before the Board of the City of Bluefield at a meeting, thereof at 7:00 o'clock p.m. on Tuesday July 14, 1998 in the City hall, 200 Rogers Street in the City of Bluefield, West Virginia and present protests and be heard as whether the Ordinance shall be put into effect.

There was no one present to speak against the bond issue.

Mayor Nelson Walker closed the Public Hearing.

Vice-Mayor George McGonagle moved that the Ordinance to issue Sewer Revenue Bonds, Series 1998 in the amount not to exceed $1,600,000.00 in order to provide funds to pay the costs of certain additions, improvement and betterment's to the System consisting of the acquisition of a certain portion of the Bluewell Public Service District be put into effect. Seconded Ollie Law. So ordered (unanimously approved).

ARC Grant

AGENDA
BOARD OF DIRECTORS
BLUEFIELD, WEST VIRGINIA
JULY 14, 1998

CALL TO ORDER
INVOCATION:
PLEDGE OF ALLEGIANCE:
MINUTES: June 23, 1998

PUBLIC HEARING:
Determined that it is necessary for the City to issue its Sewer Revenue Bonds, Series 1998 in the amount not to exceed $1,600,000.00 in order to provide funds to pay the costs of certain additions, improvements and betterment's to the System consisting of the acquisition of a certain portion of the Bluewell Public Service District. Norris Kantor/Doug Campbell.

RESOLUTION OF RESPECT: to the family of Emma S. Yost, 93, of Dania, Florida, formerly of Bluefield, Virginia. Mrs. Yost was the bride of the Wedding of the Bluefields July 12, 1924.

RESOLUTION: The Board wishes to pass a resolution of appreciation to the Governor's Summer Youth Program (Job Training Partnership).

MODIFICATION OF CHAIN LINK SECURITY FENCE:
Christ Episcopal Church requests permission to modify the southwest corner of the chain link security fence owned by Citizens which encloses the upper employee parking lot leased from the City of Bluefield. The modification is limited to the removal of the ninety-degree corner section and the installation of two forty-five degree corners, which will place approximately 32 sq.ft. of the existing lot outside the fenced area to facilitate a wider entrance into the proposed handicap access land to the Church – Doug Williams Citizen's Communications has no opposition to this request.

RESOLUTION:
Upon information provided by Bluefield Police Chief Charles Blizzard and City Manager Tom Vidovich and with the knowledge and consent of the property owner, the city board hereby declares the property of 218 Barger Street to be an emergency situation. This structure is open, vacant and is attracting criminal activity. By, this resolution, the City Board declares this property an emergency and orders this property to be demolished immediately
CITY MANAGER:
CITY TREASURER:

CITY SOLICITOR: Second Reading (Ordinance to expand business and occupational tax rate relief city wide)

ANNOUNCEMENTS AND OTHER:

TREE BOARD: The Tree Board request the city board's support for the planning of maintenance work for tree cutting and vegetation management within the city of Bluefield as trees are a valuable resource and through proper management enhance the quality of life.

COMMISSION APPOINTMENTS/REAPPOINTMENTS:

TREE BOARD:
Jack White – 655 Shenandoah to fill the unexpired term of Arthur Evans term ending Feb. 17, 2001.
HISTORIC LANDMARKS:
Barry Jones, P.O. Box 4100 replacing Charles B. Cromer, Jr. (Board liaison)
Reappoint of Don Bury 651 Rockbridge term expiring July 2, 1001.
ZONING BOARD OF ADJUSTMENTS:
Reappoint Jack Richardson – 1303 Augusta with term expiring 2001
LIBRARY BOARD:
Reappoint R.W. (Buz) Wilkinson – 2207 Orchard Way term expiring July 1, 2003.
PARKING FACILITIES COMMISSION:
Reappoint Max Kammer – 318 Bland Road term expiring April 12, 2001
FINE ARTS COMMISSION:
Reappoint Suzanne Baker – 900 Pearl Street term expiring April 26, 2003.

ADJOURN TO EXECUTIVE SESSION – Personnel
RETURN FOR ADJOURNMENT ONLY

THE CITY OF BLUEFIELD
Sewerage System Revenue Bonds, Series 1998 A
(West Virginia SRF Program)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1998 A (WEST VIRGINIA SRF PROGRAM), OF THE CITY OF BLUEFIELD; RATIFYING AND APPROVING A LOAN AGREEMENT RELATIVE TO SUCH BONDS, AND OTHER DOCUMENTS RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT, AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Common Council (the "Governing Body") of The City of Bluefield, (the "Issuer") has duly and officially enacted a bond ordinance, effective July 14, 1998 (the "Bond Ordinance"), entitled:

AN ORDINANCE AUTHORIZING THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND BETTERMENT TO THE PUBLIC SEWERAGE SYSTEM FACILITIES OF THE CITY OF BLUEFIELD AND THE FINANCING CERTAIN COSTS THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $1,600,000.00 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, SERIES 1998 A, PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO THE SERIES 1998 A BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Ordinance when used herein;

WHEREAS, the Bond Ordinance provides for the issuance of Sewerage System Revenue Bonds, Series 1998 A (West Virginia SRF Program), of the Issuer (the "Bonds"), in the aggregate principal amount not to exceed $1,600,000.00, and has authorized the execution and delivery of a loan agreement relating to the Bonds (the "Loan Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia

Division of Environmental Protection (the "DEP"), all in accordance with Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, interest rate, interest and principal payment dates, sale price and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bond; and that other matters relating to the Bonds be herein provided for:

WHEREAS, the Loan Agreement has been presented to the Issuer at this meeting;

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

WHEREAS, capitalized terms used herein and not otherwise defined shall have the same meanings given to such terms in the Ordinance; and

WHEREAS, the Governing Body of the City deems it essential and desirable that this resolution (the "Supplemental Resolution") be adopted and that the Loan Agreement, as amended, be ratified and approved by the Issuer, that the exact principal amount, the date, the maturity date, the interest rate, the interest and principal payment dates and the sales price of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for.

NOW, THEREFORE, be it resolved by the Governing Body of The City of Bluefield, West Virginia, as follows:

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewerage System Revenue Bonds, Series 1998 A (West Virginia SRF Program), of the Issuer, originally represented by a single Bond, numbered R-1, in principal amount of $1,116,645.00. The Bonds shall be dated the date of delivery thereof, expected to be May 20, 1999, shall finally mature June 1, 2021, and shall bear no interest. The Bonds shall be payable quarterly in principal installments on March 1, June 1, September 1 and December 1 of each quarter commencing September 1, 2001, and ending June 1, 2021, and in the amounts as set forth in "Schedule Y" attached to the Loan Agreement, as amended, and incorporated in and made a part of the Bonds. The Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, as amended, so long as the Authority shall be registered owner of the Bonds. There shall also be payable on the Series 1998 A Bonds a one percent (1%) administrative fee.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Ordinance other than set forth in Section 15 hereof.

Section 3. The Issuer does hereby ratify, approve and accept the Loan Agreement, and the execution and delivery of the Loan Agreement, by the Mayor and the City Manager, and the

performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement, as amended, and in the application to the DEP and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon.

Section 4. The Issuer does hereby approve and shall pay on March 1, June 1, September 1 and December 1, commencing September 1, 2001, the SRF Administrative Fee equal to 1.0% of the principal amount of the Bonds set forth in "Schedule Y" attached to the Loan Agreement.

Section 5. The Issuer does hereby appoint and designate Bank One, West Virginia, National Association, Charleston, West Virginia, as Registrar (the "Registrar"), for the Bonds and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor and the City Manager, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, approved and directed.

Section 6. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, as Paying Agent for the Bonds.

Section 7. The Issuer does hereby appoint First Century Bank, National Association, Bluefield, West Virginia, as Depository Bank under the Bond Ordinance.

Section 8. The firm of Sullivan, Ware & Associates, Certified Public Accountants, Huntington, West Virginia, is hereby engaged for the purposes of providing the necessary certifications to comply with the issuance requirements of the Bonds and the parity requirements of the Series 1995 and 1992 Bonds.

Section 9. Bond proceeds in the amount of $-0- shall be deposited in the Series 1998 A Bonds Sinking Fund, as capitalized interest.

Section 10. Bond proceeds in the amount of $53,175.00 shall be deposited in the Series 1998 A Bonds Reserve Account.

Section 11. The proceeds of the Bonds, shall be deposited with the Depository Bank and used in part to pay the costs of issuance of the Bonds and related costs. The balance of the proceeds, along with other monies of the Issuer, shall be used to pay authorized and approved Project costs out of the construction account established under the Bond Ordinance.

Section 12. The Mayor, the City Manager, and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about May 20, 1999, to the Authority pursuant to the Loan Agreement.

Section 13. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Moneys in the Series 1998 A Bonds Sinking Fund, including the Series 1998 A Bonds Reserve Account therein, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 14. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 15. The form of the Bond as provided in Article III, Section 3.10 of the Bond Ordinance is amended to reflect not only execution by the Mayor but also by the City Manager and the reference and execution title for attestation by the Recorder is amended to reflect attestation by the City Clerk.

Section 16. The Issuer agrees to match out of its own funds and pay unto the project as its local share the sum of $585,510.00. This agreement includes in-kind labor and equipment belonging to the Issuer and the value thereof.

Section 17. This Supplemental Resolution shall take effect immediately upon its adoption.

Adopted this 11th day of May, 1999.

Beverly G. Tresch
City Clerk

Mayor

STATE OF WEST VIRGINIA
COUNTY OF MERCER, TO WIT:

I, Beverly G. Tresch, Clerk of the City of Bluefield, West Virginia do hereby certify that the attached is an accurate copy of the minutes of the Board of Directors of the City in their regular meeting of May 11, 1999 and is duly recorded in the permanent records of the City of Bluefield.

Beverly Tresch
Clerk, City of Bluefield, WV

Supplemental Resolution: The City of Bluefield Sewer Revenue Bonds, Series 1998 A (West Virginia SRF Program)

BOARD OF DIRECTORS
BLUEFIELD, WEST VIRGINIA
MAY 11, 1999

The Board of Directors of the City of Bluefield, West Virginia met in regular session May 11, 1999 in the Municipal Board Room. Present were Mayor Nelson Walker, Vice-Mayor George McGonagle, Oliver Law, Doris Sue Kantor, Garry Moore, City Manager: Tom Vidovich, Treasurer: Charlie Cromer, Assistant Treasurer: Hasan Baig, City Solicitor: John Feuchtenberger and City Clerk: Beverly G. Tresch.

INVOCATION/PLEDGE:

Director Garry Moore gave the Invocation followed by the Pledge of Allegiance.

MINUTES:

Vice-Mayor George McGonagle moved that the minutes of April 27, 1999 be approved as presented. Seconded Ollie Law. So ordered.

WELCOME: Jamie Giokaris–Lithgow Australia New South Wales

Mayor Walker and the board welcomed and presented a key to the city to Jamie Giokaris of Bluefield's Sister City in New South Wales, Lithgow, Australia

The mayor read a letter of welcome to Giokaris, which reads, in part, "Our sister city affiliation has given us a growing awareness and appreciation of each other's culture and people.

The partnership has grown and we have experienced different kinds of exchanges – educational, cultural, municipal, and professional between our communities and among our citizens."

REVISED SUPPLEMENTAL RESOLUTION SEWER REVENUE BONDS, SERIES 1998 A (Norris Kantor)

This revised supplemental resolution will need to be approved for Bond Counsel and the Counsel for the Water Development Authority. We want to make the resolution answer all questions that have been raised by EPA. ..Section 16 (supplemental resolution) showing in specific terms what the city Sanitary Board contribution is going to be for in-kind labor and equipment (also showing that our contribution matches the ARC contribution dollar for dollar).

Director Garry Moore moved that the following supplemental resolution (The City of Bluefield Sewerage System Revenue Bonds, Series 1998 A (West Virginia SRF Program) be approved. Seconded Director Oliver Law. So ordered (unanimously approved)

RESOLUTION:

THE CITY OF BLUEFIELD
Sewer Revenue Bonds, Series 1998 A
(West Virginia SRF Program)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1998 A (WEST VIRGINIA SRF PROGRAM), OF THE CITY OF BLUEFIELD; RATIFYING AND APPROVING A LOAN AGREEMENT RELATIVE TO SUCH BONDS, AND OTHER DOCUMENTS RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT, AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Common Council (the "Governing Body") of The City of Bluefield, (the "Issuer") has duly and officially adopted and enacted a bond ordinance, effective June 23, 1998 (the "Bond Ordinance") entitled:

AN ORDINANCE AUTHORIZING THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND BETTERMENT TO THE PUBLIC SEWERAGE SYSTEM FACILITIES OF THE CITY OF BLUEFIELD AND THE FINANCING CERTAIN COSTS THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN $1,600,000.00 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, SERIES 1998 A, PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO THE SERIES 1998 A BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Ordinance when used herein;

WHEREAS, the Bond Ordinance provides for the issuance of Sewer Revenue Bonds, Series 1998 A (West Virginia SRF Program), of the Issuer (the "Bonds"), in the aggregate principal amount not to exceed $1,600,000.00, and has authorized the execution and delivery of a loan agreement relating to the Bonds and Addendum thereto (the "Loan Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection

(the "DEP"), all in accordance with Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, interest rate, interest and principal payment dates, sale price and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bond; and that other matters relating to the Bonds be herein provided for:

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

WHEREAS, the capitalized terms used herein and not otherwise defined shall have the same meanings given to such terms in the Ordinance; and

WHEREAS, the Governing Body of the City deems it essential and desirable that this resolution (the "Supplemental Resolution") be adopted and that the Loan Agreement, as amended, be ratified and approved by the Issuer, that the exact principal amount, the date, the maturity date, the interest rate, the interest and principal payment dates and the sales price of the Bonds be fixed hereby in the manner stated herein, and that other matters related to the Bonds be herein provided for.

NOW, THEREFORE, be it resolved by the Governing Body of the City of Bluefield, West Virginia, as follows:

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewer Revenue Bonds, Series 1998 A (West Virginia SRF Program), of the Issuer, originally represented by a single Bond, numbered R-1, in principal amount of $1,116,645.00. The Bonds shall be dated the date of delivery thereof, expected to be May 20, 1999, shall finally mature June 1, 2021, and shall bear no interest. The Bonds shall be payable quarterly in principal installments on March 1, June 1, September 1 and December 1 of each quarter commencing June 1,2001, and ending June 1, 2021, and in the amounts as set forth in "Schedule Y" attached to the Loan Agreement, as amended, and incorporated in and made a part of the Bonds. The Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, as amended, so long as the Authority shall be registered owner of the Bonds.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Ordinance other than set forth in Section 15 hereof.

Section 3. The Issuer does hereby ratify, approve and accept the Loan Agreement, as amended, and the execution and delivery of the Loan Agreement, as amended, by the Mayor and the City Manager, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and

approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement, as amended, and in the application to the DEP and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon.

Section 4. The Issuer does hereby approve and shall pay on March 1, June 1, September 1 and December 1, commencing June 1, 2001, the SRF Administrative Fee equal to 1.0% of the principal amount of the Bonds set forth in "Schedule Y" attached to the Loan Agreement.

Section 5. The Issuer does hereby appoint and designate Bank One, West Virginia, NA, Charleston, West Virginia, as Registrar (the "Registrar") for the Bonds and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor and the City Manager, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, approved and directed.

Section 6. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, as Paying Agent for the Bonds.

Section 7. The Issuer does hereby appoint First Century Bank, National Association, Bluefield, West Virginia, as Depository Bank under the Bond Ordinance.

Section 8. The firm of Sullivan, Ware & Associates, Certified Public Accountants, Hunting, West Virginia, is hereby engaged for the purposes of providing the necessary certifications to comply with the issuance requirements of the Bonds and the parity requirements of the Series 1995 and 1992 Bonds.

Section 9. Bond proceeds in the amount of $-0- shall be deposited in the Series 1998 A Bonds Sinking Fund, as capitalized interest.

Section 10. Bond proceeds in the amount of $53,175.00 shall be deposited in the Series 1998 A Bonds Reserve Account.

Section 11. The proceeds of the Bonds, being $1,116,645.00, shall be deposited with the Depository Bank and used to pay the costs of issuance of the Bonds and related costs. The balance of the proceeds shall be used to pay authorized and approved Project costs.

Section 12. The Mayor, the City Manager, and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds be delivered on or about May 20, 1999, to the Authority pursuant to the Loan Agreement.

Section 13. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Moneys in the Series 1998 A Bonds Sinking Fund, including the Series 1998 A Bonds Reserve Account therein, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 14. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103 (a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code and Treasurer Regulations to be promulgated thereunder.

Section 15. The form of the Bond as provided in Article III, Section 3.10 of the Bond Ordinance is amended to reflect not only execution by the Mayor but also by the City Manager and the reference and execution title for attestation by the Recorder is amended to reflect attestation by the City Clerk.

Section 16. The Issuer agrees to match out of its own funds and pay unto the project as its local share the sum of $585,510.00. This agreement includes in-kind labor and equipment belonging to the Issuer and the value thereof.

Section 17. This Supplemental Resolution shall take effect immediately upon its adoption.

Adopted this 11th day of May 1999.

_____ _____

City Clerk Mayor

REQUEST: To close and abandon Frye Avenue (a 50 foot Avenue running from Ohio Street South to Whitethorn Street Extension extending East and West between Bentley and Golf Avenue.

Mrs. Sally Basham-Stolp requested once again the closing and abandonment of Frye Avenue, (a 50 foot Avenue running from Ohio Street South to Whitethorn Street Extension extending east and West between Bentley and Golf Avenues). "We want to pave that for a driveway because that is the only way we can get back to our garage off of Ohio Street. The last time I presented this request I felt like there was a conflict of

interest with the other board and so needless to say nothing was resolved and it has not been paved. My husband and I did not feel like we could afford $5,000 then all of a sudden the city come and say that the street is going to be opened and it is going to be the grand entrance to the new subdivision of Bluefield Country Club. I think that was the problem earlier. Now that the Elks have bought the country club I have not heard any more rumors floating around that there is going to be a housing development on the golf course now...so we still want to pave our driveway going off of Ohio going 160' back and then into our yard where the garage is located."

This process was originally started on May 6, 1996 but was turned down by the previous board.

Garry Moore moved that a Public hearing be set for 7:30p.m. Tuesday, May 25, 1999 to address the issue of closing and abandoning Frye Avenue and that the date and time of the hearing be published in the Bluefield Daily Telegraph and the adjoining neighbors notified. Seconded Ollie Law. So ordered.

ORDINANCE: (Building Permits, Stop Work Orders, Civil Penalties)

With the board's permission City Solicitor John Feuchtenberger held first (1) reading of the following ordinance:

ORDINANCE TO AMEND PART II, CODE OF ORDINANCES OF THE CITY OF BLUEFIELD, BY THE AMENDMENT OF CHAPTER 4. BUILDINGS & STRUCTURES, ARTICLE III. PERMITS. BY THE REPEAL AND RE-ENACTMENT OF SECTION 4-48. STOP WORK ORDERS; EMERGENCY SECURITY ORDERS; CIVIL PENALTIES. SUBSECTION (c), CIVIL PENALTY THEREOF, AS FOLLOWS

LAW SUIT AGAINST CONDEMNED PROPERTIES:
3031/3033 East Cumberland Road

The board is familiar with these very, very severely dilapidated houses that sit at the entrance to the Bluefield Plaza. These properties are below any standard. The city authorized a suit against those properties and their owner so that the city would not have to bare the cost of demolition. The suit has been brought, service has been made and time for an answer has passed. There will be a hearing within the next several weeks before Judge Knight and thereafter we will proceed to demolish them at the expense of the property owner.

REQUEST FOR AN EXECUTIVE SESSION:

Feuchtenberger requested that at the end of the meeting the board retire to executive session for guidance (mediation session).

CITY AMNESTY PROGRAM FOR DELINQUENT ACCOUNTS:

RESOLUTION:

Director Ollie Law moved that the city board ratify the decision by city administrators (City Manager Tom Vidovich and City Treasurer Charlie Cromer) giving them permission to declare amnesty on penalties for overdue/delinquent garbage, fire or street fees effective throughout this month. Seconded Vice-Mayor George McGonagle. So ordered (unanimously approved).

CITY MANAGER:

GARBAGE PACKER/TRUCK:
Advertised for bid Class II Legal Ad
Pre-bid Conference Held

Garry Moore, Sr. moved that the city enter into a 60 month lease purchase payment with Comvest Ltd., Inc. P.O. Box 2025 Clarksburg, WV 26302 at **$1,376.05** per month and that we accept the lowest aggregate bid from Cole Motor Company Route 52 N P.O. Box 1298 Bluefield, West Virginia of **$72,500.00** for a 2000 GMC W/Leach Delta Hip-20 (Packer/Truck). Seconded Doris Sue Kantor. So ordered (unanimously approved).

NEIGHBORHOOD ASSOCIATION CIY CLEAN-UP CAMPAIGN:

City Manager Vidovich stated that the neighborhood clean-up campaign continues across the city. Involves a great deal of work for our street crews but it worthwhile. This week we have done the east-south side association group and next week downtown and West End. (Last week of clean up scheduled for June 7th)

Mayor Walker stated that as a result of this clean-up there are some commitments on some other activities that we have had to set aside (such as removing some brush, etc.) that had to be delayed because the crews are concentrating on the clean-up campaign.

DEMOLITION:

Barry Jones reported to the board that 17 (seventeen) dilapidated structures have been removed and 5 (five) more are scheduled. We are working in-groups of 5 (five) to keep the project manageable.

ACCOUNTS RECEIVABLE:

Art Riley: How many persons have applied for the amnesty program?
Hasan Baig: About 20 individuals have come forward since the amnesty was announced to pay their overdue fees in full. Another 20 or so have made arrangements for payments. Baig said he wasn't sure of the total dollar amount of the 40 or so individuals owed
Art Riley: Asked whether the city sent out letters to any of the individuals who owe money (delinquent accounts) explaining the amnesty? Is the only notification the citizens are going to get is the article in the paper?
Charles Cromer: We have sent no letters out.
Art Riley: If you don't read the Telegraph then you will not know about it.
Feuchtenberger: Obviously they are not reading their bills.
Baig: When questioned Baig stated that some (800) letters would need to be mailed.
Walker: "Point well taken Art that is why we like for you to come to these meetings."
Riley: Asked about the paving contracts that were awarded in November? When will we see paving...everyone else is paving.
Kantor: We have spoken with the contractor and when he gets us scheduled for milling equipment (has to contract that out) he will set up a time for the work to begin.

EXECUTIVE SESSION:

Doris Sue Kantor moved that the board retire to Executive Session for (guidance in legal mediation business) and return for adjournment only. Seconded Gary Moore. So ordered.

There being no further business the meeting adjourned.

Beverly G. Tresch, City Clerk

Nelson R. Walker, Mayor

SRF-LP-1
(August 1998)

LOAN AGREEMENT

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

CITY OF BLUEFIELD
(Local Government)

WITNESSETH:

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

WHEREAS, pursuant to the provisions of Chapter 20, Article 5I, of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to direct the distribution of loans to particular local governments pursuant to the Clean Water Act;

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

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

WHEREAS, pursuant to the Act, the Authority and DEP are empowered to make loans from the Fund to local governments for the acquisition or construction of

wastewater treatment projects by such local governments, all subject to such provisions and limitations as are contained in the Clean Water Act and the Act;

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

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

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

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

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

WHEREAS, having reviewed the Application and the Fund having available sufficient funds therefor, the Authority and DEP are willing to lend the Local Government the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Government with moneys held in the Fund, subject to the Local Government's satisfaction of certain legal and other requirements of the Program.

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

ARTICLE I

Definitions

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II

The Project and the System

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

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

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

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

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

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

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

2.8 The Local Government shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and DEP. Until the Project facilities are completed and accepted by the Local Government, the Local Government or (at the option of the Local Government) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Government, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Government on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Government must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

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

2.10 The Local Government shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to DEP when the Project is 90% completed. The Local Government agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Local Government agrees that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The Local Government shall notify DEP in writing of the certified operator employed at the 25% completion stage.

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

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

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

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

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

(f) The Local Government shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

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

(h) The Local Government shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project) with all requisite appeal periods having expired, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

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

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

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

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

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

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

Local Government further specifically recognizes that all loans will be originated in conjunction with the SRF Regulations and with the approval of DEP.

3.6 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions established by federal and state regulations as set forth in Exhibit E hereto at such times as are set forth in Exhibit E.

ARTICLE IV

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

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

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

(i) to pay Operating Expenses of the System;

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

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

or making emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account; and

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by the net revenues from the System;

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

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

(iv) That, except as otherwise required by State law or the Regulations, the System may be sold, mortgaged, leased or otherwise disposed of as a whole or substantially as a whole provided that the net proceeds to be realized from such sale, mortgage, lease or other deposition shall be sufficient to fully pay all of the local bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of such System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

(v) That the Local Government shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and

on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds and with the written consent of the Authority and DEP; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

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

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

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

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

(xi) That the Local Government shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and DEP, which report shall include a statement that the Local Government is in compliance with the terms and provisions of the Local Act and this Loan Agreement and that the Local Government's revenues are adequate to meet its operation and maintenance expenses and debt service requirements;

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

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

(xiv) That the proceeds of the Local Bonds, advanced from time to time, except for accrued interest and capitalized interest, if any, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Local Government and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing for non-construction costs) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim funding of such Local Government, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and DEP, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

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

(xvi) That the Local Government shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the West Virginia Municipal Bond Commission (the "Commission") its required interest, principal and reserve fund payment. The Local Government shall complete the Monthly Payment Form, attached hereto as Exhibit F and incorporated herein by reference, and submit a copy of said form along with a copy of the check to the Authority by the 5th day of such calendar month;

(xvii) That the Commission shall serve as paying agent for all Local Bonds;

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

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

(xx) That the Local Government shall, to the full extent permitted by applicable law and the rules and regulations of the West Virginia Public Service Commission, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will

not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Local Government, then the Local Government shall enter into a termination agreement with the water provider.

The Local Government hereby represents and warrants that the Local Act has been or shall be duly adopted 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 nationally recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit G.

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

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

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

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

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

ARTICLE V

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

5.1 The Local Government hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Local Government hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System, as set forth in the Local Act and in compliance with the provisions of Subsection 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the minimum sums set forth in the Local Act, the Local Government hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges so as to provide funds sufficient to produce the minimum sums set forth in the Local Act and as required by this Loan Agreement.

5.3 In the event the Local Government defaults in any payment due to the Authority pursuant to Section 4.2 hereof, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

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

ARTICLE VI

Other Agreements of the Local Government

6.1 The Local Government hereby acknowledges to the Authority and DEP its understanding of the provisions of the Act, vesting in the Authority and DEP certain powers, rights and privileges with respect to wastewater treatment projects in the event of default by local governments in the terms and covenants of loan agreements, and the Local Government hereby covenants and agrees that, if the Authority should hereafter have

recourse to said rights and powers, the Local Government shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Loan Agreement.

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

6.3 The Local Government hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority or any other lender for the planning or design of the Project, provided that such repayment shall not be made from the proceeds of the Loan.

6.4 The Local Government hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Local Government fails to make any such rebates as required, then the Local Government shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

6.5 Notwithstanding Section 6.4, the Authority and DEP may at any time, in their sole discretion, cause the rebate calculations prepared by or on behalf of the Local Government to be monitored or cause the rebate calculations for the Local Government to be prepared, in either case at the expense of the Local Government.

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

6.7 The Local Government hereby agrees to file with the Authority upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule A to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

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

7.2 If any provision of this 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.

7.3 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.

7.4 No waiver by any 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.

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

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

7.7 This Loan Agreement shall terminate upon the earlier of:

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

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

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

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 Authority.

City of Bluefield
[Proper Name of Local Government]

(SEAL)

By: R Terry Honaker
Its: Exec. Dir

Attest:

Date: 4/29/99

Beverly G. Trench
Its City Clerk

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION

By: Barbara S. Taylor
Its: Chief

Date: 5/6/99

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: Daniel B. Yorkosky
Its: Director

Attest:

Date: April 28, 1999

Barbara B Meadows
Secretary-Treasurer

EXHIBIT A

[Form of Performance Certificate]

[TO BE PROVIDED BY DEP]

EXHIBIT B

[Form of Monthly Financial Report]
[Name of Local Government]
[Name of Bond Issue]
Fiscal Year - __
Report Month: _____

ITEM	CURRENT MONTH	YEAR TO DATE	BUDGET YEAR TO DATE	BUDGET DIFFERENCE
1. Gross Revenues Collected				
2. Operation and Maintenance Expense				
3. Other Bond Debt Payments (including Reserve Fund deposits)				
4. SRF Bond Payments (include Reserve Fund deposits)				
5. Renewal and Replacement Fund Deposit				
6. Funds available for capital construction				

Witnesseth my signature this __ day of ____, ____.

[Name of Local Government]

By: _____
Authorized Officer

EXHIBIT C

PAYMENT REQUISITION FORM

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

EXHIBIT D

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No._____, of _____, Consulting Engineers, _____, _____, hereby certify that my firm is engineer for the acquisition and construction of _____ to the _____ system (herein called the "Project") of _____ (the "Issuer") to be constructed primarily in _____County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the _____ passed by the _____ of the Issuer on _____, 19___, effective _____, 19___, and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated _____, 19___.

1. The Bonds are being issued for the purpose of _____ _____ (the "Project").

2. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least twenty years, (iii) the Issuer 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 Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (v) the rates and charges for the System as adopted by the ____ of the Issuer are sufficient to comply with the provisions of Subsection 4.1(b) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and

acquisition of the Project as set forth in the Application, and (vii) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this _____ day of _____, 19___.

_____

By _____

West Virginia License No. __

[SEAL]

EXHIBIT E

SPECIAL CONDITIONS

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

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi)) - The loan recipient that receives $300,000 or more in a fiscal year must obtain audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133 or any appropriate successor. Financial statement audits are required once all funds have been received by the loan recipient.

C. The City (Board) will comply with the DBE requirements of 40CFR 30, 31 and 35, as applicable, on all future purchases for this project. The documentation of procurement will be submitted for approval prior to purchasing the materials and supplies.

EXHIBIT F

[Monthly Payment Form]

West Virginia Water Development
Authority
180 Association Drive
Charleston WV 25311-1571

Re: [Name of bond issue]

Dear Sirs:

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

Sinking Fund:

Interest $_____

Principal $_____

Total: $_____

Reserve Fund: $_____

Witness my signature this ____ day of_____.

[Name of Local Government]

By: _____
Authorized Officer

Enclosure: copy of check(s)

EXHIBIT G

[Opinion of Bond Counsel for Local Government]

[To Be Dated as of Date of Loan Closing]

West Virginia Water Development Authority
180 Association Drive
Charleston WV 25311-1571

Gentlemen:

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

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated _____, 19__, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Local Government and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Local Government, dated _____, 19_ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $_____, issued in the form of one bond registered as to principal and interest to the Authority, with interest payable _____ 1, ____ 1, _____ 1, and _____ 1 of each year, beginning _____ 1, 19_, at the respective rate or rates and with principal payable in installments on ____ 1 in each of the years, all as follows:

Year	Installment	Interest Rate

The Local 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 _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly enacted by the Local Government on _____ (the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

2. The 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 Local Government without the consent of the Authority.

3. The Local Government is a duly organized and presently existing _____ _____, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary _____ in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Local Government, payable from the net revenues of the System referred to in the Local Act and secured by a [first] lien on and pledge of the net revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

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

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

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

Very truly yours,

SCHEDULE X

DESCRIPTION OF BONDS

Principal Amount of Bonds	$ 1,116,645
Purchase Price of Bonds	$ 1,116,645

Interest on the Bonds shall be zero percent from the date of delivery ~~to and including~~ _____. Principal ~~and interest~~ on the Bonds is payable quarterly, commencing Sept. 1, 2001, at a rate of 0 % per annum. Quarterly payments will be made thereafter on each September 1, December 1, March 1 and June 1 as set forth on Schedule Y attached hereto and incorporated herein by reference. As of the date of this Loan Agreement, it is the Authority's and DEP's understanding that the Local Government has [other obligations outstanding which have a lien as to the source of and security for payment equal to or superior to the lien being granted by the Bonds] or [provide list of outstanding debt]. (See attached schedule)

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

The Bonds will be fully registered in the name of the West Virginia Water Development Authority as to principal ~~and interest~~ and such Bonds shall grant the Authority a first lien on the net revenues of the Local Government's system.

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

*Sewerage System Refunding Revenue Bonds, Series 1992, issued in original principal amount of $4,985,000.

Sewerage System Refunding Revenue Bonds, Series 1995, issued in original principal amount of $7,945,000.

City of Bluefield, West Virginia

Loan Agreement C-544223

$1,116,645; 20 Years; 0% Interest Rate; 1% Administrative Fee

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
6/01/1999	-	-	-
9/01/1999	-	-	-
12/01/1999	-	-	-
3/01/2000	-	-	-
6/01/2000	-	-	-
9/01/2000	-	-	-
12/01/2000	-	-	-
3/01/2001	-	-	-
6/01/2001	-	-	-
9/01/2001	13,959.00	-	13,959.00
12/01/2001	13,959.00	-	13,959.00
3/01/2002	13,959.00	-	13,959.00
6/01/2002	13,959.00	-	13,959.00
9/01/2002	13,959.00	-	13,959.00
12/01/2002	13,958.00	-	13,958.00
3/01/2003	13,958.00	-	13,958.00
6/01/2003	13,958.00	-	13,958.00
9/01/2003	13,958.00	-	13,958.00
12/01/2003	13,958.00	-	13,958.00
3/01/2004	13,958.00	-	13,958.00
6/01/2004	13,958.00	-	13,958.00
9/01/2004	13,958.00	-	13,958.00
12/01/2004	13,958.00	-	13,958.00
3/01/2005	13,958.00	-	13,958.00
6/01/2005	13,958.00	-	13,958.00
9/01/2005	13,958.00	-	13,958.00
12/01/2005	13,958.00	-	13,958.00
3/01/2006	13,958.00	-	13,958.00
6/01/2006	13,958.00	-	13,958.00
9/01/2006	13,958.00	-	13,958.00
12/01/2006	13,958.00	-	13,958.00
3/01/2007	13,958.00	-	13,958.00
6/01/2007	13,958.00	-	13,958.00
9/01/2007	13,958.00	-	13,958.00
12/01/2007	13,958.00	-	13,958.00
3/01/2008	13,958.00	-	13,958.00
6/01/2008	13,958.00	-	13,958.00
9/01/2008	13,958.00	-	13,958.00
12/01/2008	13,958.00	-	13,958.00
3/01/2009	13,958.00	-	13,958.00
6/01/2009	13,958.00	-	13,958.00
9/01/2009	13,958.00	-	13,958.00
12/01/2009	13,958.00	-	13,958.00
3/01/2010	13,958.00	-	13,958.00
6/01/2010	13,958.00	-	13,958.00
9/01/2010	13,958.00	-	13,958.00
12/01/2010	13,958.00	-	13,958.00

City of Bluefield, West Virginia

Loan Agreement C-544223

$1,116,645; 20 Years; 0% Interest Rate; 1% Administrative Fee

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
3/01/2011	13,958.00	-	13,958.00
6/01/2011	13,958.00	-	13,958.00
9/01/2011	13,958.00	-	13,958.00
12/01/2011	13,958.00	-	13,958.00
3/01/2012	13,958.00	-	13,958.00
6/01/2012	13,958.00	-	13,958.00
9/01/2012	13,958.00	-	13,958.00
12/01/2012	13,958.00	-	13,958.00
3/01/2013	13,958.00	-	13,958.00
6/01/2013	13,958.00	-	13,958.00
9/01/2013	13,958.00	-	13,958.00
12/01/2013	13,958.00	-	13,958.00
3/01/2014	13,958.00	-	13,958.00
6/01/2014	13,958.00	-	13,958.00
9/01/2014	13,958.00	-	13,958.00
12/01/2014	13,958.00	-	13,958.00
3/01/2015	13,958.00	-	13,958.00
6/01/2015	13,958.00	-	13,958.00
9/01/2015	13,958.00	-	13,958.00
12/01/2015	13,958.00	-	13,958.00
3/01/2016	13,958.00	-	13,958.00
6/01/2016	13,958.00	-	13,958.00
9/01/2016	13,958.00	-	13,958.00
12/01/2016	13,958.00	-	13,958.00
3/01/2017	13,958.00	-	13,958.00
6/01/2017	13,958.00	-	13,958.00
9/01/2017	13,958.00	-	13,958.00
12/01/2017	13,958.00	-	13,958.00
3/01/2018	13,958.00	-	13,958.00
6/01/2018	13,958.00	-	13,958.00
9/01/2018	13,958.00	-	13,958.00
12/01/2018	13,958.00	-	13,958.00
3/01/2019	13,958.00	-	13,958.00
6/01/2019	13,958.00	-	13,958.00
9/01/2019	13,958.00	-	13,958.00
12/01/2019	13,958.00	-	13,958.00
3/01/2020	13,958.00	-	13,958.00
6/01/2020	13,958.00	-	13,958.00
9/01/2020	13,958.00	-	13,958.00
12/01/2020	13,958.00	-	13,958.00
3/01/2021	13,958.00	-	13,958.00
6/01/2021	13,958.00	-	13,958.00
Total	**1,116,645.00**	-	**1,116,645.00** *

*Plus $1,413.25 one-percent administrative fee paid quarterly. Total fee paid over the life of the loan is $113,060.

Suite 337 Building 3
1800 Washington St. E
State Capitol Complex
Charleston, WV 25305
(304) 348-3971

NEW ISSUE REPORT FORM

Date of Report: May 20, 1999

(See Reverse for Instructions)

ISSUER & ISSUE: The City of Bluefield Sewer Revenue Bonds Series 1998A (WV SRF Program)

ADDRESS: P. O. Box 4100, Bluefield, WV 24701-1900 COUNTY: Mercer

PURPOSE OF ISSUE: New Money X
Refunding ____ Refunds issue(s) dated: ____

ISSUE DATE: May 20, 1999 CLOSING DATE: May 20, 1999

ISSUE AMOUNT: $1,116,645.00 RATE: 0% + 1.0% Administrative Fee

1st DEBT SERVICE DUE: 6/1/01 1st PRINCIPAL DUE: 6/1/01

1st DEBT SERVICE AMOUNT: 13,959.00 PAYING AGENT: Municial Bond Commission

ISSUERS
BOND COUNSEL: Vaughan Law Firm
Contact Person: Dennis R. Vaughan, Jr.
Phone: 304-342-3900

CLOSING BANK: ____
Contact Person: ____
Phone: ____

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: R. Terry Honaker
Position: Executive Director
Phone: 304-325-3681

UNDERWRITERS
BOND COUNSEL: Jackson & Kelly
Contact Person: Samme L. Gee
Phone: 304-340-1318

ESCROW TRUSTEE: ____
Contact Person: ____
Phone: ____

OTHER: ____
Contact Person: ____
Function: ____
Phone: ____

DEPOSITS TO MBC AT CLOSE:
By ____ Wire
X Check
____ IGT

Accrued Interest: ____ Days	$	
Capitalized Interest:	$	
Reserve Account:	$	53,175.00
Other: ____	$	

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By ____ Wire
____ Check
____ IGT

To Escrow Trustee:	$	
To Issuer:	$	
To CIF-State Treasury	$	
To Other: ____	$	

NOTES: ____

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED: ____
TRANSFERS REQUIRED: ____

Form MBC-1 (9/87)

The purpose of the **NEW ISSUE REPORT FORM** is to provide the WV Municipal Bond Commission with an early warning of three basis facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The Commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the WV Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all suppliments, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes".

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at close are required, please submit this form before closing. If no significant facts change by closing, no resubmission at close is required. If, however, there are changes, please submit an updated form, with changes noted, at close.

If you should have any questions concerning this form, please call the Commission.

971471sec051499.wpd

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 14th day of May, 1999.

CASE NO. 97-1471-S-CN
SANITARY BOARD OF THE CITY OF BLUEFIELD
Application for a certificate of convenience and necessity to construct sewer collection mains, pump stations and appurtenances to serve the Brushfork area of Mercer County.

COMMISSION ORDER

By Recommended Decision issued June 16, 1998, which became a Final Order on July 6, 1998, the Commission granted the above referenced certificate application.

