

THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS,
SERIES 2009 A

Closing Date: April 23, 2009

TRANSCRIPT OF PROCEEDINGS

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The closing of the sale of The City of Buckhannon Sewer Refunding Revenue Bonds, Series 2009 A will take place at the offices of the Vaughan Law Firm in Charleston, West Virginia, at 9:00 a.m., prevailing time, on April 23, 2009, with a pre-closing at 1:30 p.m., prevailing time, on April 22, 2009, at the same location. Certain documents will be executed by the City on April 16, 2009, and held in escrow pending the closing. No transaction shall be deemed to have been completed and no documents shall be deemed to have been delivered unless and until all transactions are complete and all documents delivered.

State of West Virginia



Certificate

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

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13 OF THE WEST
VIRGINIA CODE, AND CHAPTER 16 ARTICLE 13 OF THE 2008
SUPPLEMENT TO THE WEST VIRGINIA CODE, AS INDICATED BY THE
RECORDS OF THIS OFFICE.



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

April 10, 2009

Natalie E. Tennant

Secretary of State

ARTICLE 13

SEWAGE WORKS OF MUNICIPAL CORPORATIONS
AND SANITARY DISTRICTS

Section	
16-13-1.	Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.
16-13-2.	Sanitary board to supervise and control construction, etc., of works; appointment of board; definitions.
16-13-3.	Powers of sanitary board; contracts; employees; compensation thereof; extensions and improvements; replacement of damaged public works.
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16-13-11.	Additional bonds to extend or improve works.
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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.

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MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-1

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

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

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

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

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

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

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

(e) No municipal corporation or sanitary district may acquire, construct, establish, extend, repair or equip or thereafter repair, maintain and operate a combined waterworks, sewerage or stormwater system, which includes highways, road and drainage easements, and/or stormwater facilities constructed,

owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways.

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

Library References

Municipal Corporations ⇨ 270, 708, 711, 950. Westlaw Topic No. 268. C.J.S. Municipal Corporations §§ 1535, 1708 to 1709.

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1. Construction and application

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

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

2. Regulation of public utilities

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

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

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

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

3. Police power

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

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

4. Revenue bonds for construction

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

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

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

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

5. Public Improvements

Under contract between municipal sanitary board and contractor requiring contractor to bear cost and expense of damage to surface, overhead or subsurface structures in construction of sanitary sewer system, contractor was

liable to water company for expense of removal of all water and other pipes under streets which interfered with construction of sewer system. Code, 16-13-1 et seq., 16-13-17, 16-13-24. *West Virginia Water Service Co. v. Cunningham*, 1957, 98 S.E.2d 891, 143 W.Va. 1. Municipal Corporations ⇨ 400

6. Power to incur indebtedness and expenditures

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

7. Jurisdiction

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

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

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

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

(1) "Board" means the sanitary board as set up in section eighteen of this article.

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

§ 16-13-2

PUBLIC HEALTH

MUNICIPAL

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

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

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

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

(7) "Works" means sewage works and stormwater works either separately or collectively.

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

Library References

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

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

Notes of Decisions

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

Commission, 1964, 137 S.E.2d 426, 148 W.Va. 776. Statutes ☞ 223.2(21)

2. Public utilities

1. Construction and application
Statutes dealing with municipally owned and operated sewer systems should be read and construed together. Code, 8-4-20, 16-13-1, 16-13-2, 16-13-16, 24-1-1 et seq., 24-2-1 et seq., 24-3-1 et seq. Delardas v. Morgantown Water

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

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MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-3

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

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

3. Construction of sewer systems

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

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

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

The board shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this article: Provided, That any contract relating to the financing of the acquisition or construction of any works, or any trust indenture as provided for, shall be approved by the governing body of the municipality before the same shall be effective.

The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do the work as the board shall direct. All compensation and all expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any authority or power herein given it so as to bind said board of said municipality beyond the extent to which money shall have been or may be provided under the authority of this article.

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

After the construction, installation, and completion of the works, or the acquisition thereof, the board shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that the board may consider expedient, if funds therefor be

available or are made available as provided in this article, and shall establish rules and regulations for the use and operation of the works, and of other sewers, stormwater conduits, and drains connected therewith so far as they may affect the operation of such works, and do all things necessary or expedient for the successful operation thereof, including, but not limited to, those activities necessary to comply with all federal and state requirements, including stormwater and surface runoff water quality improvement activities.

The sanitary board may declare an emergency situation in the event of collector line breaks or vital treatment plant equipment failure and shall be exempted from competitive bidding requirements and enter into direct purchase agreements or contracts for the expenses. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article.

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

Historical and Statutory Notes

Acts 2001, c. 143, also amended this section to read:

"The board shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this article: Provided, That any contract relating to the financing of the acquisition or construction of any such works, or any trust indenture as hereinafter provided for, shall be approved by the governing body of such municipality before the same shall be effective. The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and such other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do such work as the board shall direct. All such compensation and all expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any authority or power herein given it so as to bind said board of said municipality beyond the extent to which money shall have been or may be provided under the authority of this article. No contract or agreement with any contractor or contractors for labor and/or material, exceeding in amount the

sum of ten thousand dollars, shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power in the board to reject any or all bids. After the construction, installation, and completion of the works, or the acquisition thereof, the board shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that the board may deem expedient, if funds therefor be available or are made available as provided in this article, and shall establish rules and regulations for the use and operation of the works, and of other sewers and drains connected therewith so far as they may affect the operation of such works, and do all things necessary or expedient for the successful operation thereof. The sanitary board may declare an emergency situation in the event of collector line breaks or vital treatment plant equipment failure and shall be exempted from competitive bidding requirements and enter into direct purchase agreements or contracts for such expenses. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article."

Library References

Health ¶369.
Westlaw Topic No. 198H.

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

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MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-4

Notes of Decisions

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

city by statute. Code, 16-13-1 et seq. West Virginia Water Service Co. v. Cunningham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Health ☞ 358; Health ☞ 369

1. Police power of local authorities

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

Under statute delegating to municipal corporations power by ordinance to create sanitary boards and authorizing such boards to enter into contracts for construction of sewerage systems, ordinance creating sanitary board and authorizing such board to enter into contract for construction of sewerage system was valid exercise of police power of state delegated to

2. Validity of municipal contracts

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

3. Independent contractor

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

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

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

Acts 1933, Ex. Sess., c. 25, § 4.

Library References

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

Notes of Decisions

Construction planning expenses 2
Power to incur indebtedness and expenditures 1

1. Power to incur indebtedness and expenditures

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

2. Construction planning expenses

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

Under West Virginia Act authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue reve-

nue bonds to pay cost thereof, money used in preliminary engineering work prior to actual beginning of construction of sewage disposal system is not required to be handled by sanitary board, but board is merely required to supervise and control the construction and maintenance of the project. Code W.Va. 16-13-16, 16-13-18, 16-13-32. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Health ¶ 369

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

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

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

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

cost of the works; and (e) contain such other provisions as may be necessary in the premises.

Acts 1933, Ex. Sess., c. 25, § 5.

Library References

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

Notes of Decisions

Power to incur indebtedness and expenditures

Power to incur indebtedness and expenditures

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

United States, which was entitled to reimbursement for advances made to West Virginia city by Federal Works Agency for purpose of preparing for construction of proposed

sewer treatment and disposal system, would not be entitled to general judgment against city but would be entitled to an order requiring repayment from existing or future revenue bond proceeds and to four percent interest. War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785; Code W.Va. 38-4-5, 38-4-6, 53-1-1. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ¶ 1037

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

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

After such ordinance shall have been adopted, an abstract of the ordinance, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The notice shall state that said ordinance has been adopted, and that the municipality contemplates the issuance of the bonds described in the ordinance, and that any person interested may appear before the governing body upon a certain date, which shall not be less than ten days subsequent to the first date of publication of such abstract and notice which shall not be prior to the last date of publication of such abstract and notice, and present protests. At such hearing all objections and suggestions shall be heard and the governing body shall take such action as it shall deem proper in the premises: Provided, however, That if at such a hearing written protest is filed by thirty percent or more of the owners of real estate situate in said municipality, then the governing body of said municipality shall not take further action unless four fifths of the qualified members of the governing body assent thereto.

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

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PUBLIC HEALTH

Library References

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

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

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

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

Acts 1933, Ex. Sess., c. 25, § 7.

Library References

Municipal Corporations ¶287.
Westlaw Topic No. 268.

§ 16-13-8. Cost of works

The cost of the works shall be deemed to include the cost of acquisition or construction thereof, the cost of all property, rights, easements, and franchises deemed necessary or convenient therefor and for the improvements determined

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MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-9

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

Acts 1933, Ex. Sess., c. 25, § 8.

Library References

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

Notes of Decisions

Monetary advances 2 Preliminary expenditures 1

1. Preliminary expenditures

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

2. Monetary advances

United States, which was entitled to reimbursement for advances made to West Virginia city by Federal Works Agency for purpose of plan preparation for construction of proposed sewage treatment and disposal system, would not be entitled to general judgment against city

but would be entitled to an order requiring repayment from existing or future revenue bond proceeds and to four percent interest. War Mobilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785; Code W.Va. 38-4-5, 38-4-6, 53-1-1. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇨ 1037

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

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

Nothing in this article contained shall be so construed as to authorize or permit any municipality to make any contract or to incur any obligation of any kind or nature except such as shall be payable solely from the funds provided under this article. Funds for the payment of the entire cost of any of the works referred to in this article, exclusive of any portions of the cost that may be defrayed out of any grant or contribution, shall be provided by the issuance of revenue bonds of the municipality, the principal and interest of which shall be

payable solely from the fund herein provided for the payment, and the bonds may not, in any respect, be a corporate indebtedness of the municipality, within the meaning of any statutory or constitutional limitations thereon. All the details of the bonds shall be determined by ordinance or ordinances of the municipality.

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

Library References

Municipal Corporations ⇨ 870, 911, 950(15). Westlaw Topic No. 268. C.J.S. Municipal Corporations §§ 1573 to 1579, 1581, 1647 to 1649, 1708 to 1709.

Notes of Decisions

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

1. Validity

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

2. Power of municipal corporations to contract

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

3. Power to incur indebtedness and expenditures

Obligations incurred by city under authority of West Virginia statute authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay the cost thereof are not "debts" within provision of West Virginia Constitution

containing limitations on power of a municipality to incur debts. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. *U.S. v. City of Charleston*, 1957, 149 F.Supp. 866. Municipal Corporations ⇨ 864(3)

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

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

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

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

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

Acts 1933, 1st Ex.Sess. Point Pleasant, 1934 572. Constitutional Corporations ⇨ 907

4. Preliminary expenses

Under West Virginia municipalities to construct and sewage treatment bonds to pay preliminary engineer beginning of construction board, but board is to control the construction

§ 16-13-10.

Such revenue bonds, payable annually, payable at maturity, to be determined by maturity at the option of more than the purchaser, terms and conditions of the bonds. The any lawful method either coupon or privileges, and shall be at any place or place be at any bank or contain a statement pay the same or the net revenues of hereby declared to be exempt from all taxes executed by the project officers whose signatures such officers, before be valid and sufficient office until such date price, which when net return of not more than the amount paid exclusively for the sold at one time proceeds over and over fund hereinafter provided

MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-10

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

of the project. Code W.Va. 16-13-16, 16-13-18, 16-13-32. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Health ⇨ 369

4. Preliminary expenditures

Under West Virginia Act authorizing municipalities to construct sewage collection systems and sewage treatment plants and to issue revenue bonds to pay cost thereof, money used in preliminary engineering work prior to actual beginning of construction of sewage disposal system is not required to be handled by sanitary board, but board is merely required to supervise and control the construction and maintenance

5. Preliminary proceedings and ordinances

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

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

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

MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-14

Library References

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

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

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

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

Library References

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

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

Notes of Decisions

**Preliminary expenditures 1
Repayment of loans 2**

1. Preliminary expenditures

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

2. Repayment of loans

If sewer project is undertaken by municipality, whatever loans may have been made on faith of the revenue bonds as authorized under West

Virginia law would or should be included in cost of the works and repaid out of proceeds of the bonds. Code W.Va. 11-8-26(1-4); 16-13-15, 16-13-16, 16-13-18, 16-13-19, 16-13-22, 16-13-27, 16-13-32; Const. art. 10, § 8. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations § 950(15)

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

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

In the discretion of the governing body such bonds may be secured by a trust indenture by and between the municipality and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the State of West Virginia but no such trust indenture shall convey or mortgage the works or any part thereof. The ordinance authorizing the revenue bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the municipality and the board in relation to the construction or acquisition of the works and the improvement,

§ 16-13-14

PUBLIC HEALTH

operation, repair, maintenance and insurance thereof, and the custody, safe-guarding and application of all moneys, and may provide that the works shall be contracted for, constructed and paid for under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, successors, assigns or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the works or other moneys pertaining thereto be satisfactory to such purchasers, successors, assigns or nominees. Such indenture may set forth the rights and remedies of the bondholders and/or such trustee, restricting the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. Except as in this article otherwise provided, the governing body may provide by ordinance or in such trust indenture for the payment of the proceeds of the sale of the bonds and the revenues of the works to such officer, board or depository as it may determine for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine.

Acts 1933, Ex. Sess., c. 25, § 14.

Library References

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

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

United States Code Annotated

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

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

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

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

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

Library References

Municipal Corporations ¶951.
Westlaw Topic No. 268.

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

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

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

(a) Sewerage works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the municipality, or that in any way uses or is served by such works.

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

(c) The governing body may change and readjust such rates, fees or charges from time to time. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements and/or storm-

water facilities constructed, owned and/or operated by the West Virginia division of highways.

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

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

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

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

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

(i) After such hearing, which may be adjourned from time to time, the ordinance establishing rates, fees or charges, either as originally introduced or

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MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-16

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

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

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

(l) Whenever any rates, rentals, fees or charges for services or facilities furnished shall remain unpaid for a period of twenty days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all rates, fees and charges are fully paid. When any payment for rates, rentals, fees or charges becomes delinquent, the governing body may use the security deposit to satisfy the delinquent payment.

(m) The board collecting such rates, fees or charges shall be obligated under reasonable rules to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities or both, and shall not restore either water facilities or sewer facilities, to any delinquent user of either until all delinquent rates, fees or charges for both water facilities, and sewer facilities, including reasonable interest and penalty charges, have been paid in full.

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

Library References

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

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fees, charges and rates established as provided in this article, or to fees, charges and rates established in harmony therewith, for service rendered the municipality, county, state or federal government and shall pay such rates, fees or charges when due from corporate funds and the same shall be considered to be a part of the revenues of the works as herein defined, and be applied as herein provided for the application of the revenues. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

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

Library References

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

Notes of Decisions

In general 1

1. In general

Under contract between municipal sanitary board and contractor requiring contractor to bear cost and expense of damage to surface, overhead or subsurface structures in construc-

tion of sanitary sewer system, contractor was liable to water company for expense of removal of all water and other pipes under streets which interfered with construction of sewer system. Code, 16-13-1 et seq., 16-13-17, 16-13-24. West Virginia Water Service Co. v. Cunningham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Municipal Corporations ↔ 400

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

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

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

During the construction period, one of the members must be a registered professional engineer. The engineer member of the board need not be a resident of said municipality. After the construction of the plant has been completed, the engineer member may be succeeded by a person not an engineer. No officer or employee of the municipality, whether holding a paid or unpaid office, shall be eligible to appointment on said sanitary board until at least one year after the expiration of the term of his or her public office. The appointees shall originally be appointed for terms of two and three years respectively, and upon the expiration of each term and each succeeding term,

of a successor shall be made in like manner for a term of three shall be filled for an unexpired term in the same manner as ntment. Each member shall give such bond, if any, as may be by ordinance. The mayor or city manager shall act as chairman of the sanitary board, which shall elect a vice chairman from its members and shall designate a secretary and treasurer (but the secretary and the treasurer may be one and the same), who need not be a member or members of the sanitary board. The vice chairman, secretary and treasurer shall hold office as such at the will of the sanitary board.

The members of the sanitary board shall receive compensation for their services, either as a salary or as payments for meetings attended, as the governing body may determine, and shall be entitled to payment for their reasonable expenses incurred in the performance of their duties. The governing body shall fix the reasonable compensation of the secretary and treasurer in its discretion, and shall fix the amounts of bond to be given by the treasurer. All compensation, together with the expenses in this section referred to, shall be paid solely from funds provided under the authority of this article. The sanitary board shall have power to establish bylaws, rules and regulations for its own government.

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

Library References

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

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

Notes of Decisions

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

1. Powers and duties of sanitary boards

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

City which created sanitary board for purpose of erecting sewage disposal plant held authorized to incorporate such sanitary board as a nonstock corporation for purpose of being domesticated in Virginia as a sewage purification company under Virginia law, where no other way was pointed out by which city or sanitary

board could under law of Virginia acquire property in that state and carry out contemplated plan of erecting sewage disposal plant. Acts 1933, 1st Ex.Sess., c. 25, as amended by Acts 1933, 2d Ex.Sess., c. 48. Bernard v. City of Bluefield, 1936, 186 S.E. 298, 117 W.Va. 556. Municipal Corporations ☞ 277

2. Membership of sanitary boards

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

3. Public utilities

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

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and regulate sewer system was not withdrawn or impaired by statutes authorizing municipal corporation to own, construct and maintain sewer system under control of a Sanitary Board and authorizing Board to operate and control such systems and to order and complete any extensions that Board might deem expedient. Code, 16-13-1 et seq., 16-13-2, 16-13-3, 16-13-5, 16-13-16, 16-13-18, 16-13-23,

24-1-1, 24-2-1, 24-3-1. State ex rel. City of Wheeling v. Renick, 1960, 116 S.E.2d 763, 145 W.Va. 640. Public Utilities ⇨ 113

4. Funds

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

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

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

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

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

Library References

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

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

Any municipality operating a sewage collecting system and/or a sewage disposal plant or plants or stormwater works as defined in this article, or which

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

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

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

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

Library References

Municipal Corporations ¶328.
Westlaw Topic No. 268.

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

Notes of Decisions

In general 1

1. In general

Under provisions of statute relating to contract with other municipalities for service of sewage works, city which ordered construction of sewage disposal plant was authorized to contract with town to provide that town would have the right to use part of the capacity of the plant in return for contributing to its cost and town was authorized to enter into such con-

tracts with city for the use of the plant, and fact that town was unable to sell revenue bonds because it was not allowed to have part ownership in the plant or in the interceptor sewers did not mean that town was not liable for payments agreed to under the contracts, where city offered to buy the revenue bonds issued by the town. Code, 16-13-9, 16-13-19, 16-13-23a. City of Morgantown v. Town of Star City, 1973, 195 S.E.2d 166, 156 W.Va. 529. Municipal Corporations ¶277

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MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-22

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

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

Acts 1933, Ex. Sess., c. 25, § 20.

Library References

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

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

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

Acts 1933, Ex. Sess., c. 25, § 21.

Library References

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

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

The authority herein given shall be in addition to and not in derogation of any power existing in any municipality under any statutory or charter provisions which it may now have or hereafter adopt. For all purposes of this article, all municipal corporations shall have jurisdiction for twenty miles outside the corporate limits thereof: Provided, That for stormwater systems, within the twenty miles beyond the municipality's corporate limits the only areas the

MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-22c

Notes of Decisions

Power to incur indebtedness and expenditures

1 Repayment of loans and advances 2

1. Power to incur indebtedness and expenditures

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

2. Repayment of loans and advances

United States, which was entitled to reimbursement for advances made to West Virginia city by Federal Works Agency for purpose of plan preparation for construction of proposed sewage treatment and disposal system, would not be entitled to general judgment against city but would be entitled to an order requiring repayment from existing or future revenue bond proceeds and to four percent interest. War Mo-

bilization and Reconversion Act of 1944, § 101 et seq., 58 Stat. 785; Code W.Va. 38-4-5, 38-4-6, 53-1-1. U.S. v. City of Charleston, 1957, 149 F.Supp. 866. Municipal Corporations ⇌ 1037

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

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

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

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

Acts 1949, c. 93.

Library References

Municipal Corporations ⇌ 328.
Westlaw Topic No. 268.

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

§ 16-13-22c. Refunding bonds

Any municipality is authorized to issue refunding revenue bonds to refund, pay or discharge all or any part of its outstanding revenue bonds, including interest thereon, if any, in arrears or about to become due. The relevant provisions in this article pertaining to revenue bonds shall be equally applicable

§ 16-13-22c

in the authorization and issuance of refunding revenue bonds, including terms and security, the ordinance, the trust indenture, rates, or other aspects of the bonds.

Acts 1949, c. 93.

Library References

Municipal Corporations ¶913.
Westlaw Topic No. 268.

C.J.S. Municipal Corporations ¶571
1648, 1651.

§ 16-13-22d. Subordination of bonds

Notwithstanding any other provisions to the contrary in this article, any municipality authorizing the issuance of bonds under this article in an effort to provide aid in the abatement or reduction of the pollution of any waters or streams shall 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 be issued thereafter to extend or improve the works, shall, to the extent necessary, be subordinated and be junior in standing, with respect to the payment of principal and interest and the security thereof, to such other bonds as are designated in the ordinance.

Acts 1949, c. 93.

Library References

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

C.J.S. Municipal Corporations ¶59
1709.

§ 16-13-22e. Operating contract

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

Acts 1955, c. 132.

Library References

Municipal Corporations ¶328.
Westlaw Topic No. 268.

C.J.S. Municipal Corporations ¶57
1029.

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

Said bonds and the interest thereon, together with all properties and facilities owned or used in connection with the works, and all moneys, revenues and other income of such municipality derived from

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shall be exempt from taxation by the municipality, political subdivision, or other entity. Acts 2001, c. 132.

Acts 2001, c. 132, § 132.01, 132.02, 132.03, 132.04, 132.05, 132.06, 132.07, 132.08, 132.09, 132.10, 132.11, 132.12, 132.13, 132.14, 132.15, 132.16, 132.17, 132.18, 132.19, 132.20, 132.21, 132.22, 132.23, 132.24, 132.25, 132.26, 132.27, 132.28, 132.29, 132.30, 132.31, 132.32, 132.33, 132.34, 132.35, 132.36, 132.37, 132.38, 132.39, 132.40, 132.41, 132.42, 132.43, 132.44, 132.45, 132.46, 132.47, 132.48, 132.49, 132.50, 132.51, 132.52, 132.53, 132.54, 132.55, 132.56, 132.57, 132.58, 132.59, 132.60, 132.61, 132.62, 132.63, 132.64, 132.65, 132.66, 132.67, 132.68, 132.69, 132.70, 132.71, 132.72, 132.73, 132.74, 132.75, 132.76, 132.77, 132.78, 132.79, 132.80, 132.81, 132.82, 132.83, 132.84, 132.85, 132.86, 132.87, 132.88, 132.89, 132.90, 132.91, 132.92, 132.93, 132.94, 132.95, 132.96, 132.97, 132.98, 132.99, 132.100.

§ 16-13-22g. Covenants

Any resolution authorizing the issuance of bonds under this article in an effort to provide aid in the abatement or reduction of the pollution of any waters or streams shall 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 be issued thereafter to extend or improve the works, shall, to the extent necessary, 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.

The purpose or purposes of the revenues derived from the bonds shall be the abatement or reduction of the pollution of any waters or streams and the securing, use and maintenance of the sewerage system, including the appointment of a sewerage board or commission.

The pledging of all or any part of the operation or control of the sewerage system, including any part thereof held in trust for the benefit of the municipality, shall be limited to the revenues derived from the bonds issued hereunder.

The revenues derived from the bonds issued hereunder shall be considered necessary or desirable for the purpose of the fixing, establishing, maintaining, repairing or replacing the sewerage system, including the purchase or acquisition of any property or equipment necessary for the operation or control of the sewerage system, including the purchase or acquisition of any property or equipment necessary for the operation or control of the sewerage system.

The revenues derived from the bonds issued hereunder shall be considered necessary or desirable for the purpose of the fixing, establishing, maintaining, repairing or replacing the sewerage system, including the purchase or acquisition of any property or equipment necessary for the operation or control of the sewerage system, including the purchase or acquisition of any property or equipment necessary for the operation or control of the sewerage system.

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The revenues derived from the bonds issued hereunder shall be considered necessary or desirable for the purpose of the fixing, establishing, maintaining, repairing or replacing the sewerage system, including the purchase or acquisition of any property or equipment necessary for the operation or control of the sewerage system, including the purchase or acquisition of any property or equipment necessary for the operation or control of the sewerage system.

MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-22g

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

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

Library References

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

§ 16-13-22g. Covenants with bondholders

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

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

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

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

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

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

(f) The manner and terms upon which all bonds and other obligations issued hereunder may be declared immediately due and payable upon the happening

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of a default in the payment of the principal of or interest thereon, or in the performance of any covenant or agreement with bondholders, and the manner and terms upon which defaults may be declared cured and the acceleration of the maturity of such bonds rescinded and repealed;

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

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

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

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

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

Library References

Municipal Corporations ¶922.
Westlaw Topic No. 268.

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

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

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

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article, any provision standing: Provided, department of health Acts 1933, Ex. Sess., c.

Municipal Corporations Westlaw Topic No. 268.

Public utilities 1

1. Public utilities

Under statute declaring "utility" shall include any p association of persons incl engaged in any business w vice, sewer system owned a was a "public utility" and l mission was vested with ju vise or regulate municipal s hear proceeding seeking ext

§ 16-13-23a. Addition

Notwithstanding any thereto, the governing b which hereafter receiv environmental protectio municipal corporation t authorized and empow and equitable rates, fees the existing sewer syste tion, and/or for the us completion of any work paid by the owner, tena estate or building that system or stormwater sys may change and readju

Such rates, fees or ch proper and reasonable co of plants, machinery and disposal of sewage or of existing sewer facilitie comply with such order protection or the environ nance and repair of the en

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MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-23a

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.

Library References

Municipal Corporations §§ 270, 906.
Law Topic No. 268.

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

Notes of Decisions

Public Utilities 1

Public utilities

statute declaring that words "public utility" shall include any person or persons, or corporation of persons including municipalities, in any business which is a public sewer system owned and operated by city "public utility" and Public Service Commission was vested with jurisdiction to superintend municipal sewer system and to proceed seeking extension of sewer ser-

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

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

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

The governing body shall create, by ordinance, a sinking fund to accumulate and hold any part or all of the proceeds derived from rates or charges until

§ 16-13-23a

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completion of the construction, to be remitted to and administered by the municipal bond commission by expending and paying the costs and expenses of construction and operation in the manner as provided by said ordinance.

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

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

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

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

Any change or readjustment of rates, fees or charges may be made in the same manner as rates, fees or charges were originally established as hereinbefore provided: Provided, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice is required.

If any rate, fees or charge so established is not paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the sanitary board of such municipal corporation in a civil action in the name of the municipality.

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

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MUNICIPAL & SANITARY DISTRICT SEWAGE WORKS § 16-13-24

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for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the director of the division of environmental protection or the environmental quality board, and the rights, powers, and duties of the municipal corporation and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article: Provided, however, That the jurisdiction and authority provided by this section does not extend to highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways and no rates, fees or charges for stormwater services or costs of compliance may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

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

Library References

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

Notes of Decisions

In general 1

1. In general

Under provisions of statute relating to contract with other municipalities for service of sewage works, city which ordered construction of sewage disposal plant was authorized to contract with town to provide that town would have the right to use part of the capacity of the plant in return for contributing to its cost and town was authorized to enter into such con-

tracts with city for the use of the plant, and fact that town was unable to sell revenue bonds because it was not allowed to have part ownership in the plant or in the interceptor sewers did not mean that town was not liable for payments agreed to under the contracts, where city offered to buy the revenue bonds issued by the town. Code, 16-13-9, 16-13-19, 16-13-23a. City of Morgantown v. Town of Star City, 1973, 195 S.E.2d 166, 156 W.Va. 529. Municipal Corporations ¶ 277

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

This article being necessary for the public health, safety and welfare, it shall be liberally construed to effectuate the purpose thereof.

Acts 1933, Ex. Sess., c. 25, § 24.

Library References

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

Notes of Decisions

In general 1

1. In general

Under contract between municipal sanitary board and contractor requiring contractor to

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

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Note 1

Code, 16-13-1 et seq., 16-13-17, 16-13-24.
West Virginia Water Service Co. v. Cunning-

ham, 1957, 98 S.E.2d 891, 143 W.Va. 1. Mu-
nicipal Corporations ⇨ 400

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

Chapter 16

2008
Cumulative Annual Pocket Part

Supplementing 2008 Main Volume

Includes laws through the 2008 First Extraordinary Session

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§ 16-13-16

Section

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

Section

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

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

A governing body has the power and duty, by ordinance, to establish and maintain just and equitable rates, fees or charges for the use of and the service rendered by:

(a) Sewerage works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the municipality or that in any way uses or is served by such works; and

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

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

(d) All new applicants for service shall indicate to the governing body whether they are an owner or tenant with respect to the service location. An entity providing stormwater service shall provide a tenant a report of the stormwater fee charged for the entire property and, if appropriate, that portion of the fee to be assessed to the tenant.