On January 27, 1999, the Sanitary Board of the City of Bluefield (Board) filed a petition to reopen this case to obtain approval for changes in the scope and funding for this project. According to the petition, the total project costs changed to include the purchase of certain operation and maintenance equipment necessary to be utilized for the acquired Brushfork collection system once the Board takes over that system. The Board stated that the financing has changed in the amount of loan versus grant money to be used to fund the project. The funding previously approved for the project included a State Revolving Fund (SRF) loan in the amount of $1,545,800 and a grant from the City in the amount of $40,000. The Board states that it has obtained an additional grant in the amount of $585,510 from the Appalachian Regional Commission (ARC) which will reduce the amount it borrows from the SRF to $1,106,923 for the revised project.

On February 4, 1999, and February 5, 1999, Commission Staff filed Memoranda recommending that the Commission approve the revised funding and change in project scope. Staff notes that the revisions will result in lower debt service to be paid by the Board and increased cash surplus. Staff further notes that the revised funding will have no impact on rates. Additionally, Staff voices no objection to the change in the scope of the project.

On February 5, 1999, the Commission entered an order that changed the scope of

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

the project to purchase certain operation and maintenance equipment necessary to be utilized for the acquired Brushfork collection system once the Sanitary Board takes over that system is hereby approved.

It was further ordered that the revised funding for this revised project, including an SRF loan in the amount of $1,106,923, an ARC grant in the amount of $585,510, and a City of Bluefield grant in the amount of $40,000, for a total revised project cost of $1,732,433, is hereby approved.

On May 10, 1999, the Sanitary Board of the City of Bluefield (Board) filed a petition to reopen this case to obtain approval for changes in the funding for this project. The project costs have been amended to include the estimated value of in-kind labor and services to be provided by the Sanitary Board of the City of Bluefield for the project. The project funding has been modified accordingly, and includes a level of State Revolving Fund borrowing which is slightly higher than the borrowing level which was previously approved by the February 5, 1999 Commission Order. The amount of the revised State Revolving Fund borrowing is still significantly less than the borrowing that was initially approved for the project, by the Recommended Decision entered on June 16, 1998 by the Commission. The total estimated revised project costs are $2,287,665. The scope of the project has not changed since the proceeding was first reopened. The Sanitary Board of the City of Bluefield now plants to finance this project with a loan from the State Revolving Fund in the amount of $1,116,645, an Appalachian Regional Commission grant in the amount of $585,510, and an in-kind contribution for labor from the Sanitary Board in the amount of $585,510. The Sanitary Board of the City of Bluefield has already passed a rate ordinance pertaining to this Certificate project. The City has provided commitment letters from all of the above mentioned parties. The proposed revision to the project financing will not have any detrimental rate impact.

On May 13, 1999, Ronald Robertson, Staff Attorney, filed a Final Joint Staff Memorandum stating that Staff recommends approval of the petition to reopen.

IT IS THEREFORE ORDERED that the Sanitary Board of the City of Bluefield's petition to reopen this proceeding is hereby granted.

IT IS FURTHER ORDERED that the change in funding for the project is approved.

IT IS FURTHER ORDERED that the revised funding for this revised project, including an State Revolving Fund loan in the amount of $1,116,645, an ARC grant in the amount of $585,510 for a total revised project cost of $2,287,765 is hereby approved.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

IT IS FURTHER ORDERED that should the scope or financing for the project approved herein change for any reason, the Board must obtain prior Commission approval before continuing construction of the project.

IT IS FURTHER ORDERED that upon entry hereof this case shall be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall serve a copy of this order on all parties of record by First Class United States Mail, and upon Commission Staff by hand delivery.

A True Copy, Teste:

Sandra Squire
Executive Secretary

PJH/s
971471sa.wpd

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
7-6-98

Entered: June 16, 1998

CASE NO. 97-1471-S-CN

SANITARY BOARD OF THE CITY OF BLUEFIELD, a municipal corporation, Bluefield, Mercer County.
Application for a certificate of convenience and necessity to construct sewer collection mains, pump stations and appurtenances to serve the Brushfork area of Mercer County.

CASE NO. 97-1472-PSD-S-PC

BLUEWELL PUBLIC SERVICE DISTRICT, a public utility, Bluewell, Mercer County, and the SANITARY BOARD OF THE CITY OF BLUEFIELD, a municipal corporation, Bluefield, Mercer County.
Joint petition for consent and approval to transfer sewer facilities, customers and service obligations in the Brushfork area of Mercer County from Bluewell Public Service District to the Sanitary Board of the City of Bluefield and to enter into a Memorandum of Understanding between parties.

RECOMMENDED DECISION

PROCEDURE

Case No. 97-1471-S-CN

On October 30, 1997, the Sanitary Board of the City of Bluefield (Bluefield), a municipal corporation, Mercer County, filed an application with the Public Service Commission, pursuant to *West Virginia Code* (*Code*) §24-2-11, for a certificate of public convenience and necessity to construct sewer collection mains, pump stations and appurtenances to serve the Brushfork area of Mercer County, and for approval of financing incidental to providing such service. Though the proposed project will not affect Bluefield's rates, the rates of the customers in the Brushfork area will be affected, i.e., Bluewell Public Service District (District) currently serves the affected customers, and these customers, who will become Bluefield's customers, will begin paying Bluefield's rates once the project is completed. Also, on October 30, 1997, Bluefield and the

District jointly filed a Motion to Consolidate Case Nos. 97-1471-S-CN and 97-1472-PSD-S-PC.

On November 18, 1997, the Commission directed that Bluefield publish the Revised Notice of Filing, once, in a newspaper duly qualified by the Secretary of State, published and generally circulated in Mercer County. The Notice of Filing provided that, if no one protested this matter within thirty (30) days, the Commission may waive formal hearing and grant the certificate based upon reviewing the evidence submitted with the application.

On December 1, 1997, Staff Attorney Ronald E. Robertson, Jr., Esquire, filed the Initial Joint Staff Memorandum, dated November 21, 1997, attaching thereto the November 3, 1997 Initial Internal Memorandum from Utilities Analyst Randy Lengyel and Engineer IV Robert L. Skiles, both of the Water and Wastewater Division, recommending that the Commission consolidate Case Nos. 97-1471-S-CN and 97-1472-PSD-S-PC and indicating that, once Commission Staff has reviewed these matters, it would file a recommendation.

On December 3, 1997, the Commission entered the Commission Referral Order in Case No. 97-1471-S-CN, thereby referring this matter to the Division of Administrative Law Judges (ALJ Division) for decision on or before May 27, 1998.

Case No. 97-1472-PSD-S-PC

On October 30, 1997, Bluefield and the District jointly filed a petition with the Public Service Commission, pursuant to *Code* §24-2-12 and §16-13A-18a, seeking the Commission's consent and approval for the District to transfer its sewer system and customers in the Brushfork area of Mercer County to Bluefield, as set forth in a Memorandum of Understanding attached to the petition.

On December 1, 1997, Staff Attorney Ronald E. Robertson, Jr., Esquire, filed the Initial Joint Staff Memorandum, dated November 21, 1997, attaching thereto the November 3, 1997 Initial Internal Memorandum from Utilities Analyst Randy Lengyel and Engineer IV Robert L. Skiles, both of the Water and Wastewater Division, recommending that the Commission consolidate Case Nos. 97-1471-S-CN and 97-1472-PSD-S-PC and indicating that, once Commission Staff has reviewed these matters, it would file a recommendation.

On December 3, 1997, the Commission entered the Commission Referral Order in Case No. 97-1472-PSD-S-PC, thereby referring this matter to the Division of Administrative Law Judges (ALJ Division) for decision on or before May 27, 1998.

In response to all of the above, on December 16, 1997, the Administrative Law Judge (ALJ) issued a Procedural Order consolidating Case Nos. 97-1471-S-CN and 97-1472-PSD-S-PC, and establishing a procedural schedule to process and resolve this consolidated case, including a February 20, 1998 hearing date. The ALJ required that Bluefield file a

publication affidavit indicating publication of the Notice of Filing no later than December 30, 1997.

On January 22, 1998, Staff Attorney Robertson filed the Further Joint Staff Memorandum, dated January 20, 1998, attaching the Final Internal Memorandum, dated January 7, 1998, from Utilities Analyst Lengyel and Engineer Skiles, indicating that Commission Staff still is investigating this consolidated case.

On January 23, 1998, Bluefield and the District, by Robert F. Williams, Esquire, filed a letter, dated January 21, 1998, attaching a publication affidavit indicating that the *Bluefield Daily Telegraph*, a newspaper published and generally circulated in Mercer County, had published a Revised Notice of Filing on January 10, 1998. Noting that Bluefield and the District, after consulting with Commission Staff, had modified the original Notice of Filing to increase the amount borrowed by approximately $192,515 in order for Bluefield to purchase the District's sewer system and noting that the January 10, 1998 publication date for the Revised Notice of Filing would not provide ample time to provide public notice of hearing if protests were filed within the thirty-day protest period, Mr. Williams requested that the ALJ require the parties to immediately publish a public hearing notice without waiting to see if anyone protests. Responding to all of the above, on January 28, 1998, the ALJ issued an Order Requiring Publication of Hearing Notice for the hearing scheduled to be held on February 20, 1998. No one protested this matter.

On February 20, 1998, the ALJ conducted the hearing as scheduled. No one appeared at the hearing to oppose the certificate application or the transfer. Commission Staff, who appeared at the hearing by counsel, Staff Attorney Ronald E. Robertson, Jr., Esquire, and the petitioners, who appeared by counsel, Robert F. Williams, Esquire, indicated that they required additional time to develop the facts in this case. The parties presented no evidence at the hearing, except the publication affidavit indicating that Bluefield had published the Notice of Hearing on February 2 and 9, 1998, in the *Bluefield Daily Telegraph*, a newspaper published and generally circulated in Mercer County, which the ALJ received into evidence as Bluefield Exhibit No. 1 (Tr., 5).

On May 21, 1998, Bluefield filed a supplemental memorandum of understanding entered into by Bluefield and the District, clarifying the terms and conditions of the proposed transaction.

On May 22, 1998, the Commission entered the Commission Order Extending Administrative Law Judge Decision Due Date, thereby granting the parties until June 29, 1998, to resolve their differences. Prior to the parties obtaining the due date extension, the ALJ had informed the parties that he was taking a previously scheduled vacation commencing the middle of June. Pursuant thereto, the ALJ issued an Order Requiring Parties to Respond by June 12, 1998, thereby requiring that the parties present all evidence in this case no later than June 12, 1998.

On June 11, 1998, Staff Attorney Robertson filed the Final Joint Staff Memorandum, attaching the Further Final Internal Memorandum, dated June 10, 1998, from Engineer IV Robert L. Skiles, Jr., P.E., and Utilities

Analyst Randy Lengyel, both of the Water and Wastewater Division. Commission Staff reported that the proposed project contained in Bluefield's certificate application, i.e., Case No. 97-1471-S-CN, is comprised of constructing sewer collection mains, pump stations and appurtenances to serve the Brushfork area of Mercer County. Currently, the District serves this area. Once Bluefield completes construction of the project, 583 District customers will become Bluefield customers. Bluefield and the District filed Case No. 97-1472-PSD-S-PC to obtain Commission approval of the proposed transfer.

Bluefield estimates that the project, which will include decommissioning the existing Brushfork wastewater treatment facility, will cost $1,585,800. The need for the proposed project stems from violations of the sewage discharge permit limitations at the Brushfork treatment facility. In April 1994, the West Virginia Department of Natural Resources, Water Resources Division, issued a consent decree requiring the proposed project. The proposed project is the most cost-effective alternative to properly address the violations.

Commission Staff estimated that Bluefield would incur additional operation and maintenance (O&M) expenses related to the project amounting to $114,450, including $12,500 for inflow and infiltration repair work. The plans for the project do not conflict with Commission rules and regulations nor do they pose any engineering concern. Though the West Virginia Division of Environmental Protection (DEP) has not yet issued a permit for the project, Mr. Frederick L. Hypes of the DEP indicated that the project's plans and specifications conform to the DEP's standards and regulations and that the project is ready for the DEP to issue a permit except for a few administrative items which will be completed shortly. Commission Staff recommended that the Commission approve the certificate application conditioned upon Bluefield obtaining the DEP permit.

Though the District's customers affected by the transfer will experience a significant rate increase of approximately 78%, the increase would be greater if the District had to construct a new treatment plant to serve these customers. Commission Staff recommended that the Commission waive the requirement of Rule 31 of its *Rules and Regulations for the Government of the Construction and Tariffs of Public Utilities and Common Carriers by Motor Vehicles* (*Tariff Rules*) and authorize Bluefield to charge its existing rates to the customers it receives from the District since Bluefield published these rates and no one protested them or appeared at the hearing to object.

Bluefield has obtained a letter of commitment for a loan totaling $1,545,800 from the State Revolving Fund (SRF) to finance the project, and Bluefield will contribute the remaining $40,000. Bluefield will not have to increase its rates because of the project in order to maintain an adequate cash flow.

DISCUSSION

The ALJ has considered all of the above, and, since no dispute remains to be resolved in this proceeding, the ALJ will consider the parties to have waived their rights under *Code* §24-1-9(b) to file proposed

findings of fact and conclusions of law, or briefs, in this proceeding, or to a hearing.

The ALJ holds that, since Bluefield published the Notice of Filing and the Notice of Hearing; since no one filed a protest or appeared at the hearing to object to the proposed project; since the project will address the problems for which the District has been cited for violating its pollution permit; since the project complies with the Commission's rules and regulations; since the project complies with DEP engineering requirements; since Bluefield has obtained firm commitment of financing for the project; since Bluefield will not have to increase its rates to support the project; and since Bluefield's O&M estimate of $114,450 is reasonable, he will find that public convenience and necessity require the project and he will grant the application, conditioned upon the DEP issuing the permit. Since Bluefield has obtained a letter of commitment for the $1,545,800 SRF loan and will contribute the $40,000 needed to complete the project, he will approve the proposed financing for the project. Since the project will allow Bluefield to serve those customers of the District located in the Brushfork area; since the parties have entered into a memorandum of understanding and supplemental memorandum of understanding setting forth the terms and conditions for Bluefield to serve the District's affected customers; and since Commission Staff has recommended approval, he will grant the petition in Case No. 97-1472-PSD-S-PC. Since Bluefield's existing rates will provide an adequate cash flow to support the increased O&M expenses and debt service required by the project, he will grant Bluefield a waiver of *Tariff Rule* 31 and permit Bluefield to charge the new customers its existing rates once it completes the project.

FINDINGS OF FACT

1. The Sanitary Board of the City of Bluefield filed an application with the Commission, pursuant to *Code* §24-2-11, for a certificate of public convenience and necessity to construct sewer collection mains, pump stations and appurtenances to serve the Brushfork area of Mercer County, and for approval of financing incidental to providing such service. (See, Application, filed October 30, 1997, in Case No. 97-1471-S-CN).

2. Though the proposed project will not affect Bluefield's rates, the rates of the customers in the Brushfork area will be affected, i.e., Bluewell Public Service District currently serves the affected customers, and these customers, who will become Bluefield's customers once Bluefield completes the project, will begin paying Bluefield's rates. (See, Application, filed October 30, 1997, in Case No. 97-1471-S-CN).

3. Bluefield and the District jointly filed a petition with the Commission, pursuant to *Code* §24-2-12 and §16-13A-18a, seeking the Commission's consent and approval for the District to transfer its sewer system and customers in the Brushfork area of Mercer County to Bluefield, as set forth in a memorandum of understanding attached to the petition, as modified by the supplemental memorandum of understanding filed. (See, Petition, filed October 30, 1997, in Case No. 97-1472-PSD-S-PC; supplemental memorandum of understanding, filed May 21, 1998).

4. Bluefield published the Notice of Filing and the Notice of Hearing. (See, publication affidavit filed January 23, 1998; Bluefield Exhibit No. 1).

5. No one filed a protest or appeared at the hearing to object to the proposed project. (See, Commission's file and Tr., generally).

6. The project will address the problems for which the District has been cited for violating its pollution permit. (See, Final Joint Staff Memorandum, with attachments, filed June 11, 1998).

7. The project complies with the Commission's rules and regulations and with DEP engineering requirements. (See, Final Joint Staff Memorandum, with attachments, filed June 11, 1998).

8. Bluefield has obtained firm commitment of financing for the project from the SRF for a $1,545,800 loan and will contribute the $40,000 needed to complete the project. (See, Final Joint Staff Memorandum, with attachments, filed June 11, 1998).

9. Bluefield will not have to increase its rates to support the project. (See, Final Joint Staff Memorandum, with attachments, filed June 11, 1998).

10. Bluefield's O&M estimate of $114,450 is reasonable. (See, Final Joint Staff Memorandum, with attachments, filed June 11, 1998).

11. The project will allow Bluefield to serve those customers of the District located in the Brushfork area. (See, Final Joint Staff Memorandum, with attachments, filed June 11, 1998).

12. The parties have entered into a memorandum of understanding and supplemental memorandum of understanding setting forth the terms and conditions for Bluefield to serve the District's affected customers. (See, Final Joint Staff Memorandum, with attachments, filed June 11, 1998).

13. Commission Staff has recommended approving the petition in Case No. 97-1472-PSD-S-PC. (See, Final Joint Staff Memorandum, with attachments, filed June 11, 1998).

14. Bluefield's existing rates will provide an adequate cash flow to support the increased O&M expenses and debt service required by the project. (See, Final Joint Staff Memorandum, with attachments, filed June 11, 1998).

15. Commission Staff has recommended that, should the scope or the financing for the project change for any reason, Bluefield obtain separate Commission approval before commencing construction of the project. (See, Final Joint Staff Memorandum, with attachments, filed June 11, 1998).

CONCLUSIONS OF LAW

1. For all of the reasons set forth in Finding of Fact Nos. 4 through 10, it is reasonable to find that public convenience and necessity require the project and to grant the application, conditioned upon the DEP issuing the permit.

2. For all of the reasons set forth in Finding of Fact No. 8, it is reasonable to approve the proposed financing for the project.

3. For all of the reasons set forth in Finding of Fact Nos. 11, 12 and 13, it is reasonable to approve the petition in Case No. 97-1472-PSD-S-PC.

4. For all of the reasons set forth in Finding of Fact No. 14, it is reasonable to grant Bluefield a waiver of *Tariff Rule* 31 and permit Bluefield to charge the new customers its existing rates once it completes the project.

5. For all of the reasons set forth in Finding of Fact No. 15, it is reasonable to require Bluefield to obtain separate Commission approval prior to commencing construction of the project should its scope or financing change for any reason.

ORDER

IT IS, THEREFORE, ORDERED that the application filed with the Commission on October 30, 1997, by the Sanitary Board of the City of Bluefield, in Case No. 97-1471-S-CN, pursuant to *Code* §24-2-11, to obtain a certificate of public convenience and necessity to construct sewer collection mains, pump stations and appurtenances to serve the Brushfork area of Mercer County, be, and it hereby is, granted, subject to Bluefield obtaining the proper permit from the DEP.

IT IS FURTHER ORDERED that the proposed financing for the project, comprised of a $1,545,800 SRF loan and a $40,000 cash contribution from Bluefield, be, and it hereby is, approved.

IT IS FURTHER ORDERED that the petition filed with the Commission on October 30, 1997, by the Sanitary Board of the City of Bluefield, in Case No. 97-1472-PSD-S-PC, including the memorandum of understanding filed with the petition and the supplemental memorandum of understanding filed on May 21, 1998, be, and it hereby is, approved.

IT IS FURTHER ORDERED that Bluefield hereby is granted a waiver of *Tariff Rule* 31, hereby authorizing it to charge the new customers its existing rates once it completes the project.

IT IS FURTHER ORDERED that, within ten (10) days of completing the project, Bluefield shall file with the Commission a proper tariff setting forth the rates and charges hereby approved for its new customers resulting from the project.

IT IS FURTHER ORDERED that, should the scope or the financing for the project change for any reason, Bluefield first must obtain separate Commission approval before commencing construction of the project.

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

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

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

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

Ronnie Z. McCann
Deputy Chief Administrative Law Judge

RZM:s

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered by the Public Service Commission of West Virginia in the City of Charleston on the ____ day of _____, 1997.

CASE NO. 97-1471-S-CN

SANITARY BOARD OF THE CITY OF BLUEFIELD
a public utility.

Application for a certificate of convenience and necessity to construct sewer collection mains, pump stations and other appurtenances for the purpose of connecting the sewerage collection system and service territory served by Bluewell Public Service District's Brushfork lagoon system to the Bluefield Sanitary Board's collection system.

REVISED NOTICE OF FILING

WHEREAS, on October 30, 1997, the Sanitary Board of the City of Bluefield, filed an application for a certificate of convenience and necessity to construct sewer collection mains, pump stations and other appurtenances to serve the Brushfork area of Mercer County. The project is being undertaken to eliminate an inadequate lagoon treatment facility serving the Brushfork area transported to and treated at the Bluefield Sanitary Board's West Side Sewerage Treatment plant.

The Bluewell Public Service District currently owns and operates the inadequate lagoon treatment facility. In conjunction with this project, the Bluewell Public Service District and the Sanitary Board of the City of Bluefield have entered into an agreement by which the customers and collections system that were previously served by the Brushfork lagoon system are to be transferred to the Sanitary Board of the City of Bluefield, for a purchase price not to exceed One Hundred Ninety Two Thousand Five Hundred Fifteen Dollars ($192,515). The transfer is to occur immediately after the proposed construction is completed, and the customers' sewerage is treated at the Sanitary Board's West Side Treatment Plant. After the customers in the Brushfork area are transferred to and made a part of the Sanitary Board's sewer system, they will be directly served as customers of the Sanitary Board, and they will be charged the same sewer rates and charges as are assessed to all other customers of the Sanitary Board.

WHEREAS, the Sanitary Board of the City of Bluefield estimates that it will cost approximately $912,600 to construct the lines, pump stations and appurtenances ~~needed to~~ connect the Brushfork collection system to the Sanitary Board's treatment plant, including bond counsel fees and other project costs. The Sanitary Board proposes to provide $40,000 in cash on hand toward the

$ 43,000

project costs, and finance the balance of the project costs with a loan to be secured through the West Virginia State Revolving Fund (SRF) Loan Program, at an interest rate of 0% with a 1% service charge, to be repaid over a period of twenty years. The Sanitary Board also proposes to borrow additional SRF funds to prepay the debt service reserve requirement for the associated revenue bonds. The Sanitary Board of the City of Bluefield shall issue municipal revenue bonds in the amount of not more than $1,108,320, which will be of a sufficient size to finance the Sanitary Board's acquisition of the Brushfork sewer collection, lines and easement from the Districts, establish a prefunded debt service reserve account, meet the estimate bond counsel expenses, and generate the necessary bond proceeds to meet the remaining project expenses.

WHEREAS, the Sanitary Board does not require any municipal rate increase to support the project. However, the Sanitary Board's existing rates are higher than the rates that are presently in effect for Bluewell Public Service District's sewer customers. Therefore the transferred customers in the Brushfork area will experience an increase in their monthly sewer bills once they are transferred and served directly by the Sanitary Board's sewer system. However, the sewer rates they will pay will be no more than the rates and charges paid by other sewer customers of the Sanitary Board.

WHEREAS, the existing rates and chafes that are in effect for the Sanitary Board of the City of Bluefield are as follows:

SCHEDULE OF RATES
APPLICABILITY
Applicable in entire area served.

AVAILABILITY OF SERVICE
Available for sanitary sewer services.

RATE (Based upon the metered amount of water supplied).

First 2,000 or less gallons used per month	- $5.70 per 1,000 gals
Next 3,000 gallons used per month	- $5.41 per 1,000 gals
Next 5,000 gallons used per month	- $5.31 per 1,000 gals
Next 10,000 gallons used per month	- $5.20 per 1,000 gals
Next 15,000 gallons used per month	- $5.09 per 1,000 gals
Next 20,000 gallons used per month	- $4.88 per 1,000 gals
Next 25,000 gallons used per month	- $4.81 per 1,000 gals
Next 45,000 gallons used per month	- $4.68 per 1,000 gals
Next 125,000 gallons used per month	- $4.49 per 1,000 gals
All over 250,000 gallons used per month	- $4.39 per 1,000 gals

MINIMUM MONTHLY CHARGE
The minimum monthly charge to any user of the sewerage system shall be $11.41.

DELAYED PAYMENT PENALTY
Ten percent (10%) penalty shall be added to all charges not

paid within twenty (20) days from the date of the billing. The delayed payment is not interest and is only to be collected once for each bill where it is appropriate.

UNMETERED USERS

In locations where the customer has no water meter, charges for sewer service shall be assessed based upon a reasonable rate or formula to be applied equally to unmetered users or in the alternative the minimum monthly rate provided for herein shall be charged.

Customers having water uses which result in a substantial portion of the water purchased not being discharged to the sanitary sewer system shall be entitled to an adjusted sewer service charge. Such adjusted charges shall be based upon a single family equivalent dwelling equal to an average usage of 300 gallons per day. The tap or connection fee for a single family dwelling shall be in an amount not less than $250, plus any additional costs incurred by the system for installation of any new lines or extension of the lines necessary to make such connection.

WATER DISCONNECT-RECONNECT FEES

Whenever water service has been disconnected for nonpayment of sewer bills, a disconnection fee of $20.00 shall be charged.

Whenever water service has been previously disconnected, or otherwise withheld for nonpayment of sewer bill is reconnected, a fee of $20.00 shall be charged.

UTILITY SERVICE TAX AND ADMINISTRATION FEE

2 1/2% of the charge imposed.

Pursuant to &24-2-11, West Virginia Code, IT IS ORDERED that the Sanitary Board of the City of Bluefield, a public utility, give notice of the filing of said application by publishing a copy of this order once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Mercer County, making due return to this Commission of proper certification of publication immediately after publication. Anyone desiring to make objection to said application must do so in writing, within thirty (30) days after the publication of this notice, to Sandra Neal, Executive Secretary, P. O. Box 812, Charleston, West Virginia 25323.

IT IS FURTHER ORDERED that if no protests are received within said 30-day period, the Commission may waive formal hearing and grant the application of the Sanitary Board of the City of Bluefield, based on the evidence submitted with said application and its review thereof.

FOR THE COMMISSION:

BEFORE THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
CHARLESTON

CASE NO. 97- 1471-S-CN
THE SANITARY BOARD OF THE CITY OF BLUEFIELD,
a municipal corporation.
Application for a Certificate of Public Convenience and Necessity to construct sewer collection mains, pump stations and appurtenances to serve the Brushfork area of Mercer County, West Virginia.

CASE NO. 97-1472-PSD-S-PC

BLUEWELL PUBLIC SERVICE DISTRICT,
a public sewer utility, and THE SANITARY BOARD
OF THE CITY OF BLUEFIELD, a municipal corporation.
Joint petition seeking the Public Service Commission's prior consent and approval to transfer certain sewer facilities, customers and service obligations in the Brushfork area of Mercer County from the Bluewell Public Service District to the Sanitary Board of the City of Bluefield.

PETITION SEEKING APPROVAL OF AMENDED PROJECT, WITH REVISED PROJECT COSTS AND AMENDED FINANCING IN CONSOLIDATED FILINGS

On October 30, 1997, the Sanitary Board of the City of Bluefield filed an application for a certificate of public convenience and necessity to construct sewer collection mains, pump stations and appurtenances to serve the Brushfork area of Mercer County, and for approval of financing incidental to constructing the proposed facilities and providing the proposed service. (Case No. 97-1471-S-CN). On that same day, the Sanitary Board of the City of Bluefield (Sanitary Board) and the Bluewell Public Service District (District) filed a joint petition seeking the Commission's consent and approval of

the District's proposed transfer of sewer system, rights-of-way and customer base that is presently served by its Brushfork lagoon treatment system to the Sanitary Board. (Case No. 97-1472-S-CN). Taken together, these two interdependent filings provide a means of having the District's Brushfork lagoon treatment facility (which has long been the subject of an outstanding consent decree[1]) taken out of service, and having the sewage flows from the Brushfork area of Mercer County transferred to and treated at the Sanitary Board's Westside Treatment Plant. Since the proposed construction will not take place unless and until the proposed transfer is approved, and the proposed transfer is not to take place until the necessary facilities and tie-ins have been completed so that the Brushfork sewage flows directly to the Sanitary Board's Westside Treatment Plant, the two applications were necessarily intertwined, and were consolidated for hearing and consideration at the request of the parties.

After the applications were filed, the parties were advised that the Rural Development Authority, the successor in interest to the Farmer's Home Administration's lien on the District's sewer system, had certain reservations about the manner in which the parties had originally proposed to share the District's debt service obligation after the transfer was completed. The parties had originally proposed that the Sanitary Board would make monthly payments to the District, equal to an allocated portion of the District's existing debt service, based on the percentage of revenues represented by the Brushfork customers, until the District's existing debt service had been fully repaid. The Rural Development Authority preferred that the Sanitary Board pay a flat amount for the

[1] The consent decree in question was first instituted in the Circuit Court of Mercer County by the West Virginia Department of Natural Resources in Civil Action No. 90-CV-1350-K. The regulatory agency responsible for enforcing that consent decree is now the West Virginia Department of Environmental Protection.

transferred Brushfork facilities, based on the appraised value of those facilities, before releasing the RDA/FmHA lien on the transferred Brushfork facilities.

The parties proceeded to secure an appraisal of the Brushfork facilities. The appraiser assigned a value of $250,000 for the transferred facilities. During the course of that appraisal, the Sanitary Board also received estimates concerning the potential cost of draining and reclaiming the Brushfork lagoon after it is taken out of service. After reviewing those estimates, and taking into consideration that the Sanitary Board could perform the work at a lower cost using in-house labor, the Sanitary Board's engineers determined that the draining, covering and reclamation of the Brushfork lagoon could approach $350,000, even if the Sanitary Board relies on in-house labor to perform the work. Since the draining and reclamation of the lagoon represents a one-time expense, the Sanitary Board determined that it would be reasonable and beneficial to finance such expenses through available project financing, and spread those costs over the life of an available grant or loan.

In its original certificate application, the Sanitary Board proposed to finance its total project costs of $955,805 by borrowing up to $915,805 in SRF moneys, at 0% interest, with a 1% service annual charge, and $40,000 in cash on hand. If the $250,000 cost of purchasing the District's Brushfork facilities and the $350,000 in estimated lagoon draining and reclamation expenses are added to the original project costs, the total project costs would increase to $1,585,800. If the SRF borrowing was increased to cover these increased project costs, the total the amount of the Sanitary Board's maximum SRF borrowing would increase to $1,545,800. (See revised project costs and amended SRF loan application, Attachment 1 to this petition).

The Sanitary Board has filed a revised SRF loan application with the West Virginia Division of Environmental Protection so that it could borrow up to $1,545,800 in SRF funds to help finance the project. The Sanitary Board is also investigating the possibility of securing certain ARC grant funds as a possible source to finance all or part of the acquisition and lagoon reclamation costs. The funding of these increased costs with SRF loan money would represent the worst case scenario at this time. The Sanitary Board still intends to apply $40,000 cash on hand to meet a portion of the project costs.

The DEP has issued a letter confirming its intent to loan $1,545,800 to fund the remaining project costs, and the terms for such a borrowing. The commitment letters for the project financing are set forth in Attachment 2 to this petition.

According to the updated financial analysis performed by the Sanitary Board's accountant (Attachment 3 to this petition), the Sanitary Board would be able to absorb this increased borrowing, and maintain its required minimum debt service coverage for its entire sewer system, without requiring a general rate increase. According to the cash flow analysis performed by the Sanitary Board's account, the Sanitary Board would be able to maintain the minimum 120% debt service coverage for its entire system, as required by the terms of its 1992 bond issue, even if the increased project costs were fully funded by an SRF borrowing. Therefore, this financial analysis verifies that the project can be supported by the overall revenues generated by Sanitary Board's existing rates and charges, even if the Sanitary Board has to rely on the SRF funds to meet the increased project costs.

The parties will enter into a Supplemental Memorandum of Understanding, to reflect the modified terms of the proposed transfer of the Sanitary Board's Brushfork

sewer system to the Sanitary Board. A copy of the proposed Supplemental Memorandum of Understanding is attached hereto as Attachment 4. As set forth in that Supplemental Memorandum of Understanding, the Sanitary Board will now purchase the sewer facilities and right-of-ways in the Brushfork area for $250,000, instead of paying an allocated portion of the District's existing debt service over a period of years until that debt is retired. This Supplemental Memorandum of Understanding would specifically modify Paragraph 4 of the July 18, 1997 Memorandum of Understanding. Further, the Supplemental Memorandum of Understanding recognizes that lien held by the Rural Development Authority, the successor in interest to the District's Sewer System Revenue Bonds, Series 1969, is to be concurrently released on the transferred facilities under the revised acquisition arrangement.

Therefore, the Sanitary Board respectfully requests approval of an amended application, with the overall project costs increased to include a maximum $250,000 cost of acquiring the Brushfork system, and an estimated cost of $350,000 to drain and reclaim the Brushfork lagoon. As amended, the project costs are as follows:

Construction	$909,600[2]
Technical Services	240,000
Legal and Fiscal	21,500
Bond Counsel	8,500
Site and Easement Costs	40,000
Administrative Costs	N/A
Acquisition of existing Brushfork sewer facilities and rights-of way	250,000
Project Contingency	43,000
Prefunded Debt Service Reserve	73,200
Total	$1,585,800

[2] The cost of draining and reclaiming the lagoon has been reflected in the increased construction costs.

The Sanitary Board of the City of Bluefield and the Bluewell Public Service District respectfully request that the Commission review and approve the requested certificate and the proposed transfer of facilities, with the modifications described above. Since the financial analysis performed by the Sanitary Board's accountant verifies that the system-wide revenues generated by the Sanitary Board's existing rates and charges would be sufficient maintain the coverage required by the Sanitary Board's bond instruments after the proposed project comes on line, the Sanitary Board would not require a municipal rate increase to support the project. Since the proposed modifications have no detrimental rate impact, the parties would therefore request that the Commission find the prior public notice and hearing substantially complied with all applicable statutory notice requirements, and no additional notice or publication is necessary. Since no member of the public filed any letter of protest or appeared at the February 20, 1998 hearing in these consolidated cases, the parties believe that the matters should be considered and reviewed as an unprotested case, and approved based on the information that has been submitted.

Respectfully submitted,

SANITARY BOARD OF THE CITY OF BLUEFIELD

Terry Honaker, Executive Director

BLUEWELL PUBLIC SERVICE DISTRICT

Leonard H. Bailey, Chairman

Counsel of record:

For the Sanitary Board of the City of Bluefield:

Norris Kantor, Esq.
Robert F. Williams, Esq.
KATZ, KANTOR & PERKINS
P.O. Box 727
Bluefield, WV 24701

For the Bluewell Public Service District:

Charles W. Pace
Attorney at Law
1608 West Main Street
Princeton, West Virginia 24740
(304) 487-2610

VERIFICATION

STATE OF WEST VIRGINIA,

COUNTY OF MERCER, to-wit:

I, Leonard H. Bailey, after being duly sworn, upon my oath depose and say that I am the Chairman for the Bluewell Public Service District, that I have read and am familiar with the "Petition Seeking Approval of Amended Project, with Revised Project Costs and Amended Financing in Consolidated Filings," filed on behalf of the Bluewell Public Service Distict and the Bluefield Sanitary Board, and that the facts and allegations contained therein are true, except so far as they are therein stated to be on information and belief, and that, so far as they are therein stated to be on information and belief, I believe them to be true.

Leonard H Bailey

Leonard H. Bailey, Chairman
Bluewell Public Service District

Taken, subscribed and sworn to before me, the undersigned authority, this the 15th of April, 1998.

My Commission expires September 12 2002.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
BONNIE SUE CANTERBURY
c/o CHARLES W. PACE, ATTORNEY
1508 WEST MAIN ST.
PRINCETON, WV 24740
My Commission Expires September 12, 2002

Bonnie Sue Canterbury

Notary Public

VERIFICATION

STATE OF WEST VIRGINIA,

COUNTY OF MERCER, to-wit:

I, R. Terry Honaker, after being duly sworn, upon my oath depose and say that I am the Executive Director for the Sanitary Board of the City of Bluefield, West Virginia, that I have read and am familiar with the "Petition Seeking Approval of Amended Project, with Revised Project Costs and Amended Financing in Consolidated Filings," filed on behalf of the Bluefield Sanitary Board and the Bluewell Public Service District, and that the facts and allegations contained therein are true, except so far as they are therein stated to be on information and belief, and that, so far as they are therein stated to be on information and belief, I believe them to be true.

R. Terry Honaker, Executive Director
Sanitary Board of the City of Bluefield

Taken, subscribed and sworn to before me, the undersigned authority, this the 13 of April, 1998.

My Commission expires Dec 19 1999.

Notary Public

ATTACHMENT 1

Case No. 97-1471-S-CN
snd
Case No. 97-1472-PSD-S-PC

KATZ, KANTOR, PERKINS & CAMPBELL

Attorneys At Law

996 Ben Bolt Avenue

Tazewell, Virginia 24651

Norris Kantor*
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*Robert H. Miller, II
**Walter P. Sowers, II
*Robert F. Williams

* Admitted in WV only
** Admitted in VA & WV

February 18, 1998

Mr. John Tingley
DIVISION OF ENVIRONMENTAL PROTECTION
617 Broad Street
Charleston, West Virginia 25301

RE: Bluefield Sanitary Board
Revised Financial Information Worksheets

Dear Mr. Tingley:

Enclosed are the new financial information worksheets which reflect the additional Sixty Thousand ($60,000.00) Dollars required by Rural Development and the Three Hundred Fifty Thousand ($350,000.00) Dollars for reclamation of the lagoon.

Very truly yours,

Douglas G. Campbell

Douglas G. Campbell

DGC/ttn
cc: Larry Lingyel
Mike Johnson
Fred Hypes
Randy Lingyel
Robert Skyles
Dan Ware

SRF Financial Information Worksheets

(for use in preparing facility plans and preliminary project budgets)

Part I. Estimated Total Cost of Project, Sources of Funds, and Cost of Financing
(same as Schedule A from SRF Loan Application)

A. Cost of Project			
1 Construction (see note)		$ 909,600	
2 Technical Services		240,000	
3 Legal and Fiscal		21,500	
4 Administrative			
* 5 Site and Other Lands		40,000	
* 6 Step I and/or Step II or Other Loan Repayment (Specify Type)	see Note	250,000	
7 Interim Financing Costs		43,000	
8 Contingency			
9 Total of Lines 1 through 8			$ 1,504,100
B. Source of Funds			
10 Federal Grants (1)		$	
11 State Grants (1)			
12 Other Grants (1)			
13 Any Other Source (2)	Applicant	40,000	
14 Total of Lines 10 through 13			$ 40,000
15 Net Proceeds Required from Bond Issue (Line 9 less Line 14)			$ 1,464,100
C. Cost of Financing			
16 Capitalized Interest (Const. period + 6 months)		$	
17 Funded Reserve Account (3)		73,200	
18 Other Costs (4)		8,500	
19 Total Cost of Financing (Lines 16 through 18)			$ 81,700
20 Size of Bond Issue (Line 15 + 19)			$ 1,545,800

* not allowable for SRF assistance

1– identify source of grant (commitment or proposed)
2– for example, interest earnings during const. or proceeds of any bond issue to be used
3– Consult with bond counsel and DNR before assuming a funded reserve
4– for example, fees of bond counsel for the applicant

A. Construction Cost Summary

Treatment Plant	$ NA
Pump Stations	215,000
Interceptors	259,600
Collectors	NA
I & I Rehab	NA
Equipment	60,000
Other (explain)	
_____	375,000
Total (same as Part I, A1)	$909,600

B. Annual O & M & R Costs

Labor	$ _____
Utilities	38,000
Materials	3,900
Outside services	2,550
Miscellaneous	_____
Equip. replacement	_____
Other (explain)	70,000
Total	$ _____

See attached notes

C. Total Estimated Annual Costs

Existing Annual Debt Service (1)	$ _____
Existing O & M & R	_____
Proposed Add. Debt Service (2)	77,300
Proposed Add. O & M & R	114,450
Total Annual Costs	$ 191,750

1) See Part III, page 3

2) Amount on line 20, Part I, at 1 %, 20 yrs, with ____% reserve

See attached notes

D. Rate Information

Res. Customers	528
Equiv. Customers	396
Annual Rate	$ 299.04
Monthly Rate (avg)	$ 24.92
Min. Rate	$ 11.41

Comments:

See attached Notes

E. Applicant

Name: Sanitary Board of Bluefield
Address: P.O. Box 998
City: Bluefield, WV Zip 24701
Contact: R. Terry Honaker
Telephone: (304) 325-3681
Date: 1/23/98

F. Engineer

Name: Thompson & Litton of West Virginia, Inc.
Address: Room 221, Law & Comm. Bldg.
City: Bluefield, WV Zip 24701
Contact: Rick Chitwood
Telephone: (304) 327-9866
Date: 1/23/98

G. Other Comments

A BRIEF MEMO FROM DOUGLAS G. CAMPBELL

996 Ben Bolt Avenue, Tazewell, Virginia 24651
Phone 540-988-6554
Fax 540-988-6555

TO: Randy Lingyel 304-340-3759

DATE: February 18, 1998

RE: Bluefield/Brushfork

I attach the revised figures and letter. The letter is going out today with copies to just about anyone I can think of.

PART I

Block A - Cost of Project

Line 1. This figure includes $350,000.00 to reclaim the lagoon.

Line 6. Other Loan Repayment - This is the anticipated payment to Rural Development for their release of the Brushfork service area from the existing Bluewell PSD bonds with Rural Development.

PART II

BLOCK A. - Other

This figure includes $25,000 for a garage and $250,000 anticipated to be required by Rural Development to release the Brushfork customers from their bonds. This figure has increased from $190,000 because of an appraisal.

BLOCK B. Annual O & M & R Costs

Labor - The Sanitary Board will use its existing work force, thus incurring no additional labor costs.

Other (explain) - This is the cost of materials for the anticipated I & I abatement program in the Brushfork area.

BLOCK C. Estimated Annual Costs

Estimated Annual Debt Service (1) - Here we have not set out the existing bonds of the Sanitary Board. We have assumed that this Block relates to the project and there is no existing annual debt associated with this project. The existing bonds are described in the Loan Application.

Existing O & M & R - Here we have not set out existing expenses since there are none related to this project or service area.

BLOCK D. Rate Information

Equivalent Customers- Here we divided the monthly gallons residential flow of 1,784,200 gallons by the 528 residential customers. The total monthly flow for the system of 3,041,100 divided by 4,500 gives 675 equivalent residential users.

ATTACHMENT 2

Case No. 97-1471-S-CN
snd
Case No. 97-1472-PSD-S-PC

FSRF

DIVISION OF ENVIRONMENTAL PROTECTION
617 Broad Street
Charleston, WV 25301-1251

CECIL H. UNDERWOOD
GOVERNOR

JOHN E. CAFFREY, P.E.
DIRECTOR

March 31,1998

To Whom It May Concern:

RE: City of Bluefield/ Brush Fork Area
C-544223

This letter is to confirm our intention of providing the long term financing through the State Revolving Fund (SRF) for the above referenced project. The estimated terms of the loan are $1,545,800 at 1% for 20 years. The final terms and loan commitment will be issued in the near future.

If I can answer any questions, please call me at (304)558-0641 (or TTY/TDD 1-800-982-8772 and 558-4144).

Sincerely,

OFFICE OF WATER RESOURCES

Mike Johnson

Mike Johnson, P.E.
Assistant Chief
Construction Assistance

MJ/jt

KATZ, KANTOR, PERKINS & CAMPBELL

Attorneys At Law
996 Ben Bolt Avenue
Tazewell, Virginia 24651

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*Robert H. Miller, II
**Walter P. Sowers, II
*Robert F. Williams

* Admitted in WV only
** Admitted in VA & WV

February 18, 1998

Mr. Randy Lingyel
Public Service Commission
201 Brooks Street
Charleston, West Virginia 25323

Mr. John Tingley
Division of Environmental Protection
617 Broad Street
Charleston, West Virginia 25301

RE: Bluefield Sanitary Board

Gentlemen:

I am writing to identify the of the Forty Thousand ($40,000.00) Dollars of local money to be used in the Brushfork Project.

The Sanitary Board maintains an account identified as its Revolving Loan Fund Account at First Century Bank in Bluefield, West Virginia, account number 977780. On this date the account balance is Seventy-two Thousand Five Hundred forty-six & 46/100 ($72,546.46) Dollars and no demands on this account are expected other than the above mentioned Forty Thousand ($40,000.00)Dollars.

Very truly yours,

Douglas G. Campbell

Douglas G. Campbell

ATTACHMENT 3

Case No. 97-1471-S-CN
snd
Case No. 97-1472-PSD-S-PC

THE SANITARY BOARD OF BLUEFIELD

FINANCIAL STATEMENTS

YEARS ENDING JUNE 30, 1998, 1999, 2000, 2001 AND 2002 (PROJECTED) AND YEAR ENDED JUNE 30, 1997 (HISTORICAL)

THE SANITARY BOARD OF BLUEFIELD
PROJECTED FINANCIAL STATEMENTS
UNDER THE HYPOTHETICAL ASSUMPTION IN NOTE B
YEARS ENDING JUNE 30, 1998, 1999, 2000,
2001 AND 2002 (PROJECTED) AND 1997 (HISTORICAL)

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Projected Statement of Cash Flows	8 - 11
Notes to the Financial Statements	12 - 15

SULLIVAN, WARE & HALL, P.L.L.C.
CERTIFIED PUBLIC ACCOUNTANTS
COAL EXCHANGE BUILDING - SUITE 601
401 ELEVENTH STREET • P. O. BOX 2745 OR P. O. BOX 819
HUNTINGTON, WEST VIRGINIA 25727-2745
TELEPHONE: (304) 697-0565 OR (304) 525-7202
FACSIMILE: (304) 697-0567 OR (304) 525-7282
e mail: swhcpa@citynet.net

BRUCE I. SULLIVAN, CPA
DANIEL J. WARE, CPA
WILLIAM L. HALL, CPA

MEMBERS
AMERICAN INSTITUTE OF
CERTIFIED PUBLIC ACCOUNTANTS
WV SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS

The Management
The Sanitary Board of Bluefield
Bluefield, West Virginia

We have compiled the accompanying projected balance sheet, statement of revenue, expenses and changes in retained (deficit) and cash flows of The Sanitary Board of Bluefield as of June 30, 1998, 1999, 2000, 2001 and 2002, and for the years then ending, in accordance with standards established by the American Institute of Certified Public Accountants.

The accompanying projection and this report were prepared for the purpose of obtaining potential financing for the construction of the Brush Fork Wastewater Treatment Facility.

A compilation is limited to presenting in the form of a projection information that is the representation of management and does not include evaluation of the support for the assumptions underlying the projection. We have not examined the projection and, accordingly, do not express an opinion or any other form of assurance on the accompanying statements or assumptions. Furthermore, even if the Brush Fork Wastewater Treatment Facility is constructed by Sanitary Board personnel as discussed in Note B, there will usually be differences between the projected and actual results because events and circumstances frequently do not occur as expected, and those differences may be material. We have no responsibility to update this report for events and circumstances occurring after the date of this report.

We have also compiled the accompanying historical balance sheet of The Sanitary Board of Bluefield as of June 30, 1997, and the related statements of revenue, expenses and changes in retained (deficit), and cash flows for the year then ended, in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants.

Such a compilation is limited to presenting in the form of historical financial statements information that is the representation of management. We have not audited or reviewed the accompanying historical financial statements and, accordingly, do not express an opinion or any other form of assurance on them.

Sullivan, Ware & Hall

Huntington, West Virginia
February 22, 1998

THE SANITARY BOARD OF BLUEFIELD
PROJECTED BALANCE SHEET
UNDER THE HYPOTHETICAL ASSUMPTION IN NOTE B
JUNE 30, 1998, 1999, 2000, 2001 AND
2002 (PROJECTED) AND 1997 (HISTORICAL)

ASSETS

	Historical Unaudited
	1997
CURRENT ASSETS	
Cash and cash equivalents	$ 422,129
Accounts receivable, net of an allowance for doubtful accounts	887,211
Prepaid expenses	21,702
TOTAL CURRENT ASSETS	1,331,042
RESTRICTED ASSETS	
Municipal bond commission (Cash equivalents)	1,179,032
Cash on deposit (cash equivalents)	581,890
TOTAL RESTRICTED ASSETS	1,760,922
UTILITY PLANT, PROPERTY AND EQUIPMENT, AT COST:	
Construction in process	-0-
Utility plant, property and equipment	36,810,093
Less: Accumulated depreciation	(16,920,754)
NET UTILITY PLANT, PROPERTY AND EQUIPMENT	19,889,339
OTHER ASSETS	
Unamortized bond discount and issuance costs	503,566
Deposits	6,415
TOTAL OTHER ASSETS	509,981
TOTAL ASSETS	$ 23,491,284

SEE SUMMARY OF SIGNIFICANT ASSUMPTIONS AND ACCOUNTING POLICIES
AND ACCOUNTANTS' REPORT

	Projected			
1998	1999	2000	2001	2002
$ 703,251	$ 758,991	$ 907,379	$ 1,063,538	$ 1,195,916
764,983	791,146	812,601	812,601	812,601
21,702	21,702	21,702	21,702	21,702
1,489,936	1,571,839	1,741,682	1,897,841	2,030,219
1,210,862	1,316,698	1,352,358	1,388,938	1,426,465
591,390	609,131	627,405	646,227	665,614
1,802,252	1,925,829	1,979,763	2,035,165	2,092,079
153,033	-0-	-0-	-0-	-0-
37,049,719	38,727,517	38,827,517	38,927,517	39,027,517
(18,188,609)	(19,490,215)	(20,783,636)	(21,974,808)	(23,116,366)
19,014,143	19,237,302	18,043,881	16,952,709	15,911,151
482,532	489,467	464,621	438,619	411,461
6,415	6,415	6,415	6,415	6,415
488,947	495,882	471,036	445,034	417,876
$ 22,795,278	$ 23,230,852	$ 22,236,362	$ 21,330,749	$ 20,451,325

THE SANITARY BOARD OF BLUEFIELD
PROJECTED BALANCE SHEET
UNDER THE HYPOTHETICAL ASSUMPTION IN NOTE B
JUNE 30, 1998, 1999, 2000, 2001 AND
2002 (PROJECTED) AND 1997 (HISTORICAL)

LIABILITIES AND FUND EQUITY

		Historical Unaudited
		1997
CURRENT LIABILITIES		
Payable from current assets:		
Accounts payable	$	45,966
Accrued payroll		4,616
Payroll taxes withheld and accrued		48,386
Accrued vacation		50,500
TOTAL CURRENT LIABILITIES PAYABLE FROM CURRENT ASSETS		149,468
Payable from restricted assets:		
Current portion of revenue bonds payable		502,250
Accrued revenue bond interest		157,237
TOTAL CURRENT LIABILITIES PAYABLE FROM RESTRICTED ASSETS		659,487
LONG-TERM LIABILITIES		
Revenue bonds payable, less current portion included above		11,473,759
TOTAL LONG-TERM LIABILITIES		11,473,759
TOTAL LIABILITIES		12,282,714
FUND EQUITY		
Contribution in aid of construction		19,442,338
Retained (deficit)		(8,233,768)
TOTAL FUND EQUITY		11,208,570
TOTAL LIABILITIES AND FUND EQUITY	$	23,491,284

SEE SUMMARY OF SIGNIFICANT ASSUMPTIONS AND ACCOUNTING POLICIES
AND ACCOUNTANTS' REPORT

	Projected				
1998	1999	2000	2001	2002
$ 38,460	$ 39,450	$ 40,201	$ 40,978	$ 41,776
4,685	4,756	4,827	4,899	4,973
49,112	49,848	50,596	51,355	52,125
51,258	52,026	52,807	53,599	54,403
143,515	146,080	148,431	150,831	153,277
570,219	594,540	604,540	614,540	624,540
153,525	150,447	146,016	141,236	135,060
723,744	744,987	750,556	755,776	759,600
11,060,873	11,863,402	11,263,162	10,652,922	10,032,682
11,060,873	11,863,402	11,263,162	10,652,922	10,032,682
11,928,132	12,754,469	12,162,149	11,559,529	10,945,559
19,442,338	19,442,338	19,442,338	19,442,338	19,442,338
(8,575,192)	(8,965,955)	(9,368,125)	(9,671,118)	(9,936,572)
10,867,146	10,476,383	10,074,213	9,771,220	9,505,766
$ 22,795,278	$ 23,230,852	$ 22,236,362	$ 21,330,749	$ 20,451,325

THE SANITARY BOARD OF BLUEFIELD
PROJECTED STATEMENT OF REVENUE, EXPENSES AND
CHANGES IN RETAINED (DEFICIT)
UNDER THE HYPOTHETICAL ASSUMPTION IN NOTE B
YEARS ENDING JUNE 30, 1998, 1999, 2000, 2001 AND
2002 (PROJECTED) AND YEAR ENDED JUNE 30, 1997 (HISTORICAL)

		Historical Unaudited
		1997
OPERATING REVENUE		
Charges for sewer and penalties	$	3,326,011
OPERATING EXPENSES		
Personal services		839,534
Fringe benefits		344,000
Supplies and expense		539,791
Billing, collecting and accounting		80,289
Maintenance		211,187
Insurance		61,645
Bad debts		18,663
Depreciation		1,240,904
Professional services		152,368
Miscellaneous		29,269
Transportation		64,691
Inflow and infiltration		70,000
TOTAL OPERATING EXPENSES		3,652,341
(LOSS) FROM OPERATIONS		(326,330)
OTHER INCOME		
Interest		127,372
Miscellaneous income		194,211
TOTAL OTHER INCOME		321,583
OTHER EXPENSES		
Interest		340,194
Amortization of bond discount and issuance costs		19,878
TOTAL OTHER EXPENSES		360,072
NET (LOSS)		(364,819)
RETAINED (DEFICIT) AT BEGINNING OF YEAR		(7,868,949)
RETAINED (DEFICIT) AT END OF YEAR	$	(8,233,768)

SEE SUMMARY OF SIGNIFICANT ASSUMPTIONS AND ACCOUNTING POLICIES
AND ACCOUNTANTS' REPORT

	Projected				
1998	1999	2000	2001	2002
$ 3,326,011	$ 3,446,781	$ 3,533,046	$ 3,533,046	$ 3,533,046
808,126	842,909	877,883	891,051	904,417
329,696	344,665	359,713	365,109	370,586
422,087	456,914	485,790	499,223	513,060
80,289	80,289	80,289	80,289	80,289
119,023	126,357	132,722	136,510	140,411
61,645	61,645	61,645	61,645	61,645
49,890	51,702	52,996	52,996	52,996
1,267,855	1,301,606	1,293,421	1,191,172	1,141,558
125,000	125,000	125,000	125,000	125,000
29,269	29,269	29,269	29,269	29,269
70,000	70,000	70,000	70,000	70,000
100,000	140,833	170,000	150,000	140,000
3,462,880	3,631,189	3,738,728	3,652,264	3,629,231
(136,869)	(184,408)	(205,682)	(119,218)	(96,185)
54,068	57,775	59,393	61,055	62,762
100,000	100,000	100,000	100,000	100,000
154,068	157,775	159,393	161,055	162,762
337,589	341,065	331,035	318,828	304,873
21,034	23,065	24,846	26,002	27,158
358,623	364,130	355,881	344,830	332,031
(341,424)	(390,763)	(402,170)	(302,993)	(265,454)
(8,233,768)	(8,575,192)	(8,965,955)	(9,368,125)	(9,671,118)
$ (8,575,192)	$ (8,965,955)	$ (9,368,125)	$ (9,671,118)	$ (9,936,572)

THE SANITARY BOARD OF BLUEFIELD
PROJECTED STATEMENT OF CASH FLOWS
UNDER THE HYPOTHETICAL ASSUMPTION IN NOTE B
YEARS ENDING JUNE 30, 1998, 1999, 2000, 2001 AND
2002 (PROJECTED) AND YEAR ENDED JUNE 30, 1997 (HISTORICAL)

	Historical Unaudited
	1997
CASH FLOWS FROM OPERATING ACTIVITIES:	
(Loss) from operations	$ (326,330)
Adjustment to reconcile (loss) from operations to net cash provided by operating activities:	
Provision for depreciation	1,240,904
Deferred loss on bond refunding	4,300
Provision for losses on accounts receivable	18,663
Miscellaneous income	194,211
Change in assets and liabilities which provided (used) cash exclusive of changes shown separately:	
Accounts receivable	(81,194)
Prepaid expenses	140
Unamortized bond discount and expenses	-0-
Deposits	1,284
Accounts payable	(13,343)
Accrued payroll	(7,851)
Payroll taxes withheld and accrued	3,907
Accrued vacation payable	863
NET CASH PROVIDED BY OPERATING ACTIVITIES	1,035,554
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES:	
Proceeds from the sale of bonds	-0-
Acquisition and construction of capital assets	(741,022)
Principal payments on bonds payable	(497,249)
Interest paid on bonds payable	(343,859)
Return of contribution in aid of construction	(7,740)
NET CASH (USED IN) CAPITAL AND RELATED FINANCING ACTIVITIES	(1,589,870)

SEE SUMMARY OF SIGNIFICANT ASSUMPTIONS AND ACCOUNTING POLICIES
AND ACCOUNTANTS' REPORT

	Projected			
1998	1999	2000	2001	2002
$ (136,869)	$ (184,408)	$ (205,682)	$ (119,218)	$ (96,185)
1,267,855	1,301,606	1,293,421	1,191,172	1,141,558
4,300	4,300	4,300	4,300	4,300
49,890	51,702	52,996	52,996	52,996
100,000	100,000	100,000	100,000	100,000
72,338	(77,865)	(74,451)	(52,996)	(52,996)
-0-	-0-	-0-	-0-	-0-
-0-	(30,000)	-0-	-0-	-0-
-0-	-0-	-0-	-0-	-0-
(7,505)	990	751	777	798
69	70	71	72	74
726	737	748	759	770
758	769	780	792	804
1,351,562	1,167,901	1,172,934	1,178,654	1,152,119
153,033	1,392,767	-0-	-0-	-0-
(392,659)	(1,524,765)	(100,000)	(100,000)	(100,000)
(502,250)	(570,217)	(594,540)	(604,540)	(614,540)
(341,302)	(344,144)	(335,465)	(323,608)	(311,049)
-0-	-0-	-0-	-0-	-0-
(1,083,178)	(1,046,359)	(1,030,005)	(1,028,148)	(1,025,589)

THE SANITARY BOARD OF BLUEFIELD
PROJECTED STATEMENT OF CASH FLOWS
UNDER THE HYPOTHETICAL ASSUMPTION IN NOTE B
YEARS ENDING JUNE 30, 1998, 1999, 2000, 2001 AND
2002 (PROJECTED) AND YEAR ENDED JUNE 30, 1997 (HISTORICAL)

		Historical Unaudited
		1997
CASH FLOWS FROM INVESTING ACTIVITIES:		
Interest on investments	$	127,372
NET CASH PROVIDED BY INVESTING ACTIVITIES		127,372
(DECREASE) INCREASE IN CASH AND CASH EQUIVALENTS		(426,944)
CASH AND CASH EQUIVALENTS AT BEGINNING OF YEAR		2,609,995
CASH AND EQUIVALENTS AT END OF YEAR	$	2,183,051
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION		
Cash paid during the year for:		
Interest	$	343,859
SUPPLEMENTAL SCHEDULE OF NONCASH INVESTING AND FINANCING ACTIVITIES:		
Amortization of deferred discounts and issuance costs	$	19,878

SEE SUMMARY OF SIGNIFICANT ASSUMPTIONS AND ACCOUNTING POLICIES
AND ACCOUNTANTS' REPORT

	Projected				
1998	1999	2000	2001	2002
$ 54,068	$ 57,775	$ 59,393	$ 61,055	$ 62,762
54,068	57,775	59,393	61,055	62,762
322,452	179,317	202,322	211,561	189,292
2,183,051	2,505,503	2,684,820	2,887,142	3,098,703
$ 2,505,503	$ 2,684,820	$ 2,887,142	$ 3,098,703	$ 3,287,995
$ 341,302	$ 344,144	$ 335,465	$ 323,608	$ 311,049
$ 21,034	$ 23,065	$ 24,846	$ 26,002	$ 27,158

THE SANITARY BOARD OF BLUEFIELD
SUMMARY OF SIGNIFICANT PROJECTION ASSUMPTIONS AND ACCOUNTING POLICIES
YEARS ENDING JUNE 30, 1998, 1999, 2000, 2001, AND 2002 (PROJECTED), AND YEAR ENDED JUNE 30, 1997 (HISTORICAL)

This financial projection represents, to the best of management's knowledge and belief, the expected financial position, results of operations, and cash flows of The Sanitary Board of Bluefield for the projection period assuming The Sanitary Board proceeds with Alternative III of the Facilities Plan for the Brush Fork sewerage system improvements dated September, 1997, (as revised) whereby the facility is constructed by Sanitary Board personnel. Accordingly these projections reflect management's judgment as of February 22, 1998, the date of this projection, of the expected conditions and its expected course of action if the facility is constructed by its personnel. The presentation is designed to provide information for potential financing of the construction of the facility and cannot be considered to be a presentation of expected future results. Accordingly, this projection may not be useful for other purposes. The assumptions disclosed herein are those that management believes are significant to the projection; however, management has not decided that it will construct the facility. Furthermore, even if the facility were constructed, there will usually be differences between projected and actual results because events and circumstances frequently do not occur as expected, and those differences may be material.

A. Summary of Significant Accounting Policies

Basis of Accounting

The Sanitary Board of Bluefield is a local governmental enterprise fund operated to provide sewer services to Bluefield, West Virginia and Bluefield, Virginia. Enterprise funds are used to account for operations that are financed and operated in a manner similar to private business enterprises, where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges.

Enterprise funds use the accrual basis of accounting, whereby revenues are recognized when earned as opposed to when received and expenses are recognized when incurred as opposed to when paid.

Accounts Receivable

The Sanitary Board uses the allowance method of accounting for bad debts.

Inventories

The Sanitary Board purchases materials and supplies for consumption. Inventories are considered immaterial and, therefore, are not recorded in the accompanying financial statements.

Utility Plant, Property and Equipment

Utility plant, property and equipment are stated at cost. Major expenditures and those which substantially increase useful lives are capitalized. Maintenance, repairs and minor renewals are charged to operations when incurred. When assets are retired or otherwise disposed of, their cost and related accumulated depreciation are removed from the accounts and any gain or loss is included in operations.

THE SANITARY BOARD OF BLUEFIELD
SUMMARY OF SIGNIFICANT PROJECTION ASSUMPTIONS AND ACCOUNTING POLICIES
YEARS ENDING JUNE 30, 1998, 1999, 2000, 2001, AND 2002 (PROJECTED), AND YEAR ENDED JUNE 30, 1997 (HISTORICAL)

A. Summary of Significant Accounting Policies (Continued)

Depreciation
Depreciation of utility plant, property and equipment is provided for using annual rates which are sufficient to amortize the cost of the depreciable assets over their estimated useful lives using the straight-line method which range from five to fifty years.

B. **Hypothetical Assumption - Construction of Wastewater Treatment Facilities for Brush Fork, Virginia**

The projection is based on Alternative III of the Facilities Plan for the Brush Fork sewerage system improvements, dated September, 1997, (as revised) whereby the Facility is constructed by Sanitary Board personnel.

Construction on the new facility is projected to begin in June, 1998 and is to be placed in service at the end of November, 1998 at a cost of $977,798 (inclusive of capitalized labor and fringe benefits.) An additional $350,000 will be expended during the period of March, 1999 through May, 1999 to reclaim the existing Brush Fork Lagoon. These costs will also be capitalized as part of the construction costs for a total construction cost of $1,327,798 (inclusive of capitalized labor and fringe benefits).

The decision to proceed with the project will depend on the completion of financing arrangements.

C. Accounts Receivable, Allowance for Doubtful Accounts and Bad Debts

Based on historical experience accounts receivable, net of allowance for doubtful accounts, are projected to equal 23% of charges for services and bad debts are projected to equal 1.5% of charges for services.

D. Restricted Assets

Restricted assets consist of amounts placed on deposit with the West Virginia Municipal Bond Commission and local banks as required by the various revenue bond's indentures of trust for sinking funds, reserve accounts, and repair and replacement accounts. Also, included in restricted assets is a construction bank account which is restricted for corrective action at the wastewater treatment plant.

E. Construction in Process and Utility Plant, Property and Equipment and Depreciation (Continued)

In addition to the $1,327,798 in construction costs as previously discussed, the Sanitary Board will be paying off approximately $250,000 of the debt on the Brush Fork Wastewater Treatment Facility which is currently owned by Bluewell Public Service District. The total cost of the project therefore amounts to $1,577,798. Depreciation will be provided for on the straight line method over 30 years.

Projected additions to utility plant, property and equipment, other than those discussed above amounting to $100,000 annually, are principally the regular periodic replacement of utility plant, property and equipment and a computer system (hardware and software) in the amount of $72,957 during the fiscal year ending June 30, 1998. Depreciation is projected on an item-by-item basis.

F. Revenue Bonds Payable

Revenue bonds payable consists of the 1992 and 1995 Series which the Sanitary Board is already obligated and the projected $1,545,800 1998 Series to be incurred in financing the Brush Fork Wastewater Treatment Facility (inclusive of funds required to pay off approximately $250,000 of the outstanding balance owed by Bluewell P.S.D. on the facility). A summary of the revenue bonds payable and balances due are as follows:

Description	Original Amount	Maturity Date	Interest Rate	Balances Outstanding at June 30. (Historical) 1997	Projected 1998	1999	2000	2001	2002
Sewer Refunding Revenue Bonds Series 1992	$ 2,185,000	2008	7.00%	$ 1,905,000	$ 1,800,000	$ 1,685,000	$ 1,565,000	$ 1,435,000	$ 1,295,000
Sewer Refunding Revenue Bonds Series 1992	2,800,000	2017	6.25%	2,800,000	2,800,000	2,800,000	2,800,000	2,800,000	2,800,000
Sewer Refunding Revenue Bonds Series 1995	7,945,000	2016	0.00%	7,349,125	6,951,875	6,554,625	6,157,375	5,760,125	5,362,875
Sewer Revenue Bonds, Series 1998	1,545,800	2019	0.00%	-0-	153,033	1,487,833	1,410,543	1,333,253	1,255,963
Total				12,054,125	11,704,908	12,527,458	11,932,918	11,328,378	10,713,838
Less: Deferred loss on refunding				(78,116)	(73,816)	(69,516)	(65,216)	(60,916)	(56,616)
Less: Current portion				(502,250)	(570,219)	(594,540)	(604,540)	(614,540)	(624,540)
Long term portion				$ 11,473,759	$ 11,060,873	$ 11,863,402	$ 11,263,162	$ 10,652,922	$ 10,032,682

As indicated, the Series 1995 and 1998 have a 0% interest rate. There is, however, a .5% (Series 1995) and 1% (Series 1998) administrative fee associated with these borrowings which is calculated on the outstanding balances.

THE SANITARY BOARD OF BLUEFIELD
SUMMARY OF SIGNIFICANT PROJECTION ASSUMPTIONS AND
ACCOUNTING POLICIES
YEARS ENDING JUNE 30, 1998, 1999, 2000, 2001 AND
2002 (PROJECTED), AND YEAR ENDED JUNE 30, 1997 (HISTORICAL)

G. Operating Revenue

It is projected that at the Sanitary Board's existing sewerage rates, the Brush Fork service area will provide $207,035 of additional revenue on an annual basis. It is projected that the facility will be placed in service at the end of November, 1998, therefore, billings will begin for the month of December, 1998.

H. Operating Expenses

Personal Services and Fringe Benefits
Personal services and fringe benefits are projected to increase by 1.5% per year through the projection period. During fiscal years ending June 30, 1998 and 1999, $63,464 and $30,751, respectively has been capitalized as part of the Brush Fork construction costs.

Supplies and Expense
Supplies and expense are projected to increase by 3% per year through the projection period. In addition, the operation of the Brush Fork service area is projected to increase electric costs by $38,000 annually.

Maintenance
Maintenance is projected to increase by 3% per year through the projection period. In addition, the operation of the Brush Fork service area is projected to increase maintenance costs by $6,450 annually.

Influx and infiltration
The Sanitary Board also projects annual expenditures through the projection period for I&I work.

Following are the projected expenditures per year:

June 30,	Amount
1998	$ 100,000
1999	140,833
2000	170,000
2001	150,000
2002	140,000

ATTACHMENT 4

Case No. 97-1471-S-CN
snd
Case No. 97-1472-PSD-S-PC

This SUPPLEMENTAL MEMORANDUM OF UNDERSTANDING dated the _____ day of _____, 1998 by and between the Bluewell Public Service District (PSD herein), an organization created pursuant to the provisions of Chapter 16, Article 13A of the Code of West Virginia and THE SANITARY BOARD OF BLUEFIELD (BSB herein), an organization created pursuant to the provisions of Chapter 16, article 13B of the Code of West Virginia.

W I T N E S S E T H:

WHEREAS, the parties hereto entered into an Memorandum of Understanding dated June 18, 1997 and paragraph four (4) thereof addresses the PSD's existing indebtedness; and

WHEREAS, Rural Development, successor of Farmers Home Administration, holder of the PSD's Sewer System Revenue Bonds, Series 1969, has insisted that BSB pay to Rural Development as a credit on said bonds the appraised value of the sewer collection system and service area being transferred to BSB; and

WHEREAS, BSB has agreed to make the aforesaid payment; and

NOW THEREFORE, to that end and for the mutual covenants and conditions contained herein, the parties hereto do amend and supplement paragraph four (4) of the above mentioned Memorandum of Understanding dated June 18, 1997 such that BSB shall, upon closing of its financial agreement with the Division of Environmental Protection and/or Appalachian Regional Commission (whichever entity provides the funds for this payment to Rural Development), pay to Rural Development on behalf of the PSD a sum not exceed Two Hundred Fifty Thousand ($250,000.00) Dollars, or the appraised value of the system and assets being transferred to BSB, whichever sum is less.

This payment is conditioned on Rural Development and/or Farmers Home Administration acting on behalf of the Department of Agriculture releasing the system and revenue transferred therefrom from the lien of said bonds.

All other provisions of the aforementioned memorandum of June 18, 1997 are to remain fully applicable as if set out in full herein unless the same are clearly in conflict with this Supplemental Memorandum.

SANITARY BOARD OF BLUEFIELD

_____

By _____

BLUEWELL PUBLIC SERVICE DISTRICT

_____

By _____

BEFORE THE PUBLIC SERVICE COMMISSION OF WEST VIRGIN IA
CHARLESTON

CASE NO. 97-____-S-CN
THE SANITARY BOARD OF THE CITY OF BLUEFIELD,
a municipal corporation.
Application for a Certificate of Public
Convenience and Necessity to construct
sewer collection mains, pump stations and
appurtenances to serve the Brushfork area
of Mercer County, West Virginia.

APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Now comes the City of Bluefield, West Virginia, a municipal corporation, acting by its Sanitary Board, the Applicant herein, to file this application for a certificate of public convenience and necessity, seeking authority to construct a project related to its sewer system, and respectfully provides the following information to the Commission in support of such project:

1. The Applicant is a municipal public utility operating a sewer utility, and as such is subject to Chapter 24 of the Code of West Virginia, 1931, as amended, and the Rules and Regulations of the Public Service Commission of West Virginia

2. The principal place of business of the Applicant is in the City of Bluefield and vicinity, Mercer County, West Virginia. This utility is engaged in the business of furnishing sewerage service within the above areas.

3. By this application, the Applicant seeks authority to construct one (1) new 3.80 MGD pump station, approximately ten thousand eight hundred (10,800) feet of 8-

inch diameter force main, approximately one thousand seven hundred (1,700) feet of 10-inch diameter gravity main, twelve (12) manholes and appurtenances. The proposed facilities are to be constructed for the purpose of connecting the sewerage collection system and service territory which is presently served by Bluewell Public Service District's Brushfork lagoon system to the Bluefield Sanitary Board's collection system. Once connected, the sewerage from the Brushfork area will be treated at the Sanitary Board's West Side Sewerage Treatment Plant which is located in Bluefield, Virginia, and the customers in the Brushfork area will be directly served as customers of the Bluefield Sanitary Board.

The project is part of a proposal to transfer the customers and facilities which are presently treated by Bluewell Public Service District's Brushfork Sewerage Treatment Lagoon to the Bluefield Sanitary Board and have the Brushfork Sewerage Treatment Lagoon taken out of service. The Brushfork Sewerage Treatment Lagoon is a 0.196 million gallons per day (MGD) sewerage treatment facility, located approximately two (2) miles north of Bluefield, West Virginia, on State Route 123, which generally serves the Brushfork community. Presently, the operation of that system periodically violates several discharge limit parameters which are set forth in the NPDES permit for that facility, and the Bluewell Public Service District has entered into an Amended Consent Decree with the West Virginia Division of Environmental Protection (DEP) to have that inadequate sewage treatment facility taken out of service and replaced with a suitable sewage treatment facility. A copy of the Amended Consent Decree is contained within Applicant's Exhibit No. 1.

The Bluewell Public Service District and the Sanitary Board of the City of Bluefield have proposed to take the Brushfork lagoon treatment system out of service and have the sewage from the Brushfork collection system transported to the West Side Sewerage Treatment Plant, located in Bluefield, Virginia, for treatment. The West Side Sewerage Treatment Plant is a recently upgraded facility with a treatment capacity of 5.3 MGD which was designed to serve the combined sewerage treatment needs of Bluefield, Virginia, and Bluefield, West Virginia, and the surrounding vicinities. A facilities plan proposing to have the raw sewerage from the Brushfork area transported and treated at the West Side Sewerage Treatment Plant was previously submitted and approved by the West Virginia Division of Environmental Protection. A copy of that facilities plan is attached hereto as Applicant's Exhibit No. 2.

The pump station, mains and appurtenant facilities which the Sanitary Board of the City of Bluefield proposes to construct are needed to physically connect the Brushfork collection system to the Bluefield Sanitary Board and transport the Brushfork sewerage flows to the West Side Sewerage Treatment Plant for treatment. The preliminary engineering report for these proposed facilities, as prepared by Thompson & Litton of West Virginia, Inc., a professional engineering firm, is filed with and made a part of this application (Applicant's Exhibit No. 3). That same preliminary engineering report has been filed with the West Virginia Division of Environmental Protection for review and approval, and a copy of the appropriate DEP permit for those facilities will be submitted as soon as final approval is received.

4. The total project cost for this project is estimated to be $912,600, broken down as follows:

Construction	$559,600
Technical Services	240,000
Legal and Fiscal	21,500
Bond Counsel	8,500
Administrative Costs	N/A
Site and Easement Costs	40,000
Project Contingency	43,000
Total	$912,600

The construction labor will be provided by the existing personnel of the Sanitary Board of the City of Bluefield, and project administration will be provided by the existing manager of the Sanitary Board. Therefore, only the cost of the materials to be used during construction will be subject to competitive bids. The Applicant will attempt to coordinate the bidding procedure on this project with the Staff of the Public Service Commission reviewing the project and, once the bids are received, the results will be furnished to the Public Service Commission, along with any revision of financial data that is necessary.

5. The $912,600 in project costs will be financed with an $864,100 loan to be secured through the West Virginia State Revolving Fund (SRF) Loan Program, and $40,000 cash on hand provided by the Bluefield Sanitary Board. The SRF loan will be repaid over a period of twenty (20) years, and will carry an interest rate of 0%, with a 1% service charge. The State Revolving Loan Fund Program will advance the money pursuant to a municipal revenue bond issue to be issued by the Bluefield Sanitary Board to the West Virginia Water Development Authority. The City will issue revenue bonds in the amount of $915,805, which will be of a sufficient size to establish a prefunded debt service reserve account of $43,205, meet the bond counsel expense of $8,500, and generate the necessary bond proceeds of $864,100 to meet project expenses. The revenue

bonds to be issued will be on parity with the outstanding sewer system revenue bonds which have been issued by the Sanitary Board of the City of Bluefield. The project and the associated revenue bonds will be authorized pursuant to an ordinance to be enacted by the City Council for Bluefield, West Virginia.

6. The Bluewell Public Service District and the Sanitary Board of the City of Bluefield have entered into a Memorandum of Understanding, by which the parties propose to transfer the customer base and the collection system serving the Brushfork area to the Sanitary Board of the City of Bluefield, once construction of this project is completed, and the sewage flows for the Brushfork area are transported to the West Side Sewerage Treatment Plant for treatment. There are approximately 677 equivalent residential connections presently served by the Brushfork collection system and the Brushfork lagoon treatment system. As proposed, once construction is completed, those customers in the Brushfork area will be directly served as residential and commercial customers of the Sanitary Board of the City of Bluefield, and will be charged rates and charges which are the same as those which are presently assessed to all residential and commercial customers served by the Sanitary Board of the City of Bluefield. A copy of the Memorandum of Understanding between the Bluewell Public Service District and the Sanitary Board of the City of Bluefield is attached hereto as Applicant 1. The parties are seeking the Commission's approval to enter into the Memorandum of Understanding and the proposed transfer of facilities and customers in the Brushfork area by separate petition.

7. As set forth in the Memorandum of Understanding, in order to retire the proportionate share of the exiting Bluewell Public Service District debt service which is

presently recouped from the Brushfork customers, the Sanitary Board of the City of Bluefield has agreed to tender monthly payments to the District which are equal to the proportionate share of the Bluewell Public Service District's $1,002,000 Revenue Bonds, Series 1969, which are allocated to the transferred Brushfork customers, until that debt is scheduled to retire in the year 2009. The proportionate share of the District's debt service associated with the transferred customers will be determined at the time the Brushfork collection system is transferred to the Sanitary Board, by comparing the combined billed revenues of the transferred customers to the District's total billed revenues over the twelve months which immediately precede the actual date of the transfer.

At the present time, the revenues derived from the customers served by the Brushfork lagoon system represent approximately thirty-six percent (36%) of the District's total billed revenues. As of October 1, 1997, the unpaid principal on the District's outstanding debt was approximately $537,977, and the District has an annualized debt service obligation of approximately $59,100 per year in principal and interest payments on that debt. Thirty-six percent of the unpaid principal on the District's outstanding debt is approximately $196,636, and thirty-six percent of the District's current principal and interest payments on its remaining debt would be approximately $21,276 per year, or approximately $1773 per month.

8. The Sanitary Board of the City of Bluefield does not anticipate any need to increase its rates and charges as a result of this project. As reflected in the attached financial statements contained in Appendix C to Applicant's Exhibit No. 3, the projected revenues to be generated by the Brushfork customers, at the City of Bluefield's prevailing rates and charges, is more than sufficient to offset the combined operating expenxes

associated with: 1) the additional debt service to be absorbed by the Sanitary Board, 2) the estimated costs of operating and maintaining the newly constructed facilities, and 3) the costs of serving the additional customers through the transferred and upgraded facilities. Therefore, the proposed project is financially feasible and self-supporting without any municipal rate increase, as long as the City is permitted to charge its existing rates and charges to the transferred customers.

9. Although the City of Bluefield's municipal sewer rates would not be affected by this project, the City of Bluefield and the Bluewell Public Service District acknowledge that the rates of the transferred customers in the Brushfork area will increase once their sewage is treated at the West Side Sewerage Treatment Plant and they are assessed rates and charges which are the same as other customers served by the Sanitary Board of the City of Bluefield. By way of comparison, the monthly sewer bill for an average residential customer served by the Bluewell Public Service District is $14.01, based on an average consumption of 4500 gallons per month. The average residential sewer bill under the Sanitary Board of the City of Bluefield's existing rates and charges would be $24.93 for that same consumption level. The minimum residential bill on the Sanitary Board's system is currently $11.41 per month, and the District's minimum sewer bill is presently $9.66 per month.

10. While the rates and charges of the Brushfork customers will increase after their sewage is treated by the Sanitary Board's West Side Sewerage Treatment Plant, those customers were facing a substantial rate increase regardless of which option was pursued to replace the District's Brushfork lagoon treatment system. Based on cost projections reflected in the District's approved facility plan, the District's rates and

charges would have to be increased to the level of the Sanitary Board's sewer rates or higher if the District attempted to replace its deficient lagoon system with a new treatment facility.

10. The Sanitary Board of the City of Bluefield has not filed a full Rule 42 financial exhibit with its certificate application, and instead offers the financial information reflected in Applicant's Exhibit No. 3 as clear proof that the proposed project would not have a detrimental financial impact or require any increase or modification to the municipal rates and charges which are currently in effect and approved for use. Accordingly, the Applicant requests that the Commission waive the requirement that a complete Rule 42 financial exhibit be submitted with this certificate application. It is clear that a municipal rate increase is not required to support this project, and the cost of preparing such an extensive financial exhibit is not reasonable or warranted in this case. The Applicant further notes that the preparation of a full Rule 42 Exhibit for this particular utility would also require the Applicant to bear the additional burden and expense of allocating all of the shared operating facilities and expenses between two jurisdictions (West Virginia and Virginia), in addition to the normal costs and complications associated with preparing such an exhibit. Under the circumstances presented by this case, the Applicant views such an exercise as unnecessary and unduly burdensome, and requests that the requested waiver be granted.