(e) The governing body may collect from all new applicants for service a deposit of fifty dollars or two twelfths of the average annual usage of the applicant's specific customer class, whichever is greater, to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, service may not be reconnected or reinstated by the governing body until another deposit equal to fifty dollars or a sum equal to two twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the governing body. After twelve months of prompt payment history, the governing body shall return the deposit to the customer or credit the customer's account with interest at a rate as the Public Service Commission may prescribe: Provided, That where the customer is a tenant, the governing body is not required to return the deposit until the time the tenant discontinues service with the governing body. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after they become due, the user of the services and facilities provided is delinquent. The user is liable until all rates, fees and charges are fully paid. The governing body may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water services to a delinquent user of sewer facilities ten days after the sewer services become delinquent regardless of whether the governing body utilizes the security deposit to satisfy any delinquent payments.

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

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

(h) After introduction of the ordinance fixing such rates, fees or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of rates, fees or charges, shall be given by publication as a Class II-0 legal advertisement in

compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed in the notice for the hearing.

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

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

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

(l) Whenever any rates, rentals, fees or charges for services or facilities furnished shall remain unpaid for a period of twenty days after they become due, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all rates, fees and charges are fully paid. When any payment for rates, rentals, fees or charges becomes delinquent, the governing body may use the security deposit to satisfy the delinquent payment.

(m) The board collecting the rates, fees or charges shall be obligated under reasonable rules to shut off and discontinue both water and sewer services to all delinquent users of water, sewer or stormwater facilities and shall not restore either water facilities or sewer facilities to any delinquent user of any such facilities until all delinquent rates, fees or charges for water, sewer and stormwater facilities, including reasonable interest and penalty charges, have been paid in full, as long as such actions are not contrary to any rules or orders of the Public Service Commission.

Acts 1933, Ex. Sess., c. 25, § 16; Acts 1933, 2nd Ex. Sess., c. 48; Acts 1959, c. 125; Acts 1967, c. 106; Acts 2001, c. 212, eff. 90 days after April 14, 2001; Acts 2004, c. 185, eff. 90 days after March 12, 2004; Acts 2008, c. 202, eff. March 8, 2008.

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

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

(b) The rates, fees or charges, including expenses of the acquisition, construction, treatment, purification, extension of existing works and system with such order of the Environmental Quality Board.

(c) The governing body may extend any part or all of the construction, to be expended and paid provided by said order.

(d) After the completion of each year for the maintenance, repair works or entire system.

(e) No such rates, fees or charges shall be levied upon all the potential users and others shall be charged.

(f) After introduction of any ordinance finally enacted, no charges shall be levied for compliance with the provisions of this section in the publication area for such ten days before the hearing.

(g) After such ordinance is amended, the rates, fees or charges so established for the construction of the works. The schedule of rates, fees or charges shall be extended to cover without the necessity of a hearing or notice.

(h) Any change in rates, fees or charges shall be made if such change or notice is given at least ten days before the hearing or notice.

(i) If any rate, fee or charge is not paid when due, the amount thereof, together with a penalty of ten percent and a reasonable attorney's fee, may be recovered by the municipality.

(j) Any municipality may acquire, improve or maintain necessary to comply with the Department of Environmental Protection or the Environmental Quality Board to establish, maintain or improve the method of financing such equipment, construction or equipment, to be used for compliance with the provisions of the Environment.

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er reasonable ent users of ties or sewer es or charges alty charges, orders of the

s 1967, c. 105; arch 12, 2004;

tion thereto, receives an tion or the any stream nd equitable icipal sewer be rendered paid by the ding that is that in any harges from

(b) The rates, fees or charges shall be sufficient to all the proper and reasonable costs and expenses of the acquisition and construction of plants, machinery and works for the collection, treatment, purification and disposal of sewage or stormwater and the repair, alteration and extension of existing sewer facilities or stormwater facilities, as may be necessary to comply with such order of the Secretary of the Department of Environmental Protection or the Environmental Quality Board, and for the operation, maintenance and repair of the entire works and system.

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

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

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

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

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

(h) Any change or readjustment of rates, fees or charges may be made in the same manner as rates, fees or charges were originally established as hereinbefore provided: *Provided*, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice is required.

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

(j) Any municipality exercising the powers given herein has the authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery or works necessary to comply with the order of the Secretary of the Department of Environmental Protection or the Environmental Quality Board and the authority provided herein to establish, maintain and collect rates, fees or charges is an additional and alternative method of financing such works and matters, and is independent of any other provision of this article insofar as the article provides for or requires the issuance of revenue bonds or the imposition of rates, fees and charges in connection with the bonds: *Provided*, That except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the Secretary of the Department of Environmental Protection or the Environmental Quality Board and the rights, powers and duties of the municipality and

§ 16-13-23a

PUBLIC HEALTH

the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article.

(k) The jurisdiction and authority provided by this section does not extend to highways, road and drainage easements and stormwater facilities constructed, owned or operated by the West Virginia Division of Highways and no rates, fees or charges for stormwater services or costs of compliance may be assessed against highways, road and drainage easements and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

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

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

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

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

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

Section 16-13A-9. Rules; service rates and charges; discontinuance of service; required

Section water and sewer connections; lien for delinquent fees.

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

(a)(1) The board may make, enact and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district. The board shall establish rates, fees and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of the public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds under this article. The schedule of the rates, fees and charges may be based upon:

(A) The consumption of water or gas on premises connected with the facilities, taking into consideration domestic, commercial, industrial and public use of water and gas;

PUBLIC HEALTH

(B) The number a premises;

(C) The number of

(D) Any combinati

(E) May be determ to be fair and reason the nature and exter charges for stormwa easements or stormw Division of Highways.

(2) Where water, s furnished to any prer aggregate of the ch furnished by the distr a tenant or an owner shall state the name a district. Notwithstan this code to the cont equal to two twelfths fifty dollars, with the event they become de and sewer service, all two twelfths of the av sum equal to two t applicant's specific cus pay service rates, fee termination of servic district until another average usage for the the district. After tw deposit to the custom Commission may pres required to return the Whenever any rates, f for a period of twenty and facilities providec charges are fully paid Service Commission, s either water or gas 1 delinquent.

(b) In the event tha municipal corporation operates separately w owns and operates and then the district and t municipal corporation other to shut off and c or stormwater servic public service district Commission for appr service, water and sto terminate water ser Where one public servi or a municipality incl providing water servic delinquency in paymen sewer or stormwater c

8 and in any wise growing out of any work done for, or by, the
 9 said New-Kanawha Power Company, and upon the further con-
 10 dition that the said Electro Metallurgical Company, its succes-
 11 sors or assigns, shall pay all judgments, if any, which may be
 12 rendered against the said New-Kanawha Power Company upon
 13 any attachments or suggestions which have been or may here-
 14 after be issued and served upon the said New-Kanawha Power
 15 Company in connection with the construction of the hydro-
 16 electric plant development on New River in Fayette county.

CHAPTER 116

(House Bill No. 384—By Mr. Hyre)

AN ACT to incorporate the city of Buckhannon, in the county of
 Upshur, to fix its corporate limits, to divide the same into
 wards, and to describe and define the powers, rights and duties
 of said city of Buckhannon, and of the officers and citizens
 of same; to repeal chapter fifteen of the acts of the legislature of
 West Virginia, one thousand nine hundred nineteen (municipal
 charters), and all acts amendatory thereof; and to repeal all
 other acts or parts of acts inconsistent or in conflict herewith,
 said bill to be known as the "Charter of the City of Buck-
 hannon."

(Passed March 9, 1933; in effect from passage. Became a law without the approval
 of the Governor.)

SEC.

1. City of Buckhannon a municipal corporation; powers.
2. Corporate limits.
3. Number and boundaries of wards.
4. Change in number and boundaries of wards.
5. Powers of council; bond issues for waterworks, etc.
6. Oaths and bonds of officers.
7. Salaries of officers.
8. Legislative powers of council.
9. Filling vacancy in office.
10. Council to determine its rules of procedure; penalty for nonattendance by councilman.
11. Regular, adjourned and special meetings of council; executive sessions.
12. Quorum of council; ayes and noes on ordinances and money expenditures.
13. Minutes; ayes and noes.
14. Presiding officer at council meetings.
15. Ordinances in force and officers in power at passage of act to continue.

SEC.

16. Ordinances; title; effective date; emergency.
17. Ordinances as prima facie evidence.
18. Mayor as police court judge.
19. Jurisdiction of police court.
20. Enforcement of ordinances; fines; costs.
21. Street work to pay fine and costs.
22. Disposition of fines.
23. Style of process of police court.
24. Appeals from police to circuit court.
25. Of whom council constituted.
26. Appointive officers; removal; compensation.
27. Eligibility to elective office.
28. Eligibility of voters.
29. Registration of voters.
30. Number and terms of elective officers; terms if councilmen are elected by wards.
31. Referendum elections as to officers and boundaries.
32. How elections conducted, returned, etc.
33. Form of declaration and certificate of auditors; form, validity and counting of ballots.

- SEC.
34. Publication of election proclamation; ballots and election officials; elections, how conducted and returned; how election laws of state apply to municipality.
 35. How the vote for elective officer decided.
 36. Procedure in contested elections.
 37. Filling vacancy when ineligible officer elected.
 38. Procedure for removal of elective officers.
 39. What officers may be appointed by council.
 40. Powers and duties of mayor; as police judge; when recorder acts as mayor; mayor's docket; appointment of standing committees by.
 41. Powers and duties of recorder.
 42. Powers and duties of treasurer; collection of taxes; deposit of funds; lien of and distraint for taxes; bond; compensation.
 43. Qualifications, powers, duties and compensation of city attorney.
 44. Qualifications, powers and duties of city engineer.
 45. Duties of street commissioner.
 46. Qualifications, powers and duties of city physician.
 47. Duties of chief of police.
 48. Duties of chief of fire department.
 49. Duties and compensation of assessor.
 50. Method of disbursing city funds.
 51. Annual and special levies, amounts; capitation and dog tax, amounts; special levies for bonded indebtedness.
 52. County assessor to furnish assessment to recorder; correction of assessments.

- SEC.
53. Lien of city taxes, fines, penalties and assessment; how enforced.
 54. Licenses and license taxes; revocation of license; penalty for doing business without required license.
 55. Condemnation proceedings by council.
 56. Bond issues for improvements or refunding to be submitted to voters.
 57. When competitive bids for contracts required; procedure.
 58. Limitation on indebtedness; penalty for violation.
 59. Claims against city; how collected; when barred.
 60. Illegal payment of demands against city.
 61. Police power of city officials and city police.
 62. Fiscal year.
 63. Contents and publication of financial statement; penalty for failure.
 64. Article nine, chapter eight of code of West Virginia to apply to city.
 65. Public utility franchises.
 66. Penalty for polluting city's water supply.
 67. Licensing and regulations of motor vehicles.
 68. How notices, warrants, etc., served.
 69. Special assessments for removing snow, rubbish and noxious weeds.
 70. Method and cost of laying sidewalks, curbs and gutters; lien of assessment against property owner.
 71. Act to be liberally construed; when special benefit assessments conclusive.
 72. Former acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of so much of the county 2 of Upshur, in the State of West Virginia, as lies within the 3 boundary prescribed by section two of this act, be and they 4 are hereby constituted to remain and continue a municipal 5 corporation by the name of "the city of Buckhannon," by 6 which name they shall have perpetual succession and a com- 7 mon seal, and by which name they may sue and be sued, plead 8 and be impleaded, contract and be contracted with, answer 9 and be answered unto, and may purchase, take, receive, hold 10 and use goods and chattels, lands and tenements, and chuses in 11 action, goods or any interest, right or estate thereto, for the 12 proper use of said city, and the same may grant, sell, convey, 13 and assign, let, pledge, mortgage, charge and encumber, in 14 any case and in any manner in which it would be lawful for a 15 private individual so to do, except where such power may be 16 limited by law, and generally shall have all the rights, fran-

17 chises, capacities and powers conferred herein, and by the
18 laws of this state upon municipal corporations not inconsistent
19 with the provisions of this act.

Sec. 2. The corporate limits and boundaries of the city of
2 Buckhannon shall be as follows: Beginning at a stake, where
3 a white oak formerly stood in a field of P. F. Pinnell's heirs,
4 and running thence south twenty-six degrees, ten minutes
5 east, four thousand one hundred ninety-three feet to a white
6 oak, corner to lands of Montreville Regers heirs; thence south
7 thirty-seven degrees, fifty minutes east, one thousand six hun-
8 dred sixty-four feet to a stake on the east side of Kanawha
9 street extended, the southwest corner to the Buckhannon Im-
10 provement Company's addition to the town of Buckhannon;
11 thence with the south line of the same south sixty-seven degrees
12 east one thousand one hundred forty-nine feet to the west
13 bank of the Buckhannon river, thence down said river north
14 thirty-five degrees east seven hundred eighty-two feet to the
15 corporation line of South Buckhannon; thence south fifty-six
16 degrees fifty-four minutes east one hundred eighty-nine feet,
17 crossing the river to a stake thirty feet east of the bank there-
18 of; thence with the lines of the South Buckhannon Corpora-
19 tion, as surveyed in one thousand nine hundred eleven, north
20 thirty-six and one-half degrees east four hundred four feet to
21 a stake on the bank of the river; north fifty-three and one-half
22 degrees east, four hundred twenty-nine feet to a stake, north
23 forty-eight and one-half degrees east three hundred and
24 ninety-six feet to a stake, one hundred fifty feet from the
25 forks of the road leading to Little Sand run; north twenty-
26 seven and one-half degrees east, eight hundred ninety-one feet
27 to a stake in the road; north thirty-three degrees east three
28 hundred sixty-three feet to a stake; north twenty-five and one-
29 half degrees east four hundred ninety-five feet to a stake;
30 north sixteen degrees west five hundred ninety-four feet to a
31 stake; north sixty-one and one-half degrees east one hundred
32 forty-eight and one-half feet to a stake; north fifty and one-
33 half degrees east three hundred thirty feet to a stake; north
34 thirty-nine degrees east two hundred sixty-four feet to a stake;
35 north thirty-nine degrees east two hundred sixty-four feet
36 to a stake on the east bank of the river; thence north thirty-
37 two and one-half degrees west two hundred sixty-four feet,

35 crossing the river to a stake on the west bank thereof; thence
39 down the river ten and one-half degrees east one thousand
40 four hundred nineteen feet to a stake; thence north seventeen
41 degrees west one hundred sixty-five feet to a stake; thence
42 north sixty-seven and three-fourths degrees west one thousand
43 one hundred seventy-five and one-half feet to a stake on the
44 west bank of the river, a corner to the corporations of Buck-
45 hannon and South Buckhannon, where a sycamore was for-
46 merly called for; thence with the lines of the corporation of
47 the town of Buckhannon, as surveyed in the year one thou-
48 sand eight hundred eighty-three, and by the bearings of that
49 date east nine hundred fifty-seven feet, crossing the river
50 to a sycamore at the forks of the Staunton and Parkersburg
51 turnpike and the old Crites mill road, thence north thirty-
52 seven and one-half degrees east seven hundred twenty-
53 six feet to a spruce on the bank of the river; thence,
54 by December, one thousand nine hundred eighteen, magnetic
55 bearing north sixty-nine and one-half degrees, west five hun-
56 dred eight feet, crossing the river to a stake, being the south-
57 east corner to the Hudkins addition to the town of Buckhannon
58 as surveyed and platted by W. G. L. Totten, said stake being
59 in the line extended with the east side of Seventh street; thence
60 with Seventh street to Morton avenue; thence with the south
61 side of Morton avenue north seventy-one degrees west two
62 thousand eight hundred twenty-eight feet to the southwest
63 corner of Morton avenue and First street; thence north eighty-
64 nine and one-half degrees west with the south side of the
65 county road four hundred ninety-one feet; thence with the
66 south side of said road as follows: South seventy-four degrees
67 twenty-five minutes west six hundred seventy-six feet; south
68 forty-two and one-half degrees west three hundred two feet,
69 south forty-eight and one-fourth degrees west two hundred
70 thirty-three feet; south seventy-five and one-fourth degrees
71 west eighty feet; north seventy-five and three-fourths degrees
72 west, five hundred fifty-eight feet to the east side of Buck-
73 hannon and Clarksburg turnpike; thence with the south side
74 of the same south zero degree fifteen minutes west eight hun-
75 dred thirty feet to the south side of Finks run at the bridge;
76 thence in the general direction of Finks run, south seventy-two
77 and one-fourth degrees west eight hundred forty-one feet to

78 the northeast corner of the railroad bridge across Finks run;
79 thence south fourteen and three-fourths degrees west two thou-
80 sand two hundred feet to the beginning.

Ward Boundaries.

Sec. 3. The said city of Buckhannon shall consist of five
2 wards, which shall be bounded as follows:

3 *First Ward*—All that portion of the city bounded on the
4 north by the Buckhannon river and Finks run; on the east by
5 the center line of Florida street to Madison street; on the south
6 by the center line of Madison street to Kanawha street; thence
7 center line South Kanawha street to Lincoln street; thence
8 center line of Lincoln street to corporation line; on the west
9 by the corporation line.

10 *Second Ward*—All that portion of the city bounded on the
11 north and east by the center line of South Florida street to
12 College avenue; on the east and south by the center line of
13 College avenue to the corporation line; on the west by the
14 corporation line to Lincoln street; thence with the center line
15 of Lincoln street to Kanawha street; thence with the center line
16 of Kanawha street to Madison street; thence with the center
17 line of Madison street to South Florida street to the be-
18 ginning.

19 *Third Ward*—All that portion of the city bounded on the
20 north and east by the Buckhannon river, on the south and west
21 with the center line of Florida street, extending from Buck-
22 hannon river bridge at Star Mill to swinging bridge crossing
23 from Buckhannon to the village of Vicksburg.

24 *Fourth Ward*—All that portion of the city bounded on the
25 north by the center line of South Florida street; on the east
26 by the Buckhannon river; on the south and west by the city
27 boundary line to the north side of College avenue extended;
28 from this point with the north side of College avenue to the
29 beginning.

30 *Fifth Ward*—All the remainder of the city, including that
31 portion known as the Island and that portion known as North
32 Buckhannon.

Council May Change Boundaries of Wards

Sec. 4. At any time after the passage of this act the city

2 council may by ordinance modify and change the boundaries
3 and increase or decrease the number of wards.

Powers of Council

Sec. 5. The council of said city shall have and are hereby
2 granted power to have the said city surveyed; to open, vacate,
2-a broaden, change grade of, grade and pave streets, sidewalks
3 and gutters for public use, and to alter, improve, embellish,
4 ornament and light the same, and to construct and maintain
5 public sewers and laterals, and shall in all cases, except as to
6 lighting, have power and authority to assess upon and collect
7 from the property benefited thereby all, or such part of the
8 expense thereof as shall be fixed by ordinance; to have con-
9 trol of all streets, avenues, roads, alleys and grounds for pub-
10 lic use in said city, and to regulate the use thereof and driving
11 thereon, and to have the same kept in good order and free
12 from obstruction, pollution or litter on or over them, but the
13 said county shall be chargeable with the construction and
14 maintenance of all bridges within the said city; to change the
15 name of any street, avenue or road within said city and to
16 cause the numbering of houses on any street, avenue or road
17 therein; to regulate and determine the width of streets, side-
18 walks, roads and alleys, to order and direct the curbing and
19 paving of sidewalks and footways for public use in said city,
20 to be done and kept clean and in good order by the owners
21 of adjacent property; to restrain and punish the abuse of
22 animals; to restrain and punish vagrants, mendicants, beggars,
23 tramps, prostitutes, drunken or disorderly persons within the
24 city and provide for their arrest and manner of punishment;
25 to prohibit by ordinance the bringing into the city of any
26 person or animal afflicted with contagious or infectious disease,
27 and to punish any violator of said ordinance who knows or has
28 reason to believe such person or animal to be so afflicted; to
29 control and suppress disorderly houses of prostitution or ill
30 fame, houses of assignation, and gaming houses or any part
31 thereof, and to punish gaming; to prohibit within said city or
32 within three miles thereof slaughter houses, soap or glue
33 factories and houses of like kind; to control the construction
34 and repair of all houses, basements, walls, culverts and sew-
35 ers, and to prescribe and enforce all reasonable regulations
36 affecting the construction of the same, and to require permits

37 to be obtained for such buildings and structures, and plans
38 and specifications thereof to be first submitted to the city
39 council; to control the opening and construction of ditches,
40 drains, sewers, cesspools and gutters, and to deepen, widen
41 and clear the same of stagnant water or filth, and to prevent
42 obstructions therein, and to determine at whose expense the
43 same shall be done; and to build and maintain fire station
44 houses, police stations and police courts, and to regulate the
45 management thereof; to acquire, lay off, appropriate and con-
46 trol public grounds, squares and parks, either within or with-
47 out the city limits as herein defined; to purchase, sell, lease
48 or contract for and take care of all public buildings, and struc-
49 tures and real estate, including libraries and hospitals, deemed
50 proper for use of such city; and, for the protection of the pub-
51 lic, to cause the removal of unsafe walls or buildings, and the
52 filling of excavations; to prevent injury or annoyance to the
53 business of individuals from anything dangerous, offensive or
54 unwholesome; to define, prohibit, abate, suppress and prevent
55 all things detrimental to the health, morals, comfort, safety,
56 convenience and welfare of the inhabitants of the city, and
57 all nuisances and causes thereof, and to that end and there-
58 about to summon witnesses and hear testimony; to declare and
59 enforce quarantine against the introduction of any contagious
60 or infectious disease prevailing in any other state, county or
61 place, and of any and all persons and things likely to spread
62 such contagion or infection; to regulate the keeping of gunpow-
63 der and other combustible or dangerous articles; to regulate, re-
64 strain or prohibit the use of firecrackers, or other explosives, or
65 fireworks, and all noises or performances which may be danger-
66 ous, annoying to persons or tend to frighten horses or other
67 animals; to provide and maintain proper places for the burial
68 of the dead and to regulate interments therein upon such
69 terms and conditions as to price and otherwise as may be de-
70 termined; to provide for shade and ornamental trees and the
71 protection of the same; to provide for the making of division
72 fences; to make proper regulation for guarding against danger
73 or damage from fire; to provide for the poor of the city,
74 and to that end may contract with the proper authorities of
75 Upshur county to keep and maintain the poor, or any num-
76 ber thereof, upon terms to be agreed upon; but, until the

77 said city shall assume the maintenance and support of such
78 poor by proper ordinance or resolution of the council, the
79 poor of said city are to be maintained and supported by the said
80 county of Upshur under the general provision of law relating
81 thereto; to make suitable and proper regulations in regard to
82 the use of the streets and alleys for street cars, railroad engines
83 and cars, and to regulate the running and operation of the
84 same so as to prevent injury, inconvenience or annoyance to
85 the public; to prohibit prize fighting, cock and dog fighting;
86 to license, tax, regulate or prohibit theaters, circuses, the ex-
87 hibition of showmen and shows of any kind and the exhibition
88 of natural or artificial curiosities, caravans, menageries, pic-
89 tures, motion pictures and musical exhibitions and perform-
90 ances; to regulate the construction, height and material used in
91 all buildings, and the maintenance and occupancy thereof; to
92 regulate and control the use, for whatever purpose, of the
93 streets and other public places; to create, establish, abolish and
94 organize employments and fix the compensation of all em-
95 ployees; to organize and maintain fire companies and to pro-
96 vide necessary apparatus, engines and implements for the
97 same; to regulate and control the kind and manner of plumb-
98 ing and electric wiring for the protection of the health and
99 safety of said city; to levy taxes on persons, property and
100 licenses; to license and tax dogs and other animals, and reg-
101 ulate, restrain and prohibit them and all other animals and
102 fowls from running at large; to assess, levy and collect taxes
103 for general and special purposes upon all the subjects or ob-
104 jects which the city may lawfully tax; to levy and collect as-
105 sessments for local improvements; to borrow money on the
106 faith and credit of the city by the issue and sale of bonds in the
107 manner prescribed by law; to appropriate the money of the
108 city for all lawful purposes; to create, provide for, regulate
109 and maintain all things in the nature of public works and im-
110 provements; to adopt rules for the transaction of business and
111 for its own regulation and government; to promote the general
112 welfare of the city and to protect the persons and property of
113 citizens therein; to regulate and provide for the weighing of
114 produce and other articles sold in said city and to regulate the
115 transportation thereof and other things through the streets;
116 to have the sole and exclusive right to grant, refuse or revoke

117 any and all licenses for the carrying on of any business within
118 said city on which the state exacts a license tax; to establish
119 and regulate markets and to prescribe the time for holding the
120 same, and what shall be sold in such markets and to acquire
121 and hold property for market purposes; to regulate the sale
122 and distribution of foodstuffs; to regulate or prohibit the plac-
123 ing of signs, billboards, posters and advertisements in, on or
124 over the streets, alleys, sidewalks and public grounds of said
125 city; to preserve and protect the peace, order, safety and health
126 of the city and its inhabitants, including the right to regulate
127 the sale and use of cocaine, morphine, opium, and poisonous
128 drugs; to make, enforce and provide local police, sanitary and
129 other regulations, and fully exercise all lawful police powers;
130 to appoint and fix the place of holding city elections; to erect,
131 own, lease, authorize or prohibit the erection of gas works,
132 telephone plant or electric light works in or near the city, and
133 to operate the same and sell the products or services thereof,
134 and to do any and all things necessary and incidental to the
135 conduct of such business; to provide for the purity of milk,
136 meats and provisions offered for sale in said city, and to that
137 end provide for a system of inspecting the same and making
138 and enforcing rules for the regulation of their sale, and to
139 prohibit the sale of any unwholesome or tainted milk, meats,
140 fish, fruits, vegetables, or the sale of milk containing water or
141 other things not constituting a part of pure milk; to provide
142 for inspecting dairies and slaughter houses, whether in or out-
143 side of the city, where the milk and meat therefrom are offered
144 for sale within said city; to prescribe and enforce ordinances
145 and rules for the purpose of protecting the health, property,
146 lives, decency, morality and good order of the city and its in-
147 habitants, and to protect places of divine worship in and about
148 the premises where held, and to punish violations of said
149 ordinances even if the offense under and against the same shall
150 constitute offenses under the law of the State of West Virginia
151 or the common law; to provide for the employment and safe-
152 keeping of persons who may be committed in default of the
153 payment of fines, penalties or costs under this act, who are
154 otherwise unable or fail to discharge the same, by putting them
155 to work for the benefit of the city upon the streets or other
156 places provided by said city, and use such means to prevent

157 their escape while at work as the council may deem expedient;
158 and the council may fix a reasonable rate per day as wages
159 to be allowed such person until the fine and costs against him
160 are thereby discharged; to compel the attendance at public
161 meetings of the members of the council; to prevent any person,
162 association or corporation from polluting in any manner any
163 pond, lake, basin, reservoir, stream, spring, creeks or other
164 body of water from which the city shall take water to be used
165 for domestic purposes by the inhabitants thereof, or from
166 casting into any such body of water, or on the bank thereof or
167 in such proximity thereto that the same may enter therein, any
168 filthy, unwholesome, or obnoxious substance, object, or liquid,
169 or anything whatsoever injurious to the health of the people
170 of the city, or which impairs its value for the ordinary pur-
171 poses of life, or which shall render the water offensive to taste
172 or smell, or that is naturally calculated to excite disgust in
173 those using such water for the ordinary purposes of life; to
174 exercise all other powers that now are or hereafter may be
175 granted to municipalities by the constitution or laws of the
176 State of West Virginia; and all such powers, whether expressed
177 or implied, shall be exercised and enforced in the manner pre-
178 scribed by this charter, or when not prescribed herein, in such
179 manner as shall be provided by the ordinances or resolutions of
180 the council.