11. The Applicant further requests that this application be reviewed on an expedited basis, and requests that every reasonable effort be made to insure that this project can be undertaken during the present construction season. This project is being submitted in part to satisfy an outstanding Consent Decree which was instituted in 1990

and was subsequently amended in 1994 to eliminate the deficient and inadequate lagoon treatment system which has and continues to discharge an unacceptable level of pollutants into the Brushfork of the Bluestone River and into the Bluestone River in general. These rivers feed into the Bluestone reservoir, which is a public lake that is heavily used as a fishing, swimming, boating and recreation area. If at all possible, the Division of Environmental Protection and the parties desire to commence construction during the present construction season. Accordingly, the Applicant requests that the thirty (30) day prefiling requirement set forth in West Virginia Code § 24-2-11 be waived for good cause shown, and requests that this filing be processed as expeditiously as possible.

WHEREFORE, the Sanitary Board of the City of Bluefield respectfully prays that it be granted a certificate of public convenience and necessity to construct and operate the sewerage facilities described herein, on this ___ day of October, 1997.

THE SANITARY BOARD OF THE
CITY OF BLUEFIELD

_____
R. Terry Honaker, Executive Director

Counsel of record:

Norris Kantor
Robert F. Williams
KATZ KANTOR & PERKINS
Attorneys at Law

P.O. Box 727
Bluefield, West Virginia 24701
(304) 327-3551

VERIFICATION

STATE OF WEST VIRGINIA,

COUNTY OF MERCER, to-wit:

I, R. Terry Honaker, after being duly sworn, upon my oath depose and say that I am the Executive Director of the Sanitary Board of the City of Bluefield, West Virginia, that I have read and am familiar with the "Application for Certificate of Public Convenience and Necessity" filed on behalf of the Bluefield Sanitary Board, and that the facts and allegations contained therein are true, except so far as they are therein stated to be on information and belief, and that, so far as they are therein stated to be on information and belief, I believe them to be true.

_____

R. T
erry Honaker
Executive Director
Sanitary Board of the City of Bluefield

Taken, subscribed and sworn to before me, the undersigned authority, this the _____ of October, 1997.

My Commission expires _____ .

_____

Notary Public

DIVISION OF ENVIRONMENTAL PROTECTION
1201 Greenbrier Street
Charleston, WV 25311-1088

CECIL H. UNDERWOOD
GOVERNOR

MICHAEL P. MIANO
DIRECTOR

July 30, 1998

R. Terry Honaker, Executive Director
City of Bluefield, Sanitary Board
P. O. Box 998
Bluefield, WV 24701

CERTIFIED RETURN RECEIPT REQUESTED

Re: WV/NPDES Permit No. WV0023141
Modification No. 1

Dear Mr. Honaker:

This correspondence shall serve as Modification No. 1 of your existing WV/NPDES Water Pollution Control Permit No. WV0023141, issued the 3rd day of April 1995.

After review and consideration of the information submitted on, and with, Permit Modification Application No. WV0023141-A, dated the 27th day of April 1998, relative to the activities being permitted herein, the plans and specifications, additional information, dated the 26th day of May 1998, and other relevant information, the subject Permit is hereby modified to incorporate, and effectuate, the following data and changes, respectively.

1. To acquire, construct, install, operate and maintain a wastewater collection system extension to be comprised of approximately 1,900 linear feet of 10 inch diameter gravity sewer line, 12 manholes, one(1) lift station, 1,100 linear feet of six(6) inch diameter force main, 12,000 linear feet of eight(8) inch diameter force main, five(5) air/vacuum relief valves, renovation of one(1) existing lift station, emergency power systems at these lift stations, and all requisite appurtenances.

2. The wastewater collection system extension project shall be constructed, in accordance with the plans and specifications, approvable the 26th day of May 1998, prepared by Thompson & Litton of West Virginia, Inc.; Law and Commerce Building; Rooms 221 & 222; Bluefield, WV 24701, and entitled "Sanitary Board of Bluefield; Bluefield, West Virginia; Brush Fork Sewerage System Improvements; Contract I; Contract II; Contract III; Contract IV; SRF Project No. C-544223."

3. To acquire, operate and maintain a wastewater collection system comprised of approximately 5,600 linear feet of six(6) inch diameter gravity sewer line, 32,500 linear feet of eight(8) inch diameter gravity sewer line, 5, 600 linear feet of 10 inch diameter gravity sewer line, 355 manholes, two(2) lift stations, 1,000 linear feet of four(4) inch diameter force main, 2,700 linear feet of six(6) inch diameter force main, and all requisite appurtenances.

4. These facilities are to serve a population equivalent of approximately 3,600 persons in the Brush Fork area, formerly within the Bluewell Public Service District's service area, and convey wastewater to the City's Westside wastewater treatment plant, which is located in the Commonwealth of Virginia. The additional wastewater flow to be generated is anticipated to be approximately 219,000 gallons per day.

All other terms and conditions of the subject WV/NPDES Water Pollution Control Permit shall remain in effect and unchanged.

Sincerely,

OFFICE OF WATER RESOURCES

Barbara S. Taylor
Chief

BST/jdm

GASTON CAPERTON
GOVERNOR

DIVISION OF ENVIRONMENTAL PROTECTION
1201 Greenbrier Street
Charleston, WV 25311-1088

DAVID C. CALLAGHAN
DIRECTOR

April 3, 1995

R. Terry Honaker
City of Bluefield
Sanitary Board
P. O. Box 1870
Bluefield, WV 24701

CERTIFIED RETURN RECEIPT REQUESTED

Dear Mr. Honaker:

Enclosed find WV/NPDES Water Pollution Control Permit No. WV0023141, dated the 3rd day of April 1995, for the City of Bluefield, West Virginia.

This Permit prescribes effluent discharge limitations for whole effluent toxicity testing and certain toxic pollutant parameters, which were not previously imposed. These requirements are resultant to the State of West Virginia Toxic Pollutant Control Permitting Strategy, dated October 1990, with revisions to Section IV.A. Should you wish to discuss matters relative to these requirements, please contact this Office to arrange a meeting.

All facilities permitted to discharge pollutants to the waters of the State, under Chapter 22, Article 11 of the West Virginia Code, are required to test their effluent in order to verify permit compliance. This testing is the responsibility of the permittee and these test results are to be submitted to the office on the Discharge Monitoring Reports (DMRs) which are attached to the back of this permit. A DMR is to be completed and received by this office each month no later than 20 days following the end of the reporting period. The address to which DMRs are to be sent is noted in Section E.2, Attention: Municipal Branch. It is suggested that several copies of the enclosed DMR forms be made for your future use, as this office does not supply permittees with DMR forms.

Please note the attachment to this permit which describes the annual permit fee requirement.

Please also note Section G.7 on page 12 prohibiting the acceptance of new nondomestic wastewater discharges without prior Office approval.

If you have any questions, please contact John Morgan of this office at (304) 558-4086 or TDD No. (304) 558-2751.

Very truly yours,

OFFICE OF WATER RESOURCES

Pravin G. Sangani, P. E.
Municipal Branch Leader

PGS:mll

Enclosure

WRD 1A-82
Revised 4/95

STATE OF WEST VIRGINIA
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF WATER RESOURCES
1201 GREENBRIER STREET
CHARLESTON, WV 25311

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

WATER POLLUTION CONTROL PERMIT

Permit No. WV0023141

Issue Date: April 3, 1995

Subject: Sewage Facilities

Effective Date: May 3, 1995

Expiration Date: April 2, 2000

Supersedes: WV/NPDES Permit No. WV0023141; Issue Date March 30, 1990

Location: Bluefield (City) Mercer (County) Kanawha (Drainage Basin)

Outlet Latitude: 37°17'17"N
Longitude: 81°09'41"W

To whom it may concern:

This is to certify that City of Bluefield
Sanitary Board
P. O. Box 1870
Bluefield, WV 24701

is hereby granted a NPDES Water Pollution Control Permit to operate and maintain two(2) existing wastewater collection systems and an existing 1.2 MGD activated sludge wastewater treatment plant which are further described as follows.

A wastewater collection system comprised of approximately 132,000 linear feet of six(6) inch diameter gravity sewer line, 79,200 linear feet of eight(8) inch diameter gravity sewer line, 52,800 linear feet of 12 inch diameter gravity sewer line, 10,600 linear feet of 24 inch diameter gravity sewer line, 550 manholes, 1,500 cleanouts, five(5) lift stations, three(3) simplex grinder pump stations, seven(7) duplex grinder pump stations, 500 linear feet of one and one half($1\frac{1}{2}$) inch diameter force main, 29,500 linear feet of four(4) inch diameter force main, 3,200 linear feet of eight(8) inch diameter force main, and all requisite appurtenances.

These facilities provide wastewater collection service to the City of Bluefield and environs. Approximately eighty percent of the flow is directed to the Board's Westside wastewater treatment plant which is located in the Commonwealth of Virginia. Approximately twenty percent of the flow is directed to the Board's Ada wastewater treatment plant which is being permitted herein.

(Continued on Page 2)

A wastewater treatment plant, identified as the Ada plant, comprised of a mechanical bar screen, a bar screen, a comminutor, grit removal facilities, two(2) primary clarifiers with a volume of 86,900 gallons and a surface area of 970 square feet each, four(4) aeration chambers with a volume of 76,400 gallons each, two(2) secondary clarifiers with a volume of 52,900 gallons and a surface area of 590 square feet each, ultraviolet disinfection facilities, a post aeration chamber with a volume of 8,300 gallons, a gravity sludge thickener with a volume of 21,900 gallons, sludge conditioning equipment, two(2) sludge dewatering vacuum filters, a sludge holding tank with a volume of 24,700, an emergency spill facility consisting of two(2) holding tanks with a volume of 52,900 gallons each, and all requisite appurtenances.

These facilities are to serve a population equivalent of approximately 12,000 persons in the City of Bluefield, and environs, within the Ada facilities service area, and discharge treated wastewater to the East River, approximately 18.6 miles from its mouth, of the New River of the Kanawha River.

This permit is subject to the following terms and conditions:

The information submitted on and with Permit Application No. WV0023141, dated the 19th day of September 1994, is all hereby made terms and conditions of this Permit with like effect as if all such Permit application information was set forth herein, and with other conditions set forth in Sections A, B, C, D, E, F, and G.

The validity of this Permit is contingent upon the payment of the applicable annual permit fee, as required by Chapter 22, Article 11, Section 10 of the Code of West Virginia.

A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning May 3, 1995 and lasting through midnight, April 2, 2000 the permittee is authorized to discharge from outlet number(s) 001 - Discharge from the sewage treatment plant.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations (Quantity) lbs/day Avg. Monthly	Max. Daily	Other Units (Specify) Avg. Monthly	Max. Daily	Monitoring Requirements Measurement Frequency	Sample Type
Flow			1.2 MGD		Continuous	Measured
Biochemical Oxygen Demand, (5 Day)	300.2	600.5	30.0 mg/l	60.0 mg/l	Once/Week	8 Hr. Compos
Total Suspended Solids	300.2	600.5	30.0 mg/l	60.0 mg/l	Once/Week	8 Hr. Compos
Total Kjeldahl Nitrogen	180.1	360.3	18.0 mg/l	36.0 mg/l	Once/Week	8 Hr. Compos
Fecal Coliform			200 counts / 100 ml	400 counts / 100 ml	Once/Week	Grab
Dissolved Oxygen	Not less than 5.0 mg/l at any given time				Once/Week	Grab
Cadmium, Total Recoverable*			0.001 mg/l	0.002 mg/l	Once/Month	8 Hr. Compo
Chromium, Hexavalent			0.009 mg/l	0.013 mg/l	Once/Month	8 Hr. Compo
Copper, Total Recoverable*			0.022 mg/l	0.032 mg/l	Once/Month	8 Hr. Compo
Lead, Total Recoverable*			0.007 mg/l	0.010 mg/l	Once/Month	8 Hr. Comp
Nickel, Total Recoverable*			0.061 mg/l	0.091 mg/l	Once/Month	8 Hr. Comp

*Refer to Section G.14 on page 19 of 21

(Continued on Page 4 of 21)

(Continued from page 3 of 21)

A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning May 3, 1995 and lasting through midnight, April 2, 2000
the permittee is authorized to discharge from outlet number(s) 001 - Discharge from the sewage treatment plant.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations (Quantity) lbs/day Avg. Monthly	Max. Daily	Other Units (Specify) Avg. Monthly	Max. Daily	Monitoring Requirements Measurement Frequency	Sample Type
Zinc, Total Recoverable*			0.057 mg/l	0.086 mg/l	Once/Month	8 Hr. Compo
Mercury, Total			0.0002 mg/l	0.0004 mg/l	Once/Month	8 Hr. Compo
Silver, Total Recoverable*			0.015 mg/l	0.022 mg/l	Once/Month	8 Hr. Compo

*Refer to Section G.14 on page 19 of 21

The pH shall not be less than 6.0 standard units and not greater than 9.0 standard units and shall be monitored daily by grab sampling.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): Effluent samples shall be collected at or as near as possible to the point discharge. Effluent BOD$_5$ samples shall be properly reseeded, in accordance with the approved procedures, prior to analysis.

This discharge shall not cause violation of Title 46, Series 1, Section 3 of the West Virginia Legislative Rules issued pursuant to Chapter 22, Article 11.

A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning May 3, 1995 and lasting through midnight, April 2, 1996 the permittee is authorized to discharge from outlet number(s) 001 - Discharge from sewage treatment plant

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations (Quantity) lbs/day Avg. Monthly	Max. Daily	Other Units (Specify) Avg. Monthly	Max. Daily	Monitoring Requirements Measurement Frequency	Sample Type
Acute Toxicity, Pimephales Promelas, 48 Hour Static				1.0 TU_A	1/Quarter	8 Hour Composite
Acute Toxicity, Daphnia Magna or Pulex, 48 Hour Static				1.0 TU_A	1/Quarter	8 Hour Composite

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): Effluent acute toxicity samples shall be collected at or as near as possible to the point of discharge.

This discharge shall not cause violation of Title 46, Series 1, Section 3 of the West Virginia Legislative Rules issued pursuant to Chapter 22, Article 11.

A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning April 3, 1996 and lasting through midnight, April 2, 2000 the permittee is authorized to discharge from outlet number(s) 001 - Discharge from sewage treatment plant

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations (Quantity) lbs/day Avg. Monthly	Max. Daily	Other Units (Specify) Avg. Monthly	Max. Daily	Monitoring Requirements Measurement Frequency	Sample Type
Chronic Toxicity, Pimephales Promelas, 7 Day Larval Growth and Survival				2.1 TU_c	Semiannual	8 Hour Composite
Chronic Toxicity, Ceriodaphnia, Survival and Reproduction				2.1 TU_c	Semiannual	8 Hour Composite

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): Effluent chronic toxicity samples shall be collected at or as near as poss. to the point of discharge.

This discharge shall not cause violation of Title 46, Series 1, Section 3 of the West Virginia Legislative Rules issued pursuant to Chapter 22, Article 11.

B. SCHEDULE OF COMPLIANCE

1. The permittee shall achieve compliance with the provisions for waste treatment and the discharge limitations specified in this permit in accordance with the following schedule:

   Effective date of permit.

2. Reports of compliance or noncompliance with, and progress reports on the interim and final requirements contained in the above compliance schedule, shall be submitted no later than 14 days following each schedule date.

C. MANAGEMENT CONDITIONS

1. Duty to Comply

(a) The permittee must comply with all conditions of this permit. Permit noncompliance constitutes a violation of the CWA and State Act and is grounds for enforcement action; for permit modification, revocation and reissuance, suspension or revocation; or for denial of a permit renewal application.

(b) The permittee shall comply with all effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

2. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit at least 180 days prior to expiration of the permit.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment.

4. Permit Actions

This permit may be modified, revoked and reissued, suspended, or revoked for cause. The filing of a request by the permittee for permit modification, revocation and reissuance, or revocation, or a notification of planned changes or anticipated noncompliance, does not stay any permit conditions.

5. Property Rights

This permit does not convey any property rights of any sort or any exclusive privilege.

6. Signatory Requirements

All applications, reports, or information submitted to the Chief shall be signed and certified as required in Title 47, Series 10, Section 4.6 of the West Virginia Legislative Rules.

7. Transfers

This permit is not transferable to any person, except after notice to the Chief. The Chief may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

8. Duty to Provide Information

The permittee shall furnish to the Chief, within a reasonable specified time, any information which the Chief may request to determine whether cause exists for modifying, revoking and reissuing, suspending, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Chief, upon request, copies of records required to be kept by this permit.

9. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Chief, it shall promptly submit such facts or information.

10. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a) Enter upon the permittee's premises in which an effluent source or activity is located, or where records must be kept under the conditions of this permit;

b) Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;

c) Inspect at reasonable times any facilities, equipment(including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d) Samples or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the State Act, any substances or parameters at any locations.

11. Permit Modification

This permit may be modified, suspended, or revoked in whole or in part during its term in accordance with the provisions of Chapter 22-5A-12 of the Code of West Virginia.

12. Water Quality

The effluent or effluents covered by this permit are to be of such quality so as not to cause violation of applicable water quality standards adopted by the State Environmental Quality Board.

13. Outlet Markers

A permanent marker at the establishment shall be posted in accordance with Title 47, Series 11, Section 9 of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11.

14. Liabilities

a) Any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

b) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

c) Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

d) Nothing in (14.a),(b) and (c) shall be construed to limit or prohibit any other authority the Chief may have under the State Water Pollution Control Act, Chapter 22, Article 11.

D. OPERATION AND MAINTENANCE

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. Unless otherwise required by Federal or State law, this provision requires the operation of back-up auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit. For domestic waste treatment facilities, waste treatment operators as classified by the WV Bureau of Public Health Regulations authorized under Chapter 16, Article 1, Public Health Laws, Code of West Virginia, will be required except that in circumstances where the domestic waste treatment facility is receiving any type of industrial waste, the Chief may require a more highly skilled operator.

2. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Bypass

a) Definitions

(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility; and

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of D.3.c) and D.3.d) of this permit.

c) (1) If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass;

(2) If the permittee does not know in advance of the need for bypass, notice shall be submitted as required in F.2.b) of this permit.

d) Prohibition of bypass

(1) Bypass is permitted only under the following conditions, and the Chief may take enforcement action against a permittee for bypass, unless;

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(C) The permittee submitted notices as required under D.3.c) of this permit.

(2) The Chief may approve an anticipated bypass, after considering its adverse effects, if the Chief determines that it will meet the three conditions listed in D.3.d)(1) of this permit.

4. Upset

a) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of D.4.c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in F.2.b) of this permit.

(4) The permittee complied with any remedial measures required under C.1. of this permit.

d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Removed Substances

Where removed substances are not otherwise covered by the terms and conditions of this permit or other existing permit by the Chief, any solids, sludges, filter backwash or other pollutants (removed in the course of treatment or control of wastewaters) and which are intended for disposal within the State, shall be disposed of only in a manner and a site subject to the approval by the Chief. If such substances are intended for disposal outside the State or for reuse, i.e., as a material used for making another product, which in turn has another use, the permittee shall notify the Chief in writing of the proposed disposal or use of such substances, the identity of the prospective disposer or users, and the intended place of disposal or use, as appropriate.

E. MONITORING AND REPORTING

1. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. Reporting

a) Permittee shall submit each month, according to the enclosed format, a Discharge Monitoring Report(DMR) indicating in terms of concentration, and/or quantities, the values of the constituents listed in Part A analytically determined to be in the plant effluent(s).

b) The required DMRs should be received no later than 20 days following the end of the reporting period and be addressed to:

Chief
Office of Water Resources
1201 Greenbrier Street
Charleston, WV 25311-1088
Attention: Municipal Branch

Regional Administrator
U. S. Environmental Protection Agency
Region III
841 Chestnut Building
Philadelphia, PA 19107

c) Enter reported average and maximum values under "Quantity" and "Concentration" in the units specified for each parameter, as appropriate.

d) Specify the number of analyzed samples that exceed the allowable permit conditions in the columns labeled "N.E"(i.e., number exceeding).

e) Specify frequency of analysis for each parameter as no. analyses/specified period (e.g., 3/month" is equivalent to 3 analyses performed every calendar month.) if continuous, enter "Cont.". The frequency listed on format is the minimum required.

3. Test Procedures

Samples shall be taken, preserved and analyzed in accordance with the latest edition of 40 CFR Part 136, unless other test procedures have been specified elsewhere in this permit.

4. Recording of Results

For each measurement or sample taken pursuant to the permit, the permittee shall record the following information.

a) The date, exact place, and time of sampling or measurement;
b) The date(s) analyses were performed;
c) The individual(s) who performed the sampling or measurement;
d) The individual(s) who performed the analyses; if a commercial laboratory is used, the name and address of the laboratory;
e) The analytical techniques or methods used, and
f) The results of such analyses.

Information not required by the DMR form is not to be submitted to this agency, but is to be retained as required in E.6.

5. Additional Monitoring by Permittee

If the permittee monitors any pollutant at any monitoring point specified in this permit more frequently than required by this permit, using approved test procedures or others as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.

6. Records Retention

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for the permit, for a period of at least three(3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Chief at any time.

7. Definitions

a) "Daily discharge" means the discharge of a pollutant measured during a calendar day or within any specified period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

b) "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

c) "Maximum daily discharge limitation" means the highest allowable daily discharge.

d) "Composite Sample" is a combination of individual samples obtained at regular intervals over a time period. Either the volume of each individual sample is proportional to discharge flow rates or the sampling interval(for constant volume samples) is proportional to the flow rates over the time period used to produce the composite. The maximum time period between individual samples shall be two hours.

e) "Grab Sample" is an individual sample collected in less than 15 minutes.

f) "i s" immersion stabilization - a calibrated device is immersed in the effluent stream until the reading is stabilized.

g) The "daily average temperature" means the arithmetic average of temperature measurements made on an hourly basis, or the mean value plot of the record of a continuous automated temperature recording instrument, either during a calendar month, or during the operating month if flows are of shorter duration.

h) The "daily maximum temperature" means the highest arithmetic average of the temperatures observed for any two(2) consecutive hours during a 24-hour day, or during the operating day if flows are of shorter duration.

i) The "daily average fecal coliform" bacteria is the geometric average of all samples collected during the month.

j) "Measured Flow" means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or for which a relationship to absolute volume has been obtained.

k) "Estimate" means to be based on a technical evaluation of the sources contributing to the discharge including, but not limited to pump capabilities, water meters and batch discharge volumes.

l) "Noncontact cooling water" means the water that is contained in a leak-free system, i.e. no contact with any gas, liquid, or solid other than the container for transport; the water shall have no net poundage addition of any pollutant over intake water levels, exclusive of approved anti-fouling agents.

WRD 1A-82
Revised 4/95

STATE OF WEST VIRGINIA
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF WATER RESOURCES
1201 GREENBRIER STREET
CHARLESTON, WV 25311

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

WATER POLLUTION CONTROL PERMIT

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Location: Bluefield (City) Mercer (County) Kanawha (Drainage Basin)

Outlet Latitude: 37°17'17"N
Outlets: Longitude: 81°09'41"W

To whom it may concern:

This is to certify that City of Bluefield
Sanitary Board
P. O. Box 1870
Bluefield, WV 24701

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This permit is subject to the following terms and conditions:

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validity of this Permit is contingent upon the payment of the applicable annual permit fee, as required by Chapter 22, Article 11, Section 10 of the Code of West Virginia.

B. SCHEDULE OF COMPLIANCE

1. The permittee shall achieve compliance with the provisions for waste treatment and the discharge limitations specified in this permit in accordance with the following schedule:

   Effective date of permit.

2. Reports of compliance or noncompliance with, and progress reports on the interim and final requirements contained in the above compliance schedule, shall be submitted no later than 14 days following each schedule date.

C. MANAGEMENT CONDITIONS

1. Duty to Comply

(a) The permittee must comply with all conditions of this permit. Permit noncompliance constitutes a violation of the CWA and State Act and is grounds for enforcement action; for permit modification, revocation and reissuance, suspension or revocation; or for denial of a permit renewal application.

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The permittee shall furnish to the Chief, within a reasonable specified time, any information which the Chief may request to determine whether cause exists for modifying, revoking and reissuing, suspending, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Chief, upon request, copies of records required to be kept by this permit.

9. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Chief, it shall promptly submit such facts or information.

10. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a) Enter upon the permittee's premises in which an effluent source or activity is located, or where records must be kept under the conditions of this permit;

b) Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;

c) Inspect at reasonable times any facilities, equipment(including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d) Samples or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the State Act, any substances or parameters at any locations.

11. Permit Modification

This permit may be modified, suspended, or revoked in whole or in part during its term in accordance with the provisions of Chapter 22 6A 12 of the Code of West Virginia.

12. Water Quality

The effluent or effluents covered by this permit are to be of such quality so as not to cause violation of applicable water quality standards adopted by the State Environmental Quality Board.

13. Outlet Markers

A permanent marker at the establishment shall be posted in accordance with Title 47, Series 11, Section 9 of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11.

14. Liabilities

a) Any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

b) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

c) Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

d) Nothing in C.14.a),b) and c) shall be construed to limit or prohibit any other authority the Chief may have under the State Water Pollution Control Act, Chapter 22, Article 11.

D. OPERATION AND MAINTENANCE

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. Unless otherwise required by Federal or State law, this provision requires the operation of back-up auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit. For domestic waste treatment facilities, waste treatment operators as classified by the WV Bureau of Public Health Regulations authorized under Chapter 16, Article 1, Public Health Laws, Code of West Virginia, will be required except that in circumstances where the domestic waste treatment facility is receiving any type of industrial waste, the Chief may require a more highly skilled operator.

2. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Bypass

a) Definitions

(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility; and

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of D.3.c) and D.3.d) of this permit.

c) (1) If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass;

(2) If the permittee does not know in advance of the need for bypass, notice shall be submitted as required in F.2.b) of this permit.

d) Prohibition of bypass

(1) Bypass is permitted only under the following conditions, and the Chief may take enforcement action against a permittee for bypass, unless;

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(C) The permittee submitted notices as required under D.3.c) of this permit.

(2) The Chief may approve an anticipated bypass, after considering its adverse effects, if the Chief determines that it will meet the three conditions listed in D.3.d)(1) of this permit.

4. Upset

a) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of D.4.c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in F.2.b) of this permit.

(4) The permittee complied with any remedial measures required under C.3. of this permit.

d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Removed Substances

Where removed substances are not otherwise covered by the terms and conditions of this permit or other existing permit by the Chief, any solids, sludges, filter backwash or other pollutants removed in the course of treatment or control of wastewaters) and which are intended for disposal within the State, shall be disposed of only in a manner and a site subject to the approval by the Chief. If such substances are intended for disposal outside the State or for reuse, i.e., as a material used for making another product, which in turn has another use, the permittee shall notify the Chief in writing of the proposed disposal or use of such substances, the identity of the prospective disposer or users, and the intended place of disposal or use, as appropriate.

E. MONITORING AND REPORTING

1. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. Reporting

a) Permittee shall submit each month, according to the enclosed format, a Discharge Monitoring Report(DMR) indicating in terms of concentration, and/or quantities, the values of the constituents listed in Part A analytically determined to be in the plant effluent(s).

b) The required DMRs should be received no later than 20 days following the end of the reporting period and be addressed to:

Chief	Regional Administrator
Office of Water Resources	U. S. Environmental Protection Agency
1201 Greenbrier Street	Region III
Charleston, WV 25311-1088	841 Chestnut Building
Attention: Municipal Branch	Philadelphia, PA 19107

c) Enter reported average and maximum values under "Quantity" and "Concentration" in the units specified for each parameter, as appropriate.

d) Specify the number of analyzed samples that exceed the allowable permit conditions in the columns labeled "N.E"(i.e., number exceeding).

e) Specify frequency of analysis for each parameter as no. analyses/specified period (e.g., 3/month" is equivalent to 3 analyses performed every calendar month.) if continuous, enter "Cont.". The frequency listed on format is the minimum required.

3. Test Procedures

Samples shall be taken, preserved and analyzed in accordance with the latest edition of 40 CFR Part 136, unless other test procedures have been specified elsewhere in this permit.

4. Recording of Results

For each measurement or sample taken pursuant to the permit, the permittee shall record the following information.

a) The date, exact place, and time of sampling or measurement;
b) The date(s) analyses were performed;
c) The individual(s) who performed the sampling or measurement;
d) The individual(s) who performed the analyses; if a commercial laboratory is used, the name and address of the laboratory;
e) The analytical techniques or methods used, and
f) The results of such analyses.

Information not required by the DMR form is not to be submitted to this agency, but is to be retained as required in E.6.

5. Additional Monitoring by Permittee

If the permittee monitors any pollutant at any monitoring point specified in this permit more frequently than required by this permit, using approved test procedures or others as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated.
Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.

6. Records Retention

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for the permit, for a period of at least three(3) years from the data of the sample, measurement, report or application. This period may be extended by request of the Chief at any time.

7. Definitions

a) "Daily discharge" means the discharge of a pollutant measured during a calendar day or within any specified period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

b) "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

c) "Maximum daily discharge limitation" means the highest allowable daily discharge.

d) "Composite Sample" is a combination of individual samples obtained at regular intervals over a time period. Either the volume of each individual sample is proportional to discharge flow rates or the sampling interval(for constant volume samples) is proportional to the flow rates over the time period used to produce the composite. The maximum time period between individual samples shall be two hours.

e) "Grab Sample" is an individual sample collected in less than 15 minutes.

f) "I.S." Immersion stabilization - a calibrated device is immersed in the effluent stream until the reading is stabilized.

g) The "daily average temperature" means the arithmetic average of temperature measurements made on an hourly basis, or the mean value plot of the record of a continuous automated temperature recording instrument, either during a calendar month, or during the operating month if flows are of shorter duration.

h) The "daily maximum temperature" means the highest arithmetic average of the temperatures observed for any two(2) consecutive hours during a 24-hour day, or during the operating day if flows are of shorter duration.

i) The "daily average fecal coliform" bacteria is the geometric average of all samples collected during the month.

j) "Measured flow" means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or for which a relationship to absolute volume has been obtained.

k) "Estimate" means to be based on a technical evaluation of the sources contributing to the discharge including, but not limited to pump capabilities, water meters and batch discharge volumes.

l) "Noncontact cooling water" means the water that is contained in a leak-free system, i.e. no contact with any gas, liquid, or solid other than the container for transport; the water shall have no net poundage addition of any pollutant over intake water levels, exclusive of approved anti fouling agents.

F. OTHER REPORTING

1. Reporting Spills and Accidental Discharges

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee for any responsibilities, liabilities, or penalties established pursuant to Title 47, Series 11, Section 2 of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11.

Attached is a copy of the West Virginia Spill Alert System for use in complying with Title 47, Series 11, Section 2 of the rules as they pertain to the reporting of spills and accidental discharges.

2. Immediate Reporting

a) The permittee shall report any noncompliance which may endanger health or the environment immediately after becoming aware of the circumstances by using the Agency's designated spill alert telephone number. A written submission shall be provided within five(5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

b) The following shall also be reported immediately:
   (1) Any unanticipated bypass which exceeds any effluent limitation in the permit; and
   (2) Any upset which exceeds any effluent limitation in the permit; and
   (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Chief in the permit to be reported immediately. This list shall include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.

c) The Chief may waive the written report on a case-by-case basis if the oral report has been received in accordance with the above.

d) Compliance with the requirements of F.2. of this section, shall not relieve a person of compliance with Title 47, Series 11, Section 2.

3. Reporting Requirements

a) Planned changes. The permittee shall give notice to the Chief of any planned physical alterations or additions to the permitted facility which may affect the nature or quantity of the discharge. Notice is required when:
   (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in Section 13.7.b of Series 10, Title 47; or
   (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. The notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under F.2. of this section.

b) Anticipated noncompliance. The permittee shall give advance notice to the Chief of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

c) In addition to the above reporting requirements, all existing manufacturing, commercial, and silvicultural discharges must notify the Chief in writing as soon as they know or have reason to believe:
   (1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, or any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels".
      (A) One hundred micrograms per liter (100 ug/l);
      (B) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4 dinitro phenol; and for 2-methyl 4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
      (C) Five(5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.9 of Series 10, Title 47;
      (D) The level established by the Chief in accordance with Section 6.3.g. of Series 10, Title 47;
   (2) That any activity has occurred or will occur which would result in any discharge (on a non routine or infrequent basis) of a toxic which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels".
      (A) Five hundred micrograms per liter (500 ug/l);
      (B) One milligram per liter (1 mg/l) for antimony;
      (C) Ten(10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.7. of Series 10, Title 47;
      (D) The level established by the Chief in accordance with Section 6.3.g. of Series 10, Title 47;
   (3) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Series 10, Title 47 and which will result in the discharge on a routine or frequent basis of that toxic pollutant at levels which exceed five times the detection limit for that pollutant under approved analytical procedure.
   (4) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Series 10, Title 47 and which will result in the discharge on a non-routine or infrequent basis of that toxic pollutant at levels which exceed ten times the detection limit for that pollutant under approved analytical procedure.

4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under the above paragraphs at the time monitoring reports are submitted. The reports shall contain the information listed in F.2.a.

5. Additional Noncompliance Reporting Requirement

For any noncompliance reports required to be submitted in writing by this office, a copy shall also be forwarded to the U. S. Environmental Protection Agency at the location specified on F.1.a.

G. OTHER REQUIREMENTS

1. The herein described treatment works, structures, electrical and mechanical equipment shall be adequately protected from physical damage by the maximum expected 100 year flood level and operability be maintained during the 25 year flood level.

2. The entire sewage treatment facility shall be adequately protected by fencing.

3. Continuous maintenance and operation of the listed sewage treatment facility shall be performed by or supervised by a certified operator possessing at least a class IV certificate for Waste Water Treatment Works Operators, issued by the State of West Virginia.

4. An instantaneous flow from the sewage disposal system shall not exceed the peak design flow at any given time.

5. The arithmetic mean of values for effluent samples collected in a period of seven(7) consecutive days shall not exceed 45.0 mg/l for five(5) day Biochemical Oxygen Demand and Total Suspended Solids and 27.0 mg/l for Total Kjeldahl Nitrogen.

6. The arithmetic mean of the effluent values of the five(5) day Biochemical Oxygen Demand and Total Suspended Solids discharged during a period of 30 consecutive days shall not exceed 15 percent of the respective arithmetic mean of the influent values for these parameters during the same time period except as specifically authorized by the permitting authority.

7. The permittee shall not accept any new nondomestic discharges, to the Ada wastewater collection and treatment facilities, without first obtaining approval from the Chief of the Office of Water Resources as provided in Title 46, Series 2, Section 14, of the Legislative Rules.

8. If any existing nondomestic discharge, to the Ada wastewater collection and treatment facilities, causes, or is suspected of causing, interference or pass through, as defined by 40 CFR Part 403.3, or otherwise violates any provision of 40 CFR Part 403, the permittee shall notify the Chief of such violation or suspected violation.

9. If any existing nondomestic discharge, to the Ada wastewater collection and treatment facilities, is identified as being subject to a Categorical Pretreatment Standard under 40 CFR Chapter 1, Subchapter N, and the discharge is not regulated by this Permit, the permittee shall notify the Chief of such identification.

10. Any proposed or existing nondomestic discharge, on the portion of the wastewater collection system which is served by the Westside wastewater treatment plant, shall be regulated in accordance with the provisions of Permit No. VA0025054, issued by the Commonwealth of Virginia, and the terms and conditions, thereunder.

G. OTHER REQUIREMENTS (Continued)

11. The permittee shall submit an application to incorporate the State statutory requirements relative to their sludge management program on or before July 3, 1995. Whereupon, the review is concluded and approval is granted by the Chief, the permittee shall have fulfilled the requirements of Section D.5, Removed Substances, on page 9 of 21 of this Permit, with respect to the sludge generated by the wastewater treatment facilities permitted herein. Said approval shall be afforded in accordance with the provisions of Title 47, Series 38D of the West Virginia Legislative Rules, accordingly.

12. The permittee shall perform whole effluent toxicity testing in accordance with the following.

    a) The whole effluent toxicity testing prescribed herein shall begin with the performance of quarterly (4/year) 48 hour static acute toxicity tests for a period of one(1) year. Thereafter, the permittee shall perform semiannual (2/year) chronic toxicity testing.

    b) The acute toxicity testing required herein shall be conducted in accordance with the procedures set out in the latest revision of Environmental Protection Agency Publication No. 600/4-90-027F, "Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms."

        (1) The 48 hour static acute toxicity testing shall be performed on a quarterly (4/year) basis during the period beginning on the effective date of the Permit and ending on one(1) year from the issuance date of the the Permit.

        (2) An eight(8) hour composite sample of the effluent shall be utilized for testing.

        (3) The tests shall be conducted using Pimephales promelas, fathead minnow, and Daphnia magna or Daphnia pulex as the test species.

        (4) Test results shall be reported on the attached Discharge Monitoring Reports and copies of all test results provided as an attachment thereto.

        (5) The acute toxicity units, TU_a, required to be reported are calculated by dividing 100 by the LC_{50}.

    c) The chronic toxicity testing required herein shall be conducted in accordance with the procedures set out in the latest revision of Environmental Protection Agency Publication No. 600/4-89-001, "Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms."

        (1) The chronic toxicity testing shall be performed on a seminannual (2/year) basis during the period beginning one(1) year from the issuance date of the Permit and ending on the expiration date of the Permit.

G. OTHER REQUIREMENTS (Continued)

12.c)(2) The tests shall be a seven(7) day Pimephales promelas, fathead minnow, larval survival and growth test and a three(3) brood Ceriodaphnia survival and reproduction test.

(3) Sampling

(A) Three(3) eight(8) hour composite samples of the effluent shall be utilized for testing.

(B) Samples shall be preserved at four(4) degrees Celsius during collection and transportation.

(C) The total lapsed time between sample collection and the initial use of the sample should not exceed 24 hours, and in no case shall the holding time exceed 36 hours.

(D) The sample collection and test renewal schedule shall be as presented below:

Day	Task
0	Collect the first composite sample.
1	Start the test with the first composite sample.
2	Collect the second composite sample. Renew with the first composite sample.
3	Renew with the second composite sample.
4	Collect the third composite sample. Renew with the second composite sample.
5	Renew with the third composite sample.
6	Renew with the third composite sample.

(4) Dilution water

(A) Dilution water shall be either reconstituted deionized water or diluted mineral water prepared in accordance with the procedures outlined in the Environmental Protection Agency manual. Prepared dilution water shall have a hardness of 80 to 100 milligrams per liter as $CaCO_3$.

(B) If receiving stream water is utilized as dilution water, then an additional control shall be ran, utilizing the receiving stream water, in order to determine any chronic effects which could be caused by the receiving stream water. It shall be necessary to filter the receiving stream water through a 60 micron filter prior to using it for any test procedures.

G. OTHER REQUIREMENTS (Continued)

12.c)(5) A summary of the chronic whole effluent toxicity test conditions and test acceptability criteria are presented as follows.

(A) Renewal of test solutions	Daily, as described in Section 12.c)(3)(D). Renewals must be performed at the same time of day as the test initiation. A tolerance of plus or minus two(2) hours within the test initiation time is acceptable.
(B) Effluent concentrations	Five(5) concentrations plus a control. A sodium thiosulfate control must be included if the sample is dechlorinated prior to testing.
(C) Dilution factor	0.5
(D) Replication	Pimephales promelas, fathead minnow: Minimum of four(4) replicates of 10 fish, total of 40, per concentration. Ceriodaphnia: Minimum of 10 replicates of one(1) organism, total of 10, per concentration.
(E) Test duration	Pimephales promelas, fathead minnow: Seven(7) days. Ceriodaphnia: When 60 percent of the controls have produced their third brood, not to exceed seven(7) days.
(F) Ambient Conditions	Temperature: 24 to 26 degrees Celsius. Photoperiod: 16 hours light. Eight(8) hours dark.
(G) Feeding	Pimephales promelas, fathead minnow: Feed 0.15 milliliters of newly hatched brine shrimp that are less than 24 hours old, twice a day at six(6) hour intervals, at the beginning of the work day prior to renewal and at the end of the work day following renewal. Fry are not to be fed during the final 12 hours of the test.

G. OTHER REQUIREMENTS (Continued)

12.c)(5)(G) Feeding — Ceriodaphnia: Feed 0.1 milliliters of prepared YCT and 0.1 milliliters of Selenastrum capricornutum concentrate daily, after renewal.

(H) Test acceptability — Both species: 80 percent survival in the controls.

Pimephales promelas, fathead minnow: Average dry weight of the surviving control animals shall be greater than or equal to 0.25 milligrams.

Ceriodaphnia: Average brood size per surviving animal is greater than or equal to 15. At least 60 percent of the control organisms have produced their third brood by day seven(7).

(6) Test results shall be reported on the attached Discharge Monitoring Reports and copies of all test results provided as an attachment thereto.

(A) The following is an enumeration of the minimum data requirements to be provided in the test results report.

(1) A description of the sample collection procedures and of the sample location.

(2) General test methodology to include dilution water source, origin of the test organisms, temperature and lighting, size and volume of the test chamber, daily renewal procedures, feeding, drying time and temperature for the Pimephales promelas, fathead minnow, test, and QA/QC data for the results of the reference toxicant tests including a control chart for no observed effect concentration for each species.

(3) Specific test information

(A) The exact age of the test organisms at the initiation of the test. Values of less than or equal to 24 hours are acceptable for Pimephales promelas, fathead minnow. The age of the Ceriodaphnia must be reported as a range in hours. Values reported as less than 24 hours and from an eight(8) hour window are not acceptable.

(B) Data relative to any dechlorination procedures.

G. OTHER REQUIREMENTS (Continued)

12.c)(6)(A)(3)(C) Raw data showing the weights of each Pimephales promelas, fathead minnow, replicate and the daily Ceriodaphnia brood production.

(4) Copies of all chemical and physical data generated. Legible bench sheets are acceptable. Dates and times of data collection and initials of analyst(s) must be provided. In addition to the individual temperature measurements, the temperature must be summarized as a range and a mean temperature.

(5) Comparison of the control to test acceptability criteria presented in Section 12.c)(5)(H).

(6) Data analysis shall indicate the formulae and/or programs used to analyze the data. Reported values shall include the 48 hour LC_{50}, the no observed effect concentration, the lowest observed effect concentration, chronic value and chronic toxicity units.

(B) The chronic toxicity units, TU_c, required to be reported are calculated by dividing 100 by the no observed effect concentration. The permittee shall utilize the no observed effect concentration data results for growth, for the Pimephales promelas, fathead minnow, and for reproduction, for the Ceriodaphnia, when calculating the chronic toxicity units to be reported.

d) If whole effluent toxicity testing shows noncompliance with the specified limitations prescribed in Section A, the permittee shall immediately resample and test the effluent. This shall be performed within 30 days of the initial demonstration of noncompliance with the whole effluent toxicity discharge limitations prescribed herein. Copies of the retesting results shall be provided to this Office immediately upon completion of the test.

e) If the second test shows compliance, whole effluent toxicity testing shall continue in accordance with the requirements as prescribed herein. However, if the second test shows noncompliance, this Office shall impose further requirements, as may be necessary, in order to obtain compliance with the whole effluent toxicity discharge limitations.

f) This Office shall impose further requirements should the whole effluent toxicity testing results demonstrate an irregular pattern of noncompliance.

G. OTHER REQUIREMENTS (Continued)

12.g) The permittee will be afforded an opportunity to request the following reductions in the chronic whole effluent toxicity testing program. However, consideration shall only be given to such requests after four(4) consecutive tests have demonstrated compliance with the whole effluent toxicity discharge limitations.

(1) Reduction in the monitoring frequency of the testing.

(2) Limiting the testing to the more sensitive test species, if such a sensitivity determination can be made.

13. The permittee may accept pretreated nondomestic wastewater from Smith Services Inc. at the Cumberland Industrial Park for treatment and disposal at the permittee's Ada wastewater treatment plant. Approval of this acceptance is subject to and contingent upon compliance with the following terms and conditions:

a) The subject nondomestic wastewater consists of water used to steam clean electrical and mechanical equipment.

b) The maximum daily volume of the subject wastewater accepted shall not exceed 800 gallons. The volume discharged shall be estimated and recorded daily. Estimates may be made using daily readings of the potable water service meter and subtracting an estimate of the volume used for domestic purposes.

c) The following limitations and self-monitoring requirements apply to the nondomestic discharge:

Parameter	Maximum Daily Limitation	Units	Monitoring Frequency	Sample Type
Oil and Grease	20	mg/l	Once/Month	Grab[1]
Total Suspended Solids (TSS)	240	mg/l	Once/Month	Grab[1]
pH	*		Once/Month	Grab[2]

* pH shall be maintained in the range $\geq$5.0 and $\leq$10.0 standard units at all times.

[1]Grab samples shall be obtained at a time approximately midway through the daily discharge period.

[2]A grab sample for pH shall be taken at a time approximately midway through the daily discharge period and analyzed immediately for pH.

G. OTHER REQUIREMENTS (Continued)

13.d) Samples shall be obtained at a point downstream from the pretreatment system and before the wastewater has mixed with domestic sewage or other wastewaters.

e) Sampling and analyses required herein shall be conducted in accordance with sample collection, preservation and analytical procedures specified in 40 CFR Part 136.

f) Monitoring reports on the subject discharge shall be submitted to the Chief as an attachment to the permittee's Discharge Monitoring Report and shall be due on the 20th day of the month following the reporting period. The reports shall include the results of all monitoring required by Section G.13.c) above and shall include the average volume and the maximum daily volume accepted during the month. If the permittee or Smith Services, Inc. monitors any parameter more frequently than required by Section G.13.c), using the procedures authorized by Section G.13.e), then the results of the additional monitoring must be submitted.

g) Records shall be maintained of the following:

(1) The date, exact place, method and time of sampling, sample preservation techniques used, and the name(s) of the person(s) taking the samples;

(2) The date(s) analyses were performed;

(3) The name(s) of the person(s) performing analyses;

(4) The analytical results.

h) Approval extends only to the acceptance of the wastestreams described in Section G.13.a) above. The acceptance of any other type of nondomestic wastewater is expressly prohibited.

i) The Chief reserves the right to disallow the continued acceptance of the subject nondomestic wastewater, or to require installation of additional pretreatment facilities, should the wastewater violate specified limitations, cause interference with Publicly Owned Treatment Works (POTW) operations, pass-through the POTW and result in effluent limitation violations or receiving stream degradation, or adversely impact POTW sludge disposal. Approval in no way relieves the permittee of the obligation to comply with all terms and conditions of this Permit, and shall not constitute an affirmative defense in any enforcement action brought against the permittee.

14. The analytical test procedures, set forth in 40 CFR Part 136, prescribes colorimetric methods for certain parameters. The digestion process for the performance of total recoverable is not sufficient for the utilization of a colorimetric procedure. Therefore, colorimetric procedures shall not be acceptable for the analysis of parameters prescribed as total recoverable.

G. OTHER REQUIREMENTS (Continued)

15. The permittee shall perform the analyses of the effluent discharge limitations, as prescribed in Section A, for cadmium, hexavalent chromium, copper, lead, nickel, zinc, mercury, and silver, for a period of six(6) consecutive months. Thereupon, if compliance with the prescribed effluent discharge limitations for these parameters has been demonstrated, the permittee shall be afforded an opportunity to request a reduction in the measurement frequency for said parameters.

The herein-described activity is to be extended, modified, added to, made, enlarged, acquired, constructed or installed, and operated, used and maintained strictly in accordance with the terms and conditions of this permit; with the plans and specifications submitted with Permit Application No. **WV0023141**, dated the **19th** day of **September**, 1994; with the plan of maintenance and method of operation thereof submitted with such application(s); and with any applicable rules and regulations promulgated by the Environmental Quality Board and the director of the Division of Environmental Protection.

Failure to comply with the terms and conditions of this permit, with the plans and specifications submitted with Permit Application No. **WV0023141**, dated the **19th** day of **September**, 1994, and with the plan of maintenance and method of operation thereof submitted with such application(s) shall constitute grounds for the revocation or suspension of this permit and for the invocation of all the enforcement procedures set forth in Article 11, Chapter 22 of the Code of West Virginia.

This permit is issued in accordance with the provisions of Article 11, Chapter 22 of the Code of West Virginia and is transferable under the terms of Section 11 of said article.

By: _____
Chief

MAS/jdm

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE MONITORING REPORT

FACILITY NAME Bluefield, City of; Sanitary Board
LOCATION OF FACILITY Bluefield, Mercer County
PERMIT NUMBER WV0023141 OUTLET NO. 001
WASTELOAD FOR MONTH OF _____ 19____

COMMERCIAL LABORATORY NAME _____
COMMERCIAL LABORATORY ADDRESS _____
INDIVIDUAL PERFORMING ANALYSES _____

Parameter		Quantity					Other Units					Measurement	Sam
		Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Frequency	Ty
Flow, in Conduit or thru trmt. plant 50050	Reported	*****	*********	*******	***	**	*****		*******	MGD			
		*****	*********	*******	***	**	*****		*******				
	Permit Limitation	*****	*********	*******	***	**	N/A	1.2	N/A		**	Continuous	Mea
		*****	*********	*******	***	**					**		
BOD, 5 day (20 Deg. C) 00310	Reported	*****			lbs		*****			mg/l			
		*****					*****						
	Permit Limitation	N/A	300.2	600.5	day	**	N/A	30.0	60.0		**	Once/Week	8 H
						**					**		Comp
Solids, Total Suspended 00530	Reported	*****			lbs		*****			mg/l			
		*****					*****						
	Permit Limitation	N/A	300.2	600.5	day	**	N/A	30.0	60.0		**	Once/Week	8 H
						**					**		Comp
Nitrogen, Total Kjeldahl 00625	Reported	*****			lbs		*****			mg/l			
		*****					*****						
	Permit Limitation	N/A	180.1	360.3	day	**	N/A	18.0	36.0		**	Once/Week	8 H
						**					**		Comp
pH 00400	Reported	*****	*********	*******	***	**		*********					
		*****	*********	*******	***	**		*********		Std.			
	Permit Limitation	*****	*********	*******	***	**	6.0	N/A	9.0	Units	**	Daily	Gr
		*****	*********	*******	***	**					**		
Coliform, Fecal General 74055	Reported	MF	- - - -	MPN	***	**	*****						
			- - - -		***	**	*****			Count			
	Permit Limitation	Circle	Method	Used	***	**	N/A	200	400	per	**	Once/Week	Gr
					***	**				100ml	**		
Oxygen, Dissolved 00300	Reported	*****	*********	*******	***	**		*********	*******				
		*****	*********	*******	***	**		*********	*******	mg/l			
	Permit Limitation	*****	*********	*******	***	**	5.0	N/A	N/A		**	Once/Week	Gr
		*****	*********	*******	***	**					**		

Name of Principal Executive Officer

Title of Officer

I certify under penalty of law that this document and all attachments were prepared under my directions or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Date Completed

Signature of Principal Executive Officer or Authorized Agent

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

DISCHAR[illegible] MONITORING REPORT

FACILITY NAME Bluefield, City of; Sanitary Board

LOCATION OF FACILITY Bluefield, Mercer County

PERMIT NUMBER WV0023141 OUTLET NO. 001

WASTELOAD FOR MONTH OF _____ 19____

COMMERCIAL LABORATORY NAME _____

COMMERCIAL LABORATORY ADDRESS _____

INDIVIDUAL PERFORMING ANALYSES _____

Parameter		Quantity					Other Units					Measurement	Sam
		Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Frequency	Ty
Cadmium, Total Recoverable 01113	Reported	*****	*********	*******	***	**	*****			mg/l			
		*****	*********	*******	***	**	*****						
	Permit Limitation	N/A	N/A	N/A	***	**	N/A	0.001	0.002		**	Once/Month	8 H
					***	**					**		Comp
Chromium, Hexavalent 01032	Reported	*****	*********	*******	***	**	*****			mg/l			
		*****	*********	*******	***	**	*****						
	Permit Limitation	N/A	N/A	N/A	***	**	N/A	0.009	0.013		**	Once/Month	8 H
					***	**					**		Comp
Lead, Total Recoverable 01114	Reported	*****	*********	*******	***	**	*****			mg/l			
		*****	*********	*******	***	**	*****						
	Permit Limitation	N/A	N/A	N/A	***	**	N/A	0.007	0.010		**	Once/Month	8 H
					***	**					**		Comp
Mercury, Total 71900	Reported	*****	*********	*******	***	**	*****			mg/l			
		*****	*********	*******	***	**	*****						
	Permit Limitation	N/A	N/A	N/A	***	**	N/A	0.0002	0.0004		**	Once/Month	8 H
					***	**					**		Comp
Zinc, Total Recoverable 01094	Reported	*****	*********	*******	***	**	*****			mg/l			
		*****	*********	*******	***	**	*****						
	Permit Limitation	N/A	N/A	N/A	***	**	N/A	0.057	0.086		**	Once/Month	8 H
					***	**					**		Comp
Copper, Total Recoverable 01119	Reported	*****	*********	*******	***	**	*****			mg/l			
		*****	*********	*******	***	**	*****						
	Permit Limitation	N/A	N/A	N/A	***	**	N/A	0.022	0.032		**	Once/Month	8 H
					***	**					**		Comp
Nickel, Total Recoverable 01074	Reported	*****	*********	*******	***	**	*****			mg/l			
		*****	*********	*******	***	**	*****						
	Permit Limitation	N/A	N/A	N/A	***	**	N/A	0.061	0.091		**	Once/Month	8 H
					***	**					**		Comp

Name of Principal Executive Officer

Title of Officer

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Date Completed

Signature of Principal Executive Officer or Authorized Agent

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHAR MONITORING REPORT

FACILITY NAME Bluefield, City of; Sanitary Board
LOCATION OF FACILITY Bluefield, Mercer County
PERMIT NUMBER WV0023141 OUTLET NO. 001
WASTELOAD FOR MONTH OF _____ 19____

COMMERCIAL LABORATORY NAME _____
COMMERCIAL LABORATORY ADDRESS _____
INDIVIDUAL PERFORMING ANALYSES _____

Parameter		Quantity					Other Units					Measurement	Sar
		Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Frequency	T:
Silver, Total Recoverable 01079	Reported	*****	*********	*******	***	**	*****			mg/l			
		*****	*********	*******	***	**	*****						
	Permit Limitation	*****	*********	*******	***	**	N/A	0.015	0.022		**	Once/Month	8 H
		*****	*********	*******	***	**					**		Comp

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NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

DISCH[illegible] MONITORING REPORT

FACILITY NAME Bluefield, City of; Sanitary Board

LOCATION OF FACILITY Bluefield, Mercer County

PERMIT NUMBER WV0023141 OUTLET NO. 001

WASTELOAD FOR MONTH OF _____ 19____

COMMERCIAL LABORATORY NAME _____

COMMERCIAL LABORATORY ADDRESS _____

INDIVIDUAL PERFORMING ANALYSES _____

Parameter		Quantity					Other Units					Measurement	S
		Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Frequency	
Toxicity, Acute, Pimephales Promelas, 48 Hour Static, 61427, 2F	Reported	*****	*********	*******	***	**	*****	*********		TU_A	**	Once/ Quarter	8 Con
		*****	*********	*******	***	**	*****	*********			**		
	Permit Limitation	*****	*********	*******	***	**	N/A	N/A	1.0		**		
		*****	*********	*******	***	**					**		
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	*
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	*
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	*
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	*
Toxicity, Acute, Daphnia Magna or Pulex, 48 Hour Static 61425, 2F	Reported	*****	*********	*******	***	**	*****	*********		TU_A	**	Once/ Quarter	8 Con
		*****	*********	*******	***	**	*****	*********			**		
	Permit Limitation	*****	*********	*******	***	**	N/A	N/A	1.0		**		
		*****	*********	*******	***	**					**		
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	**
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	**
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	**
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	**

Name of Principal Executive Officer

Title of Officer

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NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE MONITORING REPORT

FACILITY NAME Bluefield, City of; Sanitary Board
LOCATION OF FACILITY Bluefield, Mercer County
PERMIT NUMBER WV0023141 OUTLET NO. 001
WASTELOAD FOR MONTH OF _____ 19____

COMMERCIAL LABORATORY NAME _____
COMMERCIAL LABORATORY ADDRESS _____
INDIVIDUAL PERFORMING ANALYSES _____

Parameter		Quantity					Other Units					Measurement Frequency	Sample Type
		Minimum	Avg.Monthly	Max.Daily	Units	N.E.	Minimum	Avg.Monthly	Max.Daily	Units	N.E.		
Toxicity, Chronic, Pimephales Promelas, 7 Day Larval Growth and Survival 61428, 2G	Reported	*****	*********	*******	***	**	*****	*********		TU_c			
		*****	*********	*******	***	**	*****	*********					
	Permit Limitation	*****	*********	*******	***	**	N/A	N/A	2.1		**	Semiannual	8 Hr Compo
		*****	*********	*******	***	**					**		
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	****
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	****
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	****
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	****
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	****
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	****
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	****
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	****
Toxicity, Chronic, Cerio-Daphnia Survival and Repro-duction, 61426, 2G	Reported	*****	*********	*******	***	**	*****	*********		TU_c			
		*****	*********	*******	***	**	*****	*********					
	Permit Limitation	*****	*********	*******	***	**	N/A	N/A	2.1		**	Semiannual	8 Hr Compo
		*****	*********	*******	***	**					**		
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	****
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	****
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	****
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	****
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	****
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	****
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	****
	********	*****	*********	*******	***	**	*****	*********	*******	***	**	*********	****

Name of Principal Executive Officer

Title of Officer

I certify under penalty of law that this document and all attachments were prepared under my directions or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Date Completed

Signature of Principal Executive Officer or Authorized Agent

EMERGENCY RESPONSE SPILL ALERT SYSTEM
WEST VIRGINIA DIVISION OF NATURAL RESOURCES

REQUIREMENTS:

West Virginia Legislative Rules Series 3, Section 2, State Water Resources Board, effective July 1, 1987.

RESPONSIBILITY FOR REPORTING:

Each and every person who may cause or be responsible for any spill or accidental discharge of pollutants into the waters of the State shall give immediate notification to the Water Resources' Emergency Notification Number, 1-800-642-3074. Such notification shall set forth insofar as possible and as soon thereafter as practical the time and place of such spill or discharge, type or types and quantity or quantities of the material or materials therein action or actions taken to stop such spill or discharge and to minimize the polluting effect thereof, the measure or measures taken or to be taken in order to prevent a recurrence of any such spill or discharge and such additional information as may be requested by Water Resources. This also applies to spills to the waters of the State resulting from accidents to common carriers by highway, rail and water.

It shall be the responsibility of each industrial establishment or other entity discharging directly to a stream to have available the following information pertaining to those substances that are employed or handled in its operation in sufficiently large amounts as to constitute a hazard in case of an accidental spill or discharge into a public stream:

1) Potential toxicity in water to man, animals and aquatic life;
2) Details on analytical procedures for the quantitative estimation of such substances in in water; and
3) Suggestions on safeguards or other precautionary measures to nullify the toxic effects of a substance once it has gotten into a stream.

Failure to furnish such information as required by Section 9, Article 5A, Chapter 20, Code of West Virginia shall be punishable under Section 19,Article 5A, Chapter 20, Code of West Virginia.

It shall be the responsibility of any person who causes or contributes in any way to the spill or accidental discharge of any pollutant or pollutants into State waters to immediately take any and all measures necessary to contain such spill or discharge. It shall further be the responsibility of such person to take any and all measures necessary to clean-up, remove and otherwise render such spill or discharge harmless to the waters of the State.

When the Chief determines it necessary for the effective containment and abatement of spills and accidental discharges, the Chief may require the person or persons responsible for such spill or discharge to monitor affected waters in a manner prescribed by the Chief until the possibility of any adverse effect on the waters of the State no longer exists.

VOLUNTARY REPORTING BY LAW OFFICERS, U. S. COAST GUARD, LOCK MASTERS AND OTHERS:

In cases involving river and highway accidents where the responsible party may or may not be available to report the incident, law officers, U. S. Coast Guard, Lock Masters and other interested person should make the report.

WHO TO CONTACT: Notify the following number: 1-800-642-3074.

INFORMATION NEEDED:
- Source of spill or discharge
- Location of incident
- Time of incident
- Material spilled or discharged
- Amount spilled or discharged
- Toxicity of material spilled or discharged
- Personnel at the scene
- Actions initiated
- Shipper/Manufacturer identification
- Railcar/Truck identification number
- Container type

GASTON CAPERTON
GOVERNOR

DIVISION OF ENVIRONMENTAL PROTECTION
1201 Greenbrier Street
Charleston, WV 25311-1088

DAVID C. CALLAGHAN
DIRECTOR

NOTICE TO PERMITTEES

The 1989 regular session of the West Virginia legislature revised the Water Pollution Control Act, Chapter 20, Article 5A of the West Virginia Code by adding Section 6a, now Chapter 22, Article 11, Section 10. This section of the Code requires all holders of a State water pollution control permit or a national pollutant discharge elimination system permit to be assessed an annual permit fee, based upon regulations promulgated by the Director of the Division of Natural Resources. The Director promulgated regulations to this effect and the current regulations have an effective date of July 1, 1993. The regulations establish an annual permit fee based upon the relative potential to degrade the waters of the State which, in most instances, relate to volume of discharge. However, for sewage facilities, the annual permit fee is based upon the number of customers served by the facility. You may contact the Secretary of State's Office, State Capitol Building, Charleston, West Virginia 25305, to obtain a copy of the regulations. The reference is Title 47, Legislative Rules of Department of Natural Resources, Series 26 Water Pollution Control Permit Fee Schedule.

Based upon the volume of discharge for which your facility is currently permitted or operating at, the number of customers served by your facility or for the category you fall within, pursuant to Section 7 of Title 47, Series 26, your annual permit fee is **$500**. This fee is due no later than the anniversary date of permit issuance in each year of the term of the permit or in the case of coverage under a general permit, the fee is due no later than the anniversary date of your coverage under the general permit. You will be invoiced by this agency at the appropriate time for the fee. Failure to submit the annual fee within one hundred and eighty(180) days of the due date will render your permit void.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

APR 27 1999

CERTIFIED MAIL

Mr. Terry Honaker, Executive Director
City of Bluefield Sanitary Board
P.O. Box 998
Bluefield, West Virginia 24701

RE: C-540621-01
City of Bluefield

Dear Mr. Honaker:

We are pleased to inform you of the award of a Federal ARC grant for the construction costs of a pump station and collection system and closure of the existing lagoon for the Brush Fork area as approved by the West Virginia Division of Environmental Protection.

The grant award is for an amount not to exceed $585,510, and is subject to the conditions set forth in Part III of the Assistance Agreement.

The original and one copy of the Assistance Agreement are enclosed. Please execute the original and return within twenty-one days of your receipt, to Mr. Francis R. Snock, Grants Management Officer, Grants and Audit Management Branch (3PM70). The copy should also be signed and retained for your files.

Sincerely,

/s/ Thomas J. Maslany, Director
Water Protection Division

Enclosures (2)

cc: Mr. Mike Johnson, WVDEP
Thompson & Litton
Region I P&D Council
Mr. Ralph Goolsby, WVDO, ARC
Ms. Judy Rae, ARC

Printed on Recycled Paper

Cecil H. Underwood, Governor

WEST VIRGINIA DEVELOPMENT OFFICE

1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WV 25305-0311

October 2, 1998

Mr. Tom Vidovich
Chairman
The Sanitary Board of Bluefield
Post Office Box 998
Bluefield, West Virginia 24701

Dear Mr. Vidovich:

Congratulations on the approval of a $585,510 Appalachian Regional Commission (ARC) grant, for a total project cost of $1,585,800 to the Sanitary Board of Bluefield for the Brushfork Sewer Project. A copy of the approval letter is enclosed.

Should there be a need for any changes in the scope of the project or project funding, a request should be made to the West Virginia Development Office.

Please be aware that ARC funds are considered to be the last source of funding committed to a project. Should there be a cost underrun, the funds not used are considered Appalachian Regional Commission funds and would be returned to the Commission.

If you should have any questions, please feel free to contact me at 558-2001.

Sincerely,

Ben Newhouse
ARC Representative

BN:cc

cc: Mike Johnson, DEP

Enclosure

APPALACHIAN REGIONAL COMMISSION
A Proud Past, A New Vision
Office of the Executive Director

September 22, 1998

Honorable Cecil H. Underwood
Governor of West Virginia
State Capitol
Charleston, West Virginia 25305

Re: Brushfork Sewer Project (WV-13205-I-214)

Dear Governor Underwood:

Enclosed is a copy of the Appalachian Regional Commission's approval of a grant for the referenced project dated September 22, 1998.

Appalachian Regional Commission funds in the amount of $585,510 have been made available to the Director of Grants Administration, Environmental Protection Agency.

A copy of the approval is enclosed.

Sincerely yours,

THOMAS M. HUNTER
Executive Director

Enclosure

cc: State Alternate

1666 CONNECTICUT AVENUE, NW WASHINGTON, DC 20235 (202) 884-7700 FAX (202) 884-7691
Alabama Georgia Kentucky Maryland Mississippi New York North Carolina Ohio Pennsylvania South Carolina Tennessee Virginia West Virginia

APPALACHIAN REGIONAL COMMISSION
1666 Connecticut Avenue, N.W.
Washington, D. C. 20235

REV (2-91)

To: Harvey G. Pippen, Jr.
Director of Grants Administration
Environmental Protection Agency
401 M Street, S.W.
P.M. 216, Room SW 257
Washington, D.C. 20460

The Appalachian Regional Commission has approved a project for assistance under the Appalachian Regional Development Act of 1965 as amended, as follows:

Brushfork Sewer Project, WV-13205-I-214

Grantee: Bluefield Sanitary Board

FUNDING:

Section 214	$ 585,510	37%	
Local	960,290	60	WVA State Revolving Fund
	40,000	3	Bluefield Sanitary Board
Total Project Cost	$1,585,800	100%	

Time Limitation. As the Commission may revoke or revise its approval of any project (except for Section 201 projects) if not underway within 18 months after the ARC approval date, please advise ARC when allowable activity has begun.

Underrun. ARC funds are limited to the lesser of (1) the amount specified in ARC's most recent approval or (2) the difference between the actual eligible project cost and the sum of the actual non-ARC basic grants and the non-federal funds specified in ARC's most recent approval, unless otherwise directed by the Commission.

Section 201 Funding Limitation. ARC assistance is established at the percentage amount specified above up to the above specified dollar amount. In no case shall ARC assistance exceed 80 percent of actual eligible project cost.

Advisory Note for Education Projects. The State education agency monitoring this grant is requested to advise the grantee that the memorandum "Closeout of ARC-Assisted Education Projects-Clarification (P.L. 89-4, Sections 211(a), 211(b) and 214)", dated April 14, 1978, and disseminated by the Division of Vocational and Technical Education, U.S. Office of Education, prescribes closeout procedures to be adhered to in closing out this project.

APPROVED: _____
Federal Co-Chairman

SEP 22 1998
Date

APPALACHIAN REGIONAL COMMISSION *A Proud Past. A New Vision.*

To: Federal Co-Chairman

Subject: Brushfork Sewer Project, Mercer County, WV-13205-1-214

Grantee: Bluefield Sanitary Board

County: Mercer (Transitional) **Basic Agency:** ~~EDA~~ EPA

Goal: Funding is requested under ARC Goal 2, Physicial Infrastructure, Objective 2.2.

Purpose: To resolve a sanitary sewer treatment problem affecting 600 customers of the Bluewell Public Service District. These customers will be connected to the Bluefield sewer system and the existing lagoon will be taken out of service.

Funding:

ARC:	$ 585,510	37%	
Local:	960,290	60	West Virginia State Revolving Fund
	40,000	3	Bluefield Sanitary Board
Total:	$1,585,800	100%	

Description: Grant funds will be used to assist the Sanitary Board of Bluefield to acquire a portion of the Bluewell Public Service District's sewer system, eliminate the District's existing stabilization pond, and construct a force main to a treatment facility in Tazewell County, Virginia.

The Bluewell PSD operates a lagoon which serves approximately 600 residential, commercial and industrial customers. The PSD has been ordered by Consent Decree to replace the wholly inadequate lagoon. The Sanitary Board of Bluefield has agreed to assume these customers and eliminate the need for the lagoon by installing a force main and pumping the sewage to its 5.3 MGD plant in adjoining Tazewell County, Virginia.

Rationale:

- The area of Brushfork in Mercer County is provided with sanitary sewer service by the Bluewell Public Service District. The system has a customer base of 600 residential, commercial and industrial users. Treatment is provided by a lagoon which is inadequate for the amount and type of effluent being generated. The system was placed under a Consent Decree in 1994.

- The Brushfork area contains some of the county's most important heavy industrial and commercial businesses, such as Tabor Machine Company and Tamrock-Eimco. These businesses represent 175 jobs that must not be jeopardized due to

lack of adequate wastewater service.

- A new treatment plant would cost the Bluewell Public Service District approximately $3 million to construct.

Benefits:

- Improved wastewater treatment will help retain 175 jobs in the Brushfork area.
- If a new treatment plant were constructed, the average monthly user charge for the customers in the Bluewell area would be $42.76 for 4,500 gallons per month Under the alternative discussed above, the customers will pay $24.93 for 4,500 gallons per month.
- This project will make use of 1,700 L.F. of 10" gravity sewer line, and 10,800 L.F. of force main.

This project is consistent with the ARC Act and Code and is recommended for funding.

Thomas M. Hunter

THOMAS M. HUNTER
Executive Director

THE CITY OF BLUEFIELD, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1998 A
(West Virginia SRF Program)

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

The undersigned, BARBARA B. MEADOWS, Secretary - Treasurer of the West Virginia Water Development Authority (the "Authority"), and Nelson Walker, Mayor of The City of Bluefield (the "Issuer"), hereby certify as follows:

1. On the 20th day of May, 1998, the Authority received the entire original issue of $1,116,645.00 principal amount of the Sewerage System Revenue Bonds, Series 1998 A (West Virginia SRF Program"), of the Issuer (the "Bonds"), issued as a single fully registered Bond, numbered R-1, and dated May 20, 1999.

2. At the time of such receipt of the Bonds upon original issuance, the Bonds had been executed by Nelson R. Walker, as Mayor of the Issuer, Tom Vidovich, as City Manager of the Issuer, and attested to by Beverly Tresch, as City Clerk, by their respective manual signatures, and the official seal of the Issuer had been impressed upon the Series 1998 A Bond, and the Bond had been authenticated by Bank One, West Virginia, National Association, as Registrar.

3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series 1998 A Bonds, the sum of $514,284.00, being more than a de minimus amount of the principal amount of the Bonds.

IN WITNESS WHEREOF, each of the parties has caused this instrument to be executed as of the 20th day of May, 1999.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By Barbara B Meadows
Its: Secretary - Treasurer

THE CITY OF BLUEFIELD, WEST VIRGINIA

By
Mayor

R-1

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF BLUEFIELD
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1998 A

No. R-1 $1,116,645.00

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF BLUEFIELD, a municipal corporation and political subdivision of the State of West Virginia in Mercer County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of One Million One Hundred Sixteen Thousand Six Hundred Forty Five Dollars ($1,116,645.00), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached hereto as Exhibit A and incorporated herein by reference. Principal payments shall be payable in quarterly installments on March 1, June 1, September 1 and December 1 of each year, beginning September 1, 2001, as set forth on the "Schedule of Annual Debt Service" attached as Exhibit B hereto and incorporated herein by reference, and shall bear no interest. The SRF Administrative Fee of one percent (1%) per annum shall be payable in quarterly installments on March 1, June 1, September 1, and December 1 of each year, beginning on September 1, 2001 as set forth on said Exhibit B.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection, dated April 28, 1999.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, improvements and betterments to the sewerage system facilities of the Issuer (the "Project"); (ii) to fund the reserve account; and (iii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance and Supplemental Resolution, duly enacted and adopted, respectively, by the Issuer on July 14, 1998, and May 11, 1999, (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH THE SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 1992 OF THE ISSUER (THE "SERIES 1992 BONDS"), ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF $4,985,000, AND SEWERAGE SYSTEM REFUNDING REVENUE BONDS SERIES 1995 OF THE ISSUER (THE "SERIES 1995 BONDS"), ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF $7,945,000, WITH RESPECT TO LIENS AND SOURCES OF AND SECURITY FOR PAYMENT OF EACH RESPECTIVE SERIES OF BONDS.

This Bond is payable only from and secured by a first lien pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, which first lien is shared with the holders of the Series 1992 Bonds and the Series 1995 Bonds, moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1998 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1998 A Bonds Reserve Account and unexpended Bond proceeds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 120% of the maximum amount required in any year for principal of and interest on the Series 1998 A Bonds, the Series 1992 Bonds and the Series 1995 Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1998 A Bonds, the Series 1992 Bonds or the Series 1995 Bonds; Provided however that when the Series 1992 Bonds are no longer outstanding the percentage may be reduced to 115%; and, provided further, that so long as there exists in the Series 1998 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Series 1998 A Bonds in the then current or any succeeding year, and in the respective reserve accounts established for the Series 1995 Bonds and any other obligations outstanding prior to or on a parity with the Series 1998 A Bonds or the Series 1995 Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of Bank One, West Virginia, National Association, Charleston, West Virginia (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

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

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

IN WITNESS WHEREOF, THE CITY OF BLUEFIELD has caused this Bond to be signed by its Mayor and City Manager and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated May 20, 1999.

[SEAL]

_____
Mayor

_____
City Manager

ATTEST:

_____
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of The City of Bluefield Sewerage System Revenue Bonds, Series 1998 A, described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____

BANK ONE, WEST VIRGINIA, NATIONAL ASSOCIATION, as Registrar

By:
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ADVANCES

Amount	Date

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

Date	Principal	Total P&I	Expense	New Net D/S
06/01/2001	00	00	00	00
09/01/2001	13,959.00	13,959.00	2,791.62	16,750.62
12/01/2001	13,959.00	13,959.00	2,756.72	16,715.72
03/01/2002	13,959.00	13,959.00	2,721.82	16,680.82
06/01/2002	13,959.00	13,959.00	2,686.92	16,645.92
09/01/2002	13,959.00	13,959.00	2,652.03	16,611.03
12/01/2002	13,958.00	13,958.00	2,617.13	16,575.13
03/01/2003	13,958.00	13,958.00	2,582.23	16,540.23
06/01/2003	13,958.00	13,958.00	2,547.33	16,505.33
09/01/2003	13,958.00	13,958.00	2,512.44	16,470.44
12/01/2003	13,958.00	13,958.00	2,477.55	16,435.55
03/01/2004	13,958.00	13,958.00	2,442.65	16,400.65
06/01/2004	13,958.00	13,958.00	2,407.76	16,365.76
09/01/2004	13,958.00	13,958.00	2,372.86	16,330.86
12/01/2004	13,958.00	13,958.00	2,337.97	16,295.97
03/01/2005	13,958.00	13,958.00	2,303.07	16,261.07
06/01/2005	13,958.00	13,958.00	2,268.18	16,226.18
09/01/2005	13,958.00	13,958.00	2,233.28	16,191.28
12/01/2005	13,958.00	13,958.00	2,198.39	16,156.39
03/01/2006	13,958.00	13,958.00	2,163.49	16,121.49
06/01/2006	13,958.00	13,958.00	2,128.60	16,086.60
09/01/2006	13,958.00	13,958.00	2,093.70	16,051.70
12/01/2006	13,958.00	13,958.00	2,058.81	16,016.81
03/01/2007	13,958.00	13,958.00	2,023.91	15,981.91
06/01/2007	13,958.00	13,958.00	1,989.02	15,947.02
09/01/2007	13,958.00	13,958.00	1,954.12	15,912.12
12/01/2007	13,958.00	13,958.00	1,919.23	15,877.23
03/01/2008	13,958.00	13,958.00	1,884.33	15,842.33
06/01/2008	13,958.00	13,958.00	1,849.41	15,807.41
09/01/2008	13,958.00	13,958.00	1,814.54	15,772.54
12/01/2008	13,958.00	13,958.00	1,779.65	15,737.65
03/01/2009	13,958.00	13,958.00	1,744.75	15,702.75
06/01/2009	13,958.00	13,958.00	1,709.86	15,667.86
09/01/2009	13,958.00	13,958.00	1,674.96	15,632.96
12/01/2009	13,958.00	13,958.00	1,640.07	15,598.07
03/01/2010	13,958.00	13,958.00	1,605.17	15,563.17
06/01/2010	13,958.00	13,958.00	1,570.28	15,528.28
09/01/2010	13,958.00	13,958.00	1,535.38	15,493.38
12/01/2010	13,958.00	13,958.00	1,500.49	15,458.49
03/01/2011	13,958.00	13,958.00	1,465.59	15,423.59
06/01/2011	13,958.00	13,958.00	1,430.70	15,388.70
09/01/2011	13,958.00	13,958.00	1,395.80	15,353.80
12/01/2011	13,958.00	13,958.00	1,360.91	15,318.91
03/01/2012	13,958.00	13,958.00	1,326.01	15,284.01
06/01/2012	13,958.00	13,958.00	1,291.12	15,249.12
09/01/2012	13,958.00	13,958.00	1,256.22	15,214.22
12/01/2012	13,958.00	13,958.00	1,221.33	15,179.33
03/01/2013	13,958.00	13,958.00	1,186.43	15,144.43
06/01/2013	13,958.00	13,958.00	1,151.54	15,109.54
09/01/2013	13,958.00	13,958.00	1,116.64	15,074.64
12/01/2013	13,958.00	13,958.00	1,081.75	15,039.75
03/01/2014	13,958.00	13,958.00	1,046.85	15,004.85
06/01/2014	13,958.00	13,958.00	1,011.96	14,969.96
09/01/2014	13,958.00	13,958.00	977.06	14,935.06
12/01/2014	13,958.00	13,958.00	942.17	14,900.17
03/01/2015	13,958.00	13,958.00	907.27	14,865.27
06/01/2015	13,958.00	13,958.00	872.38	14,830.38
09/01/2015	13,958.00	13,958.00	837.48	14,796.48
12/01/2015	13,958.00	13,958.00	802.59	14,760.59
03/01/2016	13,958.00	13,958.00	767.69	14,725.69
06/01/2016	13,958.00	13,958.00	732.80	14,690.80
09/01/2016	13,958.00	13,958.00	697.90	14,655.90
12/01/2016	13,958.00	13,958.00	663.01	14,621.01
03/01/2017	13,958.00	13,958.00	628.11	14,586.11
06/01/2017	13,958.00	13,958.00	593.22	14,551.22
09/01/2017	13,958.00	13,958.00	558.32	14,518.32
12/01/2017	13,958.00	13,958.00	523.43	14,481.43
03/01/2018	13,958.00	13,958.00	488.53	14,446.53
06/01/2018	13,958.00	13,958.00	453.64	14,411.64
09/01/2018	13,958.00	13,958.00	418.74	14,376.74
12/01/2018	13,958.00	13,958.00	383.85	14,341.85
03/01/2019	13,958.00	13,958.00	348.95	14,306.95
06/01/2019	13,958.00	13,958.00	314.06	14,272.06
09/01/2019	13,958.00	13,958.00	279.16	14,237.16
12/01/2019	13,958.00	13,958.00	244.27	14,202.27
03/01/2020	13,958.00	13,958.00	209.37	14,167.37
06/01/2020	13,958.00	13,958.00	174.48	14,132.48
09/01/2020	13,958.00	13,958.00	139.58	14,097.58
12/01/2020	13,958.00	13,958.00	104.69	14,062.69
03/01/2021	13,958.00	13,958.00	69.79	14,027.79
06/01/2021	13,958.00	13,958.00	34.90	13,992.90
	1,116,645.00	1,116,645.00	113,060.05	1,229,705.05

ASSIGNMENT

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

_____

the within Bond and does hereby irrevocably constitute and appoint _____ Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, _____

_____

In the presence of:

_____

$1,116,645.00

THE CITY OF BLUEFIELD, WEST VIRGINIA

SEWERAGE SYSTEM REVENUE BONDS SERIES 1998 A
(West Virginia SRF Program)

GENERAL CERTIFICATE OF:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS; PSC ORDER
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND OFFICIAL NAME
7. LAND AND RIGHTS OF WAY
8. MEETINGS, ETC.
9. CONTRACTORS' INSURANCE, ETC.
10. LOAN AGREEMENT
11. RATES
12. SIGNATURES AND DELIVERY
13. BOND PROCEEDS
14. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE
15. COMPLIANCE WITH SERIES 1995 AND 1992 BOND ORDINANCES
16. PRIVATE USE OF FACILITIES
17. NO FEDERAL GUARANTY
18. SPECIMEN BOND
19. CONFLICT OF INTEREST
20. CLEAN WATER ACT
21. YEAR 2000 COMPLIANCE

We, the undersigned MAYOR, CITY MANAGER and the CITY CLERK of The City of Bluefield, Mercer County, West Virginia (the "City"), and the undersigned ATTORNEY for the City, hereby certify in connection with the $1,116,645.00 aggregate principal amount of The City of Bluefield Sewerage System Revenue Bonds, Series 1998 A (West Virginia SRF Program), dated the date hereof (the "Bonds") as follows:

1. TERMS: All capitalized words and terms used in this Certificate and not otherwise defined herein shall have the same meanings as set forth in the Bond Ordinance of the Issuer, duly enacted by the Council of the City on July 14, 1998, and the Supplemental Resolution duly

adopted by the Council of the City on April 27, 1999 (collectively, the "Bond Legislation"), when used herein.