181 The city of Buckhannon shall have power and authority,
182 within and without its territorial limits, to construct, condemn
183 and make additions thereto, maintain and conduct and operate
184 water works, light plants, power plants, heating plants, and in-
185 cinerating plants, and do everything required therefor, for the
186 use of the said city and the inhabitants thereof, and may en-
187 force such purchases by proceeding at law or in equity by the
188 right of eminent domain, and by condemnation; but the moneys
189 necessary for the purchase and construction of such works,
190 plants, or system of works and plants shall be derived from the
191 issuance and sale of the bonds of said city approved by three-
192 fifths of the qualified voters of the said city voting for and
193 against the same, at any special election called and held for the
194 purpose. The ordinance of the said city submitting such bond
195 issue to a vote shall specify the purpose and amount for which
196 said bonds are to be issued and sold, said amount being limited

197 only by the constitution and laws of the State of West Vir-
198 ginia, and the other provisions of this charter: *Provided*, That
199 the power to condemn may be exercised for the purpose of
200 acquiring such utilities now existing and operating under
201 franchises granted by the said city, the town of Buckhannon,
202 or the town of South Buckhannon, under the terms of the
203 franchises, or under the rights of eminent domain, at the elec-
204 tion of the city: *Provided further*, That such utilities now ex-
205 isting shall not be acquired or purchased by said city except
206 on ordinance of the said city submitted at a special election and
207 approved by three-fifths of the qualified voters of the said city
208 voting for and against the same, authorizing such purchase and
209 the issuance and sale of bonds in payment of same, and such
210 ordinance shall specify in detail the property and rights to be
211 acquired and the price to be paid for the same.

212 The enumeration of particular powers of this charter shall
213 not be held or deemed to be exclusive, but in addition to the
214 powers enumerated herein, implied thereby, or appropriate to
215 the exercise thereof, the council shall have and exercise all
216 other powers, which under the constitution and laws of the State
217 of West Virginia it would be competent for this charter spe-
218 cifically to enumerate.

219 The council shall provide for the enforcement of all ordi-
220 nances by reasonable and proper penalties, consisting of fines
221 or imprisonment, or fines and imprisonment, with suitable rules
222 and regulations for the enforcement of such penalties. For all
223 such purposes the jurisdiction of the city shall, when necessary,
224 extend for one mile beyond the corporate limits of said city.
225 In order to prevent the pollution of the waters from which the
226 people of the city take water for domestic uses, the jurisdiction
227 of the city shall be coextensive with the location and extent
228 of the waters from which such supply is taken, and each day
229 such act of pollution of the water continues may be deemed a
230 separate offense: *Provided, however*, That in no event shall im-
231 prisonment for a longer period than sixty days or a greater
232 fine than one hundred dollars, or both, be imposed for any one
233 offense.

Oath of Officers and Bonds.

Sec. 6. The mayor, recorder and councilmen, and all other
2 officers provided for in this act, shall each, before entering upon

3 the duties of their offices, and within fifteen days after receiving
4 their certificates of election or appointment, take the oath or
5 affirmation that they will truly, faithfully, and impartially, to
6 the best of their ability, discharge the duties of their respective
7 offices so long as they continue therein. Said oath or affirma-
8 tion may be taken before any person authorized to administer
9 oaths under the laws in force at the time the same is taken,
10 or before the mayor or recorder of said city; but in any event
11 a copy of said oath of said officer shall be filed with the recorder,
12 and copy filed with county clerk: *Provided further*, That be-
13 fore entering upon their duties, the mayor and recorder shall be
14 required to give bond in the penalty of one thousand dollars
15 each: *And provided further*, That all regular police officers of
16 the city of Buckhannon, except extra policemen serving less
17 than one month at a time, appointed under the provisions of
18 this act, shall be required to give bond in the amount of three
19 thousand five hundred dollars, payable to the city of Buckhan-
20 non, which shall be approved by the council and when approved
21 and accepted shall be recorded by the city recorder in the minute
22 record book, kept by him at his office, and shall be open to public
23 inspection. The city recorder shall be the custodian of all
24 bonds. The said bonds shall in all respects comply with the state
25 laws relating to the bonds of public officials.

Compensation Elective Officers.

Sec. 7. The compensation of the mayor, recorder and council-
2 men shall be fixed by the council at their first meeting held in
3 the fiscal year: *Provided, however*, That the salary of the
4 mayor shall not exceed the sum of six hundred dollars per year,
5 the salary of the recorder shall not exceed three hundred sixty
6 dollars per year, and the salary of councilmen shall not exceed
7 one hundred eighty dollars per year. The salary of all appoin-
8 tive officers shall be fixed by the council when appointments are
9 made.

Legislative Department: Duties.

Sec. 8. The legislative powers of the city are hereby vested in
2 a council composed of mayor, recorder and five councilmen.
3 Said council shall have power to enact all ordinances for the
4 city, not in conflict with this charter or the constitution and
5 laws of this state, the intention being that the said council shall

6 be vested with the power and charged with the duty of enacting
7 and adopting all laws and ordinances not inconsistent with this
8 charter, the statutes of this state and constitution thereof,
9 touching every subject and matter of local or general application
10 within the boundaries of the city or within one mile thereof;
11 within the purview of the local government instituted by this
12 charter and within the powers granted and conferred by the con-
13 stitution and laws of the State of West Virginia.

Vacancy: How Filled.

Sec. 9. Whenever a vacancy from any cause shall occur in the
2 office of mayor, the recorder shall become the mayor of said
3 city, and shall serve as such until the next city election or until
4 his successor is elected and qualified, and in the case of a
5 vacancy in the office of recorder or councilmen the remaining
6 council shall, by a majority vote, fill such vacancy.

Rules of Procedure.

Sec. 10. The council shall determine its own rules of pro-
2 cedure, may punish its members for disorderly conduct and com-
3 pel their attendance at its meetings: *Provided*, That any council-
4 man who shall fail to attend at least one regular meeting in any
5 month of the council shall forfeit his salary as such councilman
6 for said month unless said councilman shall be excused from said
7 attendance by unanimous vote of the council on account of sick-
8 ness, physical disability or other cause: *And provided further*,
9 That any councilman who shall from any cause, fail or refuse to
10 perform the duties of his position, including attendance at the
11 meetings of the council, for a period of two months shall lose
12 his office and the same shall be declared vacant by the remain-
13 ing councilmen and said vacancy filled as herein provided.

Public Meetings and Special Meetings of Council.

Sec. 11. The regular meetings of the council shall be publicly
2 held in the council chamber on the first and third Thursdays of
3 each month, or at other designated times fixed by ordinance or
4 resolution and at such hour as shall be designated by ordinance
5 or resolution of the council. Adjourned meetings may be held,
6 special meetings called by the mayor or a majority of the council,
7 on such date, or at such time as they may deem necessary or
8 circumstances demand, by a verbal or written notice served upon

9 the mayor, recorder or members of the council, stating the pur-
10 pose of the meeting. Executive sessions may be held at the dis-
11 cretion of the council.

Quorum

2 Sec. 12. Four members of the council shall constitute a
3 quorum and the affirmative vote of a majority of the members
4 present, shall be necessary to adopt any motion, resolution or
5 ordinance, or pass any measure, unless a greater number is
6 provided for by this charter. Upon every motion involving the
7 expenditure of money and for the letting of any public contract,
8 and on all ordinances, the ayes and noes shall be taken and
9 recorded, and every ordinance shall be reduced to writing and
10 read before a vote is taken thereon. The chairman of the council
11 shall have a vote on all questions, but shall have no veto power.
12 Every resolution or ordinance passed by the council shall be
13 signed by the mayor or acting mayor, attested by the recorder,
14 or acting recorder, and recorded before the same shall be in
force.

Minutes: Ayes and Noes.

2 Sec. 13. At each regular meeting of the council the proceed-
3 ings of the last regular meeting and subsequent special meetings
4 shall be read, and corrected if erroneous, and signed by the
5 mayor and recorder. Upon the call of any member the ayes and
6 noes on any question shall be taken and recorded by the recorder
7 in the minute book. The call of members for such vote shall be
8 made alphabetically.
9 Every resolution or ordinance passed by the council shall be
10 signed by the mayor, attested by the recorder, and recorded
before the same shall be in force.

Presiding Officer.

2 Sec. 14. The mayor, or in his absence the recorder, shall pre-
3 side at the meetings of said council, or in their absence the coun-
4 cil shall elect a chairman.

Powers to Adopt Present Ordinances.

2 Sec. 15. All ordinances, by-laws, resolutions and rules of the
3 city of Buckhannon in force on the day preceding the passage of
this act, which are not inconsistent therewith, shall be and re-

4 main in full force over the whole boundary of said city of
5 Buckhannon, as established by this act, until the same are
6 amended or repealed by the council of said city, and the officers
7 elected at the last election in the city of Buckhannon, shall re-
8 main in office until their successors under this act are elected and
9 qualified as hereinbefore provided, and after this act takes effect,
10 shall have jurisdiction over all the territory embraced in the
11 boundaries specified in this act, and shall perform all the duties
12 of such respective officers under this act; but nothing in this
13 act shall be construed or held to in any way affect or impair
14 any of the bonds, obligations or indebtedness of the city of
15 Buckhannon, as though the same had been created under this
16 charter.

Ordinances.

Sec. 16. Every ordinance shall embrace but one subject, which
2 shall be clearly expressed in the title. Provided that its subject
3 matter be embraced in any ordinance contrary to the provisions
4 of this section, such ordinance shall be void only as to so much
5 of the ordinance as may not be clearly expressed in the title
6 thereof; such subject may be omitted when ordinances are pub-
7 lished in book form.

8 All ordinances passed by the council, except emergency ordi-
9 nances, shall take effect and become valid and binding at the
10 expiration of thirty days from the date of their passage, unless
11 otherwise provided in this charter.

12 The council by unanimous vote, may pass an emergency ordi-
13 nance when the public peace, public health or public safety shall
14 in the judgment of the council demand it. Every emergency
15 ordinance must as a part of the title, contain the words: "And
16 declaring an emergency," and every such ordinance shall pro-
17 vide that such ordinance shall take effect and be in full force
18 immediately upon its passage.

Ordinances Admitted as Prima Facie Evidence in Judicial Proceedings.

Sec. 17. All ordinances or codes of ordinances adopted by the
2 authority of the council shall, in all judicial proceedings in all
3 courts, be admitted as prima facie evidence, and in any such
4 proceedings it shall not be necessary to plead the entire ordi-

5 nance or section, but only such parts thereof as are admitted in
6 evidence.

Judicial Department: Police Court.

Sec. 18. The judicial power of the city of Buckhannon shall
2 be vested in a police court, which court is hereby created, and
3 the mayor shall be the judge of said court. All trials shall be
4 before said mayor without a jury.

Jurisdiction of Said Court.

Sec. 19. The police court shall have original and exclusive
2 jurisdiction to hear and determine all offenses against the ordi-
3 nances or the charter of the city of Buckhannon; and enforce
4 the collection of all licenses, fees, rents, taxes, assessments, or
5 other revenues required by ordinances except such actions and
6 proceedings as fall within the exclusive jurisdiction of other
7 courts under the provisions of the constitution and laws of this
8 state.

Enforcement of Ordinances.

Sec. 20. The ordinances of the city of Buckhannon shall be
2 enforced by the imposition of fines, forfeitures or penalties,
3 against any person violating such ordinances or any of them;
4 and the council shall prescribe in each particular ordinance made
5 for that purpose, the minimum and maximum fine for the in-
6 fraction thereof, which maximum shall not exceed one hundred
7 dollars, exclusive of costs, for any one specific offense. The same
8 costs shall be taxed in each criminal case tried in the police court
9 as is provided by law to be taxed by justices of the peace, except
10 that in every contested criminal case, the mayor may also tax an
11 attorney fee of not exceeding five dollars, to be paid to the city
12 prosecutor for his services in said case, if a conviction be had
13 in said case.

Fines and Costs: Prisoners May Be Worked on Streets.

Sec. 21. The mayor may provide in all judgments of convic-
2 tion for the violation of any ordinance of the city a fine, and
3 that the person against whom said fine is assessed shall be im-
4 prisoned until the fine and costs of prosecution shall be paid,
5 but not to exceed ten days. Any person committed for the non-
6 payment of fine and costs, while in custody, may be compelled
7 to work on the streets, alleys, public grounds or works until such

6 fine and costs are paid, allowing one dollar fifty cents per day
9 for the work of said prisoner to apply on said fine and costs.

Collection of Fines: Disposition of Same.

Sec. 22. All fines, penalties, forfeitures and collections of
2 every kind made by the mayor shall be the property of the city
3 and shall be deposited with the city treasurer within sixty days
4 after the collection thereof, to be by him applied to the proper
5 fund of the city as may by ordinance be required.

Style of Process.

Sec. 23. The style of process of the police court shall run in
2 the name of the city of Buckhannon.

Appeals to Higher Courts.

Sec. 24. Appeals from the police court shall lie to the circuit
2 court or criminal court of Upshur county, as is now or may be
3 provided by statute of this state, governing appeals from police
4 courts to circuit or criminal courts.

Elective Officers: City Council: Who Shall Vote.

Sec. 25. The municipal authorities of the said city of Buck-
2 hannon shall consist of a mayor, recorder, and five councilmen,
3 who shall constitute the council of the said city, and who shall
4 be entitled to vote on all proceedings.

Appointive Officers: Removal and Compensation.

Sec. 26. The council shall appoint a city treasurer, chief of
2 police, and such additional police officers as they may deem
3 proper; a city attorney, chief of the fire department, assistant
4 chief of the fire department, city engineer, city physician, city
5 assessor, street commissioner and such additional street labor
6 that is necessary to repair and maintain the streets of said city,
7 and such other officers as may be provided for by ordinance of
8 the city council or by this act. Such officers shall hold their
9 respective offices during the pleasure of the council, and may be
10 removed therefrom by the majority vote of the council at any
11 time with or without cause. Such officers shall receive such
12 compensation as the council may prescribe by ordinance or reso-
13 lution, unless said compensation be fixed by this act.

Eligibility to Elective Office.

Sec. 27. No person shall be eligible to be elected to the office

2 of mayor, recorder or councilman, unless at the time of his elec-
3 tion he is legally entitled to vote in the city election for member
4 of the common council; and he was for the preceding year
5 assessed with taxes upon real or personal property and shall not
6 be delinquent for city tax.

Eligible to Vote.

Sec. 28. Each resident of the city of Buckhannon who is a
2 citizen of the United States and who has resided in the State of
3 West Virginia for at least one year and in the city of Buck-
4 hannon for at least sixty days, and who is a bona fide resident
5 of the city, shall be qualified to vote: *Provided*, That no person
6 shall be deemed a bona fide resident who is residing within the
7 city limits for any temporary purpose and expects to remove
8 from the city after said purpose shall have been accomplished,
9 and no person who is a minor, or of unsound mind, or a pauper,
10 or who is under conviction of treason, or bribery in an election,
11 or who may otherwise be legally disqualified from voting in this
12 state, shall be permitted to vote therein.

Registration of Voters.

Sec. 29. The city council under the provision of this act may
2 provide by ordinance for the registration of all persons entitled
3 to vote at each subsequent municipal election, and the city coun-
4 cil upon passing such registration ordinance shall appoint the
5 registrars, specify the time for making the registration, and
6 cause all persons entitled to vote in the city to be registered.
7 The laws in force in the State of West Virginia for registering
8 persons who are entitled to vote at a general election held in the
9 state shall insofar as applicable govern the registration of per-
10 sons entitled to vote at municipal elections, and the duties im-
11 posed by the general laws of the state upon county courts and
12 the clerks thereof shall be discharged respectively by the city
13 council and the recorder, except the fee paid for registering the
14 voters shall be fixed by the council.

Elections.

Sec. 30. On the first Tuesday of June, one thousand nine
2 hundred thirty-three, there shall be elected by the qualified
3 voters of said city a mayor, recorder, and five councilmen. The
4 term of office of the mayor and councilmen of the first, third and

5 fifth wards shall be for a period of two years, and the term of
6 office for the said recorder and councilmen of the second and
7 fourth wards shall be for a term of one year, and after the first
8 said election held hereunder the term of office of all officers shall
9 be for a term of two years: *Provided, however,* That the voters
10 of the city shall by a separate ballot determine at this election
11 whether at future elections the councilmen of the city shall be
12 elected by the qualified voters of the entire city, or by the quali-
13 fied voters of their respective wards.

14 The form of the ballot for such proposition shall be:

15 For election of councilmen by the voters of their respec-
16 tive wards.

17 Against election of councilmen by the voters of their re-
18 spective wards.

19 If at such election the proposition carried by a majority vote
20 then said section thirty as set out above shall be amended and
21 shall read as follows:

22 On the first Tuesday of June, one thousand nine hundred
23 thirty-three, there shall be elected by the qualified voters of said
24 city a mayor, recorder, and five councilmen. The term of office
25 of the said mayor and councilmen of the first, third and fifth
26 wards shall be for a period of two years and the term of office
27 for the said recorder and councilmen of the second and fourth
28 wards shall be for a term of one year, and after the first said
29 election held hereunder the term of office of all officers shall be
30 for a term of two years, and after said first election the mayor
31 and recorder shall be elected by the qualified voters of the city
32 and the councilmen by the qualified voters of their respective
33 wards. And the said section so amended shall be a part of the
34 charter of said city and shall stand in lieu of section thirty as
35 written above.

Elections.

Sec. 31. The council may by ordinance approved at a referen-
2 dum election called for the purpose, and held not less than
3 ninety days before any regular municipal election, change the
4 boundaries of the city, the number of officers, the length of their
5 term and the manner of their election, except that municipal
6 elections shall always be without political party designation and

7 nonpartisan. When an election is held for the purpose of annex-
8 ing additional territory to the city, the qualified voters of the
9 territory that it is sought to annex shall also vote upon the
10 proposition, and it shall be necessary that a majority of the total
11 vote cast within or without the city be cast for the proposition.
12 In the absence of other municipal authority to act for the resi-
13 dents outside of the city of Buckhannon, the county court shall
14 appoint the necessary election officers, cause all necessary ar-
15 rangements to be made for the holding of said elections and the
16 return of the results of same to the council of the city of Buck-
17 hannon, who shall act as a canvassing board to ascertain the
18 aggregate results of the said election both within and without
19 the city. The costs of the election shall be borne by the city of
20 Buckhannon, except that where another municipal corporation
21 participates in the election, it shall bear such part of the total
22 cost as shall have been incurred within its boundaries.

Sec. 32. The annual election shall be held on the first Tuesday
2 in June of each year at the regular city voting places within the
3 city and at such other voting places as the council by ordinance
4 may provide. Said annual elections and all special elections shall
5 be held under the supervision of the council and officials of the
6 city and be conducted, certified, returned and finally determined
7 in accordance with the provisions of this act and the laws and
8 ordinances, or such parts thereof, as are now in effect or may
9 hereafter be provided by ordinance not inconsistent with the
10 provisions of this act, and the nominations of candidates for such
11 elections shall be certified to the recorder of said city who shall
12 prepare the ballots therefor.

Municipal Elections.

Sec. 33. (a). Municipal elections under this act shall be con-
2 ducted as follows: Any person eligible to office may become a
3 candidate and have his name placed upon the ballot, upon his
4 own motion, by filing with the city recorder a declaration of his
5 candidacy and a certificate of his eligibility, duly acknowledged
6 by him, within thirty days next preceding the day of the elec-
7 tion. Said declaration and certificate shall be accompanied by
8 an announcement fee as follows: If a candidate for mayor,
9 the fee shall be ten dollars; if a candidate for recorder, the fee
10 shall be seven dollars fifty cents; and if a candidate for council-

11 man, the fee shall be five dollars; which fee shall be paid to the
 12 recorder, who shall pay the same over to the treasurer of the
 13 city. The names of all candidates for elective offices of the city
 14 shall appear on one ballot at the election held in June, one
 15 thousand nine hundred thirty-three, having seven columns, one
 16 for mayor; one for recorder, and one for each ward within the
 17 city, and thereafter the ballot shall have a column for each
 18 office for the candidates to be elected at said election, and said
 19 ballot shall be without party emblem or designation. The whole
 20 number of ballots to be printed for the election of mayor, re-
 21 corder and councilmen, mayor and councilmen, or recorder and
 22 councilmen, as the case may be, shall be divided by the greatest
 23 number of candidates for any one office and the quotient so ob-
 24 tained shall be the number of ballots in each series of ballots to
 25 be printed.

26 The form of the declaration of candidacy and certificate of
 27 eligibility of candidates shall be substantially as follows:

28 I,.....hereby certify that I am a candidate
 29 for the office of.....and desire my name
 30 printed on the official ballot to be voted for at the city election
 31 to be held on the.....day of.....19....; that I am a
 32 qualified voter of the city of Buckhannon, county of Upshur,
 33 State of West Virginia; that I reside in ward No....., in
 34 said city; and that my residence number is.....
 35 in said city; that I am eligible to hold the said office; and that I
 36 am a candidate for said office in good faith.

37
 38 Signature of candidate.

39 Subscribed to and acknowledged before the undersigned
 40 authority by.....this.....day of
 41....., 19....

42
 43 Mayor, recorder or notary public.

44 (b) The names of candidates shall be arranged in alphabetical
 45 order in each column, and the first series of ballots printed. The
 46 first name in the column shall be placed last therein and the
 47 next series of ballots printed and this process shall be repeated
 48 until each name in each column shall have been first. These
 49 ballots shall then be combined into tablets in the order of the
 50 series with no two of the same series together.

Direction to Voter.

76 Vote for only one candidate in each column by putting a cross
77 mark in the square opposite the name of the candidate for whom
78 you desire to vote. Do not mark more than one candidate in each
79 column. If you spoil this ballot, tear it across and hand to the
80 election officer in charge and he will give you another.

81 (d) A valid ballot shall be one on which the voter has clearly
82 expressed his choice of one or more candidates. If a voter
83 express the same choice for more than one candidate in any
84 column his vote, as to that column, shall be void.

85 (e) The candidate in each column receiving the highest num-
86 ber of votes cast for the office for which he is a candidate, in-
87 dicated by such column, shall be declared elected. During the
88 counting of the votes all ballots or votes not counted shall be
89 marked by the election commissioners of each precinct with the
90 words "not counted" written upon the ballot or opposite the
91 vote not counted, together with a statement with the reasons
92 for not counting, and the total number of invalid ballots marked
93 thus and not counted shall be ascertained by them at the con-
94 clusion of the counting, and be shown upon the precinct return
95 certificate and subtracted from the total number of ballots taken
96 from the ballot box.

Sec. 34. At least six weeks before any city election the mayor
2 shall issue his proclamation calling the same, which shall be
3 published in one or more newspapers published in said city for
4 one week. At least fifteen days before the day of an election the
5 city council shall prepare the ballots for such election, and shall
6 select three commissioners and two poll clerks for each voting
7-8 place, and may provide for a counting board for each voting
9 place. The commissioners and poll clerks shall be qualified
10 voters of the city and have such other qualifications as provided
11 by general laws of the state for such officers at state, county, and
12 district elections. The council shall, by ordinance, provide
13 such additional regulations in conformity with the provisions of
14 this act and the general law of the state as are necessary for the
15 proper conduct of elections. Elections under this act shall be
16 conducted, returned and the results thereof ascertained and
17 declared in the manner prescribed by the constitution and laws
18 of the state, insofar as said laws are not inconsistent with this

19 act, and all penalties prescribed by said laws of the state insofar
20 as consistent, shall be applicable unto this act.

21 The duties required by the clerk of the circuit and county
22 courts under the election laws of West Virginia, shall be per-
23 formed by the recorder of said city. The duties required of
24 commissioners of the county court under the provisions of said
25 laws shall be performed by the council of said city. The duties
26 required of the sheriff under the provisions of said laws shall
27 be performed by the chief of police of said city, and the duties
28 required of any constable under the provision of said laws shall
29 be performed by any member of the police force, or member of
30 the council, of said city. Whenever the word "county" appears
31 in said laws, the same shall be taken to refer to the city of Buck-
32 hannon, and whenever the words "election precinct" appears
33 in said laws, the same shall be taken to refer to the election
34 precinct or precincts for the municipal election, and whenever
35 the word "court house" shall appear in said laws as designating
36 the place of meeting of election officers, the same shall be taken
37 to refer to the council chamber.

Tie Vote, Elective Officers: How Decided.

Sec. 35. Whenever two or more persons receive an equal num-
2 ber of votes for mayor, recorder or councilman, such tie votes
3 shall be decided by the council in existence at the time the elec-
4 tion is held, by placing their names in a hat and some member
5 designated by the mayor shall withdraw one name therefrom;
6 the person whose name is withdrawn shall be declared elected.

Contested Elections.

Sec. 36. All contested elections shall be heard and determined
2 by the council in existence at the time the election is held, and
3 the contest shall be made and conducted in the manner as
4 provided for in contests for county and district officers, and the
5 council in their proceedings in such cases shall, as nearly as
6 practicable, conform with like proceedings of the county court.

Proceedings When Elected Officer Ineligible.

Sec. 37. If any person elected to any office shall not be eli-
2 gible thereto under the provisions of this act, or shall fail to
3 qualify as herein required, the council shall declare his said
4 office vacant and proceed to fill the vacancy as set out in section
5 nine of this act.

Removal of Elective Officers.

Sec. 38. Any elective officers may be removed at any time by
2 the circuit court of Upshur county, West Virginia on any
3 ground or cause for which a member of the county court of the
4 county or other county officer may be removed, unless other-
5 wise provided in this act. The proceedings for the removal of
6 an elective officer shall conform in all respects with the proceed-
7 ings to remove a county officer. On hearing of any such pro-
8 ceeding no person called as a witness shall be excused from
9 answering any question or giving any testimony because the
10 answer or testimony might incriminate or tend to incriminate
11 him, or render him liable to prosecution for an offense. But no
12 witness called to testify in any such proceeding shall thereafter
13 be prosecuted in any court in the state for any act concerning
14 which he is required to testify or disclose by his testimony.
15 Any person who shall be removed from office under the pro-
16 visions of this section shall not thereafter hold any office or
17 employment in the city of Buckhannon.

Power to Appoint Officers by the Council.

Sec. 39. The council shall have authority to provide by ordin-
2 ance for the appointment of such officers as shall be necessary
3 and proper, to carry into full force and authority the power,
4 capacity, jurisdiction and duties of said city, which are or shall
5 be vested therein, or in the council, or in the mayor, recorder
6 or any other officer or body of officers thereof, and to grant to the
7 officers so appointed the power necessary or proper for the pur-
8 pose above mentioned. The council by ordinance shall define
9 the duties of all officers so appointed.

Mayor: His Powers and Duties.

Sec. 40. The mayor shall be the chief executive officer of the
2 city and chairman of the city council and when present shall
3 preside at all the meetings of the council; and in addition to
4 all other duties imposed upon him by state and municipal laws
5 and the council, shall indorse the approval of all officials bonds
6 when same shall be approved by the council, sign all warrants
7 and orders drawn upon the treasurer for money, sign all bonds,
8 contracts, conveyances and other written obligations of the city,
9 and all ordinances passed by the council, and shall cause each of

10 the above enumerated writings to be attested by the recorder,
11 under the seal of the city.

12 The mayor shall have supervision of the health department,
13 and department of sanitation; he shall also have charge and be
14 superintendent of the department of public affairs which shall
15 include water works, parks, libraries, cemeteries, public service
16 corporations operating under city franchise; the opening, grad-
17 ing, paving, lighting, cleaning, repairing and sprinkling of
18 streets, sewer and viaduct construction, sidewalks and crossings,
19 and the city engineering department; he shall be the head of the
20 department of peace and safety, and he shall have supervision
21 and control of the fire department and police department. He
22 shall see, except as may be herein otherwise provided, that the
23 laws and ordinances of the city and the resolutions and orders of
24 the council are enforced; that the peace and good order of the
25 city are preserved; and that the persons and property therein
26 are protected. He shall have the power to discharge or suspend
27 any member of the police force, the chief or assistant chief of
28 the fire department: *Provided, however,* That the council may
29 reinstate any member discharged or suspended by an affirmative
30 vote of a majority of all the members of the council.

31 The judicial power of the city of Buckhannon shall be vested
32 in a police court, which court is hereby created, and the mayor
33 shall be the judge of said court. All cases shall be tried by the
34 mayor without a jury.

35 The police court may provide in all judgements of conviction
36 for the violation of any ordinance of the city a fine and jail
37 sentence, and that the person against whom said fine is assessed
38 shall be imprisoned not to exceed ten days for the payment of
39 the fine and sixty days for the jail sentence. And any person
40 committed for the nonpayment of fine and costs, while in
41 custody, may be compelled to work on the streets, alleys, public
42 grounds or works until such fine and costs are paid, allowing one
43 dollar fifty cents per day for the work of said prisoner to apply
44 on said fine and costs.

45 All fines, penalties, forfeitures and collections of every kind
46 made by the mayor shall be the property of the city and shall
47 be deposited with the treasurer of the city within sixty days
48 after the collection thereof, to be by him applied to the proper
49 fund of the city as may by ordinance be required.

50 He shall also perform such other duties as may be prescribed
51 by the council from time to time by ordinances and resolutions
52 not inconsistent herewith.