2. NO LITIGATION: No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Series 1998 A Bonds; the acquisition and construction of the Project, the operation of the System, or the collection of the Gross Revenues or in any way contesting or affecting the validity of the Bonds, or any proceedings of the Issuer taken with respect to the issuance or sale of the Bonds, the pledge or application of the Net Revenues or any other moneys or security provided for the payment of the Bonds; nor questioning the proceedings and authority by which the City authorized the issuance and sale of the Bonds; nor questioning the validity or enforceability of the Series 1998 A Bonds, the Ordinance or the Loan Agreement or any agreement or instrument relating thereto, used or contemplated by the Loan Agreement or any provisions made or authorized for the payment of the Series 1998 A Bonds; nor questioning the valid existence of the City or the authority or titles of the Mayor, City Clerk and the members of the Council and other officials of the City to their respective offices; nor questioning any proceeding, procedure, action or thing followed, taken or done in connection with the Series 1998 A Bonds.

3. GOVERNMENTAL APPROVALS; PSC ORDER: All applicable approvals, permits, exemptions, consents, authorizations, registrations and certificates required by law for the operation of the System, and the issuance of the Bonds have been obtained and remain in full force and effect. The issuance has acquired requisite approval by the Public Service Commission of the State of West Virginia for the Project in the form of a Certificate of Convenience and Necessity which is in full force and effect and not subject to appeal.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer or the Sanitary Board since the approval, exception and delivery by the Issuer of the Loan Agreement, and the Issuer has met all conditions prescribed in the Loan Agreement entered into among the Issuer, the DEP and the Authority. The Issuer has or can provide the financial, institutional, legal and managerial capabilities necessary to operate the System.

The Bonds are issued on a parity with the Series 1995 and 1992 Bonds (collectively the "Prior Bonds"), with respect to liens, pledge and source of and security for payment and in all other respects. Other than the Series 1995 and 1992 Bonds, there is no indebtedness or obligation of the City outstanding and unpaid or for which full and irrevocable provision for payment has not been made which has priority over or ranks on a parity with the Series 1998 A Bonds as to the sources of and security for payment. The Issuer has received the consent for the issuance of the Series 1998 A Bonds and has met the parity tests set forth in the Prior Ordinances authorizing the Prior Bonds.

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

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

City Charter and Code of Ordinance
Oaths of Office of City Officers and Board of Directors
Bond Ordinance
Supplemental Resolution
Affidavit of Publication of Rate Ordinance and Notice of Public Hearing.
Ordinance creating Sanitary Board
Appointments and Oaths of office of Sanitary Board Members
Petition of Sanitary Board
Loan Agreement
PSC Certificate of Convenience and Necessity
NPDES Permit

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "The City of Bluefield" and it is a municipal corporation in Mercer County, and is presently existing under the laws of, and a political subdivision of, the State of West Virginia. The governing body of the Issuer is its Board of Directors, consisting of five members, all duly elected or appointed, as applicable, qualified and acting, one of whom is elected by the Board of Directors as Mayor, and whose names and dates of commencement and termination of current terms of office are as follows:

City Council

Name	Office	Date Term of Office Began	Date Term of Office Ends
Nelson R. Walker	Mayor & Director	August 1, 1997	June 30, 2001
George McGonagle	Board Member	August 1, 1997	June 30, 2001
Doris Sue Kantor	Board Member	August 1, 1997	June 30, 2001
Garry Moore	Board Member	August 1, 1997	June 30, 2001
Oliver Law	Board Member	August 1, 1997	June 30, 2001

The duly elected or appointed members of the Sanitary Board are:

Tom Vidovich	Chairman	
Ray Bragg	Member	September 26, 2000
Jerry Cameron	Member	January 5, 2002
William H. King	Member	June 30, 2000
J. C. Higgenbotham	Member	June 30, 2000

The duly appointed and acting City Manager and City Clerk of the Issuer is Tom Vidovich and Beverly Tresch, respectively. The duly appointed and acting Attorney for the City is John Feuchtenberger. The duly appointed and acting counsel to the Sanitary Board is Katz, Kantor, Perkins & Campbell.

7. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the construction of the Project and the operation and maintenance of the System have been acquired or can and will be acquired by purchase or, if necessary, by condemnation by the Issuer, and are adequate for such purposes and are not and will not be subject to any liens, encumbrances, reservations or exceptions that would adversely affect or interfere in any way with use thereof for such purposes. The costs thereof, including any properties that nay have to be acquired by condemnation are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

8. MEETINGS: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the issuance of the Series 1998 A Bonds, the operation of the System were authorized or adopted at regular or special meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the City Charter and Rules of Procedure of the Governing Body and all applicable statutes, including, particularly and without limitation, Chapter 6, Article 9A of the West Virginia Code of 1931, as amended, and a quorum of duly elected or appointed, as applicable, qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

9. CONTRACTORS' INSURANCE, ETC.: All contractors have been required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Bond Legislation. All insurance for the System required by the Bond Legislation is in full force and effect.

10. LOAN AGREEMENT: As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not make any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best of the knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreement which should be disclosed for the purpose for which it is to used or which is necessary to disclose therein in order to make the statements and information therein not misleading; and (iv) the Issuer is in compliance with the Loan Agreement.

11. RATES: The Issuer has duly enacted a sewer rate ordinance on March 31, 1992, setting rates and charges for services of the System. The time for appeal of such rate ordinance has expired and there has been no appeal thereof. The rates and charges of such rate ordinance is

current in effect. Pursuant to the PSC Order, the new customers will be charged the City's existing rates once the Project is completed.

12. SIGNATURES AND DELIVERY: On the date hereof, the undersigned Mayor and City Manager did officially sign all of the Bonds of the aforesaid issue, consisting upon original issuance of a single Bond, numbered R-1, dated the date hereof, by their respective manual signatures, and the undersigned City Clerk did officially cause the official seal of the Issuer to be affixed upon said Bonds and to be attested by his or her manual signature, and the City Clerk did officially authenticate and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the Loan Agreement. Said official seal is also impressed above the signatures appearing on this certificate.

13. BOND PROCEEDS: On the date hereof, the Issuer received $514,284.38 from the Authority and the DEP, being more than a de minimus amount of the Bonds. The remainder of the Bond proceeds shall be advanced as requisited from time to time.

14. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE. Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in the Bluefield Daily Telegraph, a newspaper published and of general circulation within the City of Bluefield, together with a notice to all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in such Bond Ordinance, stating that any person interested may appear before the council at the public hearing held at a public meeting of Council on the 14th day of July, 1998, at 7:00 p.m., in the meeting room of the Board of Directors at the Bluefield City Hall and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the City Clerk of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the Governing Body and the Bond Ordinance became finally enacted and effective as of the date of such public hearing, and remains in full force and effect.

15. COMPLIANCE WITH SERIES 1995 AND 1992 BOND ORDINANCES: The Issuer is in compliance with all terms and provisions set forth in the Series 1995 and 1992 Bonds and Ordinances authorizing the issuance of the Series 1995 and 1992 Bonds (the "Series 1995 and 1992 Bond Ordinances"), including, but not limited to, Sections 6.05 and 6.12 thereof. Prior to the issuance of the Bonds, the Issuer has delivered a copy of all ordinances, resolutions, certifications and opinions regarding the issuance of the Bonds to (i) Municipal Bond Investors Assurance Corporation, the Bond Insurer for the Series 1992 Bonds, (ii) Scott & Stringfellow Investment Corp., the Original Purchaser of the Series 1992 Bonds, and (iii) the Virginia Resources Authority and the West Virginia Water Development Authority, the Original Purchasers of the 1995 Bonds, as required under Section 6.12 of the Prior Ordinance.

16. PRIVATE USE OF FACILITIES: The Issuer shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Bonds and the interest thereon. Less than 10% of the proceeds of the Bonds will be used, directly or indirectly, for any private business use, and less than 10% of the payment of principal of, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, payments in respect of such property, or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Bonds, including the disproportionate related business use of the proceeds of the Bonds, and none of the payment of principal on, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Bonds. None of the proceeds of the issue of the Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person, including related persons, other than a governmental unit or other than use as a member of the general public. All of the foregoing shall be determined in accordance with and within the meaning of the Internal Revenue Code of 1986, as amended, including any successor provisions and rules and regulations thereunder (the "Code").

17. NO FEDERAL GUARANTY: The Bonds are not and will not be, in whole or part, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

18. SPECIMEN BOND: Delivered concurrently herewith is a true and accurate specimen of the Bond.

19. CONFLICT OF INTEREST: No officer or employee of the City has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer, or to any contractor supplying the Issuer, relating to the Bonds, and the Bond Legislation, or the Loan Agreement, including without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

20. CLEAN WATER ACT: The Project as described in the Bond Ordinance complies with Sections 208 and 303(e) of the Clean Water Act.

21. YEAR 2000 COMPLIANCE. The Issuer represents that it has undertaken or will undertake an investigation to determine whether the operations of the System, including but not

limited to any billing, collection and inventory computer programs of the System and any electronic or mechanical components of the System's wastewater collection and treatment facilities are Year 2000 Compliant. The Issuer further represents that if it determines as a result of this investigation that any Mission-Critical Component of the System is not Year 2000 Compliant, the Issuer (i) will take timely and affirmative action to repair or replace any such component, and (ii) will perform adequate testing to ensure the sound operation and Year 2000 Compliant status of the repaired or replaced component. For purposes of this paragraph, "Year 2000 Compliant" means, with respect to the information technology the Issuer uses or will use in the operation of the System (including any date-sensitive microprocessors embedded in electronic or mechanical components of the System), the information technology is designed to be used prior to, during and after calendar Year 2000 A.D., and the information technology used during each such time period will accurately receive, provide and process date-time data (including, but not limited to, calculating, comparing and sequencing) from, into and between the twentieth and twenty-first centuries, including the years 1999 and 2000, and leap-year calculations, and will not malfunction, cease to function, or provide invalid or incorrect results as a result of date-time data. For purposes of this paragraph, "Mission-Critical Component" means any component of the System that would be critical to (a) the System's continued operation after January 1, 2000; (b) the Issuer's ability to continue to bill its customers and collect amounts billed from those customers after January 1, 2000; or (c) the Issuer's ability to make all principal and interest payments for the Bonds contemplated by the Bond Legislation as and when they become due.

Witness our signatures and the official corporate seal of THE CITY OF BLUEFIELD, all as of the 20th day of May, 1999.

[CORPORATE SEAL]

SIGNATURE	OFFICIAL TITLE
	Mayor
	City Manager
	City Clerk
	City Attorney

THE CITY OF BLUEFIELD, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1998 A
(West Virginia SRF Program)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

Bank One, West Virginia, National Association
As Bond Registrar
Charleston, West Virginia 25301

Ladies & Gentlemen:

There are delivered to you herewith:

(1) Bond No. R-1, constituting the entire original issue of The City of Bluefield Sewerage System Revenue Bonds, Series 1998 A (West Virginia SRF Program), in the principal amount of $1,116,645.00, dated May 20, 1999 (the "Bonds"), executed by the Mayor, the City Manager, and attested to by the City Clerk of The City of Bluefield (the "Issuer") and bearing the official seal of the Issuer, authorized to be issued under and pursuant to a Bond Ordinance duly enacted by the Issuer on July 14, 1998, and a Supplemental Resolution duly adopted by the Issuer on May 11, 1999 (collectively, the "Bond Legislation");

(2) A copy of the Bond Legislation authorizing the above-described Bond issue, duly certified by the City Clerk of the Issuer;

(3) Executed counterparts of a loan agreement dated April 28, 1999, by and among the West Virginia Water Development Authority (the "Authority"), the West Virginia Division of Environmental Protection (the "DEP") and the Issuer (the "Loan Agreement"); and

(4) An executed opinion of the Vaughan Law Firm, as nationally recognized bond counsel regarding the validity of the Loan Agreement and the Bonds.

You are hereby requested and authorized to deliver the Bonds to the Authority upon payment to the Issuer of the sum of $514,284.00, representing more than a de minimus amount of the principal amount of the Bonds. Prior to such delivery of the Bonds, you will please cause the Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the form of Certificate of Authentication and Registration thereon.

Dated this 20th day of May, 1999.

THE CITY OF BLUEFIELD

By _____
Mayor

Form **8038-G** (Rev. May 1993)

Department of the Treasury Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

▶ Under Internal Revenue Code section 149(e)

▶ See separate Instructions.

(Use Form 8038-GC if the issue price is under $100,000.)

OMB No. 1545-0720

Part I Reporting Authority

If Amended Return, check here ▶ ☐

1 Issuer's name: The City of Bluefield, West Virginia

2 Issuer's employer identification number: 55 6000149

3 Number and street (or P.O. box if mail is not delivered to street address): P. O. Box 4100

Room/suite:

4 Report number: G19 99-1

5 City, town, state, and ZIP code: Bluefield, West Virginia 24701-1900

6 Date of issue: 05/20/99

7 Name of issue: The City of Bluefield ~~Sewer~~ Sewerage System Revenue Bonds Series 1998A (WV SRF Program)

8 CUSIP Number:

Part II Type of Issue (check applicable box(es) and enter the issue price)

		Issue price
9	☐ Education (attach schedule–see instructions)	$
10	☐ Health and hospital (attach schedule–see instructions)	
11	☐ Transportation	
12	☐ Public safety	
13	☐ Environment (including sewage bonds)	
14	☐ Housing	
15	☒ Utilities	1,116,645.00
16	☐ Other. Describe (see Instructions) ▶	
17	If obligations are tax or other revenue anticipation bonds, check box ▶ ☐	
18	If obligations are in the form of a lease or installment sale, check box ▶ ☐	

Part III Description of Obligations

		(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
19	Final maturity.	06/01/21	0 %					
20	Entire issue			1,116,645.00	1,116,645.00	12.156 years	%	0 %

Part IV Uses of Original Proceeds of Bond Issue (including underwriters' discount)

21	Proceeds used for accrued interest		21	0
22	Issue price of entire issue (enter amount from line 20, column (c))		22	1,116,645.00
23	Proceeds used for bond issuance costs (including underwriters' discount)	23 17,000.00		
24	Proceeds used for credit enhancement	24		
25	Proceeds allocated to reasonably required reserve or replacement fund	25 53,175.00		
26	Proceeds used to refund prior issues	26		
27	Total (add lines 23 through 26)		27	70,175.00
28	Nonrefunding proceeds of the issue (subtract line 27 from line 22 and enter amount here)		28	1,046,470.00

Part V Description of Refunded Bonds (complete this part only for refunding bonds)

29 Enter the remaining weighted average maturity of the bonds to be refunded ▶ years

30 Enter the last date on which the refunded bonds will be called ▶

31 Enter the date(s) the refunded bonds were issued ▶

Part VI Miscellaneous

32 Enter the amount of the state volume cap allocated to the issue ▶

33 Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(III) (small issuer exception) ▶

34 Pooled financings: 1,116,645.00

a Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units ▶

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ ☐ and enter the name of the issuer ▶ and the date of the issue ▶

35 If the issuer has elected to pay a penalty in lieu of rebate, check box ▶ ☐

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Please Sign Here

Signature of officer — Date: 05/20/99 — Nelson R. Walker, Mayor (Type or print name and title)

For Paperwork Reduction Act Notice, see page 1 of the Instructions. Cat. No. 63773S Form **8038-G** (Rev. 5-93)

*U.S. Government Printing Office: 1993 — 343-034/80150

VAUGHAN LAW FIRM
Attorneys and Counsellors at Law
SUITE 200 CAPITOL CENTRE
230 CAPITOL STREET
CHARLESTON, WEST VIRGINIA 25301

DENNIS R. VAUGHAN, JR.

TELEPHONE (304) 343-2000
TELECOPIER (304) 343-2867

May 25, 1999

INTERNAL REVENUE SERVICE
PHILADELPHIA, PA 19255

RE: Form 8038-G

Enclosed herewith is Form 8038-G Information Return for Tax Exempt Governmental Obligations entitled The City of Bluefield Sewerage System Revenue Bonds Series 1998 A (WV SRF Program), to be filed with your office.

Very truly yours,

VAUGHAN LAW FIRM

Vaughan Law Firm

DRVJr:ec

Enclosure

THE CITY OF BLUEFIELD

Sewerage System Revenue Bonds Series 1998 A
(West Virginia SRF Program)

CERTIFICATE AS TO ARBITRAGE

The undersigned Mayor of The City of Bluefield in Mercer County, West Virginia (the "Issuer"), being the official of the Issuer duly charged with the responsibility for the issuance of the $1,116,645.00 Sewerage System Revenue Bonds, Series 1998 A, of the Issuer, dated the date hereof (the "Bonds"), hereby certifies as follows:

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986, as amended, and applicable regulations promulgated thereunder or under predecessors thereto (the "Code"). I am one of the officer of the Issuers duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances, and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the same meaning as set forth in the Bond Ordinance enacted by Council of the City on July 14, 1998, and the Supplemental Resolution duly enacted by the Council of the City on May 11, 1999 authorizing the Bonds (the "Bond Legislation").

2. This certificate may be relied upon as the certificate of the Issuer.

3. The Issuer has not been notified by the Internal Revenue Service of any listing or proposed listing of it as an issuer that may not certify its bonds or the certification of which may not be relied upon by holders of obligations of the Issuer or that there is any disqualification of the Issuer by the Internal Revenue Service because a certification made by the Issuer contains a material misrepresentation.

4. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on May 20, 1999, the date on which the Bonds are to be physically delivered to the Purchaser, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

5. The Bonds were sold on May 20, 1999, to West Virginia Water Development Authority (the "Purchaser"), pursuant to a Loan Agreement dated April 28, 1999, by and between the Issuer, the Purchaser and the West Virginia Division of Environmental Protection (the "DEP") for an aggregate purchase price of $1,116,645.00 (100% par), at which time the Issuer received $514,284.38 representing more than a de minimus amount of the principal amount of the Bonds from the Purchaser. No accrued interest has been or will be paid on the Bonds.

6. The Issuer has covenanted in the Bond Legislation not to take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Bonds which would cause any of the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code. The

Issuer has, therefore, covenanted not to intentionally use any portion of the proceeds of the Bonds to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments except as otherwise allowed under Section 148 of the Code. The Issuer, in the Bond Legislation, has further covenanted that it will take all actions that may be required of it so that the interest on the Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

7. The Bonds are being delivered simultaneously with the delivery of this Certificate and are issued for the purpose of (i) paying a portion of the costs of acquisition and construction of additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); (ii) funding a reserve fund for the bonds; and (iii) paying costs of issuance of the Bonds and related costs thereof.

8. Not later than simultaneously with the delivery of the Bonds, the Issuer shall enter into agreements which require the Issuer to expend in excess of $100,000 on the Project, constituting a substantial binding commitment. Acquisition, construction and equipping of the Project shall proceed with due diligence to completion, and with the exception of proceeds constituting capitalized interest (if any) and proceeds deposited in the Reserve Account for the Bonds (if any), all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before March 1, 2001. The construction of the Project is expected to be completed on or before March 1, 2001.

9. The total cost of the Project (including all costs of issuance of the Bonds) is estimated at $2,287,665.00. Sources and uses of funds for the Project are as follows:

SOURCES

Par Amount	$1,116,645.00
Funds of the Issuer	585,510.00
ARC Grant	585,510.00
Total Sources	$2,287,665.00

USES

Property Acquisition and related construction, engineering costs and contingency	2,217,490.00
Debt Service Reserve	53,175.00
Costs of Issuance	17,000.00
Total Uses	2,287,665.00

The amount of the costs of the Project is estimated to be at least equal to the gross proceeds of the Bonds. Except as set forth above, no other funds of the Issuer will be available to meet costs of the Project, which would constitute replacement proceeds within the meaning of

Treas. Reg. § 1.148-1(c), inasmuch as (i) the Issuer does not reasonably expect that the term of the Bond is longer than is reasonably necessary for the governmental purposes of the Issuer, (ii) the weighted average maturity of the Bonds does not exceed 120% of the average expected economic life of the Project, and (iii) there are no amounts that have a sufficiently direct nexus to the Bonds or to the governmental purpose of the Bonds to conclude that the amounts would have been used for that governmental purpose if the proceeds of the Bonds were not used or to be used for that governmental purpose.

10. Pursuant to Article IV of the Bond Ordinance the following special funds or accounts have been created (or continued if previously established by the Prior Ordinances):

(1) Revenue Fund;

(2) Renewal and Replacement Fund;

(3) Bond Construction Trust Fund;

(4) Series 1992 Bonds Sinking Fund;

(5) Within the Series 1992 Bonds Sinking Fund, the Series 1992 Bonds Reserve Account;

(6) Series 1995 Bonds Sinking Fund;

(7) Within the Series 1995 Bonds Sinking Fund, the Series 1995 Bonds Reserve Account and the Series 1995 Bonds Redemption Account;

(8) Series 1998 A Bonds Sinking Fund; and

(9) Within the Series 1998 A Bonds Sinking Fund, the Series 1998 Bonds Reserve Account.

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

Disbursements from the Acquisition Fund shall be made only after submission of the following:

a requisition signed by an Authorized Officer and the Consulting Engineer stating, with respect to each payment to be made:

(i) the requisition number;

(ii) if other than the Issuer, the name and address of the person to whom payment is due;

(iii) the amount to be paid;

(iv) that each obligation mentioned therein has been incurred as a Cost and has not been the basis of any previous withdrawal;

(v) accompanied by a bill, invoice or statement; and

(vi) accompanied by a valid bill or agreement of sale, certificate of title, deed, receipt or other evidence of ownership containing warranties of title free and clear of all claims.

In making any disbursement the Depository Bank shall pay each such obligation or deliver to the Issuer a check or draft for the payment thereof payable to the order of the payee to whom payment is due, as set forth in the requisition of the City directing such disbursement. All payments made from the Bond Construction Fund shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Bond Construction Fund. Pending disbursement, moneys in the Bond Construction Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

12. Moneys held in the Series 1998 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 1998 A Bonds Sinking Fund and Series 1998 A Bonds Reserve Account, if any, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

13. Except for the Series 1998 A Bonds Sinking Fund and the Series 1998 A Bonds Reserve Account, there are no other funds or accounts established or held by the Issuer which are reasonably expected to be used to pay debt service on the Bonds, or which are pledged as collateral for the Bonds and for which there is a reasonable assurance that amounts therein will be available to pay debt service on the Bonds if the Issuer encounters financial difficulties. The Issuer does not expect that moneys in the Renewal and Replacement Fund will be used or needed for payments upon the Bonds. Except as provided herein, no funds which have been or will be used to acquire directly or indirectly securities, obligations, annuity contracts, investment-type property or any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan producing a yield in excess of the yield on the Bonds have been or will be pledged to payment of the Bonds. Less than 10% of the moneys received from the sale of the Bonds, if any, will be deposited in the Series 1998 Bonds Reserve Account or any other reserve or replacement fund. The amounts deposited in the Series 1998 A Bonds Reserve Account from time to time by the Issuer will not exceed the maximum annual principal of and interest on the Bonds and will not exceed 125% of average annual principal of and interest on the Bonds. Amounts in the Series 1998 A Bonds Reserve Account, not to exceed 10% of the proceeds of the Bonds, if invested, will be invested without yield limitation. The establishment of the Series 1998 A Bonds Reserve Account is required by the Purchaser, is vital to its purchase of the Bonds, and is reasonably required to assure payments of debt service on the Bonds.

Because amounts in the Renewal and Replacement Fund may be expended for other purposes, there is no reasonable assurance that any such amounts would be available to meet debt service if the Issuer encounters financial difficulties; thus, such amounts may be invested without yield limitation.

14. Not later than simultaneously with the delivery of die Bonds, the Issuer shall enter into a contract for the acquisition of the Project, and the amount to be expended pursuant to such contract exceeds the lesser of 2 1/2% of the estimated total Project cost financed with proceeds from the sale of the Bonds or $100,000.

15. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. The Project is expected to be completed by March 1, 2001.

16. Except for a reasonable temporary period until such proceeds are needed for the purpose for which such Bonds were issued or as otherwise allowed, no portion of the proceeds of the Bonds will be used, directly or indirectly, to acquire higher yielding investments, or to replace funds which were used, directly or indirectly, to acquire higher yielding investments, all within the meaning of Section 148 of the Code.

17. The Issuer will comply with the provisions of the Code, for which the effective date precedes the date of delivery of its Bonds to the Authority.

18. With the exception of the amount deposited in the Series 1998 A Bonds Sinking Fund for payment of interest on the Bonds, if any, and the amount deposited in the Series 1998 A Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within 12 months from the date of issuance thereof.

19. The Issuer does not expect to sell or otherwise dispose of the Project in whole or in part prior to the last maturity date of the Bonds.

20. The Series 1998 A Bonds Sinking Fund (other than the Series 1998 A Bonds Reserve Account therein) is intended primarily to achieve a proper matching of payments of debt service on the Bonds each year. The Series 1998 A Bonds Sinking Fund (other than the Series 1998 A Bonds Reserve Account therein) will be depleted at least once a year except for a reasonable carryover amount not in excess of the greater of 1/12th of annual debt service on the Bonds, or 1 year's interest earnings on the Series 1998 A Bonds Sinking Fund (other than the Series 1998 A Bonds Reserve Account therein). Except as otherwise allowed, any money deposited in the Series 1998 A Bonds Sinking Fund for payment of the principal of or interest on the Bonds (other than the Series 1998 A Bonds Reserve Account therein), will be spent within a 13-month period beginning on the date of receipt and will be invested without yield limitation, and any moneys received from the investment of amounts held in the Series 1998 A Bonds Sinking Fund (other than in the Series 1998 A Bonds Reserve Account therein) will be spent within a 1-year period beginning on the date of receipt.

21. The amount designated as cost of issuance of the Bonds consists only of costs which

are directly related to and necessary for the issuance of the Bonds.

22. All property financed with the proceeds of the Bonds will be held for federal income tax purposes by (or on behalf of) a qualified governmental unit.

23. No more than 10% of the proceeds of the Bonds will be used (directly or indirectly) in any trade or business carried on by, and less than 5% of the proceeds of the Bonds have been or will be used to make or finance loans to, any person who is not a governmental unit.

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

25. The Issuer shall use the Bond proceeds solely for the costs of the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

26. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from treatment afforded by Section 103(a) of the Code by reason of classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions and refrain from taking such actions as shall be necessary to comply with the Code in order ensure the interest on the Bonds is excludable from gross income for federal income tax purposes.

27. The Bonds are not and will not be, in whole or in part, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

28. The Issuer has retained the right to amend or supplement its authorizing documents if such amendment or supplement is necessary to preserve the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

29. The Issuer shall comply with the yield restriction on the proceeds of the Bonds as set forth in the Code.

30. The Issuer has funded the Series 1998 A Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds. Moneys in the Series 1998 A Bonds Reserve Account and the Series 1998 Bonds Sinking Fund (established for the annual payment of principal and interest) will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

31. The Issuer shall submit to the Authority within 15 days following the end of each bond year a certified copy of its rebate calculation, or if the Issuer qualifies for the small government issuer exception to rebate, the Issuer shall submit a certificate stating that it is exempt from the rebate provision and that no event has occurred to its knowledge during the bond year which would make the Bonds subject to rebate.

32. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bonds, (b) are to be sold pursuant to a common plan of financing together with any of the Bonds and (c) will be paid out of substantially the same source of funds or will have substantially the same claim to be paid out of substantially the same source of funds as any of the Bonds.

33. The transactions contemplated herein do not represent an exploitation of the difference between taxable and tax-exempt interest rates and the execution and delivery of the Bonds is not occurring sooner than otherwise necessary, nor are the Bonds in principal amounts greater than otherwise necessary or to be outstanding longer than otherwise necessary.

34. The Issuer will rebate to the United States the amount, if any, required by the Code and will take all steps necessary to make such rebates. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

35. The Issuer covenants and agrees to comply with the rebate requirements of the Code if not exempted therefrom and with all other requirements of the Code necessary, proper or desirable to maintain the tax-exempt status of the Bonds.

36. The Issuer shall file Form 8038-G in a timely fashion with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255.

37. On the basis of the foregoing, it is not expected that the proceeds of any of the Bonds will be used in a manner that would cause any of the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

38. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances which would materially change the expectations herein expressed.

39. The Vaughan Law Firm is entitled to rely upon the representations, expectations, covenants, certifications and statements contained herein in rendering its opinions regarding the tax-exempt status of interest on the Bonds.

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

Dated this 20th day May, 1999.

THE CITY OF BLUEFIELD

By _____
Nelson R. Walker, Mayor

CERTIFICATE OF CONSULTING ENGINEER

THE CITY OF BLUEFIELD

SEWERAGE SYSTEM REVENUE BONDS SERIES 1998 A

(West Virginia SRF Program)

I, Darrell. K. Stapleton, Registered Professional Engineer, West Virginia License No. 10471, of Thompson & Litton of West Virginia, Inc., Consulting Engineers, Bluefield, West Virginia, hereby certify as follows:

1. My firm is the engineer for the acquisition and construction of certain additions, betterments and improvements to the City of Bluefield Sewerage System (the "Project") for the existing public sewerage system (the "System") of the City of Bluefield, (the "Issuer") to be constructed primarily in Mercer County, West Virginia, which acquisition and construction are being permanently financed, in part, by the above-captioned bonds (the "Bonds") of the Issuer. All capitalized words not defined herein shall have the meanings set forth in the Bond Legislation adopted by the Issuer on July 14, 1998 and May 11, 1999, and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Infrastructure and Jobs Development Council ("IC"), and the West Virginia Division of Environmental Projection ("DEP") dated April 28, 1999.

2. The Bonds are being issued for the purpose of providing funds, which together with other available funds of the Issuer, will be sufficient to (I) to pay the costs acquisition and construction of the Project as defined in the Bond Ordinance; (ii) fund a reserve account for the bonds; and (iii) pay costs of issuance and related costs.

3. To the best of my knowledge, information and belief (I) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by DEP and PSC and any change orders approved by the Issuer, and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least twenty-two years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in Schedule A attached hereto as Exhibit A and my firm has ascertained that all successful bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the DEP and the bid forms provided to the bidders contained all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) in reliance upon the certificate of Sullivan, Ware & Associates of even date herewith; and in conjunction therewith, respecting the certification as to Net Revenues required by Section 6.12(B) as set forth in that certain Ordinance enacted by the Issuer on June 2, 1992; (a) the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of Subsection 4.1(a) and 4.1(b) of the Loan Agreement; (b) the improvements and property acquired through the proceeds of the issuance of the

Bonds will be a part of the System; (c) the funds available to the Issuer from the issuance of the Bonds and other specified sources will be sufficient to pay the estimated cost of such improvements and acquired property; (d) fifteen months is the period of time estimated to complete such improvements and acquired property; (d) fifteen months is the period of time estimated to complete such improvements and acquire the property making up or constituting the Project and; (e) during any period of twelve (12) consecutive calendar months during the eighteen (18) months prior to the date the Bonds are issued, the Net Revenues of the System were equal to at least 120% of the maximum annual debt service payable on the Bonds and the Parity Bonds outstanding as of the date of the certificate; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocable committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by DEP and PSC; and (xi) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

Witness my signature on this 20th day of May, 1999.

THOMPSON & LITTON OF WEST VIRGINIA, INC.

BY: Darrell K. Stapleton

Darrell K. Stapleton, P. E.
West Virginia License No. 10471

$1,116,645.00
THE CITY OF BLUEFIELD, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1998 A

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 20th day of May, 1999, by and between THE CITY OF BLUEFIELD, a municipal corporation and a political subdivision of the State of West Virginia (the "Issuer"), and BANK ONE, WEST VIRGINIA, NATIONAL ASSOCIATION, a national banking association, as bond registrar and authenticating agent (the "Registrar").

WHEREAS, the Issuer has contemporaneously with the execution hereof issued and sold the bonds described above (the "Bonds"); and

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Bond Ordinance enacted by the Issuer on July 14, 1998, and a supplemental resolution adopted by the Issuer on May 11, 1999, authorizing issuance of the Bonds (collectively herein the "Bond Legislation"), copies of which are respectively attached as Exhibits A and B hereto and incorporated herein by reference; and

WHEREAS, the Bond Legislation appoints Bank One, West Virginia, National Association to act as Registrar for the Bonds;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Bond Legislation, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar, from time to time the compensation for services rendered hereunder provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection therewith.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Ordinance with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Legislation, the terms of the Bond Legislation shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Bond Legislation will violate any order, decree or agreement to which it is a party or by which it is bound.

7. The Registrar may resign as Registrar at any time by giving at least 60 days written notice to the Issuer. The Registrar may be removed as Registrar at any time by an instrument filed with the Registrar and signed by the Issuer.

Notices shall be delivered to the parties at the following addresses:

ISSUER:

The City of Bluefield
20th Street and 2nd Avenue
Bluefield, West Virginia 25143
Attention: Mayor

REGISTRAR

Bank One, West Virginia, NA
P. O. Box 1113
Charleston, West Virginia 25324-1113
Attention: Corporate Trust Department

8. Unless otherwise so notified, the Registrar shall register all Bonds in the name of the West Virginia Water Development Authority.

9. All notices and communications required or permitted hereunder, except as otherwise expressly agreed in writing, shall be in writing and shall be delivered by hand or sent by mail or sent by telex, telecopier, or telegraph, addressed to the respective party at the appropriate address in Section 7 hereof.

10. The Registrar shall maintain records which indicate the date and volume of services rendered hereunder. Such records shall include, but not be limited to, records of the Bonds or

portions thereof paid by the Registrar. Such records and the applicable premises of the Registrar shall be subject to inspection by duly designated agents, designees or officials of the Issuer for the purpose of reviewing the adequacy of procedures, systems capabilities methods of operation. Any such inspection may be made during normal banking hours after reasonable prior written notice.

11. The Registrar warrants and represents that it is a national banking association, and in good standing under the laws of the United States of America, may lawfully conduct business in the State of West Virginia, and is lawfully empowered, pursuant to such laws, to accept the duties and obligations contemplated and as provided in this agreement and to serve in the capacity of Registrar thereunder.

12. There is no litigation pending of threatened in any court, either State or Federal, calling into question the creation, organization or existence of the Registrar or the authority of the Registrar to perform its duties under this agreement or the Ordinance.

13. This Registrar's Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia.

IN WITNESS WHEREOF, THE CITY OF BLUEFIELD and BANK ONE, WEST VIRGINIA, NATIONAL ASSOCIATION, have each caused this Registrar's Agreement to be executed in their names and on their behalf, by their duly authorized officers, all as of the date first above written.

THE CITY OF BLUEFIELD

By _____
Mayor

BANK ONE, WEST VIRGINIA, NATIONAL ASSOCIATION

By _____
Senior Trust Office

$1,116,645.00
THE CITY OF BLUEFIELD, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1998 A

CERTIFICATE OF REGISTRATION OF BONDS

I, Lorene B. Mullins, Senior Trust Officer of Bank One, West Virginia, National Association, of Charleston, West Virginia, as Registrar (the "Registrar") under the Bond Legislation providing for the issuance of the Bonds described above, hereby certify that on the 20th day of May, 1999, the fully registered Sewerage System Revenue Bonds, Series 1998 A in the stated principal amount of $1,116,645.00, designated "The City of Bluefield Sewerage System Revenue Bonds, Series 1998 A" numbered R-1, and dated the date hereof were registered as to principal and interest in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of Bank One, West Virginia, National Association, Charleston, West Virginia, as Registrar.

WITNESS my signature as of this 20th day of May, 1999.

BANK ONE, WEST VIRGINIA, National Association

By Lorene Mullins
Its: Senior Trust Officer

$1,116,645.00
THE CITY OF BLUEFIELD, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1998 A

REGISTRAR'S CERTIFICATE

The undersigned, on behalf of Bank One, West Virginia, National Association, Charleston, West Virginia, a national banking association (the "Bank"), hereby certifies as follows with respect to the above-captioned Bonds (the "Bonds").

1. The Bank has full power and authority to enter into and carry out the provisions of the Registrar's Agreement, dated as of May 20, 1999, between The City of Bluefield (the "Issuer") and the Bank (the "Agreement").

2. The person whose title, name and signature is set forth below holds the position by election or appointment by the Board of Directors of the bank shown opposite his name, and such person has been respectively named and designated as an authorized officer of the Bank to authenticate and register the Bonds, to deliver certificates on behalf of the Bank in connection with the closing of the sale of the Bonds and to take any other actions required by the Agreement.

Name	Title	Signature
Lorene B. Mullins	Senior Trust Officer	Lorene Mullins

3. The above signed, **Lorene B. Mullins**, was duly authorized to, and did on or prior to the date hereof, execute and deliver the Agreement to the Issuer on behalf of the Bank.

4. The Bank has received from the Issuer on the date hereof the Bonds, being certificate No. R-1, in the aggregate principal amount of $1,116,645.00, payable as to principal, and maturing all as set forth therein. At the time of such receipt, the Bond has been executed by the manual signature of the Mayor and City Manager of the City, impressed with the seal of the City, and attested by the manual signature of the City Clerk.

5. The Bank has caused the Series 1998 Bonds to be duly authenticated by the manual signature of **Lorene B. Mullins**, by attaching to such Bond a certificate in the following terms:

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

The Bond is one of The City of Bluefield Sewerage System Revenue Bonds, Series 1998 A, described in the within mentioned Bond Legislation and has been duly registered in the name of the Registered Owner set forth above on the date set forth below.

Date: May 20, 1999

BANK ONE, WEST VIRGINIA, NATIONAL ASSOCIATION, as Registrar

By:_____
James Scott Sperry
Its: Senior Vice President

WITNESS my signature this 20th day of May, 1999.

BANK ONE, WEST VIRGINIA, NATIONAL ASSOCIATION

By:_____
Michael E. Puskar
Its: Officer

1000 5th Avenue
Post Office Box 179
Huntington WV 25706

BANK ONE.

Secretary's Certificate

1. The undersigned hereby certifies that he is the Secretary of Bank One, West Virginia, National Association, a national banking association, successor by merger to Bank One, West Virginia, Charleston, NA, a national banking association, and that he has been duly appointed and is presently serving in that capacity in accordance with the bylaws of Bank One, West Virginia, National Association.

2. He further certifies that, pursuant to merger agreement dated May 10, 1994, Bank One, West Virginia, Charleston, NA was merged with, into and under the charter of Bank One, West Virginia, Huntington, National Association, under the title of Bank One, West Virginia, National Association, as evidenced by and pursuant to official certification of the Office of the Comptroller of the Currency, dated September 27, 1994, effective as of September 30, 1994 (a copy of which is attached hereto as Exhibit A).

3. He further certifies that, effective September 13, 1993, Charleston National Bank changed its name to Bank One, West Virginia, Charleston, National Association. This change of name was approved by the Bank's sole shareholder by unanimous written consent dated September 1, 1993.

In witness whereof, I have signed this certificate this 5 day of December, 1997.

Larry A. Stark
Secretary of Bank One, West Virginia, National Association
Charter Number 3106

SECRETARY'S CERTIFICATE

1. The undersigned hereby certifies that he is the Secretary of Bank One, West Virginia, National Association, a national banking association, successor by merger to Bank One, West Virginia, Charleston, NA, a national banking association, and that he has been duly appointed and is presently serving in that capacity in accordance with the bylaws of Bank One, West Virginia, National Association.

2. He further certifies that, pursuant to Merger Agreement dated May 10, 1994, Bank One, West Virginia, Charleston, NA was merged with, into and under the charter of Bank One, West Virginia, Huntington, National Association, under the title of Bank One, West Virginia, National Association, as evidenced by and pursuant to official certification of the Office of the Comptroller of the Currency, dated September 27, 1994, effective as of September 30, 1994 (a copy of which is attached hereto as Exhibit A).

3. He further certifies that, at the organizational meeting of the Board of Directors of Bank One, West Virginia, National Association, held on October 24, 1994, the following resolution was adopted, which resolution is presently in full force and effect and has not been revoked or rescinded as of the date hereof:

> RESOLVED, pursuant to and consistent with Section 1.5 of Merger Agreement, that each and every officer of each of the constituent Banks party to the Merger Agreement shall be and is hereby renominated, reappointed and confirmed as an officer of this association, as the Continuing Bank under the Merger Agreement, to serve at the pleasure of the Board of Directors.