53 In case of absence, sickness, or inability of the mayor to per-
54 form the duties of his office, the recorder shall act as mayor and
55 be empowered to enforce all rules and regulations pertaining to
56 the office of mayor.

57 The mayor shall keep a well bound and indexed book to be
58 denominated the "mayor's docket" in his office, in which he
59 shall note each case brought or tried by him, together with the
60 proceedings therein, including a statement of complaint, the
61 summons, the return, the fact of appearance or nonappearance,
62 the defense, the hearing, the judgment, the costs, and in case
63 the judgment be one of conviction, the action taken to enforce
64 the same; the record of such case shall be signed by the mayor
65 or other person acting in his stead; and the original papers
66 thereof, if no appeal be taken, shall be kept together and pre-
67 served in his office.

68 The mayor shall have the power to issue an execution for any
69 fine and cost imposed by him, for the violation of any ordinance,
70 or he may at the time of rendering judgment therefor, or at
71 any time thereafter and before satisfaction of such judgment,
72 by his order in writing, require the immediate payment thereof,
73 and in default of such payment he may cause the person so in
74 default to be apprehended and brought before him, and com-
75 mit him to the city jail or the jail of Upshur county, until the
76 fine and costs are fully paid but not to exceed seventy days.

77 The mayor may be ex officio a justice and conservator of the
78 peace within the city, and shall, within the same, have, and
79 exercise all powers, and perform all duties vested by law in a
80 justice of the peace, except that he shall have no jurisdiction in
81 civil cases or causes of action arising out of the corporate limits
82 of the city.

83 The mayor shall have power to appoint the following standing
84 committees: Finance; ordinance; fire department; streets,
85 alleys and sewers; building; street lighting; cemetery; and
86 board of health.

87 The committee shall consist of three men, the first being named
88 shall be the chairman.

Recorder: His Duties and Powers.

Sec. 41. It shall be the duty of the recorder to keep the record
2 of the proceedings of the council. He shall enter in a separate
3 volume all ordinances of a general nature, and carefully index
4 the same. He shall enter in the municipal assessment docket all
5 special assessments made for public improvements, showing the
6 name of the owner of the property, the particular property on
7 which the assessment is levied, the date of entry, and the minute
8 book and page showing the entry of the ordinance or resolution
9 creating the assessment, and the maturing time of the assess-
10 ment. When and as the installments upon principal and in-
11 terest on each assessment shall be paid, he shall enter such pay-
12 ments showing the amount paid upon principal, the amount of
13 interest, and penalty, if any, under the heading and in the ac-
14 count of such special assessment. When special assessment,
15 principal, and interest, and penalty, if any, imposed shall have
16 been paid in full he shall make an entry in red ink on the face
17 of the amount showing that the special assessment is fully satis-
18 fied and paid and shall issue a release deed and have executed
19 by the mayor and deliver same to the persons paying the same.
20 In the absence from the city, or in case of sickness, of the
21 mayor, or during any vacancy in the office of mayor, the record-
22 er shall perform the duties of the mayor and be invested with
23 all his powers.

24 He shall have charge of all bond issues, assessments, and print-
25 ing. He shall be the purchasing agent for the city, subject to
26 the direction of the council, and shall perform such other duties
27 as usually devolve upon a city recorder, not inconsistent here-
28 with, as the council may from time to time prescribe.

29 He shall prepare and cause to be served all notices required to
30 be given to any person, firm or corporation, and after proper
31 service and return thereof of any notice, he shall file and pre-
32 serve the same.

33 He shall file in convenient form so as to be readily accessible
34 all correspondence carried on by the city or by any department
35 thereof, and as custodian of all the books, records, and pro-
36 ceedings of the council, he shall make and certify copies thereof
37 whenever required, and affix the corporate seal of the city to
38 any paper required to be sealed and to any certified copy of any
39 paper, order, or proceeding which he may make.

40 A copy of any record, paper, entry, order, ordinance, resolu-
41 tion or proceeding made by the council or by the police court
42 judge when properly certified under the seal of the city shall be
43 admissible as evidence in any court in the state in any proceeding
44 in which the original paper or record, if present, would be
45 admissible.

46 In preparing for and holding city elections, the duties required
47 by the clerks of the circuit and county court under the election
48 laws of West Virginia, shall be performed by the city recorder.

49 The duties of preparing and publishing the annual financial
50 statement of the city as provided for in another section of this
51 charter shall be performed by the city recorder, for which he
52 shall be paid a reasonable compensation.

Treasurer's Duties and Powers.

Sec. 42. It shall be the duty of the city treasurer, when the
2 extended copies of the assessor's books are completed, to receive
3 a copy thereof, make out the tax tickets and receipt to the coun-
4 cil for the entire amount of city taxes extended thereon, and it
5 shall be his duty to collect from the persons or corporations the
6 entire amount of the taxes with which they are severally charg-
7 ed therein, and may proceed to collect the same at any time
8 after the first day of August, and may enforce the payment
9 thereof by levy upon the personal property and sale thereof.
10 All taxes assessed on both real and personal property by the
11 city of Buckhannon, beginning with taxes assessed for the year
12 one thousand nine hundred thirty-two, shall be collected by the
13 city treasurer and may be paid in equal installments; the first
14 installment shall be paid on or before November first of the
15 year in which the assessment is made; the second installments
16 shall be paid on or before the first day of the following May.
17 All taxes paid on or before the date such taxes are payable, in-
18 cluding both first and second installments, shall be subject to a
19 discount of two and one-half percent. If the first installment
20 is not paid before December first of the year, interest at the
21 rate of nine percentum per annum shall be added from said
22 December first until paid; if the second installment is not paid
23 before June first, interest at the rate of nine percentum shall
24 be added from said June first until paid. The treasurer shall
25 on the first day of December and the first day of June following

26 the year for which the taxes were levied proceed immediately
27 to collect the taxes then due.

28 It shall be the duty of the city treasurer to keep all funds of
29 the city in some bank or banks within said city, which shall pay
30 interest on such deposits and on the average daily balances of
31 such funds of the per cent equal at least to that paid by state
32 depositories on all funds of the State of West Virginia and in
33 the same manner and at the same time. The said bank shall
34 also deposit with the city a bond or sufficient security to cover
35 an equal amount of the city's money in said bank. If no bank
36 within said city is willing at any time to receive deposits of the
37 treasurer and pay such interest thereon, and secure the deposits
38 by a bond or security, the treasurer shall report this fact to the
39 council, whereupon the council shall designate the bank or banks
40 in which he shall deposit said funds for the time being and until
41 some bank in said city will receive such deposits on such terms.

42 Said taxes shall be a lien upon the property upon which they
43 are assessed from the time the assessor's books are completed,
44 verified and returned to the city council, and he shall write the
45 word "paid" opposite the name of each person who pays the
46 taxes against him, and shall also give to the person paying such
47 taxes a receipt therefor: *Provided, however,* That the said
48 treasurer may distrain at any time for any taxes assessed
49 against a person who is about to remove or who has removed
50 from said city, after such taxes are assessed, and the books re-
51 turned as aforesaid. He shall also receive such other moneys of
52 the city as he is authorized by this act to receive, and also all
53 moneys ordered by the council to be paid to him, giving receipt
54 therefor to the persons paying the same, and shall keep an ac-
55 curate, itemized account of all money received by him. His
56 books shall, at all times, be open for the inspection of the mayor,
57 council, city recorder and to any taxpayer of the city. He shall
58 also make up monthly statements of the money received by him
59 and the amount paid out by him and to whom, showing the
60 amounts in his hands from all sources, and shall file the same
61 with the council not later than first regular meeting of the suc-
62 ceeding month. He shall pay out the money in his hands upon
63 the order of the city council, upon orders signed by the mayor
64 and the recorder. He shall, on or before the expiration of term
65 of office of the mayor, and at such other times as the council may

66 require, present to the council a full and complete statement of
67 all the moneys, with which he is chargeable, or that have been
68 received by him and not previously accounted for, and shall at
69 the same time, in like manner, furnish a complete statement, by
70 separate items, of all disbursements made by him during such
71 period, with his vouchers evidencing the same. He shall receive
72 street paving assessments, all taxes and licenses and receipt to
73 the person paying the same by endorsement upon the permit
74 granted by order of the council, or mayor as the case may be.
75 He shall, upon the expiration of his term of office, turn over to
76 the council all books and other possessions belonging to the city,
77 except the money in his hands, which he shall turn over to his
78 successor, upon the order of the council, as hereinbefore pro-
79 vided; and shall before entering upon the duties of office, execute
80 a bond with good security, payable to said city in a penalty of
81 not less than ten thousand dollars nor more than twenty thou-
82 sand dollars, conditioned that he will faithfully discharge the
83 duties of his office and account for and pay over as required
84 by law and the orders, ordinances, rules and regulations of the
85 council of said city, all money which shall come into his hands
86 which bond shall be subject to the approval of the council. He
87 shall be chargeable with all the city taxes, levies and assessments
88 and money of the city, which shall come into his hands and
89 shall account therefor.

90 The city treasurer shall receive such compensation as shall be
91 fixed by the council by ordinance or resolution, and the salary
92 so fixed shall include the compensation for making out tax tickets
93 and such other duties as the council shall prescribe: *Provided,*
94 That such compensation shall at no time exceed two per cent
95 upon the taxes collected by such treasurer.

City Attorney: Duties and Compensation.

Sec. 43. The city attorney shall be a member of the bar of
2 Upshur county in good standing and shall perform and dis-
3 charge all duties and exercise all powers which shall be con-
4 ferred upon him by any ordinance or resolution of the city
5 council, and in addition he shall exercise the following powers:
6 (a) Be the legal adviser of and attorney and counsel for
7 the city and for all administrative officers thereof, in respect
8 to their official duties;

9 (b) Prosecute and defend all suits for or against the city
10 and prepare all contracts, bonds and other writings in which
11 the city is concerned, and endorse on each his approval of the
12 form and correctness thereof;

13 (c) Be prosecuting attorney of the police court and prose-
14 cute all cases brought before such court, and perform the same
15 duties so far as they are applicable thereto as are required of
16 the prosecuting attorney of the county: *Provided, however,* That
17 it shall be necessary for said city attorney to appear in criminal
18 cases only when so requested by the mayor, or other proper
19 authority;

20 (d) The city council and all administrative officers of the
21 city may require the opinion of the city attorney upon any
22 question of law involving their respective powers and duties,
23 and he shall furnish the same in writing when so requested;

24 (e) Be present at all regular meetings and special meetings
25 of the city council to advise the mayor and council on legal
26 questions arising and to advise the city recorder in the prepara-
27 tion of resolutions and ordinances, and perform such other
28 services relating to his profession as may be required by the
29 council;

30 (f) The city attorney shall receive for his services an annual
31 retainer fee not to exceed three hundred dollars, said fee to be
32 fixed by the council payable out of the city treasury.

City Engineer: Duties.

Sec. 44. The city engineer shall be a competent civil and
2 mechanical engineer and shall discharge all duties and exercise
3 all powers which shall be conferred upon him by any ordinance
4 or resolution of the city council, and in addition he shall exer-
5 cise the following powers:

6 (a) Make surveys and fix grades when required by the city
7 council or mayor; prepare plans, plats and specifications of all
8 improvements which may be undertaken when required; and
9 inspect all work done by any contractor for the city while the
10 work is being performed;

11 (b) Supervise the construction of all buildings, the erection
12 of which is controlled or regulated by the city;

13 (c) Furnish to any resident any street or sewer grade when-
14 ever required on such terms as the council shall prescribe;

- 15 (d) Make complete maps of all streets, alleys, lanes, parks
16 and public property owned by the city and keep the same on
17 file in the city office and furnish a copy thereof to the mayor.
18 He may make recommendations as to the kind of improvements
19 required or suitable for any street, alley, lane, or locality in the
20 city;
- 21 (e) He shall also perform such other duties as may be pre-
22 scribed by the council from time to time by ordinances and
23 resolutions not inconsistent herewith.

Street Commissioner: Duties.

Sec. 45. The street commissioner shall have general supervi-
2 sion and control of the trucks, road machines, graders and all
3 property and machinery of the city to be used for maintaining
4 and upkeep of the city streets.

5 (a) General supervision of the work of repairing and keep-
6 ing in repair all pavements, sidewalks, curbs and sewers in the
7 city;

8 (b) General supervision over the men employed by the city
9 to work in the street department and shall keep an accurate
10 statement of their time at work and file same with the recorder
11 of the city, signed by him;

12 (c) He shall also perform such other duties as may be
13 prescribed by the council from time to time by ordinance or
14 resolutions not inconsistent herewith.

City Physician: Duties and Powers.

Sec. 46. The city physician shall be a member of the medical
2 profession in good standing and shall discharge all duties and
3 exercise all powers which shall be conferred upon him by any
4 ordinance or resolution of the city council; and, in addition, he
5 shall exercise the following powers:

6 (a) See that all property and premises within the city are
7 kept clean and free from unsightly or obnoxious rubbish and
8 in a thoroughly sanitary condition;

9 (b) See that all ponds, cesspools and swamps within or
10 adjacent to the city are drained, cleaned and rendered sanitary
11 so as not to injuriously affect the inhabitants of the city;

12 (c) Institute before the police court judge all proceedings
13 and prosecutions necessary to enforce all laws, ordinances and

14 regulations relating to the preservation and promotion of the
15 public health and necessary to make the city sanitary, and to
16 prevent and restrict diseases, and in so doing, he shall have the
17 assistance of the city attorney;

18 (d) Institute and prosecute proceedings before the city coun-
19 cil for the supervision, prevention or abatement of nuisances,
20 and in so doing, he shall have the assistance of the city attorney;

21 (e) Provide for the sanitary inspection and supervision of
22 the production, transportation, storage and sale of food and
23 foodstuffs, the regulation and inspection of weights and meas-
24 ures, and the collection and disposal of all waste and garbage;

25 (f) In time of epidemic or threatened epidemic, he shall
26 enforce such quarantine and isolation rules and regulations as
27 are appropriate for the emergency;

28 (g) Provide for study and research into cases of poverty,
29 delinquency, crime and disease. He shall by lectures, public
30 instructions and otherwise instruct and educate the people of
31 the community in matters affecting the public welfare which
32 relate to sanitation, cleanliness, and how to avoid insofar as
33 possible sickness and disease;

34 (h) Instruct the least informed and most ignorant members
35 of the community how best to avoid and to cure all venereal
36 diseases, and afford them all assistance required in carrying
37 out such instructions;

38 (i) Supervise the discharge of all obligations of the city
39 under any law of the United States of America or of the State
40 of West Virginia to treat and care for persons addicted to the
41 use of drugs.

Chief of Police.

Sec. 47. The chief of police shall discharge such duties as
2 may be required of him by ordinance or resolution of the council
3 and shall act under the orders of the mayor in administering
4 the police department.

Chief of Fire Department: Duties.

Sec. 48. The chief of the fire department shall have general
2 supervision and control of the property and appliances of the
3 city to be used for the prevention and extinguishment of fires.
4 He shall be under the direction, authority and subject to the

5 orders of the mayor at all times in the administration of the
6 fire department. He shall make such inspections as may be re-
7 quired of buildings and property throughout the city in rela-
8 tion to the matter of fire risks.

9 He shall, under the direction of the mayor, discharge all the
10 duties which may be imposed upon him by any ordinance or
11 resolution adopted or passed by the city council.

Assessor: Duties.

Sec. 49. The council may appoint a city assessor each year
2 and prescribe his duties and fix his compensation by resolution
3 or ordinance.

Moneys and How Expended.

Sec. 50. All moneys belonging to the city shall be paid over
2 to the city treasurer; and no money shall be paid out by him
3 or her except as the same shall have been approved by the coun-
4 cil and upon an order signed by the mayor and recorder, and
5 not otherwise, except at the expiration of his or her term of
6 office upon order of the council, signed by the mayor and re-
7 corder, he or she shall pay over to his successor all the money
8 remaining in his hands.

*Levies Annual or Special, Poll Tax, License Tax on Animals,
Annual Levy, Special Levies for Outstanding
Indebtedness.*

Sec. 51. The council shall lay an annual levy or an addi-
2 tional or special levy each year and may include a poll tax of
3 not exceeding two dollars each year upon each male citizen over
4 the age of twenty-one years, who is not exempted from paying
5 poll tax under the laws of the State of West Virginia, and the
6 said council may also impose a tax of one dollar per annum upon
7 each male dog, and two dollars per annum upon each female
8 dog owned by any resident of the city and collect the same from
9 the said owners of such animals, as other taxes are collected,
10 and prescribe such rules, regulations and penalties governing
11 the payment of said tax on animals as they may deem reason-
12 able. The general annual levy upon the taxable property within
13 the corporate limits of said city shall not exceed the sum of
14 fifty-five cents upon each one hundred dollars' assessed valua-

15 tion. But in addition to said levy above mentioned and in ad-
16 dition to any levies provided by the general law, the council
17 of said city, are empowered to and shall lay a special levy not
18 to exceed fifteen cents on each one hundred dollars' valua-
19 tion of the property in said city for the purpose of creating
20 a sinking fund with which to pay off the principal of the pres-
21 ent outstanding bonded indebtedness of said city when the same
22 becomes due and of retiring the bonds so outstanding in accord-
23 ance with the provision thereof, and for the further purpose
24 of paying annually when due, the interest coupons of the said
25 present outstanding bonded indebtedness of the said city,
26 which said special levy shall be continued annually by the coun-
27 cil for as many years as it may be necessary to pay off the
28 present and any future bonded indebtedness and the interest
29 coupons that may become due thereon. The above mentioned
30 special sinking fund levy shall be used for no other purpose
31 except as set out above.

*Certificate by County Assessor to Recorder of Assessment;
Rate of Levy; Correction of Erroneous Assessment.*

Sec. 52. The officer whose duty it is to make out the land
2 and personal property assessment books for the county court of
3 Upshur county, shall annually, not later than the twentieth day
4 of July, furnish to the city recorder of the city of Buckhannon,
5 a certified statement showing in separate amounts the aggregate
6 value of all the personal property, and the aggregate value of
7 all the real estate and the aggregate value of all property
8 assessed by the board of public works, or other board in lieu
9 thereof, in said city, as ascertained from said land and personal
10 property books, and from the assessments furnished by the state
11 auditor to the county clerk showing the value of the property
12 assessed in said city by the board of public works for the cur-
13 rent year. The statement so furnished shall be laid by the city
14 recorder before the council at its next meeting (not later than
15 the first day of August), and shall be taken by the said council
16 as the proper valuation of all property in said city liable for
17 taxation for municipal purposes for the current fiscal year, and
18 as soon as rate shall have been determined upon, the city re-
19 corder shall furnish the officer whose duty it is to make out
20 land and personal property books, a certified copy of said order

21 fixing the rate of such levy; and such officer shall make and
22 furnish to the city copies of those portions of the land and
23 personal property books of the county of Upshur showing all
24 persons and property assessed within the city of Buckhannon,
25 and shall extend against said property and persons the amount
26 of taxes thereon based upon said levy, for which said officer
27 shall be paid by the city of Buckhannon, such compensation
28 as may be fixed by ordinance.

29 In case there has been made an erroneous or improper assess-
30 ment, evidence, submitted to the council of the correction of
31 such assessment upon the county's books, or the granting of an
32 exoneration or abatement by the county court, shall be taken
33 as the basis for the correction of the city's books and the grant-
34 ing by the council of the proper abatement or exoneration.

Liens for Assessments, Taxes, Etc.

Sec. 53. There shall be a lien on all real estate within the
2 said city for the city taxes assessed thereon, and for all fines
3 and penalties assessed against or imposed upon the owners
4 thereof, by the authorities of said city, including expenses for
5 making, maintaining, and repairing, paving and macadamizing
6 sidewalks, drains, gutters and streets, otherwise improving
7 from the time work is begun, which shall have priority over all
8 the other liens except taxes due the United States and the lien
9 for taxes due the state, and county and district, and such lien
10 may be enforced by the council in the manner provided by law
11 for the enforcement of the lien for county taxes. And the laws
12 of the State of West Virginia in relation to delinquent taxes,
13 and the sale of property therefor, are hereby and in all respects
14 adopted as to all proceedings in relation to taxes for city pur-
15 poses delinquent in said city. And the powers and duties con-
16 ferred by the laws of said state upon county courts and their
17 clerks and sheriffs in regard to delinquent taxes and their col-
18 lection, are hereby in all things conferred upon said city council,
19 its recorder and other city officials, insofar as the same may
20 be directly or by implication applicable in the collection of de-
21 linquent taxes due said city.

License, License Tax, Etc.

Sec. 54. The council shall prescribe by ordinance the time
2 and manner in which licenses of all kinds shall be applied for

3 and granted, and shall require the payment of the tax thereon
4 to the city treasurer before the delivery thereof to the persons
5 applying therefor, which tax shall include the same fees for the
6 issuing of such license as are charged for similar services by
7 state and county officers, which fees shall be paid to the city
8 recorder.

9 The council may revoke any license for a breach of any of the
10 conditions, or for other good causes shown, but the person hold-
11 ing such license must first have reasonable notice of the time
12 and place of hearing and adjudicating the matter as well as the
13 cause alleged; and shall be entitled to be heard in person or
14 by counsel, in opposition to such revocation. The term for
15 which licenses provided for in this charter shall be granted and
16 be governed by the general law providing for state licenses.

17 The mayor may prescribe, impose and enforce a fine, upon
18 any person carrying on or attempting to carry on any business
19 or doing anything for which a city license may by ordinance be
20 required, without first obtaining a city license therefor and
21 paying the city license tax thereon. For the purpose of en-
22 forcing the provisions of this section the city shall have police
23 jurisdiction for one mile beyond the corporate limits of the
24 city.

Condemnation.

Sec. 55. The council shall have the right to institute and
2 prosecute proceedings in the name of the city for condemnation
3 of real estate for streets, alleys, roads, drains, sewers, market
4 grounds, city prison, city hall, water works, electric light plant,
5 or other works, or purposes of public utility. Such proceedings
6 shall conform to the provisions of the general law of West Vir-
7 ginia and the expenses thereof shall be borne by the city, except
8 in cases where it is proper under said chapter to charge said
9 expenses or any part thereof against the defendant.

Improvement Bonds.

Sec. 56. The council of said city shall have the right to bond
2 the city for the purpose of paving the said streets, or for other
3 permanent improvements or for the purpose of taking up, pay-
4 ing off or refunding any already outstanding city bonds or items
5 of indebtedness, whenever the council thereof may deem the

6 same necessary; but the aggregate indebtedness of the said
7 city for all purposes shall never at any time exceed five per-
8 centum of the assessed valuation of the taxable property there-
9 in according to the last assessment next preceding said date.
10 The said council shall provide a fund for the payment of the
11 interest annually on the said indebtedness so created, and to
12 pay the principal thereof within and not exceeding thirty-four
13 years: *Provided*, That no debt shall be contracted hereunder,
14 unless all questions connected with the same be first submitted
15 to a vote of the qualified voters of said city, and have received
16 three-fifths of all the votes cast for and against the same.

Contracts of Public Improvements, Etc.

Sec. 57. All contracts pertaining to public improvements,
2 maintenance of public property, public printing, purchase of
3 supplies and all other contracts whatsoever, involving an out-
4 lay of as much as five hundred dollars, shall be made by the
5 council and shall be based upon specifications provided for the
6 competitive bids. Such competitive bids shall be sealed and one
7 copy of each bid shall be filed with the recorder of the city.
8 Each bidder shall accompany his bid with a sworn statement, in
9 writing, that the bidder has not directly, nor indirectly, entered
10 into any agreement, express or implied, with any other bidder
11 or bidders, having for its object the control or amount of such
12 bids, or limiting the bids or bidders, parceling or farming out
13 to any bidder or bidders or other persons, or any part of the
14 contract or any part of the subject matter of the bid or the
15 parts thereof. No bidder shall divulge said sealed bid to any
16 person whatever except those having a partnership or other
17 financial interest with him in said bid, until after said sealed
18 bids are opened. The violation of any of the foregoing provi-
19 sions on the part of the bidder shall, at the election of the
20 council, make void any contract made by him with said city
21 based upon such bid. The awarding of a contract upon a suc-
22 cessful bid shall give the bidder no right of action or claim
23 against the city upon such contract until the same shall have
24 been reduced to writing and duly signed by the contracting
25 parties. All bids filed with the recorder of the council shall be
26 opened in the presence of the council two days before the con-
27 tract shall be entered into upon any such bids. The council

28 shall consider the bids and may reject any and all bids and
29 ask other bids, or may enter into a contract with the party
30 offering the lowest and best bid, or may have such work done
31 under the supervision of the proper department and keep ac-
32 count of the expense thereof. Pending acceptance of bids, the
33 plans and specifications and profiles shall remain on file in the
34 office of the recorder subject to the inspection of any person.
35 For safeguarding the interests of the city, the council shall
36 make such regulations providing for the filing of the estimates
37 furnished them by the city engineer, or other persons making
38 such estimates of cost, as they may deem best. The council
39 shall have power to require all bidders to make such bonds or
40 cash deposits as they may deem proper to secure the perform-
41 ance of the contract awarded.

Limitation on Indebtedness, Penalty for Violation.

Sec. 58. The council of the said city shall not, at any time,
2 for any purpose, create any indebtedness against the said city
3 except as provided in the next preceding section, exceeding
4 the available assets of the said city for the current year; and
5 if the said council shall create such indebtedness or issue orders
6 on the city for an amount exceeding the amount of money avail-
7 able for that year for said city from all sources, and the amount
8 of money then in the treasury appropriated, the members of
9 said council shall be severally and jointly liable for the payment
10 of the excess of such indebtedness or orders over the amount
11 of the money applicable thereto, and the same may be recovered
12 in any court having jurisdiction thereof. Any councilman vio-
13 lating the provisions of this section shall be deemed guilty of
14 malfeasance in office, and may be removed as such councilman
15 in pursuance of section fifteen of this act: *Provided, however,*
16 *That this shall not be applicable to such members who have*
17 *voted against said excess: And provided further, That the vote*
18 *of each member of the council shall be recorded.*

Claims Against the City.

Sec. 59. Every claim against the city must be approved by
2 the officer in whose department it originated, and be filed with
3 the recorder of the city in writing, with a full account of all
4 items thereof, and must be subscribed by the claimant or his

5 agent or attorney, who, on oath, shall declare that the same is
6 correct, just, due and unpaid, and no claim or demand shall
7 be allowed or suit filed thereon unless so prepared and filed,
8 and unless suit shall be filed upon such claim within twelve
9 months after the same shall have been so filed with the recorder
10 of the city as above provided, such claims shall be forever
11 barred, and upon all suits filed to enforce such claims such bar
12 shall be pleaded.

Payments of Demands Unauthorized.

Sec. 60. Every officer who shall knowingly prove, allow or
2 pay any demand upon the treasury of the city not authorized
3 by law, ordinance or this act, shall be liable to the city individ-
4 ually and on his official bond for the amount of the demand so
5 illegally approved, allowed or paid.

Conservators of the Peace.

Sec. 61. The mayor, recorder and councilmen of the city of
2 Buckhannon shall each be a public conservator of the peace,
3 and said officers and each member of the police department, in
4 addition to the power of enforcing ordinances of the city and
5 in aid of such powers, shall have the same police powers as are
6 given to a constable in making arrests and preserving the peace
7 and safety over territory outside of the city, but under its con-
8 trol, as may be conferred by the laws of the state and the pro-
9 visions of this act.

Fiscal Year.

Sec. 62. The fiscal year of the city shall commence on the
2 first day of July each year and shall end on the thirtieth day
3 of June next following.

Publication of Financial Statement.

Sec. 63. The city of Buckhannon shall cause to be published
2 in two newspapers of opposite politics, if there be such published
3 therein, at a compensation not to exceed the rate provided by
4 the law for like publications, for one issue, or, to be published
5 in pamphlet form not less than one hundred copies of a sworn
6 statement of the financial condition of such corporation. Such
7 statement shall contain an itemized statement of the receipts
8 and expenditures of the city, showing the source from which

9 all money was derived, and the name of the person to whom an
10 order was issued, showing the total amount issued to him, ar-
11 ranging the same under distinct departments, showing the pur-
12 pose for which any debt was contracted and the amount of
13 money in the treasury at the end of the preceding administra-
14 tion and the debts contracted by it.

15 Such statement shall be prepared by the city every twelve
16 months and then shall be printed according to the provisions
17 of this section. Either method of making the report shall be
18 sworn to by the recorder.

19 If a city council fail or refuse to perform the duties herein-
20 before named, every member of such council and the recorder
21 thereof concurring in such refusal shall be guilty of a mis-
22 demeanor, and, upon conviction thereof, shall be fined not less
23 than ten nor more than one hundred dollars.