4. That attached hereto as Exhibit B is a true and correct copy of resolutions of the Board of Directors of Bank One, West Virginia, Charleston, NA authorizing the President, any Vice President and any Client Service Officer of said association to act as therein provided, which resolution was in full force and effect at the time of adoption of the resolution set forth in paragraph 3 above.

5. That attached hereto as Exhibit C is a true and correct copy of resolutions of the Board of Directors of Bank One, West Virginia, Charleston, NA, appointing certain officers of said association, which resolution was in full force and effect at the time of adoption of the resolution set forth in paragraph 3 above.

6. That the following persons, pursuant to and as authorized by the foregoing resolutions became at the time of adoption of the resolution set forth in paragraph 3 and currently serve as officers of Bank One, West Virginia, National Association:

Name	Title
J. Scott Sperry	Senior Vice President
Darryl E. Hoovel	Vice President
Teresa L. Davis	Vice President
Carol H. Fletcher	Assistant Vice President
Lorene B. Mullins	Senior Trust Officer
Michael E. Puskar	Client Service Officer
Dorothy R. Crouch	Client Service Officer
Melinda Adamson	State Compliance Officer

IN WITNESS OF, I have signed this certificate and affixed the seal of Bank One, West Virginia, National Association, this 19th day of September, 1997.

Edsel R. Burns, Secretary

Comptroller of the Currency
Administrator of National Banks

Multinational Banking
250 E Street, S.W.
Washington, D.C. 20219
(202) 874-4610

September 27, 1994

Mr. Charles F. Andrews
Assistant General Counsel
Banc One Corporation
100 East Broad Street
Columbus, Ohio 43271-0152

Dear Mr. Andrews:

This letter is the official certification of the Office of the Comptroller of the Currency, effective as of September 30, 1994, to merge the following banks with and into Bank One, West Virginia, Huntington, National Association, under the title of Bank One, West Virginia, National Association, charter number 6768:

Bank One, West Virginia, Beckley, National Association
Bank One, West Virginia, Boone, National Association
Bank One, West Virginia, Buckhannon, National Association
Bank One West Virginia, Charles Town, Inc.
Bank One, West Virginia, Charleston, National Association
Bank One, West Virginia, Clarksburg, National Association
Bank One, West Virginia, Lincoln, National Association
Bank One, West Virginia, Logan, National Association
Bank One, West Virginia, Nicholas County, Inc.
Bank One, West Virginia, Philippi, National Association
Bank One, West Virginia, St. Albans, National Association
Bank One, West Virginia, Wayne County, Inc.
Bank One, West Virginia, Williamson, National Association

Branch authorizations previously granted to the above national banks automatically convey to Bank One, West Virginia, National Association and will not be reissued in the name of the latter. This letter also serves to authorize the resulting bank to operate, as branches, the former

head offices and branches of the above banks at the sites indicated in the attachment to this letter.

Copies of this certificate and attachment should be furnished to personnel responsible for branch administration. If you have questions, please contact National Bank Examiner Robert C. Criswell of this Office at (202) 874-4610.

Sincerely,

Richard T. Erb
Acting Associate Deputy Comptroller

Charter Number 6768
Application Number 94-ML-02-017

Attachment

EXCERPT FROM MINUTES OF THE ORGANIZATIONAL MEETING OF THE BOARD OF DIRECTORS OF BANK ONE, WEST VIRGINIA, NATIONAL ASSOCIATION

The chairman of the meeting announced that the next order of business was the election of officers. The chairman noted that Section 1.5 of the Merger Agreement dated May 10, 1994 providing for the merger of the Merging Banks as therein defined with, into and under the charter of this association as the Continuing Bank, all being referred to in the Merger Agreement as the "Banks", provides that the officers and employees of this association immediately following the effective time of the merger shall include, among others, the officers and employees of the Banks immediately prior to the effective time, and that the officers of this association, as the Continuing Bank, shall hold office in accordance with the bylaws of this association as in effect at and after the effective time of the merger. Upon motion duly made and seconded, it was:

> RESOLVED, pursuant to and consistent with Section 1.5 of the Merger Agreement, that each and every officer of each of the constituent Banks party to the Merger Agreement shall be and is hereby renominated, reappointed and confirmed as an officer of this association, as the Continuing Bank under the Merger Agreement, to serve at the pleasure of the board of directors.

Upon motion duly made and seconded, it was:

> FURTHER, RESOLVED, that those persons currently serving as officers of Banc One West Virginia Corporation be and they are hereby appointed, elected and confirmed as officers of this association, with title, authority and responsibility with respect to this association corresponding to and commensurate with the title, authority and responsibility held by each with Banc One West Virginia Corporation, to serve at the pleasure of the board of directors of this association.

BANK ONE, WEST VIRGINIA, NA

Edsel R. Burns

Edsel R. Burns, Corporate Secretary

October 24, 1994

DOCUMENTS AND WRITINGS

BE IT RESOLVED, that the Chairman of the Board, the President, any Executive Vice President, any Senior Vice President, and any Vice President, except any officer serving in the capacity of Auditor, are hereby severally authorized and empowered to execute any and all documents and writings for and on behalf of Bank One, West Virginia, Charleston, N.A. in its commercial or fiduciary capacity, and make delivery thereof, and, in addition, Asa W. Fuller, Senior Vice President; Darryl E. Hoovel, Vice President; Teresa L. Davis, Assistant Vice President; Joanne E. Kennedy, Assistant Vice President; Margaret N. Lieberman, Assistant Vice President; Rhoda A. Miller, Senior Trust Officer; Danny H. Patton, Senior Trust Officer; Lorene B. Mullins, Senior Trust Officer; and Connie J. Paxton, Trust Officer are hereby authorized and empowered to execute any and all documents and writings for and on behalf of Bank One, West Virginia, Charleston, N.A. in its fiduciary capacity, and make delivery thereof. All documents and writings heretofore executed by the aforenamed individuals and all documents and writings executed pursuant hereto shall have the same legal effect as if the execution thereof were specifically authorized by the Board of Directors in a regular meeting assembled in accordance with the Bylaws of the Bank.

* * * * * * *

BE IT RESOLVED, that the Chairman of the Board, the President, any Executive Vice President, any Senior Vice President, and any Vice President, except any officer serving in the capacity of Auditor, are hereby severally authorized and empowered to execute any and all documents and writings for and on behalf of Bank One, West Virginia, Charleston, N.A. in its commercial capacity, and make delivery thereof and in all other respects, and, in addition, Ronald W. Virag, Senior Vice President; Asa W. Fuller, Senior Vice President; Logan B. Sturgeon, Vice President; Teresa L. Davis, Assistant Vice President; Darryl E. Hoovel, Vice President; Margaret N. Lieberman, Assistant Vice President; Joanne E. Kennedy, Assistant Vice President; Rhoda A. Miller, Senior Trust Officer; Danny H. Patton, Senior Trust Officer; Lorene B. Mullins, Senior Trust Officer; and Connie J. Paxton, Trust Officer are hereby authorized and empowered to execute any and all documents and writings for and on behalf of Bank One, West Virginia, Charleston, N.A. in its fiduciary capacity, and make delivery thereof. All documents and writings so executed shall have the same legal effect as if the execution thereof were specifically authorized by the Board of Directors in a regular meeting assembled in accordance with the Bylaws of the Bank.

I certify that this is a true copy of the Resolution adopted by the Board of Directors of **Bank One, West Virginia, Charleston, N.A.** at a meeting held on April 26, 1994.

IN WITNESS WHEREOF, I have hereunto subscribed my name as Secretary and affixed the seal of the above-named Corporation as of this 30th day of SEPTEMBER, 1994.

BANK ONE, WEST VIRGINIA, CHARLESTON, NATIONAL ASSOCIATION

(SEAL)

By: Ruth S. Rudell
Ruth S. Rudell

Its: Secretary to the Board

VAUGHAN LAW FIRM
Attorneys and Counsellors at Law

DENNIS R. VAUGHAN, JR

SUITE 200 CAPITOL CENTRE
232 CAPITOL STREET
CHARLESTON, WEST VIRGINIA 25301

TELEPHONE (304) 342-3900
TELECOPY (304) 344-2386

May 20, 1999

West Virginia Water Development Authority
108 Association Drive
Charleston, WV 25311-1571

West Virginia Division of
Environmental Protection
617 Broad Street
Charleston, WV 25301

The City of Bluefield
P. O. Box 4100
Bluefield, WV 24701-1900

Re: $1,116,645.00 The City of Bluefield Sewerage System Revenue Bonds, Series 1998 A (West Virginia SRF Program)

Ladies and Gentlemen:

We have served as Bond Counsel in connection with the issuance by The City of Bluefield (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia, of its $1,116,645.00 Sewerage System Revenue Bonds, Series 1998 A (West Virginia SRF Program), dated the date hereof (the "Bonds").

We have examined certified copies of proceedings and other papers relating to (i) the authorization of a loan agreement dated April 28, 1999 (the "Loan Agreement"), including all schedules and exhibits attached thereto, by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection (the "DEP") and (ii) the issuance of a series of revenue bonds of the Issuer, denoted as Sewerage System Revenue Bonds, Series 1998 A, dated May 20, 1999 (the "Bonds"), issued pursuant to an Ordinance enacted by the Council of the City on July 14, 1998, as amended and supplemented by a Supplemental Resolution adopted on May 11, 1999 (the "Bond Legislation").

The Series 1998 A Bonds are in the aggregate principal amount of $1,116,645.00, issued in the form of one bond, registered as to principal only to the Authority, bearing no interest, and with principal installments payable quarterly on June 1, September 1, December 1 and March 1 of each year, commencing September 1, 2001 and ending June 1, 2021, all as set forth in "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Series 1998 A Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Ordinance and the Loan Agreement.

The Bond Legislation and the certificates and documents in connection with the Bonds conform with the requirements of the ordinances authorizing the Series 1995 and 1992 Bonds, including Section 6.12 thereof.

The Series 1998 A Bonds are issued for the purpose of providing funds to pay a portion of the costs of the acquisition and construction of certain extensions, improvements and betterments to the public sewerage system (the "System") for the Issuer; funding a reserve account for the Bonds; and paying the costs of issuance thereof.

We have also examined the applicable provisions of Chapter 16, Article 13 of the West Virginia Code 1931, as amended (the "Act"), under which the Series 1998 A Bonds are issued. The Bonds are, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof.

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

1. The Loan Agreement has been duly authorized by and executed on behalf of the Issuer and is a valid and binding special obligation of the Issuer enforceable in accordance with its terms.

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

3. The Issuer is a duly organized and presently existing municipal corporation, with full power and authority to operate and maintain the System referred to in the Ordinance and the Loan Agreement, to acquire and construct the Project and to issue and sell the Series 1998 A Bonds, all under the Bond Legislation, the Act and other applicable provisions of law.

4. The Issuer has legally and effectively enacted the Bond Legislation and all other necessary actions and certifications in connection with the issuance and sale of the Series 1998 A Bonds. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Series 1998 A Bonds are valid and legally enforceable special obligations of the City, payable from the Net Revenues of the System referred to in the Bond Legislation and secured by a pledge of the Net Revenues of said System on a parity with the lien of the Series 1992 Bonds and the Series 1995 Bonds. All requirement of the Prior Ordinances for the issuance of parity debt have been met.

6. The City has reserved the right to issue additional bonds ranking on a parity with the Bonds, as provided in the Ordinance.

7. The Bonds and the interest thereon, if any, are, under the Act, exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

The rights of the owners of the Bonds and the enforceability of the Bonds, the Loan Agreement and the Bond Legislation and the liens and pledges set forth therein may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors rights heretofore or hereafter enacted to the extent constitutionally applicable, and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

We have examined the executed and authenticated Series 1998 A Bond numbered R-1, and in our opinion, the form of said Bond and its execution and authentication are regular and proper.

Very truly yours,

VAUGHAN LAW FIRM

Vaughan Law Firm

City of Bluefield

P.O. Box 4100, 200 Rogers Street
Bluefield, West Virginia 24701-1900

http://ci.bluefield.wv.us/
Phone: (304) 327-2401
Fax:: (304) 325-6494

May 20, 1999

West Virginia Infrastructure and
Jobs Development Council
980 One Valley Square
Charleston, WV 25301

West Virginia Water Development Authority
108 Association Drive
Charleston, WV 25311-1571

West Virginia Division of
Environmental Protection
617 Broad Street
Charleston, WV 25301

Vaughan Law Firm
232 Capitol Street, Suite 200
Charleston, WV 25301-2206

Jackson & Kelly PLLC
P.O. Box 553
Charleston, WV 25322

Re: $1,116,645.00 The City of Bluefield
Sewer Revenue Bonds, Series 1998 A
(West Virginia SRF Program)

Ladies and Gentlemen:

I am counsel to The City of Bluefield, Mercer County, West Virginia (the "City"). As such counsel, I have reviewed copies of the approving opinion of the Vaughan Law Firm, as bond counsel, relating to the above-captioned Bonds, a Bond Ordinance adopted by the Issuer on July 14, 1998, as supplemented by a Supplemental Resolution adopted May 11, 1999 (collectively, the "Bond Legislation") and other documents relating to the above-captioned Bonds of the Issuer. Terms used in said opinion and Bond Legislation and not otherwise defined herein have the same meanings herein.

I am of the opinion that:

1. The City has been duly created and is validly existing as a municipal corporation and political subdivision of the State of West Virginia, and the Mayor, City Manager, City

Clerk and members of the Board of Directors of the Issuer have been duly and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act on behalf of the Issuer in their respective capacities.

2. The Loan Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the DEP and the Authority, constitutes a valid and binding agreement of the Issuer enforceable in accordance with its terms.

3. The members and officers of the common council (herein the "Governing Body") of the City have been duly, lawfully and properly appointed and elected, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the City.

4. The Bond Legislation, as defined, has been duly enacted by the City, and is in full force and effect.

5. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Bonds, the Loan Agreement and the Bond Legislation, and the carrying out of the terms thereof, do not and will not, in any material respect conflict with or constitute, on the part of the City, a breach of or default under any agreement, document or instrument to which the City is a part or by which the City or its properties are bound or any existing law, regulation, rule, order or decree to which the City is subject.

6. The City has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for creation and existence of the City, the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of the rates and charges, including, without limitation, all requisite orders, consents, certificates and approvals from the West Virginia Infrastructure and Jobs Development Council, the West Virginia Division of Environmental Protection, and the Public Service Commission of West, Virginia, and the City has taken any other action required for the imposition of such rates and charges, including, without limitation, the adoption of a resolution prescribing such rates and charges. The City has received the Final Orders of the Public Service Commission of West Virginia entered on July 6, 1998 and May 14, 1998, among other things, granting to the City a certificate of public convenience and necessity for the Project and approving the

financing of the Project. The time for appeal of such Final Orders has expired prior to the date hereof without any appeal.

7. The City has duly published a notice of the acquisition and construction of the Project, the issuance of the Bonds and related matters, as required under Chapter 16, Article 13A, Section 25 of the West Virginia Code of 1931, as amended, and has duly complied with the provisions thereof.

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

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

Very truly yours,

J. W. Feuchtenberger
City Solicitor

JWF:dne

KATZ , KANTOR, PERKINS & CAMPBELL

Attorneys At Law

996 Ben Bolt Avenue
Tazewell, Virginia 24651

Norris Kantor*
Guy Perkins*
Douglas G. Campbell
Gregory S. Matney **

Telephone: 540 / 988-6554
Telecopier: 540 / 988-6555

*Wayne S. Stonestreet
*Wayne L. Evans
*Robert H. Miller, II
*Robert F. Williams
James J. Palmer, II
Shelia J. Weimer

* Admitted in WV only
** Admitted in VA & WV

May 20,1999

West Virginia Water Development Authority
108 Association Drive
Charleston, WV 25311-1571

West Virginia Division of
Environmental Protection
617 Broad Street
Charleston, WV 25301

Vaughan Law Firm
232 Capitol Street, Suite 200
Charleston, WV 25301-2206

RE: $1,116,645.00 The City of Bluefield
Sewer Revenue Bonds, Series 1998 A
(West Virginia SRF Program)

Ladies and Gentlemen:

We are counsel to the Sanitary Board of The City of Bluefield, Mercer County, West Virginia (the "Sanitary Board"), in connection with the issuance of the City's $1,116,645.00 in aggregate principal amount Sewer Revenue Bonds, Series 1998 A (the "Bonds").

We have reviewed copies of the approving opinion of the Vaughan Law Firm, as bond counsel, the Loan Agreement dated April 28, 1999, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among, the West Virginia Water

Development Authority (the "Authority"), the West Virginia Division of Environmental Protection and the Issuer, and the Bond Ordinance enacted by the Issuer on July 14, 1998, as amended and supplemented by a Supplemental Resolution adopted May 11, 1999 (collectively the "Bond Legislation"), and other documents and instrument s as we have deemed necessary to render this opinion relating to the above captioned Bonds of the Issuer (the "Bonds"). All capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Bond Legislation and the Loan Agreement when used herein.

We are of the opinion that:

1. The board is duly created and validly existing as a sanitary board pursuant to the Act, and the members of the Board have been duly and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act on behalf of the Board in their respective capacities.

2. The board has duly petitioned the Issuer to issue the Bonds pursuant to the Act.

3. The consummation of the transaction contemplated by the Loan Agreement and the Bond Legislation and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Board, a breach of or default under any ordinance, order, resolution, agreement or other instrument to which the Board is a party or any existing law, regulation, consent decree or court order to which the Board is subject.

4. The Board has received all permits, licenses, approvals and authorizations necessary for the operation of the System.

5. To the best of our knowledge there is no action, suit, proceeding or investigation at law or in equity before any court, public board or body, against or affecting the Sanitary Board, wherein an unfavorable decision, ruling or finding would affect the transactions contemplated by the Loan Agreement or Bond Legislation, the operation of the System, the Order of the Public Service Commission of the State of West Virginia granting the Certificate of Convenience and Necessity to the City to acquire and construct the Project, the ordinance imposing the rates and charges for the use of the services of the System or the validity of the Bonds or the collection or pledge of the Net Revenues therefor.

Very truly yours,

KATZ, KANTOR, PERKINS & CAMPBELL

SULLIVAN, WARE & HALL, P.L.L.C.

CERTIFIED PUBLIC ACCOUNTANTS
COAL EXCHANGE BUILDING - SUITE 601
401 ELEVENTH STREET • P. O. BOX 2745 OR P. O. BOX 819
HUNTINGTON, WEST VIRGINIA 25727-2745
TELEPHONE: (304) 697-0565 OR (304) 525-7202
FACSIMILE: (304) 697-0567 OR (304) 525-7282
e mail: swhcpa@citynet.net

BRUCE I. SULLIVAN, CPA
DANIEL J. WARE, CPA
WILLIAM L. HALL, CPA

MEMBERS
AMERICAN INSTITUTE OF
CERTIFIED PUBLIC ACCOUNTANTS
WV SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS

West Virginia Water
Development Authority
108 Association Drive
Charleston, West Virginia 25311-1571

The City of Bluefield
Post Office Box 4100
Bluefield, West Virginia 24701-1900

RE: $1,116,645.00 The City of Bluefield Sewer Revenue Bonds, Series 1998 A (West Virginia SRF Program)

Ladies and Gentlemen:

Based upon rates and charges set forth in the sewer rate ordinance of The City of Bluefield (the "Issuer") finally enacted June 2, 1992, and projected operation and maintenance expenses and anticipated customer usage as furnished to us by the Issuer for the fiscal years ending June 30, 1999, 2000 and 2001, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the sewerage system of the Issuer (the "System"), will pay all repairs, operation and maintenance expenses and leave a balance each year equal to at least 120% of the maximum amount required in any year for the debt service on the Sewerage System Revenue Bonds, Series 1998 A (West Virginia SRF Program) (the "Bonds"), to be issued to the West Virginia Water Development Authority as of May 20, 1999 and all other obligations secured by or payable from the revenues of the System prior to or on a parity with the Bonds, including the Issuer's Sewer Refunding Bonds, Series 1995 and Series 1992 (the "Prior Bonds"), the same being issued pursuant to ordinances duly adopted and enacted by the Issuer on June 27, 1995 and June 2, 1992 (collectively the "Prior Ordinances").

Based upon requirements set forth in the Prior Ordinances, it is our further opinion that (i) that the funds available to the Issuer from the issuance of the Bonds and other specified sources will be sufficient to pay the estimated cost of such improvements and property making up the project being acquired or financed; (ii) that any period of twelve (12) consecutive calendar months during the eighteen (18) months prior to the date the Bonds are issued, the Net Revenues of the System were equal to at least 120% of the maximum annual debt service payable on the Prior Bonds then outstanding as well as the Bonds to be issued.

Finally, it is our opinion that all payments required unto all funds and accounts described in the Ordinance and Prior Ordinance authorizing the Bonds and the Prior Bonds are and will be met, and that the parity test requirements for such Bonds and Prior Bonds are and will be met.

Sullivan, Ware & Hall, P.L.L.C.

Huntington, West Virginia
May 20, 1999

State of West Virginia
WATER DEVELOPMENT AUTHORITY

180 Association Drive
Charleston WV 25311-1571

Telephone (304) 558-3612
Telecopier (304) 558-0299

May 20, 1999

R. Terry Honaker, Executive Director
Sanitary Board of Bluefield
P.O. Box 998
Bluefield WV 25880

WEST VIRGINIA TAX COMMISSION'S JOBS DEVELOPMENT REPORT

You recently issued your Sewerage System Revenue Bonds, Series 1998 A, dated May 20, 1999, to the West Virginia Water Development Authority (the "Authority") to finance a public construction project. The West Virginia Legislature passed legislation requiring all public construction projects awarded after January 1, 1998, to provide certain information to the West Virginia Tax Commission. Enclosed is the West Virginia Tax Commission's Jobs Development Report, **which you should provide to your consulting engineer and/or contractors**. Please note that the form requires the contractor to provide information regarding the county and state in which each employee resides and the number of hours worked by such employee on your project. This form does not require the employee's name and address be listed.

If you have questions regarding the form or the requirements, please contact the Taxpayers Service Division at 304-558-3333 or 800-982-8297 (within West Virginia).

DANIEL B. YONKOSKY – DIRECTOR

c Thompson & Litton of West Virginia, Inc.
Jackson & Kelly
Dennis R. Vaughan, Jr.

DEPARTMENT OF TAX AND REVENUE
TAX COMMISSION

CECIL H. UNDERWOOD
GOVERNOR

ROBIN C. CAPEHART
CABINET SECRETARY

RICHARD E. BOYLE, JR.
STATE TAX COMMISSIONER

September 11, 1998

1 6 1998

Bureau of Commerce
Water Development Authority
180 Association Drive
Charleston, West Virginia 25311-1571

Dear Sir or Madam:

The West Virginia Legislature passed legislation that affects public construction projects in the State by requiring all contractors to file a report regarding employees used on the project. This report is to be filed with the West Virginia Tax Commission upon completion of the project or the contractor may file an annual report by January 31st of the following year.

The form is required for projects awarded after January 1, 1998, and for which public funds have been expended to fund the project in whole or in part; or for construction projects using private funds that included tax incentives, tax credits, bonds, loans or other tax-funded benefits granted by the State of West Virginia, or any of its political subdivisions, economic development boards or agencies.

Enclosed is a form created by the West Virginia Tax Commission to enable contractors to file the required information. The information required by the contractor is as follows: The county and state in which the employees reside and the number of hours they worked on the project. Employees' names and address are not to be listed.

Please distribute these forms to the appropriate officials within your agency. They can provide them to the construction firms performing the work on your projects. The forms may be duplicated as needed. Additional copies may be obtained by calling our automated form ordering system at (304) 344-2068 or 1-800-422-2075.

If further assistance is required, please feel free to contact Taxpayer Services Division at (304) 558-3333 or 1-800-982-8297, the toll-free number within West Virginia.

Very truly yours,

Rich Boyle
State Tax Commissioner
Department of Tax and Revenue

RB/ukl/e

) Box 3784
harleston, West Virginia 25337-3784

FAX (304) 558-3269
Telephone (304) 558-3333
Toll-free within West Virginia 1-800-982-8297

West Virginia Tax Commission
Jobs Development Report

In accordance with West Virginia Code § 21-1B-3, the following information must be submitted to the West Virginia Tax Commission upon completion of construction projects for which contracts were awarded after January 1, 1998, and for which public funds have been expended to fund the project in whole or in part; or construction projects using private funds that included tax incentives, tax credits, bonds, loans or other tax funded benefits granted by the State of West Virginia, or any of its political subdivisions, economic development boards or agencies. An annual report containing the required information may be filed for all projects completed during the year in lieu of single reports for each completed project. The annual report is due by January 31st of the following year.

Name of Company	Business Identification Number
Address of Company (Street, City, State and Zip Code)	County
Project Name	
Location of Project	
Date Project Began / Date Project Completed / Number of Employees Used to Construct Project	
☐ Public Funds Used To Fund Project Source:	☐ Tax Incentives, Tax Credit Bonds, Loans or Other Tax Funded Benefits Source:

List the county and state of residence and the number of hours worked on each project for every individual employee. Attach additional sheets if necessary.

Residence (County and State Only)	Hours Worked on Project

By my signature I hereby *certify* that this report is true, correct and complete to the best of my knowledge and belief.

Signature - Officer/Owner

Name/Title of Person Signing

Date Signed

Mail To: *West Virginia Tax Commission*
Research and Development Division
Post Office Box 2389
Charleston, West Virginia 25328-2389

Telephone: *(304) 558-3333 or 1-800-982-8297 (toll free within West Virginia and area code 614)*

West Virginia Infrastructure & Jobs Development Council

Public Members:
James D. Williams, Chairman
St. Albans
James L. Harrison, Sr., Vice Chairman
Princeton
Lloyd P. Adams, P.E.
Wheeling
Sheila L. Fletcher
Morgantown

900 One Valley Square
Charleston, West Virginia 25301
Telephone: (304) 558-4607
Facsimile: (304) 558-4609

Susan J. Riggs, Esquire
Executive Secretary

July 6, 1998

R. Terry Honaker
Sanitary Board of Bluefield
P. O. Box 998
Bluefield, WV 24701

Re: Wastewater System Upgrade Project (Resubmittal) 96S-240

Dear Mr. Honaker:

The West Virginia Infrastructure and Jobs Development Council (Council) has reviewed the Sanitary Board of Bluefield's (Board) resubmitted preliminary application regarding the Board's proposed project to acquire a portion of the Bluewell Public Service District's (District) sewer system, eliminate the District's existing stabilization pond, and construct a force main to a treatment facility in Tazewell County, Virginia (Project). Based on the findings of the Sewer Technical Review Committee, the Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The Board should carefully review the enclosed comments of the Sewer Technical Review Committee. The Board may need to address certain issues raised in said comments as it proceeds with the Project.

Pursuant to its review of the resubmitted preliminary application, the Council determined that the Board should use its contribution of $40,000, pursue a Clean Water State Revolving Fund loan of $960,290, and an Appalachian Regional Commission grant of $585,510 to finance the Project. Please contact the Division of Environmental Protection at 558-0641, and the Development Office at 558-4010 for specific information on the steps the Board needs to follow to apply for this funding. **Please note that this letter does not constitute funding approval from these agencies.**

If you have any questions regarding this matter, please contact Susan J. Riggs at the above telephone number.

Sincerely,

James D. Williams

JDW/bb
Enclosure
cc: Mike Johnson, P.E.
Debbie Legg
David Cole

West Virginia Infrastructure & Jobs Development Council

Public Members:
Russell L. Isaacs, Chairman
Cottageville
James D. Williams, Vice-Chairman
St. Albans
Lloyd P. Adams, P.E.
Wheeling
James L. Harrison, Sr.
Princeton

1320 One Valley Square
Charleston, West Virginia 25301
Telephone: (304) 558-4607
Facsimile: (304)558-4609

Susan J. Riggs, Esquire
Executive Secretary

May 8, 1997

Terry Honaker
The Sanitary Board of Bluefield
P. O. Box 998
Bluefield, WV 24701

Re: City of Bluefield
Wastewater System Upgrade Resubmitted Project 96S-240

Dear Mr. Honaker:

The West Virginia Infrastructure and Jobs Development Council (Council) has reviewed the City of Bluefield's (City) resubmitted preliminary application regarding a proposed project for wastewater system upgrades (Project), and has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The Council's previous correspondence to the City regarding the original preliminary application included the Sewer Technical Review Committee's (Committee) comments. Enclosed herein are the Committee's additional comments generated in response to the City's resubmitted application. The City should carefully review the earlier comments and the enclosed comments of the Committee. The City may need to address certain issues raised in said comments as it proceeds with the Project.

Pursuant to its review of the preliminary application, the Council recommends the City pursue a State Revolving Fund loan to finance the Project. Please contact the Division of Environmental Protection at 558-0641 for specific information on the steps the City needs to follow to apply for this loan. **Please note that this letter <u>does not</u> constitute funding approval from the State Revolving Fund.**

If you have any questions regarding this matter, please contact Susan J. Riggs at (304) 558-4607.

Sincerely,

Russell L. Isaacs

RLI/bh
Enclosures
cc: Norman L. Kirkham
J. Michael Johnson

State of West Virginia
WATER DEVELOPMENT AUTHORITY

180 Association Drive
Charleston WV 25311-1571

Telephone (304) 558-3612
Telecopier (304) 558-0299

THE CITY OF BLUEFIELD
SEWERAGE SYSTEM REVENUE BONDS
SERIES 1998 A

The undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the entire outstanding aggregate principal amount of the Sewer Refunding Revenue Bonds Series 1995 issued by the City Bluefield (the "Issuer"), hereby consents to (I) the issuance of the Sewerage System Revenue Bonds, Series 1998 A, in the aggregate amount of $1,116,645.00, by the Issuer under the terms of the Ordinance authorizing the Bonds on a parity, with respect to lien, pledge and source of and security for payment, with the Issuer's Sewer Refunding Revenue Bonds, Series 1995.

This consent is given upon reliance on the opinion of Sullivan, Ware and Associates, CPA, that the Issuer has met the parity tests set forth in the 1992 and 1995 Bond Ordinances.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: Daniel B. Yankoski
Its Director

KATZ, KANTOR, PERKINS & CAMPBELL

Attorneys At Law
996 Ben Bolt Avenue
Tazewell, Virginia 24651

Norris Kantor *
Guy Perkins *
Douglas G. Campbell
Gregory S. Matney **

* Wayne S. Stonestreet
* Wayne L. Evans
* Robert H. Miller, II
* Robert F. Williams
Shelia Jane Weimer

* Admitted in WV only
** Admitted in VA & WV

May 7, 1999

Ms Rose Mary Christian
Rural Development Specialist
USDA-Rural Development
224 Ragland Road
Beckley, West Virginia 25801

Re: Bluewell PSD
RUS Release

Dear Ms Christian:

At the request of Charles Pace, attorney for the Bluewell PSD, I am writing to let you know that the bond closing for the City of Bluefield is to at 1:00 PM on the 20th of May at the office of the Water Development Authority at 180 Association Drive which is in the Northgate Business Plaza just off Greenbrier Road.

If you will have made arrangements for the release to be there for the closing and instructions as to how to make the $250,000.00 payment it will be appreciated.

Very truly yours

Douglas G. Campbell

cc: Samme Gee
Dennis Vaughan
Charles Pace

KATZ, KANTOR, PERKINS & CAMPBELL

Attorneys At Law
996 Ben Bolt Avenue
Tazewell, Virginia 24651

Norris Kantor *
Guy Perkins *
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Gregory S. Matney **

* Wayne S. Stonestreet
* Wayne L. Evans
* Robert H. Miller, II
* Robert F. Williams
Shelia Jane Weimer

* Admitted in WV only
** Admitted in VA & WV

February 10, 1999

MEMO TO: **DENNIS VAUGHN** 304-344-2386
SAMME GEE 304-340-1130
CHARLES PACE 304-425-7340
JOHN TINGLEY 304-558-3778

FROM DOUGLAS G. CAMPBELL

Re: Sanitary Board of Bluefield

The Sanitary Board has employed Robert Boyd of Richmond to assist with the Rural Development release. Mr. Boyd was Assistant State Director of the Farmer's Home Administration in both West Virginia and Virginia. He is presently retired and does consulting work.

After he has reviewed the file Mr. Boyd will contact the State office and then let us know how to proceed.

cc: Robert Williams
Terry Honaker
Rick Chitwood

KATZ, KANTOR, PERKINS & CAMPBELL

Attorneys At Law
996 Ben Bolt Avenue
Tazewell, Virginia 24651

Norris Kantor *
Guy Perkins *
Douglas G. Campbell
Gregory S. Matney **

* Wayne S. Stonestreet
* Wayne L. Evans
* Robert H. Miller, II
* Robert F. Williams
Shelia Jane Weimer

* Admitted in WV only
** Admitted in VA & WV

February 9, 1999

MEMO TO DENNIS VAUGHN 304-342-3900
304 2336

FROM DOUGLAS G. CAMPBELL

Re: Bluefield Closing Date

Last night I learned that we may have been overly optimistic when we set this for March 18. Robert Williams called Terry Honaker, the Executive Director, and ask to move it to the 26th.

Obviousy, we cannot keep moving this thing around. I am sure that we have long since worn out our welcome.

Terry and I need to get a handle on this thing. We plan to visit the PSC on Wednesday or Thursday. We will also talk with Plum at Rural Development. For the time being it will be best if we do not set a date.

THIS DEED made this the 12th day of October, 1998, by and between THE BLUEWELL PUBLIC SERVICE DISTRICT (hereinafter referred to as "Bluewell"), an entity created pursuant to the provisions of Section 16-13A-1 thru 25 of the Code of West Virginia, as amended, and THE SANITARY BOARD OF BLUEFIELD (hereinafter referred to as "Bluefield"), an entity created pursuant to the provisions of Section 16-13-1 thru 24, of the Code of West Virginia, as amended.

W I T N E S S E T H:

WHEREAS, Bluewell operates water and sewer systems in an area designated by the County Commission of Mercer County, which area is adjacent to the City of Bluefield in which sewer service is administered by Bluefield; and

WHEREAS, a portion of Bluewell's area for the providing of sewer service has been reassigned by the County Commission of Mercer County to Bluefield, the area being reassigned to Bluefield being shown on a map designated "Assigned Area", which said map is of record in the Office of the Clerk of the County Commission of Mercer County, West Virginia in Flat File number 4-17.

WHEREAS, in order to facilitate the assumption of the obligation to provide sewer service to users and customers in the Assigned Area and in accordance with the terms of a Memorandum of Understanding between the parties dated June 18, 1997, Bluewell has agreed to convey to Bluefield its facilities in the Assigned Area.

NOW, THEREFORE, in and for the consideration of the

assumption by Bluefield of a portion of Bluewell's indebtedness to the United States Department of Agriculture, Farmers' Home Administration, and in compliance with a Memorandum of

CHARLES W. PACE
ATTORNEY AT LAW
1608 WEST MAIN STREET
PRINCETON, W. VA. 24740

Understanding between parties dated June 18, 1997, Bluewell does hereby grant, sell, bargain and convey unto Bluefield, the following:

1) All sewer line easements, together with all appurtenant appliances, rights, and privileges, located in the Assigned Area to the extent said easements are assignable and to whatever extent the Bluewell Public Service District has an interest in said easements. The intent of this conveyance is to convey to The Sanitary Board of Bluefield any and all sewer line easements which the Bluewell Public Service District has in the Assigned Area, whether or not documents conveying the same to the Bluewell Public Service District have been recorded in the Office of the Clerk of the County Commission of Mercer County, West Virginia, to which Bluewell Public Service District has an interest and has the right to assign to The Bluefield Sanitary Board. This conveyance is without warranty.

2) All that certain piece or parcel of land located in the Brushfork area of Beaver Pond District, Mercer County, West Virginia on which Bluewell has operated a lagoon, and which said piece or parcel of land is the property conveyed to Bluewell by James Glen Thompson and others by deed of record in said Clerk's Office in Deed Book 455, page 559, reference to which said deed is here made for a more particular description of the property conveyed hereby.

3) All that certain piece or parcel of land located in the Brushfork area of Beaver Pond District, Mercer County, West Virginia on which Bluewell Public Service District has operated a sewer pump station, and which said piece or parcel of land is the property conveyed to the Bluewell Public Service District by Charles R. Wood and Mary C. Wood, husband and wife, by Deed dated February 11, 1970, of record in the Office of the Clerk of the County Commission of Mercer County, West Virginia, in Deed Book 473, at Page 283, reference to which said Deed is here made for a more particular description of the property conveyed hereby.

4) All that certain piece or parcel of land located in the Brushfork area of Beaver Pond District, Mercer County, West Virginia on which Bluewell Public Service District has operated a sewer pump station, and which said piece or parcel of land is the property conveyed to Bluewell Public Service District by John M. Carter and Nortie Mae Carter by Deed dated October 3, 1971, of record in the Office of the Clerk of the County Commission of Mercer County, West Virginia, in Deed Book 477, at Page 358, reference to which said Deed is here made for a more particular description of the property conveyed hereby.

Pursuant to the provisions of West Virginia Code Section 11-22-1, Bluewell declares that this conveyance is not subject to the excise tax on the privilege of transferring real property as

the excise tax on the privilege of transferring real property as the transfer is from a political subdivision of the State of West Virginia.

HARLES W. PACE
ATTORNEY AT LAW
0 WEST MAIN STREET
NCETON, W. VA. 24740

WITNESS the following signatures and seals.

THE BLUEWELL PUBLIC SERVICE DISTRICT

By Leonard H Bailey (SEAL)

THE SANITARY BOARD OF BLUEFIELD

By Tom Vickers (SEAL)

STATE OF WEST VIRGINIA,

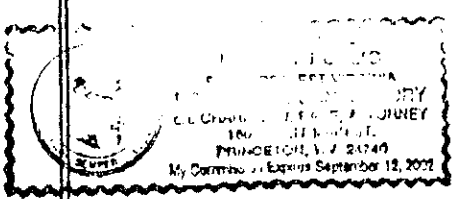
COUNTY OF MERCER, to-wit:

I, the undersigned, a Notary Public within and for the County and State aforesaid, do hereby certify that Leonard H. Bailey, Chairman of BLUEWELL PUBLIC SERVICE DISTRICT, a West Virginia corporation, whose name is signed to the foregoing DEED bearing date the 12th day of October, 1998, has this day in my said County, before me, acknowledged the said writing to be the act and deed of said corporation.

Given under my hand this 18th day of ~~October~~ November, 1998.

My commission expires: September 12, 2002.

Bonnie Lee Canterbury
NOTARY PUBLIC



CHARLES W. PACE
ATTORNEY AT LAW
160R WEST MAIN STREET
PRINCETON, W. VA. 24740

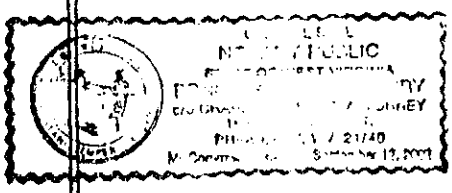
STATE OF WEST VIRGINIA,

COUNTY OF MERCER, to-wit:

I, the undersigned, a Notary Public within and for the County and State aforesaid, do hereby certify that Tom Vedovich, Chairman of the Board of THE SANITARY BOARD OF BLUEFIELD, a West Virginia corporation, whose name is signed to the foregoing DEED bearing date the 12th day of October, 1998, has this day in my said County, before me, acknowledged the said writing to be the act and deed of said corporation.

Given under my hand this 30th day of ~~October~~ November, 1998.

My commission expires: September 12, 2002.



Bonnie Sue Canterbury
NOTARY PUBLIC

This instrument prepared by: CHARLES W. PACE
Attorney at Law
1608 West Main Street
Princeton, West Virginia 24740

THIS INSTRUMENT PREPARED WITHOUT BENEFIT OF TITLE SEARCH.

THIS MEMORANDUM OF UNDERSTANDING dated this the 18th day of June, 1997 made by and between the BLUEWELL PUBLIC SERVICE DISTRICT (PSD herein), an organization created pursuant to the provisions of Chapter 16, Article 13A of the Code of West Virginia and THE SANITARY BOARD OF BLUEFIELD (BSB herein), an organization created pursuant to the provisions of Chapter 16, Article 13B of the Code of West Virginia.