24 If any of the provisions in this section are violated, it shall
25 be the duty of the prosecuting attorney of Upshur county to
26 immediately present the evidence thereof to the grand jury if
27 in session, and if not in session, he shall cause such violation
28 to be investigated by the next succeeding grand jury.

Sewerage and Paving.

Sec. 64. All provisions of sections one, two, three, four, five,
2 six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen,
3 fifteen, sixteen, seventeen and eighteen, article nine, chapter
4 eight of the code of West Virginia, one thousand nine hundred
5 thirty-one, not inconsistent herewith, are hereby made parts of
6 this chapter as though set forth herein in detail, and the council,
7 by a majority vote of their members, shall have power to enforce
8 the same in said city; they shall adopt all such ordinances and
9 resolutions as may be necessary to put said provisions into
10 effect.

Public Utility Franchises.

Sec. 65. The city council may by ordinance grant permission
2 to any individual, firm or corporation to construct and operate
3 a public utility in, over and under the streets, alleys and pub-
4 lic grounds of the city under the provisions of law applicable
5 thereto; but no franchise shall be considered an emergency
6 measure. It may by ordinance renew any franchise to construct

7 and operate a public utility in, over and under the streets, alleys
8 and public grounds of the city, or may grant to any individual,
9 firm or corporation operating a public utility the right to ex-
10 tend the appliances and service of such utility; but the right to
11 use and maintain any such extension shall expire with the ori-
12 ginal grant to the utility or of any renewal thereof. It shall
13 control the distribution of space in, over or across all streets or
14 public grounds occupied by public utility fixtures. All rights
15 hereafter granted for the construction and operation of public
16 utilities shall be subject to the continuing right of the council
17 to require such reconstruction, relocation, change or discontinu-
18 ance of fixtures and appliances used by the utility in such
19 streets, alleys or public grounds, as the council may deem neces-
20 sary for the public convenience: *Provided*, That no franchise
21 shall be granted for a period exceeding fifty years, and no re-
22 newal thereof shall exceed a like period.

Pollution of Water Supply of the City.

Sec. 66. In order to preserve the health and insure the com-
2 fort of the inhabitants of the city of Buckhannon by preventing
3 the pollution of the water and water supply of the city for
4 domestic use, it shall be unlawful for any person, firm, or cor-
5 poration to deposit, discharge, throw or cause to be thrown into
6 the Buckhannon river above the water station of the city, or into
7 any tributary brook or stream which falls or flows into said
8 river above said point, any dead carcass of any animal, fowl, or
9 fish, any sewage or sewage effluent, or the content of any privy
10 or privy vault, or any offal from any slaughter house or butcher
11 establishment, or any spoiled fish, meat, cheese, lard, molasses,
12 grain or any obnoxious vegetable, mineral or animal substance, or
13 any tins in which foods or liquids have been preserved, or any
14 crude oil, refined oil, petroleum, or any compound or mixture of
15 oil or filth from any oil well, oil tank, oil vat or place of deposit
16 of crude or refined oil, or any other vegetable, mineral or animal
17 substances, or waters charged and polluted with minerals, or
18 combination of two or more of such substance, which of itself
19 or in connection with other matter will or might corrupt, pollute,
20 or impair the quality of the water in said river and streams; or
21 to throw or deposit, cause to be thrown or deposited, or permit
22 to be thrown or deposited upon any premises owned by him or
23 them, upon or near to the margin of said river, creeks, and

24 streams, in such proximity as to permit the obnoxious substances
25 to be washed or carried into said river or streams by rains, flood-
26 ing and drainage; but all liquid substances, the discharge of
27 which into said stream or streams is prohibited, shall be dis-
28 charged or deposited in the fields at a distance from the margin
29 of any said streams so that they will be thoroughly filtered and
30 cleansed before reaching the streams.

31 Any person convicted of violating any of the provisions of
32 this section by a court of competent jurisdiction shall be fined
33 not more than one thousand dollars and imprisoned in the
34 county jail of the county for not more than one year.

Motor Vehicles.

Sec. 67. The city council shall have power to license and regu-
2 late by ordinance all taxicabs, automobiles and vehicles of like
3 motive power engaged in the transportation of passengers or
4 freight for hire over the streets and alleys of the city, and may
5 require bond from the owners thereof for their faithful com-
6 pliance with all ordinances and rules and regulations made in
7 pursuance thereof; also to regulate and fix the rate of charges
8 to be made for transporting and hauling passengers and freight,
9 and to make it unlawful to charge a higher rate than the
10 maximum fixed by the council.

Services of Notices.

Sec. 68. Whenever any notice is required to be given by the
2 city or any department thereof, or any summons, warrant or
3 other process is required to be served or otherwise executed
4 under the provisions of this act, it shall be sufficient if such
5 notice, summons, warrant or other process be served or executed
6 and return thereof be made by any member of the police force
7 of said city in the same way or manner in which the laws of the
8 state provide for serving and executing notices, summons and
9 warrants by state officers, unless otherwise provided in this act.

Assessments for Removing Snow, Weeds, Etc.

Sec. 69. The city council shall have power to provide by
2 ordinance for assessing against the abutting property the cost
3 of removing from sidewalks all accumulations of snow and ice
4 and for assessing against the property the cost of removing rub-
5 bish and the cutting and removing of noxious weeds from any
6 lot or grounds in the city.

Sidewalks.

2 to cause to be put down a suitable sidewalk and curb of brick,
3 stone or other material along and for the footways and sidewalks
4 of the public streets and alleys of said city, and to order and
5 cause the grading, laying or relaying or repair of sidewalks and
6 gutters, of such material and width as the council may deter-
7 mine; and to require the owners or occupiers of the lot or lots
8 or parts of lots facing upon said streets and alleys to keep such
9 sidewalks clean and in good repair. The owners or occupiers
10 of the lots or fractional parts of lots abutting upon such streets
11 and alleys shall not grade or lay any such sidewalk, curb or
12 gutter, unless specially requested to do so by resolution adopted
13 by the council, and then only of the kind prescribed by the
14 council; but the city may lay such sidewalk, curb or gutter and
15 grade therefor, or may let said work by contract, and in either
16 case the total cost of said work shall be charged upon and
17 assessed against the lots or fractional parts of lots abutting upon
18 the streets and alleys so improved, or specially benefited by
19 said work, in proportion to the number of feet frontage thereon
20 of each such lot or part of lot, and shall be and remain a lien
21 thereon from the date of acceptance of the work by the city,
22 and said lien shall have priority over all other liens except those
23 for taxes due to the state, and shall be on a parity with the
24 taxes and assessments due the city, and shall bear interest from
25 the date of acceptance of the work by the city, or from the
26 completion thereof when done by the city, and shall become due
27 and payable when declared final by the council. The amount so
28 assessed against any lot, or fractional part of lot, together with
29 the interest shall also be a debt against the owner of such lot or
30 part of lot. Immediately upon completion of the work, if done
31 by the city, or upon acceptance of the work if done by contract,
32 the council shall cause the city recorder to serve a notice upon
33 the owners of each lot or fractional part of lots over which such
34 sidewalks are graded, paved, curbed or laid, shall describe such
35 lot or part of lot with reasonable certainty sufficient to identify
36 the same, and shall also state the number of feet over each lot
37 or part of lot so graded, curbed or laid with sidewalk, together
38 with the amount assessed against each owner; which notice shall
39 be served as provided for the service of notices in this act and

40 shall cite all said owners to appear before the council at a
41 regular meeting to be held within fifteen days following the
42 service of publication thereof and show cause, if any they can,
43 why such assessments should not become final. Protests against
44 said assessments shall be heard and determined and said assess-
45 ment shall become final and be recorded by the city recorder,
46 certified for collection, and the collection thereof enforced
47 against the property assessed and against the owner thereof,
48 and a certificate of said assessments certified to the clerk of the
49 county court for recordation, and recorded in all respects in
50 the same manner and with the same legal effect as provided in
51 the case of assessments for street paving or other local improve-
52 ments in this act.

Act Construed.

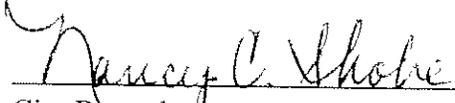
Sec. 71. All provisions contained in this act in respect to
2 making improvements shall be liberally construed by the council
3 and by the courts. Immaterial and technical objections shall be
4 disregarded; all special benefit assessments ascertained and not
5 contested before the council within the time specified by law
6 from the ascertainment thereof shall be deemed conclusive, and
7 in any contested case the ascertainment by the council shall be
8 conclusive.

Repeal of Former Acts.

Sec. 72. The act of the legislature of West Virginia, passed
2 February eighth, one thousand nine hundred nineteen, known as
3 senate bill number one hundred four, relating to the charter of
4 the city of Buckhannon, and being chapter fifteen of the acts
5 of one thousand nine hundred nineteen, relating to municipal
6 charters, and all acts and parts of acts inconsistent with this act
7 are hereby repealed.

I hereby certify that attached hereto is a true copy of the Acts of Legislature, Chapter 116 passed March 9, 1933 being the Charter of the City of Buckhannon, West Virginia.

Given under my hand and the seal of the City of Buckhannon, West Virginia this 23rd day of April, 2009.



City Recorder

[Seal]

CITY OF BUCKHANNON

OFFICIAL OATH

State of West Virginia,
County of Upshur,
City of Buckhannon,

I, **KENNETH T. DAVIDSON**, do solemnly affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, the Charter and Ordinances of the City of Buckhannon, West Virginia, and faithfully discharge my duties as **MAYOR** of the said City to the best of my ability, so help me God.

Signed *Kenneth T. Davidson*

Subscribed and sworn to before me this 1st day of July, 2008.

Nancy Shobe
City Recorder



CITY OF BUCKHANNON

WEST VIRGINIA

26201

70 E. MAIN STREET
BUCKHANNON, WV 26201

TELEPHONE
(304) 472-1651
TDD # (304) 472-9550
FAX # (304) 472-4620

CITY OF BUCKHANNON

OFFICIAL OATH

State of West Virginia,
County of Upshur,
City of Buckhannon,

I, Nancy C. Shobe, do solemnly affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, the Charter and Ordinances of the City of Buckhannon, West Virginia, and faithfully discharge my duties as CITY RECORDER of the said City to the best of my ability, so help me God.

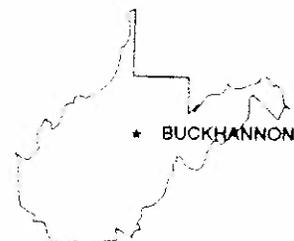
Signed Nancy C. Shobe

Subscribed and sworn to before me this 29th day of June, 2006

Amberle Jenkins
Assistant City Recorder



Buckhannon - The promise of tomorrow with the dignity of yesterday



CITY OF BUCKHANNON

OFFICIAL OATH

State of West Virginia,
County of Upshur,
City of Buckhannon,

I, **M. KEITH QUEEN**, do solemnly affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, the Charter and Ordinances of the City of Buckhannon, West Virginia, and faithfully discharge my duties as **COUNCIL MEMBER** of the said City to the best of my ability, so help me God.

Signed M Keith Queen

Subscribed and sworn to before me this 1st day of July, 2008

Nancy C. Shobe
City Recorder



CITY OF BUCKHANNON

OFFICIAL OATH

State of West Virginia,
County of Upshur,
City of Buckhannon,

I, **J. DAVID THOMAS**, do solemnly affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, the Charter and Ordinances of the City of Buckhannon, West Virginia, and faithfully discharge my duties as **COUNCIL MEMBER** of the said City to the best of my ability, so help me God.

Signed _____

Subscribed and sworn to before me this 1st day of July, 2008



Nancy C. Shobe

City Recorder

CITY OF BUCKHANNON

OFFICIAL OATH

State of West Virginia,
County of Upshur,
City of Buckhannon,

I, **PAMELA CUPPARI**, do solemnly affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, the Charter and Ordinances of the City of Buckhannon, West Virginia, and faithfully discharge my duties as **COUNCIL MEMBER** of the said City to the best of my ability, so help me God.

Signed Pamela Cuppari

Subscribed and sworn to before me this 1st day of July, 2008

Nancy C. Shobe
City Recorder



CITY OF BUCKHANNON

WEST VIRGINIA

26201

70 E. MAIN STREET
BUCKHANNON, WV 26201

TELEPHONE
(304) 472-1651
TDD # (304) 472-9550
FAX # (304) 472-4620

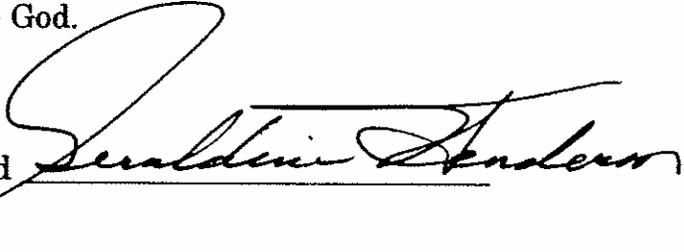
CITY OF BUCKHANNON

OFFICIAL OATH

State of West Virginia,
County of Upshur,
City of Buckhannon,

I, Geraldine Henderson, do solemnly affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, the Charter and Ordinances of the City of Buckhannon, West Virginia, and faithfully discharge my duties as COUNCIL MEMBER of the said City to the best of my ability, so help me God.

Signed



Subscribed and sworn to before me this 29th day of June, 2006



City Recorder



Buckhannon – The promise of tomorrow with the dignity of yesterday

CITY OF BUCKHANNON

OFFICIAL OATH

State of West Virginia,
County of Upshur,
City of Buckhannon,

I, ELIZABETH LEE, do solemnly affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, the Charter and Ordinances of the City of Buckhannon, West Virginia, and faithfully discharge my duties as COUNCIL MEMBER of the said City to the best of my ability, so help me God.

Signed Elizabeth A. Lee

Subscribed and sworn to before me this 21st day of August, 2008.

Nancy C. Shobe
City Recorder

October 17 1957

STATE OF WEST VIRGINIA, COUNTY OF UPSHUR, CITY OF BUCKHANNON TOWIT;

At a regular adjourned meeting of the City Council of the City of Buckhannon, held in the Chambers thereof on the 17th day of October, 1957, with the following members present, Mayor J.D. Hinkle; Recorder, I. Ray Light; City Atty. A. Jerome Dailey; Councilmen, Roy E. Neabitt; Guy Zinn; Webster Jack; Maurice H. Tenney and Ernest S. Andrews.

Minutes of the Oct. 3rd, 1957 meeting and of the 7th day of Oct. 1957 meetings read and approved. Motion by Zinn seconded by Tenney that the bills be paid and the building permits be approved. Motion carried.

Building permits,
No. 1468 Risa Green 155 Camden Ave. Enclose a porch Approx cost \$300.00 Fee \$0.50
No. 1469 Pauline Sheets 5 Monongalia St. Garage " " 800.00 Fee 0.80

Lawrence Osborn and others from Reger Ave appeared before Council in regard to drainage on Reger Ave. Council agreed to take up the matter after a study of the problem and try and work out a solution to the same.

SANITARY -
AN ORDINANCE PROVIDING THAT THE CUSTODY, ADMINISTRATION, OPERATION, AND MAINTENANCE OF THE SEWER COLLECTION SYSTEM FOR THE CITY OF BUCKHANNON SHALL BE VESTED IN A SANITARY BOARD AS PROVIDED BY CHAPTER 16, ARTICLE 13 OF THE CODE OF WEST VIRGINIA, AS AMENDED BY THE ACTS OF THE LEGISLATURE BY ITS ACTS OF 1957, CHAPTER 137 THEREOF.

~~WHEREAS, by order duly entered by the State Water Commission of the State of West Virginia on the 10th day of October, 1957, the City of - -~~

WHEREAS, By virtue of Chapter 16, Article 13, Section 15 of the Code of West Virginia, as amended by Chapter 137 of the acts of the Legislature of 1957, the City of Buckhannon, is authorized and empowered to own, acquire, contract, equip and operate and maintain a sewage collection system, and WHEREAS, by order duly entered by the State Water Commission of the State of West Virginia, on the 10th day of October, 1957, the City of Buckhannon, was ordered and directed to cease pollution of the Buckhannon river;

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BUCKHANNON;

(1)

That the custody, administration, operation and maintenance of the Sewage Collection System for the City of Buckhannon, West Virginia, shall be under the supervision and control of the Sanitary Board of the City of Buckhannon;

(2)

Such Sanitary Board shall be composed by the Mayor of the City of Buckhannon, and two persons appointed by the Council of said City of Buckhannon, one of whom, during the construction of said sewage collection system shall be a registered professional engineer.

(3)

The engineer member of the Board need not be a resident of the City of Buckhannon, and after the construction of the system and plant has been completed, the Engineer member may be succeeded by a person not an Engineer.

(4)

No officer or employee of the City of Buckhannon 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.

(5)

Said appointment shall originally be appointed for terms of two and three years respectively, and upon the expiration of each such term, and each succeeding term, and appointment of a successor shall be made in like manner for a term of two and three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment. Each member shall give bond, if any, as may be required by the law and ordinance.

(6)

The Mayor shall 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 Treasurer may be one and the same person) 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 as compensation for their services the sum of \$25.00 per month, for each member, and shall be entitled to payment for their reasonable expenses incurred in the performance of their duties.

The compensation of the Secretary shall be in the sum of \$25.00 per month, and the compensation of the Treasurer shall be in the sum of \$ per month, and the said Treasurer shall give bond in the amount of \$ with good security and as provided by law.

(7)

Said Sanitary Board shall have all such powers and authority as set forth in Chapter 16, Article 13 of the Code of West Virginia, as amended by Chapter 137 of the acts of the Legislature of West Virginia in its 1957 Session.

(8)

All compensation together with the expenses in this ordinance referred to, shall be paid solely from funds provided under authority of Article 13, Chapter 16 of the code of West Virginia, as amended by Chapter 137 of the acts of the Legislature of West Virginia in its 1957 Session.

(9)

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

(10)

This ordinance is by the common Council made an emergency ordinance, and the same shall be in effect from passage.

Motion by Roy E. Neabitt seconded by Maurice H. Tenney that the above Ordinance be passed by the City Council of the City of Buckhannon. Motion carried.

Motion by Roy E. Neabitt seconded by Guy Zinn that a Sanitary Board be appointed consisting of Mayor J.D. Hinkle - BY VIRTUE OF HIS OFFICE - for tenure of his office, Attorney Lycurgus Hyre, term to end October 17th, 1960, and engineer, Frank E. Williams Jr. term to end October 17th, 1959. Motion Carried.

Mr. Thomas Yeager, representing, Baker Watts & Co., of Baltimore Md. a bonding Co. appeared before Council and recommended that the Sanitary board employ a Financial Advisor to set up and handle the financial work and aid in securing competitive bids when bonds are to be sold, and assist the Sanitary Board in any way that would be helpful.

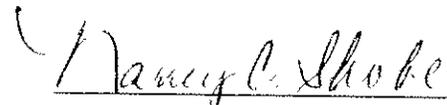
Mr. J.H. Milan, Engineer, was present at the Council meeting and discussed the work of bringing the plans and specifications up to date for the Sanitary system. He stated that he would do this work for the City; But it would take some time to explore the matter and gather the necessary data as to the sections that have been added since the plans were made some six years ago, also to see where reductions might be made and to see if this could be done in stages so too much expenses would not be put on the people at one time. He is also going to contact a Federal Agency and try to get aid for the City in order to bring this program up to the present time. He will return to Buckhannon in about ten days to look over old plans and specification and to explore the City and surrounding territory and get started on this work as soon as possible.

There being no further business to come before the Council, motion made and duly seconded to adjourn.

J. D. Hinkle (Signature)
15 P.M. (Time)
C.A.N. (Initials)

I hereby certify that this is a true copy of the Council minutes held on October 17, 1957 by the governing body of the City of Buckhannon, West Virginia creating the Sanitary Board of the City.

Given under my hand and the seal of the City of Buckhannon, West Virginia this 23rd day of April, 2009.



City Recorder

[Seal]

**CITY OF BUCKHANNON
APPOINTMENTS
FISCAL YEAR 2008-2009**

**** Denotes New or Reappointment**

Chief of Police	Matthew Gregory	**
Fire Chief	Mitch Tacy	**
Treasurer (City & Utility)	Nancy Shobe	**
Assistant City Recorder	Amberle Jenkins	**
Street Commissioner	Jerry Arnold	**
City Engineer	Samuel Ludlow	**
City Engineer	Burl Smith	**
Zoning/Planning/Development and Technology	Richard Clemens	**
City Attorney	David McCauley	**
Assistant City Attorney	H. Matthew Hymes	**
Municipal Judge	Randall Levine	**
City Electrical Inspector	Dennis Miller	**
Section 504 Compliance Officer (ADA)	Jerry Arnold	**
SYC Executive Director		**
SYC Activity Director	Debora Brockleman	**

WATER BOARD - 3 YEAR TERM

Dorothy Short	2006-2009
Harley Brown	2008-2011 **
Jerry Henderson	Term of Office
Pamela Cuppari	Term of Office

WASTE BOARD - 3 YEAR TERM

John Hinkle	2007-2010
M. Keith Queen	Term of Office

SANITARY BOARD - 3 YEAR TERM

Jay Hollen	2006-2009
Philip Loftis	2008-2011 **

I hereby certify the following are true and exact copies of records of the City of Buckhannon.


Nancy C. Shobe
City Recorder

CONSOLIDATED PUBLIC WORKS BOARD- 2 YEAR TERM

Kenneth T. Davidson-Mayor	Term of Office
Nancy Shobe --Recorder/Treasurer	Term of Office
Elizabeth Lee- Council	Term of Office
David Thomas - Council	Term of Office
Don Nestor	2007- 2009
Mark Waldo	2008- 2010 **
Jerry Arnold	Street Commissioner
Samuel Ludlow	City Engineer
Burl Smith	City Engineer

HOUSING AUTHORITY -5 YEAR TERM

Christy Benson	2006-2011
Rose M. Clutter	2007-2012
Sarah Carr	2004-2009
Richard Heatherly	2005-2010
Willard Kelley	2008-2013 **

CHARLES GIBSON PUBLIC LIBRARY

Martha Edgell	5 year term – 2013
Ruth Myers	1 year term - 2009
Louise Gillooly	2 year term - 2010
William L. O'Brien	3 year term - 2011
Cathy Tucker	4 year term - 2012

POLICE CIVIL SERVICE - 4 YEAR TERM

Dennis Willett – Chamber	(R) 2007-2011
C J Day - FOP	(R) 2006-2010
	-City (D) 2008-2012 Vacancy
Nancy C. Shobe (Ex-Officio)	Term of Office

FIRE CIVIL SERVICE - 4 YEAR TERM

Alex Ross –Chamber (R) 2006-2010
Scott Preston (I) 2007-2011
Terry Mills-City (R) 2008-2012 **
Nancy C. Shobe (Ex-Officio) Term of Office

ZONING BOARD OF APPEALS - 3 YEAR TERM

Robyn Simons 2006-2009
Dan Marsh 2006-2009
2006-2009 *Vacancy
Jane Reddecliff 2008-2011 **
Dorothy Short 2008-2011 **

TELEVISION CABLE BOARD - 2 YEAR TERM

Andrew Duncan 2007-2009
Dwayne Squires 2008-2010 **
Albert Auvil 2007-2009
Nancy C. Shobe-City Recorder Term of Office
David McCauley-City Attorney
Kenneth T. Davidson –Mayor- Term of Office

HOTEL-MOTEL COMMITTEE

Kenneth T. Davidson - Mayor (Chairman)
Nancy C. Shobe - City Recorder
Jerry Henderson-City Council
Chamber of Commerce President
Jill Cable – Hotel/Motel

BUILDING COMMISSION

Bob Skinner	2 Iden Lane	R – 4yr. term 08-12
Mike Aloi	25 College Avenue	D – 2 yr. term 08-10
Mark Hays	72 S. Florida Street	D – 1 yr. term 08-09
Craig Hyre	11 Gilbert Street	R – 3 yr. term 08-11
Maureen Wilson	18 Green St.	R – 5 yr. term 08-13

PLANNING COMMISSION - 3 YEAR TERM

Ann Livesay	2006-2009
John Scott	2006-2009
Richard W. Edwards	2006-2009
C J Rylands	2006-2009
David Rexroad	2006-2009
Catherine Cuppari	2008-2011 **
Michael Loughney	2008-2011 **
Dean Everett	2007-2010
N. Mark Hays	2006-2009
Vickie Black	2006-2009
Elizabeth Lee	2007-2010
A. G. Trusler	2007-2010
Alan Tucker	2007-2010
Richard Clemens	Zoning Officer
Pamela Cuppari	Term of Office
Nancy Shobe	Term of Office

STOCKERT YOUTH CENTER

Kenneth T. Davidson (Mayor)	Term of Office
Nancy C. Shobe (City Recorder)	Term of Office
Pamela Cuppari (Council)	Term of Office
Donnie Tenney (Upshur Co. Commission)	Term of Office
Diane Godwin (Board of ED)	Term of Office
Julie Keehner (WVWC)	2007-2009
Jill Cable (At Large)	2008-2010 **
Rob Rupp (At Large)	2008-2010 **
Don Nestor (At Large)	2007-2009

REGION VII PLANNING & DEVELOPMENT

Kenneth T. Davidson (Mayor)	Term of Office
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RECREATION BOARD – 2 YEAR TERM

Richard Edwards	2008-2010 **
Tappan Squires	2007-2009

UPSHUR COUNTY DEVELOPMENT AUTHORITY

Kenneth T. Davidson - Mayor Term of Office

UPSHUR COUNTY HEALTH DEPARTMENT - 5 YEAR TERM

Dalton Cutright 2007-2012

Roy Goff 2004-2009

HISTORIC LANDMARK COMMISSION – 2 YEAR TERM

Richard Clemens (Zoning Officer)

Jerry Henderson (Council) - Term of Office

Beverly Keadle 2007-2009

Jeanie Hyre 2008-2010 **

Nancy Burgess 2008-2010 **

AIRPORT AUTHORITY - 3 YEAR TERM

Richard Clemens 2006-2009

Scott Wilson 2007-2010

Glen Davis 2008-2011

HOUSING ENFORCEMENT BOARD

Kenneth T. Davidson-Mayor

Samuel Ludlow-City Engineer (Voting member)
(Council – Term of Office)-(At Large)

Stephen Smith – Health Officer

Richard Clemens - Housing Enforcement Officer

Burl Smith-City Engineer (Ex-Officio)

Fire Chief (Ex-Officio)

ANIMAL CARE AND CONTROL COMMISSION

Mayor – Kenneth T. Davidson
President Humane Society
Veterinarian – Robert Flesher
Resident - John Scott
Resident – Betty Weimer
DNR – Ray Knotts (ex-officio)
Upshur County Dog Warden

COUNCIL COMMITTEES

Finance All members of Council

Ordinance All members of Council

Street Lights All members of Council

Parks - Mayor
Pam Cuppari
Keith Queen

Health - Mayor
Jerry Henderson
David Thomas

Fire - Mayor
Keith Queen
Jerry Henderson

Police - Mayor
Pam Cuppari
Nancy Shobe

Streets - Mayor
Elizabeth Lee
David Thomas

STATE OF WEST VIRGINIA, COUNTY OF UP SHUR, CITY OF BUCKHANNON, TO-WIT:

The meeting of the Buckhannon Sanitary Board was held on Thursday, January 15, 2009 at 4:00 p.m. with the following in attendance: Mayor, Kenneth Davidson Treasurer/City Recorder, Nancy C. Shobe and Board members Phil Loftis and Jay Hollen. Also in attendance were Sanitary Superintendent/Engineer Sam Ludlow, City Attorney David McCauley and David Kirby of Scott & Stringfellow.

Mayor Davidson called the meeting to order at 4:00 p.m. and determined a quorum was present.

The minutes of the meeting held on December 18, 2008 were approved as submitted.

Mr. David Kirby of Scott & Stringfellow presented the following information concerning the refunding of the 1996 Bonds:

Jan 15, 2009 7:55 am Prepared by BB&T Capital Markets (Finance 6 008 Buckhannon, City of, WVA:1996A-09DEF.09DEF)

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City of Buckhannon, WVA
Series 2009 Current Refunding
Deferred Savings

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Jan 15, 2009 7:55 am Prepared by BB&T Capital Markets (Finance 6 008 Buckhannon, City of, WVA:1996A-09DEF.09DEF) Page 1

SOURCES AND USES OF FUNDS

City of Buckhannon, WVA
Series 2009 Current Refunding
Deferred Savings

Sources:	
Bond Proceeds:	
Par Amount	2,043,277.00
Other Sources of Funds:	
1996A DSRF	201,135.00
Debt Service Fund	49,904.00
	<u>251,039.00</u>
	<u>2,294,316.00</u>
Uses:	
Refunding Escrow Deposits:	
Cash Deposit	0.44
SLGS Purchases	2,204,319.00
	<u>2,204,319.44</u>
Delivery Date Expenses:	
Cost of Issuance	90,000.00
Other Uses of Funds:	
Additional Proceeds	0.56
	<u>2,294,316.00</u>

SUMMARY OF REFUNDING RESULTS

City of Buckhannon, WVA
Series 2009 Current Refunding
Deferred Savings

Dated Date	04/15/2009
Delivery Date	04/15/2009
Arbitrage yield	3.627127%
Escrow yield	3.627127%
Bond Par Amount	2,043,277.00
True Interest Cost	3.627127%
Net Interest Cost	3.600000%
Average Coupon	3.600000%
Average Life	7.159
Par amount of refunded bonds	2,195,000.00
Average coupon of refunded bonds	5.253627%
Average life of refunded bonds	9.680
PV of prior debt to 04/15/2009 @ 3.627127%	2,478,176.60
Net PV Savings	183,861.16
Percentage savings of refunded bonds	8.376363%
Percentage savings of refunding bonds	8.998347%

SAVINGS

City of Buckhannon, WVA
Series 2009 Current Refunding
Deferred Savings

Date	Prior Debt Service	Refunding Debt Service	Savings	Present Value to 04/15/2009 @ 3.6271272%
10/01/2009	142,820.00	142,819.39	0.61	-229.34
10/01/2010	201,135.00	201,134.56	0.44	-144.60
10/01/2011	196,275.00	196,274.68	0.32	-107.73
10/01/2012	196,325.00	196,324.24	0.76	-73.57
10/01/2013	196,337.50	196,336.84	0.66	-40.00
10/01/2014	196,087.50	196,086.56	0.94	-7.93
10/01/2015	200,575.00	200,574.52	0.48	21.75
10/01/2016	199,537.50	199,536.72	0.78	50.76
10/01/2017	198,237.50	198,236.64	0.86	77.79
10/01/2018	196,675.00	196,674.76	0.24	102.56
10/01/2019	199,850.00	199,849.68	0.32	126.13
10/01/2020	197,500.00	197,499.24	0.76	148.68
10/01/2021	199,887.50	199,887.28	0.22	168.89
10/01/2022	196,750.00	48,609.12	148,140.88	91,500.46
10/01/2023	198,350.00		198,350.00	118,096.85
10/01/2024	199,425.00		199,425.00	114,497.32
10/01/2025	199,975.00		199,975.00	110,711.60
	3,315,742.50	2,569,844.23	745,898.27	434,899.60

Savings Summary

PV of savings from cash flow	434,899.60
Less: Prior funds on hand	-251,039.00
Plus: Refunding funds on hand	0.56
Net PV Savings	183,861.16

BOND PRICING

City of Buckhannon, WVA
Series 2009 Current Refunding
Deferred Savings

Bond Component	Maturity Date	Amount	Rate	Yield	Price
Serial Bond:					
	10/01/2009	108,901	3.600%	3.600%	100.000
	10/01/2010	131,497	3.600%	3.600%	100.000
	10/01/2011	131,371	3.600%	3.600%	100.000
	10/01/2012	136,150	3.600%	3.600%	100.000
	10/01/2013	141,064	3.600%	3.600%	100.000
	10/01/2014	145,892	3.600%	3.600%	100.000
	10/01/2015	155,632	3.600%	3.600%	100.000
	10/01/2016	160,197	3.600%	3.600%	100.000
	10/01/2017	164,664	3.600%	3.600%	100.000
	10/01/2018	169,030	3.600%	3.600%	100.000
	10/01/2019	178,290	3.600%	3.600%	100.000
	10/01/2020	182,358	3.600%	3.600%	100.000
	10/01/2021	191,311	3.600%	3.600%	100.000
	10/01/2022	46,920	3.600%	3.600%	100.000

2,043,277

Dated Date	04/15/2009	
Delivery Date	04/15/2009	
First Coupon	05/01/2009	
Par Amount	2,043,277.00	
Original Issue Discount		
Production	2,043,277.00	100.000000%
Underwriter's Discount		
Purchase Price	2,043,277.00	100.000000%
Accrued Interest		
Net Proceeds	2,043,277.00	

BOND DEBT SERVICE

City of Buckhannon, WVA
Series 2009 Current Refunding
Deferred Savings

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
10/01/2009	108,901	3.600%	33,918.39	142,819.39	142,819.39
04/01/2010			34,818.78	34,818.78	34,818.78
10/01/2010	131,497	3.600%	45,818.78	166,315.78	201,134.56
04/01/2011			32,451.84	32,451.84	32,451.84
10/01/2011	131,371	3.600%	32,451.84	163,822.84	196,274.68
04/01/2012			30,087.12	30,087.12	30,087.12
10/01/2012	136,150	3.600%	30,087.12	166,237.12	196,324.24
04/01/2013			27,636.42	27,636.42	27,636.42
10/01/2013	141,064	3.600%	27,636.42	168,700.42	196,336.84
04/01/2014			25,097.28	25,097.28	25,097.28
10/01/2014	145,892	3.600%	25,097.28	170,989.28	196,086.56
04/01/2015			22,471.26	22,471.26	22,471.26
10/01/2015	155,632	3.600%	22,471.26	178,103.26	200,574.52
04/01/2016			19,669.86	19,669.86	19,669.86
10/01/2016	160,197	3.600%	19,669.86	179,866.86	199,536.72
04/01/2017			16,786.32	16,786.32	16,786.32
10/01/2017	164,664	3.600%	16,786.32	181,450.32	198,236.64
04/01/2018			13,822.38	13,822.38	13,822.38
10/01/2018	169,030	3.600%	13,822.38	182,852.38	196,674.76
04/01/2019			10,779.84	10,779.84	10,779.84
10/01/2019	178,290	3.600%	10,779.84	189,069.84	199,849.68
04/01/2020			7,570.62	7,570.62	7,570.62
10/01/2020	182,358	3.600%	7,570.62	189,928.62	197,499.24
04/01/2021			4,288.14	4,288.14	4,288.14
10/01/2021	191,311	3.600%	4,288.14	195,599.14	199,887.28
04/01/2022			844.56	844.56	844.56
10/01/2022	46,920	3.600%	844.56	47,764.56	48,609.12
	2,043,277		526,567.23	2,569,844.23	2,569,844.23

SUMMARY OF BONDS REFUNDED

City of Buckhannon, WVA
Series 2009 Current Refunding
Deferred Savings

Bond	Maturity Date	Interest Rate	Par Amount	Call Date	Call Price
Sewerage System Refunding Revenue Bond, Series 96A, 1996A:					
SERIAL	10/01/2009	5.300%	85,000.00	04/30/2009	100.000
	10/01/2010	5.400%	90,000.00	04/30/2009	100.000
	10/01/2011	5.500%	90,000.00	04/30/2009	100.000
TERM	10/01/2012	5.250%	95,000.00	04/30/2009	100.000
	10/01/2013	5.250%	100,000.00	04/30/2009	100.000
	10/01/2014	5.250%	105,000.00	04/30/2009	100.000
	10/01/2015	5.250%	115,000.00	04/30/2009	100.000
	10/01/2016	5.250%	120,000.00	04/30/2009	100.000
	10/01/2017	5.250%	125,000.00	04/30/2009	100.000
	10/01/2018	5.250%	130,000.00	04/30/2009	100.000
	10/01/2019	5.250%	140,000.00	04/30/2009	100.000
	10/01/2020	5.250%	145,000.00	04/30/2009	100.000
	10/01/2021	5.250%	155,000.00	04/30/2009	100.000
	10/01/2022	5.250%	160,000.00	04/30/2009	100.000
	10/01/2023	5.250%	170,000.00	04/30/2009	100.000
	10/01/2024	5.250%	180,000.00	04/30/2009	100.000
	10/01/2025	5.250%	190,000.00	04/30/2009	100.000
			2,195,000.00		

PRIOR BOND DEBT SERVICE

City of Buckhannon, WVA
Series 2009 Current Refunding
Deferred Savings

Sewerage System Refunding Revenue Bond, Series 96A (1996A)

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
10/01/2009	85,000	5.300%	57,820.00	142,820.00	142,820.00
04/01/2010			55,567.50	55,567.50	
10/01/2010	90,000	5.400%	55,567.50	145,567.50	201,135.00
04/01/2011			53,137.50	53,137.50	
10/01/2011	90,000	5.500%	53,137.50	143,137.50	196,275.00
04/01/2012			50,662.50	50,662.50	
10/01/2012	95,000	5.250%	50,662.50	145,662.50	196,325.00
04/01/2013			48,168.75	48,168.75	
10/01/2013	100,000	5.250%	48,168.75	148,168.75	196,337.50
04/01/2014			45,543.75	45,543.75	
10/01/2014	105,000	5.250%	45,543.75	150,543.75	196,087.50
04/01/2015			42,787.50	42,787.50	
10/01/2015	115,000	5.250%	42,787.50	157,787.50	200,575.00
04/01/2016			39,768.75	39,768.75	
10/01/2016	120,000	5.250%	39,768.75	159,768.75	199,537.50
04/01/2017			36,618.75	36,618.75	
10/01/2017	125,000	5.250%	36,618.75	161,618.75	198,237.50
04/01/2018			33,337.50	33,337.50	
10/01/2018	130,000	5.250%	33,337.50	163,337.50	196,675.00
04/01/2019			29,925.00	29,925.00	
10/01/2019	140,000	5.250%	29,925.00	169,925.00	199,850.00
04/01/2020			26,250.00	26,250.00	
10/01/2020	145,000	5.250%	26,250.00	171,250.00	197,500.00
04/01/2021			22,443.75	22,443.75	
10/01/2021	155,000	5.250%	22,443.75	177,443.75	199,887.50
04/01/2022			18,375.00	18,375.00	
10/01/2022	160,000	5.250%	18,375.00	178,375.00	196,750.00
04/01/2023			14,175.00	14,175.00	
10/01/2023	170,000	5.250%	14,175.00	184,175.00	198,350.00
04/01/2024			9,712.50	9,712.50	
10/01/2024	180,000	5.250%	9,712.50	189,712.50	199,425.00
04/01/2025			4,987.50	4,987.50	
10/01/2025	190,000	5.250%	4,987.50	194,987.50	199,975.00
	2,195,000		1,120,742.50	3,315,742.50	3,315,742.50

ESCROW REQUIREMENTS

City of Buckhannon, WVA
Series 2009 Current Refunding
Deferred Savings

Sewerage System Refunding Revenue Bond, Series 96A (1996A)

Period Ending	Interest	Principal Redeemed	Total
10/01/2009	9,315.44	2,195,000.00	2,204,315.44
	9,315.44	2,195,000.00	2,204,315.44

ESCROW COST

City of Buckhannon, WVA
Series 2009 Current Refunding
Deferred Savings

Type of Security	Maturity Date	Prn Amount	Rate	Total Cost
SLGS	04/30/2009	2,204,315		2,204,315.00
		2,204,315		2,204,315.00

Purchase Date	Cost of Securities	Cash Deposit	Total Escrow Cost
04/15/2009	2,204,315	0.44	2,204,315.44
	2,204,315	0.44	2,204,315.44

ESCROW CASH FLOW

City of Buckhannon, WVA
Series 2009 Current Refunding
Deferred Savings

Date	Principal	Net Escrow Receipts	Present Value to 04/15/2009 @ 0.00000000%
04/30/2009	2,204,315.00	2,204,315.00	2,204,315.00
	2,204,315.00	2,204,315.00	2,204,315.00

ESCROW COST SUMMARY

Purchase date	04/15/2009
Purchase cost of securities	2,204,315.00
Target for yield calculation	2,204,315.00

ESCROW DESCRIPTIONS DETAIL

City of Buckhannon, WVA
Series 2009 Current Refunding
Deferred Savings

Type of Security	Type of SLGS	Maturity Date	First Int Pmt Date	Par Amount	Rate
Global Proceeds Escrow, Apr 15, 2009:					
SLGS	Certificate	04/30/2009	04/30/2009	2,204,315	
				2,204,315	

SLGS Summary

SLGS Rates File	14JAN09
Total Certificates of Indebtedness	2,204,315.00

ESCROW STATISTICS

City of Buckhannon, WVA
Series 2009 Current Refunding
Deferred Savings

Total Escrow Cost	Modified Duration (years)	Yield to Receipt Date	Yield to Disbursement Date	Perfect Escrow Cost	Value of Negative Arbitrage	Cost of Dead Time
Global Proceeds Escrow: 2,204,315.44	0.042			2,201,016.37	3,299.07	
2,204,315.44				2,201,016.37	3,299.07	0.00

Delivery date	04/15/2009
Arbitrage yield	3.627127%

ESCROW SUFFICIENCY

City of Buckhannon, WVA
Series 2009 Current Refunding
Deferred Savings

Prior Bonds (PRIOR)

Date	Escrow Requirement	Net Escrow Receipts	Excess Receipts	Excess Balance
10/01/2009	2,204,315.44	2,204,315.44		
	2,204,315.44	2,204,315.44	0.00	

Mr. Kirby said that about three years ago, he was here and the Board was looking at refinancing but the interest rates climbed and the savings disappeared. He said both models have significant savings. The one is the shorter pay back and the second is the savings over the life of the bonds. He said the current bonds could be called at anytime.

Mrs. Shobe asked if the issuance cost of \$90,000.00 is out of the \$183,000.00 net present value savings. He said it was and the \$183,000.00 was actual present day savings. Mrs. Shobe asked if both models were 3.6% interest and Mr. Kirby said they were.

Mr. Kirby stated that presently the debt service is 1.25 and the new debt service would be 1.15. Mr. Kirby also advised there would be no debt service reserve on the new bonds.

The Board discussed the matter and said they preferred the level savings model. **Motion was made by Phil Loftis and seconded by Jay Hollen to request City Council proceed with the refunding of the 1996 Bonds using the level savings model. Motion carried.**

Sam presented the following agenda items:

A. Rt. 20 North Sewer Extension –City Attorney McCauley presented the following letter he would like to hand deliver to Audrey Goins today.

CITY OF BUCKHANNON

WEST VIRGINIA
26201

10 E. MAIN STREET
BUCKHANNON, WV 26201

TELEPHONE
(304) 472-1451
TDD # (304) 472-9559
FAX # (304) 472-4638

January 15, 2009

Mrs. Audrey B. Goins
c/o Audrey's Down Home Restaurant (Rt. 20)
Buckhannon, WV 26201

RE: Delinquent payment obligations to City Sanitary Board

Dear Mrs. Goins:

I am again writing to you at the direction of the Buckhannon Sanitary Board concerning your long delinquent payment obligations owed to the Board for sanitary sewer construction completed during the fall of 2007. You failed to contact me following your receipt of my November 21 letter.

At the recent Sanitary Board meeting, I was directed to undertake appropriate measures to satisfy this debt owed to the Board. The measures that I shall initiate include a lawsuit to be filed against you in the Upshur County Circuit Court. This lawsuit will seek in addition to the principal amount owed of \$15,200, prejudgment and postjudgment interest at the legal rate, together with all court costs. Additionally, I will be contacting your water provider seeking termination of your water service at the restaurant due to your long delinquent, sanitary sewer commitment.

The City will refrain from commencing the above measures if you will deliver a payment to City Hall in the amount of \$1,000 by January 30, and continue to make monthly payments in the amount of \$1,000 by the end of each month thereafter until your debt is paid in full. This means that the City essentially is extending another year for you to meet your original obligation. Your final payment would be due by March 31, 2010, the final payment to be made in the amount of \$1,200.

The decision is yours. If you agree to accept the City's final attempt to avoid taking litigative action against you, then contact me immediately at my office at 473-8322 to indicate your intention to comply with the payment demand set forth above. I hope that your cooperation proves forthcoming. This letter is delivered to you at your restaurant on Thursday afternoon, January 15, 2009.

Very truly yours,


David W. McCauley, City Attorney

cc: Members of the City Sanitary Board
Members of City Council
Samuel S. Ludlow, City Engineer & Sanitary Sewer Superintendent

The Board authorized Mr. McCauley to deliver the letter to Ms. Goins.

B. CSO Report – Sam presented the following semi-annual report and project list:

CITY OF BUCKHANNON

NPDES Permit No WV0032326 - 6/30/87

Section F - Combined Sewer System Overflows
Requirement #6, Reporting Requirements

To: WV DEP
Division of Water and Waste Management
801 57th Street, SE
Charleston, WV 25304

Attn: Engineering Section

Report #4 Report Period: Second Half 2008

From: Sam Ludlow, Superintendent, Buckhannon Sewer Department

The primary focus during this report period was Shawnee Drive. During 1996 a major upgrade project was undertaken for the Reger Hollow subarea of the Buckhannon sewer system. That upgrade began at the Buckhannon River and extended upstream along Ratchiff Run to Shawnee Drive. Original intent was to continue to Scott Street, but other demands and the end of the construction season caused the project to be terminated when we reached Shawnee Drive. The sewer segment between Shawnee Drive and Scott Street became one of the worst in our system. It was on the routine cleaning list at the highest frequency. Roots, poor condition, and inadequate size all contributed to excessive flow and frequent overflows and resulted in numerous complaints. It had been high on our list of upgrade projects, and this summer, opportunity became available to undertake the project. Work included replacing more than 700 feet of eight inch clay pipe with 12 inch PVC, reconnecting two eight inch lines to the new 12 inch sewer at Scott Street and reconnecting the eight customers to the new line. Work was particularly difficult due to backyard development at the customer properties. Great efforts were made to accommodate these customers and we received a high level of cooperation during the project. There have been several high water events since the project was completed and the new system has proved very effective. Work activities included the following.

1. 725 ft 12 in gravity sewer
2. 18 ft 10 in gravity sewer
3. 60 ft 8 in gravity sewer
4. 225 ft 8 in gravity sewer
5. 195 ft 4 in service connection
6. 2 standard manholes
7. 6 CO

While construction crews were at the Shawnee Drive location, we also addressed two severe drainage issues. First was the culvert carrying Ratchiff Run under Scott Street. It was a combined 36 inch and 24 inch CMP which was badly deteriorated and plugged with sediment. The 24 inch pipe was essentially inoperable due to sediment. The street routinely flooded during high flow events, when the culvert could not carry the stream flow. We replaced the existing culvert with a 60 inch HDPE culvert and built headwalls and wingwalls to stabilize the culvert inlet and discharge. This work has also

proved effective during high flow events since the project was completed. Correcting the flooding problem will also reduce inflow pressure on the sanitary sewers.

The second drainage issue was failure of an existing drain from Shawnee Drive to Ratchiff Run. It caused water to pool over Shawnee Drive to a level that restricted traffic flow. We installed 177 feet of 12 inch storm drain, a flared outlet, a drop inlet, and a headwall inlet structure. These facilities seem to have corrected the drainage problem which, again, will relieve pressure on the sanitary sewer. During this construction, we found a broken customer service line in a roadside ditch, which was surely taking full flow of water into the sanitary sewer during wet weather.

One other storm water drainage problem was addressed near the beginning of this period. Complaints had been made about drainage at Christopher Lane for many years, and we installed a culvert across the street with inlet and discharge structures and added 40 feet of culvert and upgraded a drop inlet further down the street. All of this work helped to control surface water drainage so that it would not put pressure on the sanitary sewers.

Several other smaller sanitary sewer projects were undertaken. The first of these was an extension off of the Rt 20 North sewer extension which was built last year. An eight inch sewer was extended along the creek out Carper Road to a point where another customer (Kerkhoff) could be connected. This eight inch sewer will be able to be extended further out the road in the future to serve additional customers. All construction was done in a manner to minimize excessive flow into the sewer. Work done on this extension included the following.

1. 273 ft 8 in gravity sewer
2. 22 ft 8 in service line
3. one standard manhole
4. one clean out

Another opportunity developed when First Community Bank decided to demolish several old buildings next to the Bank on Kanawha Street. All utility service was disconnected from the buildings and the Buckhannon Sewer Department conducted TV inspection to identify connection points. Fourteen lines were identified in approximately 100 feet of sewer. The sewer was nearly eight feet deep in sandy soil and was probably the source of significant infiltration. We made the decision to replace the sewer instead of plugging the lines. We will continue to use the old pipe to provide ground and surface water drainage. When the project was about 2/3rd done, we encountered an underground storage tank and had to advise WV DEP and then wait nearly three months to complete the project. The new service line to the bank is in place and in use, but we cannot remove the old line from service until we reconnect one other customer. Work done on this project included the following.

1. 262 ft 8 in gravity sewer
2. 2 shallow manholes
3. one clean out

In response to a request from a local businessman (Dexter Beaver) for a connection for a rental unit, we made a short sewer extension on River Avenue. Access to the sewer in the street, along with the businessman's long term plans to add several other rental units, made it easier to run a service line across the front of his property than to make a tap directly out into the street. Work done included the following.

1. 150 ft 8 in gravity sewer
2. one shallow manhole

Maintenance and repair work was done in response to several complaints received during this report period. We continued to have sewer blockage problems at West View Acres even after we replaced 30 feet of defective pipe during the last period. The entire system is in poor condition and is planned to be replaced. Access to the sewer is provided by vertical sections of clay tile set over the sewer. There was an access point near the location where we replace the bad pipe, and it was the cause of the repeated blockages. We replaced it with one of our special design shallow manholes and seem to have corrected the problem. These repairs are temporary until the entire system can be upgraded.

A complaint at 153 Fayette Street helped us to identify an old sewer line serving several customers on Barbour Street. We had upgraded service to two neighboring customers on Barbour Street and were interested in upgrading service to the rest of that block. Information gained during resolution of this complaint will help in designing the upgrade. A cleanout was installed on the line at 153 Fayette to facilitate maintenance and to help identify location of the sewer.

We have had a series of complaints on College Avenue between Meade Street and Florida Street. Service lines for three customers have already been upgraded in that area during the past couple of years. Another customer at 53 College had several complaints during this period, and we finally upgraded their old clay tile service line which had several sharp turns at the street curb line. The property owner replaced the rest of the service line.

A new commercial building on Pochontas Street complained about a plugged sewer only a couple of years after they connected to the sewer. They had a large concrete driveway and parking area over the sewer connection and were concerned about the need to excavate the site to make the repair. We did a TV inspection and found that a gas line had been "gophered" through the sewer. It did have to be excavated and repaired, but it was not a result of a sewer failure. The access to TV inspection provided a satisfactory resolution to the problem and helped eliminate a extraneous flow source.

Another complaint was received from 114 S Florida Street. It is also an old part of the system with less-than-ideal arrangement of the sewer system. Lines from two houses crossed other properties to get to a sewer in an alley. We were able to reconnect the house to a sewer upgraded a few years ago to relieve the problem. Resolution of the complaint also helped to provide information about the system configuration and will help in further upgrading of this old part of the system.

A final complaint was received from Coleman Place between Lincoln Street and Doggett Street. It was a routine complaint on a high maintenance sewer, but the blockage was severe enough that we could not completely resolve the problem. We decided to upgrade the line which serves 11 customers and has potential to serve a couple others. It was a difficult location and considerable investigation and preparation was required. It will require two new manholes and approximately 300 feet of 6 inch sewer. Work was begun on the sewer but, due to bad weather, it was not completed and will continue into the next report period. An unidentified pipe was uncovered during the construction that has been completed. It ran a steady stream of clear water and is a clear source of extraneous flow. We plugged the line until a neighbor complained that we were backing water into his basement. It is not clear how this matter will be resolved.

Several sewer projects are currently being developed or are scheduled for construction. As noted in the last report, another phase of the Ritchie Street storm sewer was planned for this past construction season. We have purchased the pipe, but did not get to begin construction. Work is planned to begin as soon as possible. Application is pending with the A. C. Railroad for a permit to upgrade an old, deep sewer behind N Locust Street. Part of the upgrade will be on railroad right of way. The old line has very poor access and is a very likely source of extraneous flow. We continue to prepare to continue work on the Jawbone Run sanitary sewer interceptor. Financial support is being provided by the US Army COE, and we are in the process of providing them information to allow construction to begin this summer. Several other sewer extensions or upgrades are pending.

A project to upgrade the Wood/ Ritchie pump station was described in the last report as being well under way with temporary pumping in place and new force main installed. That project was completed during this period. A new 7 1/2 HP and a new 5 HP pump were installed to replace two 18 HP pumps. They were arranged in split flow pumping to Vicksburg pump station. We believe this will better distribute the flow. All of the flow had been going to Vicksburg pump station which has had the most frequent overflows. The new arrangement was put into operation in August and has been performing satisfactorily. There have been few overflows at Wood/Ritchie pump station, but the frequency of overflows has increased at East Main pump station. Further observations are required to determine the impact on Vicksburg.

Plans were made to acquire a third pump for Elies pump station. A third pump has already been acquired for Vicksburg pump station. These are the two main pump stations that pump to the sewage treatment plant. Having the third pump will provide reliability of performance. Both stations are duplex but depend on both pumps for full flow. Now, if we have a pump failure, we can rotate a spare pump into the pump station and have a minimum period of reduced capacity.

During this period renovations were begun on the sewer plant control building. A new peaked roof was constructed over the old garage which is being converted to a personnel support area. Renovations were done to that area as time allowed. They will be completed next summer. This work, of course, does not have a direct impact on extraneous flow, but is essential to maintain facilities and support the work crews.

There were some concerns relative to the plant operation during this report period. During the extended hot, dry weather in August, September, and October we had a significant increase in the solids inventory at the plant despite considerable effort to waste and remove solids. We also had frequent difficulties with low pH which we attribute to customer discharge of acidic wastewater. The solids inventory was reduced in late fall, but the mixed liquor characteristics allowed for relatively easy solids loss during high flows. We have been very successful in matching collection system pumping flood at the deliverable flow of five MGD. It does, however, stretch the performance capacity of the clarifiers and without nearly perfect condition of the mixed liquor, solids losses occur. The two 66 foot diameter clarifiers have a surface area of 6,600 ft² which creates a loading rate of 738 gallons per day per square foot. Recommended loading for square foot. This is clearly a matter that will require careful operational management and which shows disadvantage of increased flow to the plant.

River sampling at five sampling points to test for fecal coliform and DO was continued during this report period. Water quality definitely deteriorates during rainfall

events or high flow conditions. This deterioration occurs at all the sampling points whether or not there is a discharge point upstream or if there is an ongoing discharge from an overflow. A summary of the test results from the fecal coliform and DO testing for 2008 is attached. We believe that the test results reflect a trend of less coliform in the river. Several of the sampling days were after heavy rainfall, and although the test results rose dramatically to unacceptable levels, they were not as high as results obtained during high flow conditions in earlier years. The fecal test results do not reflect specific contamination from the C&O outfalls as all sampling points deteriorate during high flow conditions. None of the DO tests indicate BOD loading sufficient to significantly deplete the oxygen levels.

C&O discharge is monitored with float activated hour meters at each of the four overflow points. A copy of the overflow record for 2008 is attached, and a summary of overflow to precipitation have both increased somewhat over the past few years. This precipitation occurred in a series of intense storms, which would often result in an overflow. There are plans to obtain a rain gauge which would allow us to better monitor this condition.

Work on the Wood/ Ritchie pump station has seemed to improve overflows at that station. We regularly investigate the collection system in an effort to find sources of extraneous flow, but have not found any major sources. That effort will continue and we have plans to acquire flow meters to help improve the effectiveness of this search.