W I T N E S S E T H:

WHEREAS, the PSD pursuant to the provisions of Chapter 16, Article 13A and Ordinances of the Mercer County Commission provides water and sewer service to a portion of Mercer County, West Virginia which adjoins the City of Bluefield, West Virginia and Tazewell County, Virginia; and

WHEREAS, the sewer service provided by the PSD consists of two systems, one being a lagoon and related collector system in the Brushfork area, which system lies immediately adjacent to the City of Bluefield, as well as Tazewell County, Virginia; and

WHEREAS, the BSB owns and operates a sewage treatment plant in Tazewell County, Virginia which plant serves users in the City of Bluefield, West Virginia, Town of Bluefield, Virginia, Mercer County, West Virginia and Tazewell County, Virginia; and

WHEREAS, regulatory authorities have directed the PSD to correct permit and environmental violations occurring at the

above mentioned lagoon, a Consent Decree in regard thereto is attached herewith as EXHIBIT "A", and the PSD has explored various options in regard to correcting the problems and has determined that transferring service of the affected customers to the BSB is the most economically desirable alternative for the affected customers; and

WHEREAS, the BSB is agreeable to assume the responsibility of treating sewage originating from users in the area presently being served by the lagoon; and

WHEREAS, there are a number of legal and financial matters which must be overcome and the parties desire to enter into this Memorandum which memorializes the various steps which must be completed before this transfer of service area can occur and to memorialize the party's understanding of the working and financial arrangements which are sought to be obtained and to that end the parties hereto memorialize as follows:

1. The area in which the BSB proposes to assume responsibility to serve sewer users is shown on the hereunto attached plat marked EXHIBIT "B".

2. The parties contemplate that the BSB will obtain ownership of all sewer easements and real estate belonging to the PSD in the proposed service area, which shall include the lagoon area mentioned below, together with all appliances and appurtenances thereunto attached and pertaining, the same to be

conveyed to the BSB by a special warranty deed, the form of which is attached herewith as EXHIBIT "C". All applicable permits shall, subject to approval of regulatory authorities, be transferred to BSB. BSB acknowledges that it shall take the subject real estate and sewer system subject to those certain liens, claims and encumbrances of record including the Deed of Trust in favor of Farmers Home Administration. PSD shall be under no obligation to BSB to expend any funds to cure any such liens, claims and/or encumbrances. In this regard, the parties further memorialize as follows:

(a) BSB hereby agrees to assume all cleanup of the lagoon area as required by the regulatory authorities or otherwise and further hereby agrees to hold harmless and indemnify PSD for any liabilities regarding any such cleanup or other regulatory violations.

(b) BSB acknowledges that it is taking the real estate, lagoon area and the sewer system as outlined on EXHIBIT "B" attached "where is" and "as is". PSD wishes to protect its remaining customers from any liability they could otherwise be responsible for in the service area as shown on EXHIBIT "B" and therefore, BSB acknowledges that PSD shall have no obligations or liability now or in the future as it relates to said sewer service area. However, the parties hereto agree that they will

work in a cooperative effort to resolve mutual problems that may develop in the future.

3. The parties contemplate, however, the PSD gives the BSB no assurance, that the sewer customers in the transferred area will become customers of the BSB. In this regard, the following shall apply:

(a) The next available billing cycle which occurs after the BSB begins providing service will be from the BSB to the customer, regardless of the date the PSD reads the meters or service was provided. The PSD makes no warranty as to the number or identity of customers which will exist on the date of transfer. Additionally, BSB acknowledges that PSD customer billing is thirty (30) days in arrears. That is to say by way of example that should the BSB begin providing services on August 1, 1997, then the PSD shall be entitled to all billings for services rendered prior to August 1, 1997 and that the PSD shall be entitled to all revenues from billings, regardless of the date the meter was read, for services performed by the PSD prior to the time the BSB begins providing services.

(b) All previous billing and billings to the customers by the PSD for services rendered by the PSD prior to BSB beginning providing services will remain the property of the PSD and the PSD will be entitled to discontinue water service in the event any of the retained billings is unpaid.

(c) Any contracts held by the PSD for past due accounts will remain the property of the PSD and the PSD shall be entitled to discontinue water service in the event of failure of customers to pay any such contracts.

(d) Subject to approval of regulatory authorities, the rates to sewer customers in the transferred area shall be identical to the rates being charged by the BSB in the City of Bluefield, West Virginia and Town of Bluefield, Virginia, and other areas, and in accordance with tariffs approved by the Public Service Commission.

(e) The PSD, as the provider of water services in the assigned area, agrees to provide disconnect and reconnect services to BSB and the parties agree that they will be governed by the same agreement (as it relates at the time) between the BSB and West Virginia-American Water Company, which agreement is in compliance with the rules and regulations of the West Virginia Public Service Commission, a copy of the present agreement dated October 25, 1989 being attached herewith and made a part hereof as EXHIBIT "D". Notwithstanding the foregoing, the initial monthly charge for providing customer meter readings to BSB shall be twenty-five ($0.25) cents per reading or estimated usage provided.

(f) The BSB agrees to assume all customer and user obligations, copies or details of which are attached herewith,

the same to include, but not limited to, the PSD's agreement with the Bluefield College of Evangelism on Evangelism Road in the service area being assigned the BSB.

4. The parties contemplate that BSB will assume or otherwise be responsible for a portion of the PSD's ONE MILLION TWO THOUSAND And no/100 ($1,002,000.00) DOLLAR Sewer System Revenue Bonds, Series 1969. The portion to be assumed shall represent the percentage of total sewer revenues paid the PSD over the previous twelve (12) months by the customers being transferred to BSB. These calculations shall be made at the last available closing date of the PSD's books prior to transfer of customers and the percentage payable by BSB as above determined shall remain the same percentage of the PSD's Sewer Revenue Bonds, Series 1969 until such obligation is paid in full. BSB shall make monthly payments to the PSD at least five (5) days prior to the FHA due date. Refinancing of the Series 1969 bonds by the PSD shall neither alter nor affect the BSB's monthly obligation as it relates to monthly payment liability and term of payout without BSB's prior written approval.

5. The PSD shall make its books and records (for a time frame which reasonably satisfies BSB's auditors and engineers) concerning customer accounts (entire system) and collector and interceptor system maintenance records (transferred area) available to BSB and its designees during normal business hours.

All permits, correspondence, violations, NOV's, and other records dealing with state and federal regulation of the sewer system being transferred, if possible, to BSB shall be available for inspection by BSB and its designees during normal business hours.

6. The parties contemplate that at closing the PSD will deliver to the BSB the following:

(a) A computer disc in form compatible with the BSB's computer containing the names and addresses and other pertinent information of the transferred customers although it is understood the PSD shall not be obligated to incur any expense to adapt its computer programs to gain compatibility with the BSB's computer.

(b) Originals, if available, otherwise copies, of all User Agreements and Customer Contracts where available.

(c) NOV's which concern the lagoon and collector system and appurtenances being transferred.

(d) Any and all other violations or correspondence concerning the sewer system being transferred.

(e) The records indicated above shall not be for any specific time frame but shall extend back in time to such point as will reasonable satisfy the requirements of the BSB in being able to address and correct any problems which may occur in the future, although such records shall not predate 1985.

7. The parties hereto understand and agree that this AGREEMENT is dependant on the subsequent approvals of various entities approving the transactions contemplated herein including but not limited to the Public Service Commission of West Virginia and the Farmers Home Administration. The parties contemplate having to deal with or obtain approval from the below listed entities which are listed with the party being responsible for dealing with the subject entity:

BSB

Town of Bluefield, Virginia

City of Bluefield, West Virginia

Virginia Department of Health

Division of Environmental Quality

Department of Environment Protection

Infrastructure Council

Municipal Bond Insurance Association

PSD

Public Service Commission

Mercer County Commission

West Virginia Department of Health

Farmers Home Administration.

Correspondence of DEP (Fred L. Hypes, P.E., 7/29/96) is incorporated herein and attached herewith as EXHIBIT "E". BSB

shall be responsible for Items Nos. 8, 4, 1, 3, 5, 10 and 11. The remaining items shall be the responsibility of PSD.

8. The parties memorialize that the BSB has closely reviewed the financial impact which this AGREEMENT will have and that the BSB has represented that in order for it to enter into the proposed agreement with no increased financial burden to its present users that it must obtain an SRF loan for approximately EIGHT HUNDRED FIFTY THOUSAND And no/100 ($850,000.00) DOLLARS from DEP at no (0%) percent interest with a service charge not to exceed one (1.0%) percent annual rate. The BSB contemplates constructing a force main and various appurtenances from a point near the lagoon to a point near its westside facility in Tazewell County, Virginia and the Debt Retirement and anticipated Operating and Maintenance Expenses can be absorbed with no adverse financial impact on the BSB, only if these SRF terms can be obtained. None of these contemplated financial obligations shall be the responsibility of PSD.

9. The PSD and BSB shall file a joint petition with the Public Service Commission to obtain the Certificate of Need which will be necessary to accomplish the ends of this AGREEMENT. Additionally, the parties shall, to the extent that the same is allowable, conduct all public hearings jointly.

10. The BSB will compile and file with the appropriate state and federal agencies a Facilities Plan as a prelude to

obtain the loan funds mentioned above and as a part thereof shall compile a comparison of the financial impact on the affected customers and on the PSD and the rates of the users if the PSD were to construct and operate a new sewage treatment plant to serve its customers in the area being transferred to the BSB rather than transfer the service area to the BSB.

11. The parties will appear jointly before the County Commission of Mercer County for the purpose of obtaining that body's redesignation of the area outlined for the purpose of providing sewer service.

12. The parties hereto agree that, to the extent allowed by law and subject to approval of governmental authorities and regulatory agencies, the terms of this Memorandum shall be binding on their respective successors, assigns, or contractors.

13. BSB agrees that it shall bear the burden of paying all engineering and accounting costs associated with obtaining the approval and consummating the transaction herein contemplated, although BSB shall not be liable for costs incurred by PSD prior to this date and paid by PSD. PSD further agrees to cooperate with BSB and provide to BSB information reasonably requested by BSB to PSD and BSB shall not be liable for costs incurred by PSD in providing such information, it being understood that the parties hereto contemplate that any such information will not

create a financial burden on PSD. Otherwise, each of the parties hereto shall bear its own separate legal costs in this matter.

14. It is clearly understood that PSD is not transferring to BSB its rights, title and interest in the servicing of customers in the affected area for water, that this AGREEMENT only applies to the servicing of sewer to the affected customers.

15. BSB understands and agrees that should it commit to any "contract operations", i.e. should the BSB hire an O&M contractor, the BSB shall continue to be responsible for the indebtedness payment as provided in Paragraph 4 of this AGREEMENT.

16. This AGREEMENT may be amended by the written agreement of the parties hereto if mutually agreed in writing by all the parties hereto.

17. The parties hereto agree to execute and deliver such other documents, certificates, agreements and other writings and to take such other action as may be reasonably necessary or desirable in order to consummate or implement expeditiously the transactions contemplated by the AGREEMENT.

18. The provisions of this AGREEMENT are to apply to and bind the heirs, distributees, executors, administrators, successors, and assigns of the respective parties hereto.

19. This AGREEMENT contains the entire understanding of the parties and shall not be changed, modified, amended, extended,

terminated, waived or discharged except by an instrument in writing signed by the parties hereto. The parties agree that the jurisdiction for any litigation which may arise as to the rights of any party hereunder shall be in Mercer County, West Virginia.

20. This AGREEMENT may be signed upon any number of counterparts with the same effect as if the signature to each were upon the same AGREEMENT.

21. This AGREEMENT is not assignable by either party without the written consent of the parties hereto.

BLUEWELL PUBLIC SERVICE DISTRICT

BY: Leonard H Bailey

ITS: Chairman

THE SANITARY BOARD OF BLUEFIELD

BY: Tom Kudvick

ITS: _____

STATE OF WEST VIRGINIA,

COUNTY OF MERCER, to-wit:

I, the undersigned, a Notary Public within and for the County and State aforesaid, do hereby certify that Tom Widrich, Chairman of THE SANITARY BOARD OF BLUEFIELD, a Municipal Entity, whose name is signed to the foregoing MEMORANDUM OF UNDERSTANDING bearing date the 18th day of June, 1997, has this day in my said County, before me, acknowledged the said writing to be the act and deed of said The Sanitary Board of Bluefield

Given under my hand this 18th day of June, 1997.

My commission expires: 2/1/99.

Beverly G. Tresch
NOTARY PUBLIC

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
BEVERLY G. TRESCH
City of Bluefield
P. O. Box 4100
Bluefield, WV 24701
My Commission Expires February 1, 1999

EXHIBIT "A"

IN THE CIRCUIT COURT OF MERCER COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA EX REL.
LAIDLEY ELI McCOY, CHIEF,
DIVISION OF WATER RESOURCES,
STATE DEPARTMENT OF NATURAL
RESOURCES,

Plaintiff,

v.

BLUEWELL PUBLIC SERVICE
DISTRICT, WEST VIRGINIA,

Defendant.

NOTED CIVIL DOCKET
APR 6 1994
WILMA E. GRUBB
CLERK CIRCUIT COURT
MERCER COUNTY

CIVIL ACTION NO. 90-CV-1350-K

RECEIVED
APR 6 1994
WATER RESOURCES SECT
MUNCIPAL BRANCH

AMENDED CONSENT DECREE

Now Comes the State of West Virginia, ex rel., Laidley Eli McCoy, Chief, Office of Water Resources, Division of Environmental Protection (formerly Division of Water Resources, State Department of Natural Resources) plaintiff, and Bluewell Public Service District, West Virginia, defendant, to amend their previous Consent Decree entered on December 18, 1990 in the Circuit Court of Mercer County.

WHEREAS, the complaint in this matter alleges that the defendant, Bluewell Public Service District, has violated the State Water Pollution Control Act, W. Va. Code § 20-5A-1 et seq., and the federal Clean Water Act, 33 U.S.C. Section 466 et seq. by violating the terms of the permit authorizing its discharge of pollutants into Brush Fork of Bluestone River and the Bluestone River, WV/NPDES Permit No. WV0028134, and by failing to comply with the terms of Administrative Order No. 1898 issued by the plaintiff.

WHEREAS, the parties recognize that, since the entry of the original Consent Decree on December 18, 1990, the Montcalm facility

of the Bluewell PSD has been completed and currently complies with required effluent limits, but the Brushfork facility of the Bluewell PSD does not comply with required effluent limitations.

WHEREAS, without trial or adjudication of any issue of fact or law in this case, the parties to this decree wish to amend their previous Consent Decree and agree to the following Amended Consent Decree.

NOW, THEREFORE, it is ORDERED, ADJUDGED and DECREED as follows:

I.
JURISDICTION AND VENUE

This Court has jurisdiction over the subject matter and over the parties thereto pursuant to Code § 20-5A-17. Venue is properly alleged in this Circuit Court in accordance with Code § 20-5A-17.

II.
BINDING EFFECT

This decree is binding upon the parties and upon the employees, officers, agents, contractors, successors and assigns of the defendant.

III.
COMPLIANCE SCHEDULE

The defendant shall construct and/or upgrade the treatment facilities necessary to comply with the final effluent limitations in its State NPDES permit in accordance with the following schedule, applicable to the Brushfork facility:

a)	Submit Approvable Plans, specifications and permit modification application	July 1, 1994
b)	Begin Construction	March 1, 1995
c)	Complete Construction and connect to Bluefield System	August 1, 1995
d)	Achieve Compliance	August 1, 1995

IV.
QUARTERLY REPORTS

Beginning with the entry of this decree, the defendant shall submit quarterly compliance reports to the plaintiff until the final effluent limitation are achieved. The compliance reports shall indicate what has been accomplished since the submittal of the last compliance report; whether the defendant is on the schedule required by this decree; if not, why is it behind schedule and how far it is behind schedule; and if not on schedule, what measures are being taken to get back on schedule. Reports shall be sent to:

LAIDLEY ELI McCOY, CHIEF
Office of Water Resources
Division of Environmental Protection
1201 Greenbrier Street
Charleston, West Virginia 25311

V.
STIPULATED PENALTIES OR MORATORIUM

Upon written demand by plaintiff, defendant shall pay as a stipulated penalty the sum of $100.00 per day for each of the first 30 days that the defendant fails to comply with the schedule, provided in paragraph III of this decree; $200.00 per day for each

f the next 60 days of such failure; $500.00 per day for each of the following 60 days of such failure; and $1,000.00 per day for each day thereafter of such failure.

This provision shall not limit the ability of plaintiff to apply to this Court for other relief, including the imposition of a moratorium on any new connections to the treatment facility, in the event of any failure to comply with requirements of the federal Clean Water Act, the State Water Pollution Control Act, any permit thereunder, or this decree.

Penalties under this provision shall be made by check payable to the West Virginia Division of Environmental Protection and be sent to:

LAIDLEY ELI McCOY, CHIEF
Office of Water Resources
Division of Environmental Protection
1201 Greenbrier Street
Charleston, West Virginia 25311

Defendant shall pay each stipulated penalty within 15 days of receipt of written demand by the plaintiff unless defendant, within that 15 days, moves the Court for a hearing thereon and thereafter demonstrates to the satisfaction of the Court that the failure to meet such consent decree deadline or requirement was due to circumstances entirely beyond the control of the defendant.

VI.
FUNDING

Performance of the terms of this decree by the defendant is not conditioned on the receipt of any Federal or State grant funds. n addition, performance is not excused by the lack of any Federal

or State grant funds, or by the processing of any application for the same.

VII.
FORCE MAJEURE

(a) If any event occurs which causes or may cause delays in the achievement of compliance at defendant's facilities as provided in in this decree, defendant shall notify the Court and plaintiff in writing within 20 days of the delay or anticipated delay, as applicable. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by defendant to prevent or minimize the delay, and the timetable by which those measures will be implemented. The defendant shall adopt all reasonable measures to avoid or minimize any such delay. Failure by defendant to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and constitute a waiver of the defendant's right to request an extension of their obligation under this decree based on this incident.

(b) If the parties agree that the delay or anticipated delay in compliance with this decree has been or will be caused by circumstances entirely beyond the control of defendant, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time and so inform the Court. In the event the parties cannot agree, any party may

ıbmit the matter to this Court for resolution.

(c) The burden of proving that any delay is caused by circumstances entirely beyond the control of the defendant shall rest with the defendant. Increased costs or expenses associated with the implementation of actions called for by this decree shall not, in any event, be a basis for changes in this decree or extensions of time under paragraph III. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

VIII.
PERMITS AND OTHER LAWS AND REGULATIONS

This decree is not, and shall not be interpreted to be a permit, or modification of a permit under the federal Clean Water Act or under the State Water Pollution Control Act, nor shall it relieve the defendant of any other obligation imposed by those Acts or any permit thereunder, except as expressly provided herein, nor shall it in any way relieve defendant of its obligation to comply with any other Federal or State law or regulation in any way related to the substance of this decree. Any new permit or modification must be accomplished in accordance with applicable Federal and State laws and regulations.

IX.
TERMINATION OF DECREE

The defendant must demonstrate to the plaintiff's satisfaction that the defendant has complied with all of the terms of this decree. Upon a satisfactory showing to the plaintiff, the

plaintiff agrees to move the Court to terminate the decree.

X.
RETENTION OF JURISDICTION

The Court shall retain jurisdiction to modify and enforce the terms and conditions of this decree and to resolve disputes arising hereunder as may be necessary or appropriate for the construction or execution of this decree.

Enter: 4/6/94

DAVID W. KNIGHT, JUDGE

Respectfully submitted,

LAIDLEY ELI McCOY, CHIEF
DIVISION OF WATER RESOURCES
WEST VIRGINIA DEPARTMENT OF
NATURAL RESOURCES,

By Counsel

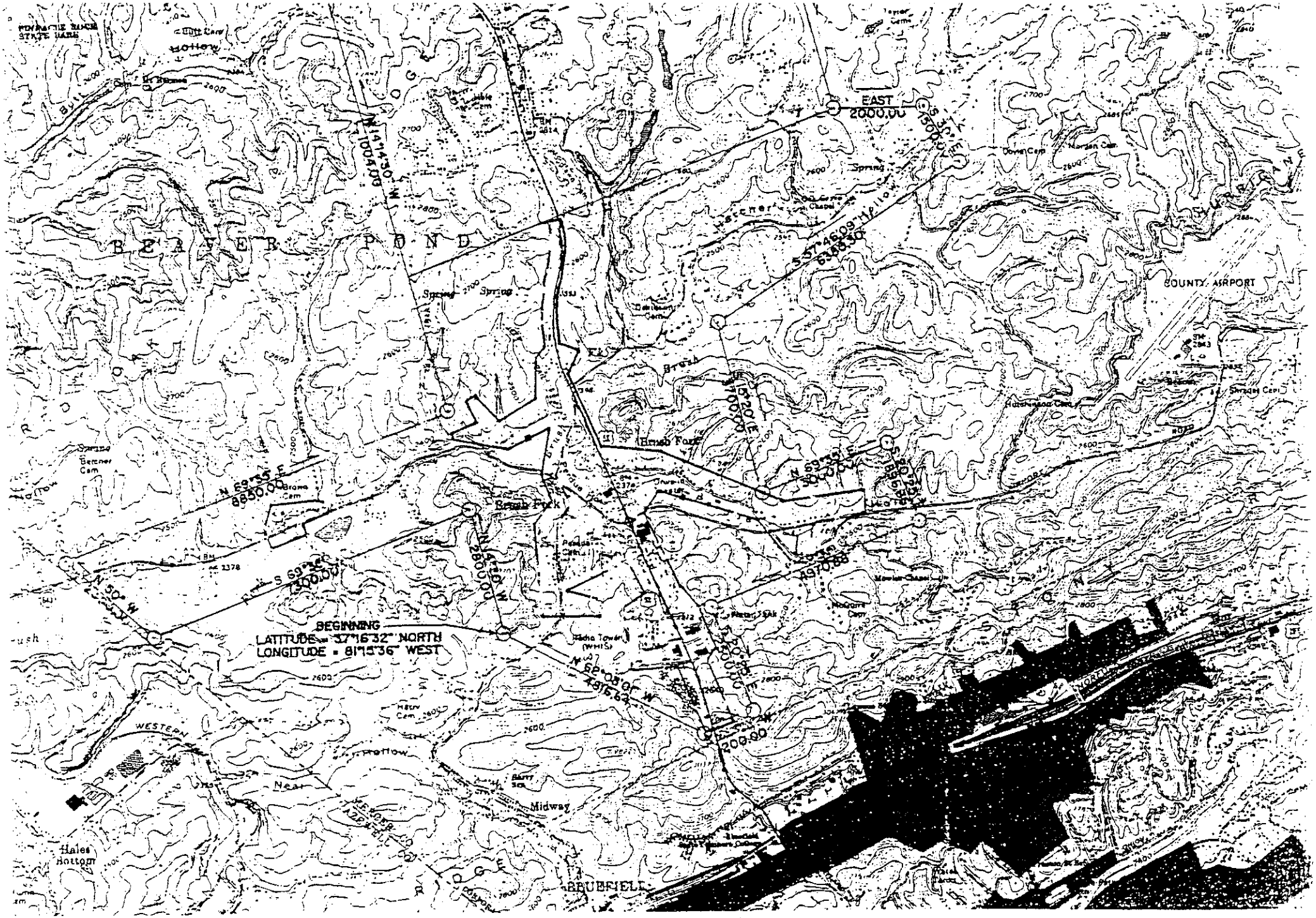
DARRELL V. MCGRAW
ATTORNEY GENERAL

WILLIAM H. HILL, III
ASSISTANT ATTORNEY GENERAL
ENVIRONMENT & ENERGY DIVISION
Building 3, Room 630, Capitol Complex
Charleston, West Virginia 25305
Telephone: (304) 558-9160

Counsel for Plaintiff

JAY BARRINGER, ESQUIRE
POST OFFICE BOX 1459
BLUEFIELD, WV 24701

Counsel for Defendant



BEAVER POND
EAST
2000.00
COUNTY AIRPORT
Brush Fork
Brush Fork
BEGINNING
LATITUDE = 37°16'32" NORTH
LONGITUDE = 81°15'36" WEST
N 69°55' E
8850.00
N 50° W
S 69°35' E
7300.00
N 14°10' W
2800.00
N 62°05'01" W
4816.62
S 57°46'09" Hollow
6380.30
N 14°14'30" W
1004.00
S 30° E
1500.00
N 69°35' E
3000.00
S 20°25' E
4970.88
200.00
Midway
Hales Bottom
BLUEFIELD

EXHIBIT B

EXHIBIT "C"

THIS DEED made this the _____ day of _____, 1997, by and between THE BLUEWELL PUBLIC SERVICE DISTRICT (hereinafter referred to as "Bluewell"), an entity created pursuant to the provisions of Section 16-13A-1 thru 25 of the Code of West Virginia, as amended, and THE SANITARY BOARD OF BLUEFIELD (hereinafter referred to as "Bluefield"), an entity created pursuant to the provisions of Section 16-13-1 thru 24, of the Code of West Virginia, as amended.

W I T N E S S E T H:

WHEREAS, Bluewell operates water and sewer systems in an area designated by the County Commission of Mercer County, which area is adjacent to the City of Bluefield in which sewer service is administered by Bluefield; and

WHEREAS, a portion of Bluewell's area for the providing of sewer service has been reassigned by the County Commission of Mercer County to Bluefield, the area being reassigned to Bluefield being shown on a map designated "Assigned Area", which said map is of record in the Office of the Clerk of the County Commission of Mercer County, West Virginia in Flat File number _____.

WHEREAS, in order to facilitate the assumption of the obligation to provide sewer service to users and customers in the Assigned Area and in accordance with the terms of a Memorandum of Understanding between the parties dated June 18, 1997, Bluewell has agreed to convey to Bluefield its facilities in the Assigned Area.

NOW, THEREFORE, in and for the consideration of the assumption by Bluefield of a portion of Bluewell's indebtedness to the United States Department of Agriculture, Farmers' Home Administration, and in compliance with a Memorandum of

Understanding between parties dated June 18, 1997, Bluewell does hereby grant, sell, bargain and convey unto Bluefield, the following:

1) All sewer line easements, together with all appurtenant appliances, rights, and privileges, located in the Assigned Area to the extent said easements are assignable and to whatever extent the Bluewell Public Service District has an interest in said easements. The intent of this conveyance is to convey to The Sanitary Board of Bluefield any and all sewer line easements which the Bluewell Public Service District has in the Assigned Area, whether or not documents conveying the same to the Bluewell Public Service District have been recorded in the Office of the Clerk of the County Commission of Mercer County, West Virginia, to which Bluewell Public Service District has an interest and has the right to assign to The Bluefield Sanitary Board. This conveyance is without warranty.

2) All that certain piece or parcel of land located in the Brushfork area of Beaver Pond District, Mercer County, West Virginia on which Bluewell has operated a lagoon, and which said piece or parcel of land is the property conveyed to Bluewell by James Glen Thompson and others by deed of record in said Clerk's Office in Deed Book 455, page 559, reference to which said deed is here made for a more particular description of the property conveyed hereby.

3) All that certain piece or parcel of land located in the Brushfork area of Beaver Pond District, Mercer County, West Virginia on which Bluewell Public Service District has operated a sewer pump station, and which said piece or parcel of land is the property conveyed to the Bluewell Public Service District by Charles R. Wood and Mary C. Wood, husband and wife, by Deed dated February 11, 1970, of record in the Office of the Clerk of the County Commission of Mercer County, West Virginia, in Deed Book 473, at Page 283, reference to which said Deed is here made for a more particular description of the property conveyed hereby.

4) All that certain piece or parcel of land located in the Brushfork area of Beaver Pond District, Mercer County, West Virginia on which Bluewell Public Service District has operated a sewer pump station, and which said piece or parcel of land is the property conveyed to Bluewell Public Service District by John M. Carter and Nortie Mae Carter by Deed dated October 3, 1971, of record in the Office of the Clerk of the County Commission of Mercer County, West Virginia, in Deed Book 477, at Page 358, reference to which said Deed is here made for a more particular description of the property conveyed hereby.

Pursuant to the provisions of West Virginia Code Section 11-22-1, Bluewell declares that this conveyance is not subject to the excise tax on the privilege of transferring real property as the transfer is from a political subdivision of the State of West Virginia.

WITNESS the following signatures and seals.

THE BLUEWELL PUBLIC SERVICE DISTRICT

_____(SEAL)
By

THE SANITARY BOARD OF BLUEFIELD

_____(SEAL)
By

STATE OF WEST VIRGINIA,

COUNTY OF MERCER, to-wit:

I, the undersigned, a Notary Public within and for the County and State aforesaid, do hereby certify that _____, _____ of BLUEWELL PUBLIC SERVICE DISTRICT, a West Virginia corporation, whose name is signed to the foregoing DEED bearing date the _____ day of _____, 1997, has this day in my said County, before me, acknowledged the said writing to be the act and deed of said corporation.

Given under my hand this _____ day of _____, 1997.

My commission expires: _____.

_____
NOTARY PUBLIC

STATE OF WEST VIRGINIA,

COUNTY OF MERCER, to-wit:

I, the undersigned, a Notary Public within and for the County and State aforesaid, do hereby certify that _____, _____ of THE SANITARY BOARD OF BLUEFIELD, a West Virginia corporation, whose name is signed to the foregoing DEED bearing date the _____ day of _____, 1997, has this day in my said County, before me, acknowledged the said writing to be the act and deed of said corporation.

Given under my hand this _____ day of _____, 1997.

My commission expires: _____.

_____
NOTARY PUBLIC

This instrument prepared by: CHARLES W. PACE
Attorney at Law
1608 West Main Street
Princeton, West Virginia 24740

THIS INSTRUMENT PREPARED WITHOUT BENEFIT OF TITLE SEARCH.

STATE OF WEST VIRGINIA,

COUNTY OF MERCER, to-wit:

I, the undersigned, a Notary Public within and for the County and State aforesaid, do hereby certify that _____, _____ of BLUEWELL PUBLIC SERVICE DISTRICT, a West Virginia corporation, whose name is signed to the foregoing DEED bearing date the _____ day of _____, 1997, has this day in my said County, before me, acknowledged the said writing to be the act and deed of said corporation.

Given under my hand this _____ day of _____, 1997.

My commission expires: _____.

_____
NOTARY PUBLIC

STATE OF WEST VIRGINIA,

COUNTY OF MERCER, to-wit:

I, the undersigned, a Notary Public within and for the County and State aforesaid, do hereby certify that _____, _____ of THE SANITARY BOARD OF BLUEFIELD, a West Virginia corporation, whose name is signed to the foregoing DEED bearing date the _____ day of _____, 1997, has this day in my said County, before me, acknowledged the said writing to be the act and deed of said corporation.

Given under my hand this _____ day of _____, 1997.

My commission expires: _____.

_____
NOTARY PUBLIC

This instrument prepared by: CHARLES W. PACE
Attorney at Law
1608 West Main Street
Princeton, West Virginia 24740

THIS INSTRUMENT PREPARED WITHOUT BENEFIT OF TITLE SEARCH.

An American Water Works System Company

C. E. SASHER
Business Manager

November 30, 1989
620

Bluefield Sanitary Board
P. O. Box 998
Bluefield, WV 24701

Subject: Water Service Termination Agreement

Dear Sir or Madam:

Please find enclosed a copy of the executed Water Service Termination Agreement approved by the Public Service Commission. We are now prepared to accept requests for termination of water service.

I have enclosed a copy of the Request for Water Service Termination and Request for Water Service Resumption forms. You may copy or duplicate these forms for your use. A form must be completed for each request for termination or restoration. Please attach a copy of the written notice advising the customer of termination to each request form. Upon receipt of the above and a check in the amount of $20.00 per account, we will begin scheduling the disconnects.

I am sure that questions will arise down the road, but by working together I am confident this will be a successful endeavor. If you have any questions, please call Jerry Baldwin at 340-2030.

Very truly yours,

Cecil E. Sasher

CES/JEB/vk/3803C

Enclosures

WATER SERVICE TERMINATION AGREEMENT

THIS AGREEMENT, made this 25th day of October, 1989, by and between Bluefield Sanitary Board, a municipality, public service district or other sewer authority of the State of West Virginia (hereinafter "Sewer Authority"), and West Virginia-American Water Company, a public utility corporation of the State of West Virginia, having its principal office at 500 Summers Street, Charleston, West Virginia (hereinafter "Water Company").

WITNESSETH:

THAT WHEREAS, the Sewer Authority is engaged in supplying sewer service to the citizens and residents within its service area; and

WHEREAS, the Sewer Authority is experiencing difficulty in the collection of delinquent sewer fees through statutory means such as the imposition of liens and institution of civil actions; and

WHEREAS, a contributing factor to the Sewer Authority's collection problem is its inability to enforce payment through the termination of sewer service to delinquent customers; and

WHEREAS, the Water Company is the owner and operator of a water distribution system serving some or all of the customers of the Sewer Authority, under the applicable Rules and Regulations of the Public Service Commission of West Virginia (hereinafter "Commission"); and

WHEREAS, the Water Company is required by law, at the request and direction of the Sewer Authority and with the approval of the Commission, to terminate the supply of water from its system to any customer or premises with regard to which the fees for sewer service supplied thereto by the Sewer Authority are delinquent; and

WHEREAS, the Water Company is willing to cooperate and assist the Sewer Authority in the collection of its delinquent accounts upon the terms hereinafter set forth.

NOW THEREFORE, in consideration of the sum of ONE DOLLAR ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, and the covenants hereinafter expressed, the parties hereto do mutually agree that:

1. Upon receipt by the Water Company of a written request by the Sewer Authority for termination of water service to a specified customer or premises with regard to which the fees for sewer service provided by the Sewer Authority shall not have been paid for a period of not less than sixty (60) days from the due date thereof, together with the hereinafter mentioned fee

and affidavit, the Water Company will, within three (3) regular working days following receipt of the aforesaid written request (except as otherwise provided below), discontinue the supply of water from its system to such customer or premises until it is advised in writing by the Sewer Authority either that (i) all delinquent fees (for which a customer's water service may be terminated under this agreement), together with any interest thereon or other permissible charges pertaining thereto, have been paid, or (ii) a satisfactory payment plan has been initiated pursuant to Rule 4.08(5)(b) of the Commission's Rules and Regulations for the Government of Water Utilities or (iii) until the Sewer Authority otherwise directs. It is expressly understood and agreed that the three (3) day termination response period set forth above may be extended at the sole discretion of the Water Company to a maximum of six (6) days when and if necessary due to a large number of termination requests or for other scheduling problems. The Water Company shall not terminate water service to any customer or premises pursuant to this Agreement (i) prior to the expiration of the notice period required by the terms of Rule 4.08 (1)(c) of the Rules and Regulations for the Government of Water Utilities, or (ii) on a Friday, Saturday, Sunday, day prior to a legal holiday or if an emergency exists. All disconnections of water service shall be performed between the hours of 8:00 a.m. and 4:00 p.m.

2. The Sewer Authority shall pay to the Water Company, concurrently with delivery of the aforesaid written request for discontinuance of water service, a termination fee for each water service to be terminated, said fee to be in the amount set forth on Schedule A attached hereto. In addition, the Sewer Authority shall also pay to the Water Company, concurrently with a request for restoration of a water service previously terminated at the Sewer Authority's request, a reconnection fee in the amount set forth on the attached Schedule A for each water service restored by the ater Company.

It is understood and agreed that the aforesaid fees for termination and restoration of water service shall automatically increase without any further notice or action by the Water Company, upon an increase in such corresponding fees as may now or hereafter be approved by the Commission and set forth in the Water Company's tariffs.

The customer shall reimburse the Sewer Authority for any termination and reconnection fees, or other costs previously paid by the Sewer Authority with regard to such customer, provided said customer is notified pursuant to Water Rule 4.08 (1)(c) that in the event water service is terminated the customer will be responsible for such fees charged to the Sewer Authority by the Water Company and that these fees and charges be specifically expressed in the termination notice.

3. The Sewer Authority shall deliver to the Water Company, concurrently with delivery of the aforesaid written request for termination of water service and the aforesaid termination fee, an affidavit executed by an officer or authorized employee of the Sewer Authority stating:

(a) that the delinquent sewer fees upon which the Sewer Authority's request for termination of water service is based were incurred by the present occupant of the premises or a member of the same household or that someone

other than the occupant of the premises is liable for the payment of the delinquent sewer fees, such as a landlord pursuant to West Virginia Code §16-13A-9; and

(b) that the Sewer Authority has given written notice to one or more persons liable for the payment of the delinquent sewer fees, pursuant to the aforesaid Rule 4.08 (1)(c) of the Commission's rules, of the Sewer Authority's intention to request termination of water service, a copy of which notice shall be attached to said affidavit.

4. The Water Company shall not be liable for any loss, damage or other claim asserted by the owner or occupant of the premises, the Sewer Authority's customer, the Water Company's customer or any other person or corporation, including the Sewer Authority, based on or arising out of the termination of such supply of water, and the Sewer Authority does hereby indemnify and save harmless the Water Company, its agents, officers, servants and employees, from any such loss, damage or other claims, including counsel fees and expenses incurred in connection therewith, except to the extent that any such loss, damage or claim, or portion thereof, is finally adjudicated to be the proximate result of the negligence, omissions or willful acts of the Water Company, its agents and employees. In this regard, the Sewer Authority further agrees as follows:

(a) the Sewer Authority shall provide the Water Company a working telephone number to which customer inquiries resulting from termination of water service at the request of the Sewer Authority for delinquent sewer bills may be referred.

(b) the Sewer Authority shall be responsible for promptly answering all complaints, either verbal or written, lodged with the Commission, or received by or directed toward the Water Company, due to termination of water service at the request of the Sewer Authority for delinquent sewer bills. The Water Company shall promptly forward any such complaints received by it to the Sewer Authority.

(c) the Sewer Authority shall be responsible for collections of all delinquent sewer bills, and no collections for delinquent sewer bills shall be made by the Water Company at their office or the office of any of their agents, unless pursuant to a separate written agreement between the parties hereto.

5. This Agreement shall become effective upon receipt by Water Company of an original or counterpart hereof, duly executed by both parties hereto, shall continue thereafter for a period of ten (10) years and shall automatically be renewed for like successive periods unless and until terminated as hereinafter provided. This Agreement may be terminated at any time by order of the Commission or by either party hereto upon written notice in the event of legislative enactments, court rulings or administrative rulings which render all or any of the terms hereof null, void or unenforceable.

6. It is understood and agreed by the parties hereto that the Water Company may be required to comply with any existing or future

REQUEST FOR WATER SERVICE TERMINATION

DATE: _____

TO: West Virginia-American
Water Company
P. O. Box 1906
Charleston, WV 25327

RE: _____
(Name of Customer)

_____
(Address)

_____

_____
(Sewer Account No.)

$ _____
(Delinquent Amount)

FROM: _____

_____

_____

State of West Virginia
County of _____, To-wit:

Request is hereby made for the termination of water service to the referenced person/property pursuant to the terms of the Water Service Termination Agreement heretofore entered into between West Virginia-American Water Company and _____. In support of this request, the undersigned, being first duly sworn, does hereby depose and state as follows:

1. The delinquent sewer fees upon which this request for termination of water service is based were incurred by: (a) the present occupant of the referenced premises or a member of the same household; or (b) _____, being someone other than the occupant of the referenced premises, who is liable for the payment of the delinquent sewer fees.

2. Written notice of the intention to request termination of water service, a copy of which is attached hereto, has been given pursuant to Rule 4.08(1)(c) of the Public Service Commission's Rules and Regulations for the Government of Water Utilities to one or more persons liable for the payment of the delinquent sewer fees.

3. A disconnection fee in the amount of $20.00 is submitted herewith.

4. The undersigned is an officer or employee _____ and is duly authorized to make this request.

_____
(Affiant)

Sworn to and subscribed before me this ____ day of _____, 19___.

_____
Notary Public

/3731C

REQUEST FOR WATER SERVICE RESUMPTION

DATE: _____

TO: West Virginia-American
Water Company
P. O. Box 1906
Charleston, WV 25327

FROM: _____
_____
_____

RE: _____
(Name of Customer)
_____
(Address)
_____
_____
(Sewer Account No.)
$ _____
(Delinquent Amount)

Please resume water service to the referenced person/property in consideration of a reconnection fee of $20.00, payment of which is submitted herewith. The delinquent sewer charges for which water service to the referenced person/property was previously terminated: (check appropriate box)

/___/ have been paid in full.

/___/ are being paid pursuant to an approved payment plan.

_____
Authorized Officer/Employee

/3731C

Schedule A

FEES FOR THE DISCONNECTION AND RECONNECTION OF WATER SERVICE

DISCONNECTION FEE:	$20.00[1]
RECONNECTION FEE:	$20.00[2]

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1. The disconnection fee shall increase automatically, without notice, with any increase in such corresponding fees as may now or hereafter be approved by the Public Service Commission of West Virginia and set forth in the Water Company's tariffs.

2. The reconnection fee shall increase automatically, without notice, with any increase in such corresponding fees as may now or hereafter be approved by the Public Service Commission of West Virginia and set forth in the Water Company's tariffs.