**BUCKHANNON SEWER DEPARTMENT
WATER QUALITY TESTING**

DATE	PRECIP	RIVER GAGE	ELIAS	SITE 1		SITE 2		SITE 3		SITE 4		SITE 5	
		HALL BRIDGE	OVERFLOW	POE BRIDGE	FLORIDA ST	FINKS RUN	CLEVELAND BR	HALL ROAD					
		FEET	HOURS	FECAL	DO	FECAL	DO	FECAL	DO	FECAL	DO	FECAL	DO
1/9/2008	0.08	6.5	0.0	20	6.20	10		160		90	5.90	35	
1/16/08	0.14	6.9	0.0	18		30		50		30		18	
2/4/08	0.16	6.3	0.0	40	9.10	40		190		20	8.80	40	
2/27/08	0.36	9.4	0.0	15	10.00	20		80		50	9.60	35	
3/4/08	1.24	8.2	16.3	20	7.90	20		290		90	8.15	20	
3/20/08	0.89	9.4	9.4	520	8.20	850		900		890	3.70	480	
4/24/08	0.00	5.8	0.0	45	7.90	90		100		90	7.30	38	
4/28/08	2.04	5.4	15.0	620	7.10	3,900		4,890		5,150	7.40	1,280	
5/12/08	0.68	11.1	0.0	245	8.60	450		1,480		900	5.30	520	
5/26/08	0.38	5.7	0.0	85	8.80	59		320		140	7.20	15	
6/5/08	2.90	22.8	9.9	2,700		2,900		4,900		2,200		2,800	
6/26/08	0.18	4.9	0.0	58	7.10	140		240		250	6.90	35	
7/10/08	0.66	4.3	0.0	620	5.00	400		3,580		2,300	4.80	820	
7/24/08	0.66	4.8	2.8	88	4.90	430		840		380	5.50	105	
8/11/08	0.04	3.8	0.0	110	6.00	200		390		140	6.30	85	
9/10/08	0.40	3.6	0.0	130	5.10	290		1,700		240	4.80	25	
9/29/08	0.26	3.8	0.0	120	6.10	270		90		150	5.70	20	
10/16/08	0.00	3.4	0.0	30	6.20	1,730		220		40	5.70	80	
10/30/08	0.32	3.4	0.0	40	5.90	290		80		100	5.80	45	
11/6/08	0.00	3.8	0.0	20	6.40	1,610		90		0	6.80	5	
11/19/08	0.23	4.2	0.0	30	6.80	90		100		0	6.80	15	
12/12/08	3.15	21.6	37.9	750	12.60	1,400		1,400		200	12.20	1,200	
12/30/08	0.00	6.4	0.0	20		40		90		100		40	

NOTES
 1. Fecal tests results are colonies/100ml
 2. Not all test results were in recommended colony range
 3. Precipitation for three preceding days

**CITY OF BUCKHANNON
2008 OVERFLOW SUMMARY WITH QUANTITY**

DATE	PRECIP	MONTHLY PRECIP	ELIAS GGS	FLOW	EAST MAIN GGS	FLOW	WACKERSBURG GGS	FLOW	WOODRIF GGS	FLOW		
			OVERFLOW	MG	OVERFLOW	MG	OVERFLOW	MG	OVERFLOW	MG		
			HOURS		HOURS	HOURS	HOURS	HOURS	HOURS	HOURS		
			meter		meter		meter		meter			
1	5 Jan	1.00	snow	4.04	10.4	0.24	13.0	0.36	18.5	0.36	10.3	0.23
2	10 & 11 Jan	0.88	snow		25.0	0.86	13.7	0.36	24.0	0.83	10.4	0.24
3	31 Jan & 1 Feb	0.64	snow	3.08	17.6	0.56	8.0	0.18	21.7	0.73	6.7	0.19
4	5 & 6 Feb	1.07	snow		28.1	1.01	28.3	0.88	28.6	0.86	16.6	0.48
5	4 Mar	1.24	snow	3.82	16.3	0.80	10.9	0.26	6.3	0.14	3.1	0.07
6	16 & 19 Mar	0.89	snow		9.8	0.21	2.1	0.06	16.9	0.48	0.7	0.02
7	3 - 5 April	1.18		2.81	9.8	0.01	0.6	0.00	5.1	0.11	0.0	0.00
8	11 April	0.78			0.0	0.00	0.0	0.00	1.3	0.03	0.0	0.00
9	27 & 28 April	1.88			15.0	0.44	0.0	0.00	21.0	0.70	4.9	0.11
10	7 - 9 May	1.52		0.91	10.0	0.22	8.8	0.12	13.0	0.36	0.0	0.00
11	19 - 21 May	1.06			33.3	1.34	8.8	0.23	30.9	1.10	0.0	0.00
12	3 & 4 June	2.89		6.14	8.8	0.22	8.8	0.22	5.0	0.11	0.0	0.00
13	28 - 30 June	1.62			10.4	0.24	1.7	0.04	0.0	0.00	0.0	0.00
14	20-22 July	1.90		4.20	2.8	0.09	3.6	0.08	0.0	0.00	0.0	0.00
15	4 August	0.23		2.24	1.7	0.04	1.3	0.03	0.0	0.00	0.0	0.00
16	14 August	0.80			0.0	0.00	1.0	0.02	0.0	0.00	0.0	0.00
17	September			1.32	0.0	0.00	0.0	0.00	0.0	0.00	0.0	0.00
18	October			1.38	0.0	0.00	0.0	0.00	0.0	0.00	0.0	0.00
19	24-25 Nov	1.25	snow	3.30	0.00	0.00	0.0	0.00	0.0	0.00	0.0	0.00
20	9-11 Dec	3.15	snow	8.46	37.8	1.44	26.8	0.86	19.8	0.64	0.0	0.00
21	15-18 Dec	1.11	snow		27.0	0.87	19.8	0.66	23.8	0.83	0.0	0.00
22	23-28 Dec	1.88	snow		18.2	0.68	8.8	0.19	10.3	0.23	0.0	0.00
TOTAL				48.11								
TOTAL OVERFLOW MG				24.8		8.88		4.42		9.61		1.31
TOTAL EVENTS				16		11		16		5		
TIME % OF TIME				278.8		161.3		288.0		83.7		
				3.17%		1.84%		3.28%		0.81%		

Overflow quantity is based on Manning formula for overflow pipe flowing half full for first 10 ft of overflow and flowing full for any overflow flow over 10 ft.
 Overflows are discounted during times when the river is above 16 feet because back pressure exceeds overflow pressure.
 Overflows less than 4 hours are discounted in the TOTAL EVENTS.

**BUCKHANNON SEWER DEPARTMENT
SUMMARY OF ANNUAL CSO OVERFLOW**

YEAR	PRECIP IN	TOTAL		RATIO		ELIAS DR3 OVERFLOW		EAST MAIN 684 OVERFLOW		YOCKSBURG 686 OVERFLOW		WOOD R 686 OVERFLOW					
		% TIME	QUANT MG	MAX F	TO PRECIP	% TIME	QUANT MG	% TIME	QUANT MG	% TIME	QUANT MG	% TIME	QUANT MG				
2006	46.11	2.22	24.88	18	6.64	18	3.17	8.88	11	1.84	4.82	18	5.26	8.81	8	0.81	1.31
2007	49.21	1.88	19.88	18	6.48	18	2.34	8.44	12	1.62	2.87	18	2.27	5.01	18	1.88	6.60
2008	44.54	1.23	18.54	12	6.34	12	1.79	8.88	1	8.88	8.18	13	1.88	8.18	9	1.88	4.77
2009	47.88	1.83	17.31	17	6.36	16	2.83	6.47	8	8.48	1.83	17	2.81	7.87	14	1.21	3.14
2004	88.78	2.88	28.84	21	6.48	21	3.27	8.16	8	1.88	2.78	21	1.88	18.17	21	2.88	8.48
2003	81.84	4.41	83.28	36	6.84	31	4.88	14.73	18	2.78	7.98	38	7.87	33.81	22	2.27	8.87
2002	81.21	4.81	88.28	38	1.88	22	4.38	12.34	28	8.78	18.21	34	6.38	18.88	17	1.84	4.21
2001	48.88	3.28	37.37	27	8.31	24	4.28	12.84	27	4.83	14.83	12	1.78	4.81	27	2.38	8.88
2000	43.88	4.88	88.88	38	1.34	28	8.88	28.88	18	4.88	18.28	11	2.32	7.82	18	2.48	8.84
1998	38.88	3.88	88.88	38	1.18	12	2.11	18.28	28	4.73	18.22	14	4.41	14.32	30	2.38	8.82
1996	48.88	5.41	78.88	38	1.38	18	7.28	24.72	22	6.38	28.88	28	7.27	24.38	22	3.14	8.28

All overflow duration data is based on first overflow time shown unless noted otherwise.
Overflow quantity is based on Manning Formula for overflow pipe flowing half full for first 10 hr of overflow and flowing full for any overflow time over 10 hr.

X - Renovated PS
Y - Flow diverted from Main PS
E - Estimated

**CITY OF BUCKHANNON SANITARY BOARD
SEWER CONSTRUCTION PROJECTS UNDERTAKEN SINCE 1990**

PROJECT	DATE	LENGTH	DIA	TYPE	PURPOSE	INSTALLER	COST
WBUC Rd	Jun-98	1	PS	sanitary	Extension	City Contractor	\$
WBUC Rd	Jun-98	278	8	sanitary	Extension	City Contractor	235,000
WBUC Rd	Nov-98	3,284	8	sanitary	Extension	City Contractor	
East Lawn	Nov-98	258	8	sanitary	Extension	City Contractor	
Burton Phillips	Sep-97	58	8	sanitary	new service	City Contractor	7,112
Burton Phillips	Sep-97	548	8	sanitary	new service	City Contractor	18,478
Maple Heights	Feb-98	381	8	sanitary	New development	City Contractor	
Maple Heights	Feb-98	1,584	8	sanitary	New development	City Contractor	28,183
Alman Ave	Oct-94	928	8	sanitary	Replace lead line	City Contractor	
Alman Ave	Oct-94	708	8	sanitary	Replace lead line	City Contractor	35,480
S Chestnut	Apr-94	428	8	sanitary	Upgrade & new service	City Contractor	
S Chestnut	Apr-94	188	8	sanitary	Upgrade & new service	City Contractor	14,758
TOTAL		8,988		Sanitary		City Contractor	338,888
Richie St to Randolph	Jun-98	208	8	storm	upgrade	City Contractor	
Richie St to Randolph	Jun-98	128	8	storm	upgrade	City Contractor	30,000
Richie St by RR	Aug-98	58	48	storm	upgrade	City Contractor	
Richie St to Wood	Aug-98	288	42	storm	upgrade	City Contractor	
Richie St to Wood	Aug-98	48	38	storm	upgrade	City Contractor	83,808
N Chestnut	Sep-93	48	12	storm	Provide drainage	City Contractor	
N Chestnut	Sep-93	98	12	storm	Provide drainage	City Contractor	7,348
Cleveland Ave	Aug-94	1,488	12	storm	Provide drainage/ coal sump	City Contractor	
Wood St	May-94	488	12	storm	Provide drainage/ coal sump	City Contractor	32,137
S Chestnut	Apr-94	478	12	storm	Provide drainage	City Contractor	14,688
S Chestnut	Apr-94	88	8	storm	Provide drainage	City Contractor	14,758
TOTAL		3,481		Storm		City Contractor	162,834

**CITY OF BUCKHANNON SANITARY BOARD
SEWER CONSTRUCTION PROJECTS UNDERTAKEN SINCE 1990**

PROJECT	DATE	LENGTH	DIA	TYPE	PURPOSE	INSTALLER	COST
Shawnee Drive	Sep-98	728	12	sanitary	Upgrade	City	\$
Shawnee Drive	Sep-98	78	8 & 10	sanitary	Upgrade	City	84,708
Shawnee Drive	Sep-98	418	4 & 8	sanitary	Upgrade	City	
First Community Bank	Sep-98	288	8	sanitary	Upgrade	City	
Decker Bazaar - River Ave	Aug-98	188	8	sanitary	Extension	City	8,573
DOH Esplanade Dr	Aug-98	278	8	sanitary	Extension	City	7,088
Kirkwood @ Rt 20	Jul-98	278	8	sanitary	Extension	City	7,987
Bookston Main St	May-98	88	8	sanitary	Extension	City	14,810
St Clair Rental	Apr-98	228	8	sanitary	Upgrade	City	8,721
St Clair Beauty Shop	Mar-98	188	8	sanitary	Upgrade	City	8,040
Rt 20 North Prof Arts Plaza	Mar-98	128	8	sanitary	Extension	City	5,310
Ev Un Brady/ River Bend	Jan-98	438	8	sanitary	Extension	City	14,817
Lambson Interceptor	Nov-97	28	18	sanitary	Emergency repair	City	25,828
Rt 20 North	Nov-97	178	8	sanitary	Extension	City	14,000
Rt 20 North	Nov-97	2,328	8	sanitary	Extension	City	158,888
Rt 20 North	Nov-97	248	4 PM	sanitary	Extension	City	
Rt 20 North	Nov-97	1	PS	sanitary	Extension	City	
Rt 20 North	Oct-97	88	8	sanitary	Extension	City	
Children Field (C) Martin	Jun-97	818	8	sanitary	Extension	City	3,500
Trustee/WBUC Rd	Mar-97	378	8	sanitary	Extension	City	88,878
Lightsburg St	Feb-97	348	8	sanitary	Upgrade	City	11,833
Lightsburg St	Feb-97	388	8	sanitary	Upgrade	City	48,827
Kanawha St - Fraternal	Jan-97	88	8	sanitary	Relocate/ Upgrade	City	
Osborneville	Nov-96	418	8	sanitary	Upgrade	City	4,258
Osborneville	Nov-96	688	8	sanitary	Upgrade	City	33,388
Upshur Co Devel Auth	Sep-96	348	8	sanitary	Extension	City	
Morning Vista	Aug-96	318	8	sanitary	Extension	City	10,413
Morning Vista	Aug-96	188	8	sanitary	Extension	City	13,512
Smith Ave	Aug-96	218	8	sanitary	Extension	City	
Meadowlands	Aug-96	1,728	8	sanitary	Extension/ Upgrade	City	10,284
Meadowlands	Aug-96	882	8	sanitary	Extension/ Upgrade	City	84,036
St Clair	May-96	188	8	sanitary	Upgrade	City	
St Clair	May-96	158	8	sanitary	Upgrade	City	10,883
Stoebart Youth Center	Apr-96	882	8	sanitary	Upgrade	City	
Stoebart Youth Center	Apr-96	108	8	sanitary	Upgrade	City	34,788
Union Mission Church	Oct-95	78	10	sanitary	Upgrade	City	
Osborneville	Oct-95	348	10	sanitary	Upgrade	City	
Osborneville	Oct-95	1,808	8	sanitary	Upgrade	City	88,888
Osborneville	Oct-95	188	8	sanitary	Upgrade	City	

**CITY OF BUCKHANNON SANITARY BOARD
SEWER CONSTRUCTION PROJECTS UNDERTAKEN SINCE 1990**

PROJECT	DATE	LENGTH	DA	TYPE	PURPOSE	INSTALLER	COST
Farrar at Brushy Fork	Sep-06	418	6	sanitary	Extension - New service	City	14,317
Buckhannon Auto Mall	Jul-06	64	6	sanitary	Extension - New service	City	3,000
College Avenue	Jul-06	85	6	sanitary	Upgrade	City	4,500
Jawbone Interceptor	Jun-06	390	21	sanitary	Upgrade	City	24,756
Airport Hangar	May-06	595	6	sanitary	New service	City	10,612
Mark Garret Mud Lick	Apr-06	703	6	sanitary	New service	City	14,316
Beech Brook	Apr-06	548	6	sanitary	New service	City	21,733
Ranney Hall	Mar-06	1,371	12	sanitary	New service	City	11,986
Ranney Hall	Mar-06	512	6	sanitary	New service	City	93,501
Praxton @ Fayette	Nov-06	290	6	sanitary	Upgrade	City	6,357
H & K Crossed	Nov-04	40	6	sanitary	New service	City	2,648
Arby's @ Crossroads	Nov-04	119	6	sanitary	New service	City	10,961
Loudin Ins	Nov-04	105	6	sanitary	Upgrade	City	4,787
Deerville	Nov-04	1,120	10	sanitary	Upgrade	City	77,527
Will Alley	Oct-04	348	6	sanitary	upgrade	City	30,016
Will Alley	Aug-04	308	6	sanitary	upgrade	City	18,944
Sheets	Aug-04	210	6	sanitary	Upgrade	City	27,320
Lincoln Heights Dr	Jun-04	630	6	sanitary	Upgrade	City	98,580
Lincoln Heights Dr	Jun-04	200	6	sanitary	Upgrade	City	6,290
Loves	Jun-04	2,236	6	sanitary	New service	City	2,500
3rd Ave	Jun-04	100	6	sanitary	Upgrade	City	4,750
Shawnee Terrace Pope	May-04	80	6	sanitary	New Service	City	6,250
3rd & Cleveland	Apr-04	170	6	sanitary	Upgrade	City	6,250
Hulls @ Praxton St	Feb-04	124	6	sanitary	Upgrade	City	6,250
Deerville	Dec-03	1,231	12	sanitary	Upgrade	City	70,815
Mud Lick	Dec-03	2,428	6	sanitary	Collector sewers	City	73,514
First St	Sep-03	150	6	sanitary	New service	City	3,063
College Avenue	Jul-03	48	6	sanitary	Revised service	City	2,308
Schull Florida St	Jun-03	160	6	sanitary	Upgrade	City	32,467
Schull Florida St	Jun-03	100	6	sanitary	Upgrade	City	12,513
Fayette Alley	Apr-03	320	6	sanitary	Upgrade	City	27,868
Boggs	Mar-03	230	6	sanitary	Upgrade	City	12,513
Mud Lick	Feb-03	2,460	4	sanitary	New service force main	City	5,343
Deerville	Dec-02	863	12	sanitary	Upgrade	City	82,537
Mud Lick	Dec-02	3,417	6	sanitary	New service to old LF	City	148,800
Mud Lick	Dec-02	1,270	10	sanitary	New service to old LF	City	148,800
Daly Woody	Nov-02	210	6	sanitary	Extension - New service	City	9,139

**CITY OF BUCKHANNON SANITARY BOARD
SEWER CONSTRUCTION PROJECTS UNDERTAKEN SINCE 1990**

PROJECT	DATE	LENGTH	DA	TYPE	PURPOSE	INSTALLER	COST
Airport Collector 2	Jun-02	1,108	6	sanitary	Extension - New service	City	41,890
Andrews	May-02	430	6	sanitary	New service	City	4,500
Wendling	May-02	106	6	sanitary	Repair bad line	City	4,000
Boggs	Apr-02	310	6	sanitary	Repair bad line	City	19,606
Housing Authority	Mar-02	126	6	sanitary	Extension - New service	City	3,000
Hill Crest	Mar-02	108	6	sanitary	Extension - New service	City	10,948
Hill Crest	Mar-02	240	6	sanitary	Extension - New service	City	5,867
Medison St W/WVC	Dec-01	718	6	sanitary	New service	City	55,905
Mud Lick	Dec-01	2,200	10	sanitary	New service to old LF	City	12,529
Hawkins Drive	Sep-01	170	6	sanitary	New service	City	5,905
Hawkins Drive	Sep-01	440	6	sanitary	New service	City	12,529
Cleveland Ave Head Start	Sep-01	100	6	sanitary	New service	City	1,143
Airport Collector	Aug-01	3,077	6	sanitary	Extension - New service	City	105,286
Ran Hurst	Aug-01	580	6	sanitary	Extension - New service	City	30,270
South Florida	Jul-01	1,018	6	sanitary	Extension - New service	City	62,011
West View Acres	Apr-01	183	6	sanitary	Upgrade/repair	City	3,918
Thurman Ave	Feb-01	180	6	sanitary	Extension - New service	City	7,512
Lower Brushy Fork	Dec-00	373	10	sanitary	Extension - New service	City	119,486
Lower Brushy Fork	Dec-00	1,848	6	sanitary	Extension - New service	City	119,486
Lower Brushy Fork	Dec-00	2,085	6	sanitary	Extension - New service	City	119,486
Union Dilling	Dec-00	440	6	sanitary	Extension - New service	City	119,486
Lower Drive (Marion)	Oct-00	180	6	sanitary	New service	City	18,580
Green St (Vicksburg)	Oct-00	180	6	sanitary	New service	City	5,444
Kanawha St	Aug-00	180	6	sanitary	New service	City	4,436
Kapner St	Jul-00	170	6	sanitary	Upgrade/repair	City	5,673
Camden Alley Merion	Jun-00	95	6	sanitary	Reconnect	City	5,125
E Main Pls MH	Jun-00	1	6	sanitary	Upgrade/repair	City	4,006
C J Ryland MH	Jun-00	1	6	sanitary	Upgrade/repair	City	8,984
Carnford Meata	May-00	530	4	sanitary	Private access	City	4,783
Fleawood	Mar-00	680	6	sanitary	Improve service	City	15,940
Brushy Fork	Mar-00	728	6	sanitary	Extension - New service	City	8,073
Brushy Fork	Mar-00	5,948	12	sanitary	sewer extension	City	350,000
Brushy Fork	Mar-00	1	6	sanitary	sewer extension	City	350,000
Brushy Fork	Mar-00	1	6	sanitary	sewer extension	City	350,000
C J Meata	Feb-00	778	6	sanitary	sewer extension	City	350,000
Nesatz Lincoln St	Feb-00	778	6	sanitary	sewer extension	City	350,000
Wind Mill	Nov-99	832	6	sanitary	Extension - New service	City	53,918
T.M.H. Hwy Upgrade	Oct-99	175	8 & 18	sanitary	Extend existing	City	2,500
							30,416
							19,343

**CITY OF BUCKHANNON SANITARY BOARD
SEWER CONSTRUCTION PROJECTS UNDERTAKEN SINCE 1990**

PROJECT	DATE	LENGTH	DA	TYPE	PURPOSE	INSTALLER	COST
AG Trussler	Oct-99	85	6	sanitary	Extension - New service	City	10,606
Moore Ave	Oct-99	25	6	sanitary	Upgrade/repair	City	2,500
Rohr Ave	Sep-99	317	6	sanitary	Improve service	City	13,156
Boggs/Conde	Jul-99	304	6	sanitary	Improve service	City	11,025
Torney's	May-99	761	6	sanitary	Improve service	City	33,139
YFW	Apr-99	267	6	sanitary	Improve service	City	13,520
Rhine	Feb-99	288	6	sanitary	Upgrade	City	5,986
Shreve	Nov-98	160	6	sanitary	Improve service	City	5,931
Boggs	Oct-98	190	6	sanitary	Improve service	City	5,436
Weston Rd Line 2	Sep-98	250	12	sanitary	sewer extension	City	123,968
Weston Rd Line 2	Sep-98	1,640	10	sanitary	sewer extension	City	123,968
Weston Rd Line 2	Sep-98	1,068	6	sanitary	sewer extension	City	123,968
Shawnee Connector Rd	Aug-98	46	10	sanitary	Upgrade & relocate	City	9,073
Shawnee Connector Rd	Aug-98	280	6	sanitary	Upgrade & relocate	City	9,073
Scott St - Fair	May-98	150	6	sanitary	Upgrade & relocate	City	7,507
Thurman Alley	Mar-98	238	6	sanitary	Upgrade & relocate	City	3,601
Carrington @ Latham	Dec-97	190	6	sanitary	sewer extension	City	3,601
Weston Rd Line 2	Oct-97	1,030	12	sanitary	sewer extension	City	2,988
Weston Rd Line 2	Dec-97	400	6	sanitary	sewer extension	City	151,648
Weston Rd Line 2	Dec-97	212	ceasing	sanitary	sewer extension	City	151,648
Weston Rd (P&M)	Dec-97	470	6	sanitary	sewer extension	City	151,648
Weston Rd (P&M)	Dec-97	470	6	sanitary	sewer extension	City	151,648
Weston Rd (P&M)	Dec-97	470	6	sanitary	sewer extension	City	151,648
Cleveland Ave Sun	Oct-97	1,440	6	sanitary	sewer extension	City	151,648
O'Brien Chestnut	Sep-97	123	6	sanitary	Upgrade/repair	City	8,525
Karrickhoff	Sep-97	184	6	sanitary	Upgrade/repair	City	1,208
Hill Road	Aug-97	138	6	sanitary	New service	City	2,184
Hill Road	Aug-97	2,890	6	sanitary	New service/UCDA control	City	38,077
Burger King	Jul-97	510	6	sanitary	New service/UCDA control	City	38,077
Rager Hollow	Jun-97	720	6	sanitary	sewer extension to new line	City	4,882
Weston Road Line 1	May-97	1,664	12	sanitary	sewer extension	City	8,300
Weston Road Line 1	May-97	271	6	sanitary	sewer extension	City	104,590
Prill St	Mar-97	127	ceasing	sanitary	sewer extension	City	104,590
Rager Hollow	Oct-96	240	6	sanitary	replace bad line	City	4,197
Rager Hollow	Oct-96	2,840	12	sanitary	replace & upgrade bad line	City	103,234
Rager Hollow	Oct-96	130	6	sanitary	replace & upgrade bad line	City	103,234
South Florida	Sep-96	476	6	sanitary	new service	City	10,712
Housing Authority	May-96	185	6	sanitary	Upgrade	City	4,945
Boggs	Mar-96	254	6	sanitary	Relocate	City	5,975

**CITY OF BUCKHANNON SANITARY BOARD
SEWER CONSTRUCTION PROJECTS UNDERTAKEN SINCE 1990**

PROJECT	DATE	LENGTH	DIA	TYPE	PURPOSE	INSTALLER	COST
Franklin Alley	Mar-88	150	8	sanitary	replace & upgrade	City	2,490
East Lawn	Dec-88	754	8	sanitary	New development	City	27,282
East Lawn	Dec-88	878	8	sanitary	New development	City	
Hill Road Gril	Aug-88	540	8	sanitary	New service	City	5,966
Ellis St Aly	Jul-88	230	8	sanitary	Replace bad line	City	2,485
Lynn St	Jun-88	180	8	sanitary	New service	City	4,807
Lynn St	Jun-88	125	8	sanitary	Replace bad line	City	
Tucker St Aly	Apr-88	528	8	sanitary	Service to Courthouse	City	11,224
Chenery St	Feb-88	100	8	sanitary	Service to Courthouse	City	4,652
Lower Drive	Aug-84	330	8	sanitary	Replace bad line	City	11,751
Green Dr	Aug-84	430	8	sanitary	Replace bad line	City	
Green St	Jun-84	110	8	sanitary	New service	City	1,111
N Chestnut	Aug-83	305	8	sanitary	Replace bad line	City	3,398
Stockart Aly	Aug-83	305	8	sanitary	Replace bad line	City	14,880
Stockart Aly	Aug-83	130	8	sanitary	Replace bad line	City	
Florida St @ river brdg	Jul-83	194	8	sanitary	Replace bad line	City	6,638
W Main St Jenkins	May-83	325	8	sanitary	Replace bad line	City	14,757
W Main St Jenkins	May-83	155	8	sanitary	Replace bad line	City	
Vicksburg Rd	Sep-82	154	8	sanitary	New service	City	2,204
Central Ave	Aug-82	438	8	sanitary	Replace bad line	City	13,291
Central Ave	Aug-82	240	8	sanitary	Replace bad line	City	
Lemon St	Jul-82	180	8	sanitary	New service	City	1,692
Arnold Ave	Jun-82	420	8	sanitary	Replace bad line	City	11,966
Arnold Ave	Jun-82	280	8	sanitary	Replace bad line	City	
Smithfield St	May-82	634	8	sanitary	Replace bad line	City	40,512
Smithfield St	May-82	148	8	sanitary	Replace bad line	City	
East Lawn Dr	Nov-81	180	8	sanitary	New service	City	1,500
Park St	May-81	538	8	sanitary	Replace bad line	City	9,740
Hibbs St	Aug-80	155	8	sanitary	Replace bad line	City	1,500
TOTAL		14,588		Sanitary	Replace bad line	City	3,068,473

**CITY OF BUCKHANNON SANITARY BOARD
SEWER CONSTRUCTION PROJECTS UNDERTAKEN SINCE 1990**

PROJECT	DATE	LENGTH	DIA	TYPE	PURPOSE	INSTALLER	COST
Shawnee Drive	Oct-88	177	12	storm	Improvement	City	14,710
Scott St	Oct-88	54	60	storm	Upgrade	City	31,001
Christopher Lane	Jul-88	85	12	storm	Improvement	City	12,887
Tucker	Dec-88	135	10	storm	Upgrade	City	8,795
Leonard Hollow II	Jan-88	290	30	storm	Upgrade	City	48,481
Leonard Hollow II	Jun-88	50	24	storm	Upgrade	City	
Leonard Hollow II	Jun-88	100	12	storm	Upgrade	City	
St Clair	May-88	290	8	storm	Upgrade	City	
Stockart Youth	Apr-88	48	12	storm	Provide drainage	City	4,088
Stockart Youth	Apr-88	278	10	storm	Provide drainage	City	18,327
Jewell St	Jul-88	380	60	storm	Upgrade	City	70,458
Brewster	Mar-88	435	30	storm	Upgrade	City	60,830
Walt Alley	Oct-85	380	12	storm	Provide drainage	City	28,511
Lincoln Heights Dr	Jun-84	850	12	storm	Upgrade	City	30,075
Lincoln Heights Dr	Jun-84	80	10	storm	Upgrade	City	
Wana's Glass	Jul-83	330	36	storm	Upgrade	City	
Arnold	Apr-83	435	18	storm	Upgrade	City	54,437
Arnold	Apr-83	190	12	storm	Upgrade	City	17,290
Boggs	Apr-82	340	18	storm	Upgrade	City	
Leonard Hollow	Feb-82	330	24	storm	Provide drainage	City	8,600
Leonard Hollow	Feb-82	160	30	storm	Upgrade	City	86,301
Leonard Hollow	Feb-82	180	30	storm	Upgrade	City	
Leonard Hollow	Feb-82	58	12	storm	Upgrade	City	
Carnahan (Burner)	Mar-81	270	12	storm	Upgrade	City	
Carnahan (Burner)	Mar-81	28	8	storm	Upgrade	City	9,198
College Ave	Aug-80	360	18	storm	Install new outfall @ Dept	City	
College Ave	Aug-80	408	18	storm	Install new outfall @ Dept	City	36,180
Ritchie Phase 1	Jul-80	420	36	storm	Upgrade	City	79,018
Ritchie Phase 1	Jul-80	101	30	storm	Upgrade	City	
Ritchie Phase 1	Jul-80	225	12	storm	Upgrade	City	
Kapner	Jul-80	167	30	storm	Upgrade	City	21,648
Chenery @ Dean	Jul-80	230	12	storm	Finish system	City	4,575
Ratcliff @ Shawnee	Jun-77	100	10	storm	Replace storm	City	11,283
Ratcliff @ Shawnee	Nov-76	30	6	storm	Replace storm	City	28,218
Hospital	Oct-85	528	18	storm	Storm water diversion	City	27,842
Hospital	Oct-85	78	15	storm	Storm water diversion	City	
Hospital	Oct-85	158	10	storm	Storm water diversion	City	
Jaw Bone @ Meadow St	Aug-85	195	48	storm	Replace bad line	City	18,532
Jaw Bone @ Maple	Oct-84	72	42	storm	Install new outfall	City	2,480

**CITY OF BUCKHANNON SANITARY BOARD
SEWER CONSTRUCTION PROJECTS UNDERTAKEN SINCE 1990**

PROJECT	DATE	LENGTH	DIA	TYPE	PURPOSE	INSTALLER	COST
Jaw Bone @ Kapner	Oct-83	186	15	storm	Replace bad line	City	6,288
Thurman Ave	Aug-83	288	15	storm	Provide & upgrade drainage	City	11,181
Thurman Ave	Aug-83	260	12	storm	Provide & upgrade drainage	City	
Dappol N Kenesha	Feb-83	548	15	storm	Provide drainage	City	12,370
Dappol N Kenesha	Feb-83	30	10	storm	Provide drainage	City	
Lumber St	Nov-82	306	24	storm	Provide drainage	City	
Lumber St	Nov-82	309	21	storm	Replace & upgrade bad line	City	36,083
Lumber St	Nov-82	230	15	storm	Replace & upgrade bad line	City	
Lumber St	Nov-82	186	12	storm	Replace & upgrade bad line	City	
W Lincoln St	Aug-81	176	18	storm	Provide drainage	City	23,798
W Lincoln St	Aug-81	380	15	storm	Provide drainage	City	
W Lincoln St	Aug-81	282	10	storm	Provide drainage	City	
Park St	May-81	158	12	storm	Provide drainage	City	13,207
Lynburn St	Feb-81	315	12	storm	Replace bad line	City	
TOTAL		15,127		Storm	Replace bad line	City	10,668
Grand Total		128,588				City	812,468

C. Inspection - Sam advised the Board there was an inspection at the plant last week and the plant was losing solids due to 5 million gallons coming into the plant. He said the city would probably get a notice of violation. He said this would be the third notice of violation for failing to report in that last 1 1/2 years. Sam said they needed to look at the sludge handling facility and clarifier capacity. He estimated those two project could cost about \$225,000.00.

D. Coleman Place - Clean up was performed, temporary connections were made and work was suspended so that Pizoli could have unrestricted access during Christmas. This arrangement was made as a result of discussion with Pizoli. Since Christmas, pipe work across Pizoli has been completed and the connections made in the alley behind Boggess St. One customer connection on Lincoln Street and resolution of the surface water drain line are left to be completed. Surface restoration will be done in the spring.

E. Ritchie St. Storm Sewer - We are ready to move onto that job pending completion of several maintenance obligations. We will do some work there to confirm existing conditions, remove trees, and other concrete junction boxes. Pipe work may be limited due to the flow in the existing system.

F. Jawbone Sanitary - We submitted preliminary design drawings and specifications to the US Army COE. They made a few comments and we are in the process of addressing those comments to resubmit. The COE has nearly completed their Environmental Assessment.

CITY OF BUCKHANNON

WEST VIRGINIA
26201

78 E. MAIN STREET
BUCKHANNON, WV 26201

TELEPHONE
(304) 472-1651
TDD # (304) 472-9536
FAX # (304) 472-9638

January 5, 2009

Jim Lowe
ATTN: CELRP-TS-DT
U.S. Army Corps of Engineers
Pittsburgh District
1000 Liberty Avenue
William S. Moorhead Federal Building
Pittsburgh, PA 15222-4186

RE: Phase II and III Jawbone Run
Sanitary Sewer System Project

Dear Jim,

Transmitted herewith for your information, review, and approval, are the design plans and specifications for the above referenced project. As we discussed with you during your visit to Buckhannon on October 29, 2008, this project is fairly simple and straight forward even though that fact does not take away from its importance or construction difficulty. The project involves upgrading an existing 18" diameter gravity, interceptor sewer with a relocated 21" diameter gravity, interceptor sewer, along with all necessary appurtenances and reconnections of collector sewers. Included with this transmittal are two copies of the plans which include an area map, construction details, plan layout, and profiles, and specifications. There are no bid documents or contractor agreements since all the construction work will be done by City of Buckhannon Sewer Department work crews.

This project completes an upgrade begun in 2006 when nearly 400 feet of 21" diameter gravity, interceptor sewer was installed in order to facilitate a commercial development. Current work will connect the downstream and upstream ends of the 2006 project in order to make it all a functional system. Although the 2006 work was done across private property, all the work to be done in this project will be on City of Buckhannon owned and operated streets. Much of the adjacent property, particularly on the downstream connector portion of the project, is also owned by the City, including Jawbone parking lot and Jawbone Park.

There are several matters of concern relating to construction of this project. First is pipe elevation and grade. Because of the flat topography along the lower portion of the Jawbone Run watershed there is not much ground slope available, and since this is a replacement project, new pipe elevations must match existing pipe elevations where they connect. This was an extremely critical element in the 2006 project when a central segment was constructed which had to be reconnected at both ends in a subsequent project (which is the current project). Based on record information which is shown on the design plans, there is adequate grade available for both the lower and upper connections. WV Health Department standards require minimum pipe grades of 0.1 % for 21" diameter pipe. Sufficient elevation is available to achieve this grade.

Another matter of concern is work on City streets. This is an advantage relative to surface working conditions and access, but does pose concerns relative to traffic control and impact on local businesses. Street grid networks will allow Sewer Department crews to close the affected portions of the streets while construction is ongoing. The length of the construction site actively in use will be kept to a minimum, and temporary surface restoration to allow for use of the streets will be accomplished as construction proceeds. This will also provide for a minimum impact on the local businesses. Almost all of the businesses have alternate access, although the disruption will impact on convenience. Final street repair will be done by the Buckhannon Street Department with support from the Sewer Department as required. This will provide assurance that the repairs are performed satisfactorily.

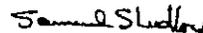
Any underground construction work in an older part of town is of concern because of the uncertainty regarding other buried utilities. The proposed sewer route has been established based on investigation of existing utility locations, but experience predicts that unexpected utilities will be uncovered. With so little elevation available and the flat grades, there is little flexibility in the proposed sewer, but if obstructions are encountered they will have to be addressed.

Soil conditions are also a concern. Although no soil borings have been done specifically for this project, Sewer Department crews have considerable experience with excavation in this immediate vicinity. That is especially true with installation of the 21" diameter sewer in 2005 which will constitute the center section of this upgrade sewer when it is completed. During that project, sandy loam soil was encountered with moderate amounts of ground water that were fairly easily controlled by pumping from a sump pit. Similar conditions were encountered during the pipe failure in Jewstone parking lot in the fall of 2007, which failure required the Sewer Department to fully excavate the sanitary sewer on both sides of the 42" diameter storm sewer.

These are the primary issues of concern relative to this project. All construction work will be performed by Sewer Department crews who are very familiar with these circumstances, conditions, and pipe laying procedures. Traffic control, emergency services coordination, and surface restoration and street repair will all be facilitated by the "in house" nature of this project. All of the parties responsible for aspects of this project are in regular contact as part of their routine duties.

We hope that this provides the information you need relative to the design of the project and those matters which we believe merit our particular attention during construction. If you have any question, need any further information, or need additional copies of the plans, please call me at (304) 472-5459 or e-mail me at sludlow@cityofbc.net. Thank you for your assistance with this matter.

Very truly yours,



Samuel S. Ludlow

cc: Marie McCullough
Kenneth T Davidson, Mayor
David McCauley

- G. **Industrial Park** – E L Robinson, Consulting Engineers, has been preparing design for the site work and utilities. We met with Project Manager, Brian Morton, before Christmas. We made several suggestions and he is incorporating them in the plans. The discussions have been very positive to this point.
- H. **Weatherford** – The rough grading and storm drain installation on the north side of the site appear to be essentially complete so that we could work on the sanitary sewer. We did receive a call from Larry Howard of Weatherford inquiring about rules governing their participation in the extension and their cost to connect. He indicated that Weatherford was not ready to proceed at this time. We also talked to C J Martin who would like us to install the portion of the sewer that he will finance, but then he will install a holding tank and truck the wastewater to the sewer plant. He does not want to finance the extension up the hill.
- I. **Richard Trent/Burton Phillips** – There is active interest in this project and we are ready to prepare the design and begin construction as soon as opportunity exists.
- J. **Railroad/Locust St.** – Last April, we submitted an application to CSX to gain permission to relocate an old sewer that runs under the Donut Shop. We had assisted the local railroad operation with some drainage work and they offered to waive the fee (\$10,000?). We have not received a response from CSX, but A & O Railroad asked us to resubmit directly to them and assured us that they would authorize the work. We need to do this project this spring.

K. Rodder Truck - We have not received any interest in the Rodder truck as a result of our solicitation through the Municipal League or the Rural Water Association.

L. Personnel - Sam said he understood the Board was comfortable in giving authority to himself, Mayor Davidson and Nancy Shobe to make pay adjustments. He said the approved budget included 5% for overtime and merit increases. He said he has gone over in detail with Mayor Davidson the following merit increases for some of his employees:

	Per hour	
BRIAN	1.00	LABOR BUDGET 08-09 \$ 487,000 5% ALLOCATION OVERTIME & MERIT USE 2% MERIT \$ 9,740 / YR \$ 4.68 / HR OR 1% \$ 4,870 / YR \$ 2.34 / HR
PHIL	.50	
CARLOS	.60	
JEFF	.40	
GARRETT	.50	
SCOTT	.30	
BART	.30	
	<hr/> 3.60	
	\$ 7488	
	$\frac{3.60 \times 2080}{487,000} = 1.5\%$	

*Note the \$1.00 per hour for Brian Mitchell is actually .50 cents as Mayor Davidson had approved .50 cents per hour on October 28, 2008. Mayor Davidson asked the Board to approve the merit increases and retroactively approve the .50 cents given in October 28, 2008 to Brian Mitchell.

Motion was made by Jay Hollen and seconded by Phil Loftis to approve the merit increases as presented by Mr. Ludlow and recommended by Mayor Davidson with Garrett Walton and Scott Crites being effective after the probation period. Motion carried.

Motion was made by Phil Loftis and seconded by Jay Hollen to approve retroactively the .50 cents per hour increase to Brian Mitchell that Mayor Davidson approved on October 20, 2008. Motion carried.

Board member Phil Loftis said he wanted to go on record that he does not think it is necessary for the wage increase to be brought before the Board. He said the Board has not had any input in how the increases were determined. Mayor Davidson said the WV State Code and Charter was clear that setting wages rests with the Board.

M. Mapping: The following information was submitted from a meeting held on January 14 at City Hall: Mountain Air Services LLC



Mountain Air Services LLC
P.O. Box 188
Homer, WV 26372
Cell: (304)871-9616
Phone: (304)269-1979
Fax: (304)269-4306

January 14, 2009

Quote# 011409

The following document outlines the terms and conditions of Mountain Air Services LLC (MAS) Regarding the acquisition, processing, and deliver of Orthoimagery and Lidar Data of the City of Buckhannon, WV. For completion of this project Mountain Air Services LLC will utilize a strategic partnership with Canaan Valley Institute of Thomas, WV for completion of LIDAR related products and procedures. The project area has been supplied by the City Engineers of Buckhannon and is attached in Appendix A for verification. This quote has been prepared for the City of Buckhannon, WV using information provided by the city engineers.

Project Specifications

- Navigation Data post processing with PostPAC
- GPS/IMU Solution refined with use of local Base Stations
- Ortho Production and color adjustment through Erdas Imagine
- Orthorectification to be performed using current LIDAR data.
- Imagery flown to achieve .5 foot, or 15 centimeter, pixel resolution
- LIDAR data planned to achieve 1 ft contours with 15 cm accuracy

Project Elements

Item 1: Data Collection:

- Aircraft Usage Fee
- ALTM 3100 Utilization Fee
- Appendix DSS 301 Utilization Fee
- Operator Personnel

Total Item 1: \$16,000.00

January 14, 2009
Page 2

Item 2: GPS:

- Reconnaissance
- RTK Survey
- Base Station Monitoring

Total Item 2 \$1,956.61

Item 3: Data Processing:

- LIDAR Data
- GPS/IMU Data
- Image Preparation and development to Tiff format

Total Item 3 \$1,876.52

Item 4: Product Production:

- All point LIDAR files
- Bare Earth LIDAR files
- 1 ft Contour Mapping
- Image Orthorectification
- Mosaic and Radiometric processes on Imagery
- Image Tile production to customer Specification
- Reporting and Documentation

Total Item 4 \$12,000.00

Item 5: Project Administration:

- Project Management
- Produce Reference files and Mission Plans
- Delivery- Shipping and Media

Total Item 5 \$897.85

Total Project Cost: \$32,724.98

Imagery Deliverables:

Deliverable products will include orthorectified Mosaics of the flight area projected in State Plane NAD 1983 West Virginia South. All mosaics will be color balanced to eliminate radiometric imbalance and will be divided into a grid format to facilitate file size and ease of use. All imagery will be delivered in TIF format via hard drive media. Delivery will occur within 4 weeks of the capture date.

LIDAR Deliverables:

Deliverable LIDAR will include Air Point LIDAR tiles, Bare Earth LIDAR tiles and 1ft contour mapping of the entire project area.

MAS will not be liable for delays resulting from airspace limitations or restrictions affecting capture dates and times, or weather conditions resulting in unacceptable capture conditions.

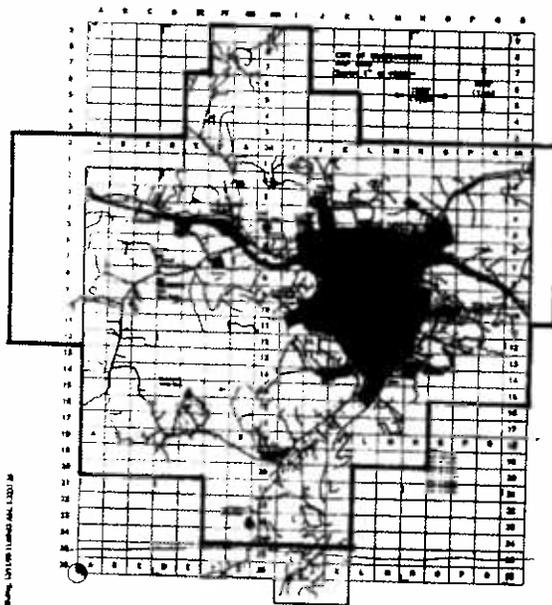
All data produced as a result of this project will remain the property of Mountain Air Services LLC and Canaan Valley Institute and will be licensed to the City of Beckhannon for its expressed use in its own operations and projects and may not be resold, redistributed, or reproduced for any other entity without the written consent of Mountain Air Services LLC.

Acceptance of this quote must be accomplished by signing this document and returning it to Mountain Air Services LLC. Fax 304-269-6300 or Brian@mountainairservices.com

Signature: _____ Date: _____

Please direct inquiry's to Brian Mills at (304)-269-1979.

Appendix A: Project Boundaries
Area Depicted in Bold Black



Mayor Davidson said the Sanitary Board's share would be a fourth of the cost.

Board member Jay Hollen said the state plane coordinates needs to be on the mapping.

N. Plant:

- a. **Tests** – He presented the following test results:

FACILITY NAME: WASTE Discharge BUCKHANNON CITY OF CERTIFIED LABORATORY NAME: L.W. House
LOCATION OF FACILITY: BUCKHANNON, Wayne County CERTIFIED LABORATORY ADDRESS:
PERMIT NO: WV003238 OUTLET NO: 001
WASTELOAD FOR THE MONTH OF: December 2008 INDIVIDUAL PERFORMANCE ANALYSIS: Full Scale

Parameter	Frequency	Units	N.E.	Other Units		CEL*	Units	N.E.	Measurement Frequency	Sample Type
				Units	N.E.					
5008 (AL-1) RP-A	Reported									
Year Round	Partial Limits	N/A	N/A							
Year Round	Partial Limits	N/A	N/A							
5010 (AL-6) RP-A	Reported									
Year Round	Partial Limits	417.3	834.6	Line/Day	0	N/A				
Year Round	Partial Limits	417.3	834.6	Line/Day	0	N/A				
5030 (AL-A) RP-A	Reported									
Year Round	Partial Limits	528.8	1057.6	Line/Day	0	N/A				
Year Round	Partial Limits	528.8	1057.6	Line/Day	0	N/A				
51812 (AL-K) RP-A	Reported									
Year Round	Partial Limits	N/A	N/A			N/A				
Year Round	Partial Limits	N/A	N/A			N/A				
51013 (AL-K) RP-A	Reported									
Year Round	Partial Limits	N/A	N/A			N/A				
Year Round	Partial Limits	N/A	N/A			N/A				
51014 (AL-K) RP-A	Reported									
Year Round	Partial Limits	N/A	N/A			N/A				
Year Round	Partial Limits	N/A	N/A			N/A				
51018 (AL-K) RP-A	Reported									
Year Round	Partial Limits	N/A	N/A			N/A				
Year Round	Partial Limits	N/A	N/A			N/A				
74264 (AL-A) RP-A	Reported									
Year Round	Partial Limits	N/A	N/A			N/A				
Year Round	Partial Limits	N/A	N/A			N/A				

Name of Principal Executive Officer: Keith Davidson
Title of Officer: Mayor
Date Completed: 1/15/09
Signature of Principal Executive Officer or Authorized Agent: Samuel Shulow

FACILITY NAME: WASTE Discharge BUCKHANNON CITY OF CERTIFIED LABORATORY NAME: L.W. House & Reliance Labs
LOCATION OF FACILITY: BUCKHANNON, Wayne County CERTIFIED LABORATORY ADDRESS:
PERMIT NO: WV003238 OUTLET NO: 001
WASTELOAD FOR THE MONTH OF: December 2008 INDIVIDUAL PERFORMANCE ANALYSIS: Full Scale

Parameter	Frequency	Units	N.E.	Other Units		CEL*	Units	N.E.	Measurement Frequency	Sample Type
				Units	N.E.					
00408 (AL-A) RP-A	Reported									
Year Round	Partial Limits	N/A	N/A							
Year Round	Partial Limits	N/A	N/A							
00508 (AL-A) RP-A	Reported									
Year Round	Partial Limits	N/A	N/A							
Year Round	Partial Limits	N/A	N/A							
00810 (AL-A) RP-A	Reported									
Year Round	Partial Limits	83.4	166.8	Line/Day	0	N/A				
Year Round	Partial Limits	83.4	166.8	Line/Day	0	N/A				
00828 (AL-A) RP-A	Reported									
Year Round	Partial Limits	N/A	N/A			N/A				
Year Round	Partial Limits	N/A	N/A			N/A				
00888 (AL-A) RP-A	Reported									
Year Round	Partial Limits	N/A	N/A			N/A				
Year Round	Partial Limits	N/A	N/A			N/A				
00888 (AL-A) RP-B	Reported									
Year Round	Partial Limits	N/A	N/A			N/A				
Year Round	Partial Limits	N/A	N/A			N/A				
01114 (AL-A) RP-A	Reported									
Year Round	Partial Limits	N/A	N/A			N/A				
Year Round	Partial Limits	N/A	N/A			N/A				
01284 (AL-A) RP-A	Reported									
Year Round	Partial Limits	N/A	N/A			N/A				
Year Round	Partial Limits	N/A	N/A			N/A				

Name of Principal Executive Officer: Keith Davidson
Title of Officer: Mayor
Date Completed: 1/15/09
Signature of Principal Executive Officer or Authorized Agent: Samuel Shulow

FACILITY NAME: WASTE DISPOSAL MICHAMMON CITY OF CERTIFIED LABORATORY NAME: Belmont Laboratories, Inc.
 LOCATION OF FACILITY: BUCKHANNON, Lincoln County CERTIFIED LABORATORY ADDRESS: PO Box 7657
 PERMIT NO.: WV0003338 OUTLET NO.: 001 Wastewater 2007 INDIVIDUAL PERFORMING ANALYSIS: William S. Lee

Parameter	Frequency	Method	Units		N.E.		Other Units		CEL ¹	Units	N.E.	Measurement Frequency	Sample Type
			Upper	Lower	Upper	Lower	Upper	Lower					
0100 (ML-A) RP-D Ammonia Total (As AD) Year Round	Reported Parent Limits	N/A	N/A									1/Year 1/Year	2 Hr 8 Hr Comp
0111 (ML-A) RP-D Chlorine Total Residual Year Round	Reported Parent Limits	N/A	N/A									1/Year 1/Year	2 Hr 8 Hr Comp
0102 (ML-A) RP-D Chlorine Residual Year Round	Reported Parent Limits	N/A	N/A									1/Year 1/Year	2 Hr 8 Hr Comp
0071 (ML-A) RP-D Calcium, Weak Acid Dissociable Year Round	Reported Parent Limits	N/A	N/A									1/Year 1/Year	2 Hr 8 Hr Comp
1100 (ML-A) RP-D Sulfate Total (As SO ₄) Year Round	Reported Parent Limits	N/A	N/A									1/Year 1/Year	2 Hr 8 Hr Comp
0174 (ML-A) RP-D Total Suspended Solids Year Round	Reported Parent Limits	N/A	N/A									1/Year 1/Year	2 Hr 8 Hr Comp
0108 (ML-A) RP-D Total Suspended Solids Year Round	Reported Parent Limits	N/A	N/A									1/Year 1/Year	2 Hr 8 Hr Comp
0119 (ML-A) RP-D Total Suspended Solids Year Round	Reported Parent Limits	N/A	N/A									1/Year 1/Year	2 Hr 8 Hr Comp

I hereby certify that the information reported herein is true and correct to the best of my knowledge and belief, and that I am duly qualified to perform the duties of this position. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.

Date Completed: 1/15/09
 Signature of Principal Executive Officer or Authorized Agent: Samuel Shubert

- b. **Elias Pump** – We have discussed purchase of a third or back up pump for Elias pump station for two years. We had solicited a price proposal from Precision Pump, which was \$19,549. In December, we negotiated the pump price down to \$18,070 and last week we ordered the pump.
- c. **Old Garage** – We are renovating the old garage to serve as a personnel area. We are renovating the plumbing, wiring, and heat, adding more lockers, and creating a records storage and workspace.
- d. **School** – Tim Rock is planning to attend the Class I operators’ school in March. We are planning for other employees to attend training as well.

There being no further business to be transacted before this meeting, meeting adjourned at 5:45 p.m.

Kevin H. Davida
 MAYOR

Young C. Shobe
 RECORDER-TREASURER

CITY OF BUCKHANNON

SERIES 2009-A REFUNDING BOND ORDINANCE #343

CITY OF BUCKHANNON

SERIES 2009 A REFUNDING BOND ORDINANCE

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CITY OF BUCKHANNON
SERIES 2009 A REFUNDING BOND ORDINANCE

ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$2,900,000 IN AGGREGATE PRINCIPAL AMOUNT OF CITY OF BUCKHANNON SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A FOR THE PURPOSES OF CURRENTLY REFUNDING THE ISSUER'S SEWER SYSTEM REFUNDING REVENUE BONDS, SERIES 1996 A AND PAYMENT OF THE COST OF ISSUANCE OF THE BONDS; AUTHORIZING AN ESCROW AGREEMENT IN CONNECTION WITH THE DEFEASANCE OF SAID REFUNDING REVENUE BONDS; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS ; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

Be It Ordained by the City Council of the City of Buckhannon, West Virginia:

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

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

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

A. The City of Buckhannon, West Virginia (the "City" or the "Issuer"), is a municipal corporation and political subdivision of the State of West Virginia in Upshur County of said State.

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

C. In accordance with Section 2 of the Act, the System is under the supervision and control of the Sanitary Board of the City (the "Sanitary Board").

D. The Sanitary Board has presented a petition to the City for the enactment of this Ordinance and the issuance of sewerage system refunding revenue bonds.

E. The City may now refund its Sewer System Refunding Revenue Bonds, Series 1996 A (the "Series 1996 A Bonds") at a savings to the City and, therefore, it is in the best interests of the Issuer to issue its Sewerage System Refunding Revenue Bonds, Series 2009 A (the "Bonds" or "Series 2009 A Bonds"), in an aggregate principal amount of not more than \$2,900,000 to currently refund the Series 1996 A Bonds and to pay the costs of issuance and related costs.

F. The estimated maximum cost of currently refunding the Series 1996 A Bonds is \$2,195,000, which will be obtained from the proceeds of the Bonds herein authorized and from funds an accounts held on behalf of the Series 1996 A Bonds.

G. The acquisition and construction of the System were financed or refinanced with proceeds of certain obligations of the City, which obligations are designated and have lien positions with respect to the Bonds as follows:

	<u>Designation</u>	<u>Lien Position</u>
1.	\$2,885,000 Sewer System Refunding Revenue Bonds, Series 1996 A (the "Series 1996 A Bonds").	First Lien
2.	\$1,081,160 Sewer Revenue Bonds, Series 1986 B (the "Series 1986 B Bonds")	First Lien

The Series 1986 B Bonds are sometimes referred to as the "Prior Bonds." The Series 1996 A Bonds will be paid with the proceeds of the Series 2009 A Bonds.

H. The Series 1996 A Bonds are currently outstanding in the aggregate principal amount of \$2,195,000 and the Series 1986 B Bonds are currently outstanding in the aggregate principal amount of \$459,493.

I. After the defeasance of the Series 1996 A Bonds, the Series 2009 A Bonds and the Series 1986 B Bonds will be secured by a shared first lien on the Net Revenues of the System.

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

K. The estimated revenues to be derived in each year after the enactment of this Ordinance from the operation of the System will be sufficient to pay all costs of the operation and maintenance of the System, the principal of and interest on the Prior Bonds and the Bonds and all funds and accounts and other payments provided for in this Ordinance and the Prior Ordinance.

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

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

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

O. The City, with the assistance of its financial advisor, Scott & Stringfellow, Inc., a wholly-owned subsidiary of BB&T Corporation, plans to solicit proposals for the purchase of said Bonds. If the City determines that it is in its best interest, it may direct the financial advisor to negotiate directly with a single, prospective lender including BB&T. It is in the best interests of the City that the Bonds be sold pursuant to the terms and provisions set forth in, and to the purchaser (the "Purchaser"), designated in the Supplemental Resolution.

P. The City has complied with all requirements of West Virginia law relating to the issuance of the Bonds, or will have so complied prior to the issuance of any thereof.

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

R. The City and all subordinate entities of the City reasonably expect to issue \$10,000,000 or less in tax exempt obligations during calendar year 2009.

Section 1.03. Ordinance Constitutes Contract. In consideration of the acceptance of the Bonds authorized to be issued hereunder by those who shall own the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the City and such Registered Owners, and the covenants and agreements herein set forth to be performed by the City shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Bonds issued hereunder, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bond by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. Except as provided below, terms used in this Supplemental Ordinance have the meanings set forth in the Prior Ordinance, as supplemented by this Supplemental Ordinance, unless the context expressly requires otherwise.

“Act” shall mean Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended and in effect on the date of enactment of this Ordinance.

“Authorized Officer” means the Mayor of the Issuer or any other officer of the Issuer specifically designated by resolution of the Council of the Issuer.

“Bond Counsel” shall mean any law firm having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds, appointed by the City or the Sanitary Board, and shall initially mean Jackson Kelly PLLC and The Vaughan Law Firm, Charleston, West Virginia.

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

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

“Bondholder” or “Holder of the Bonds” or “Owner of the Bonds” or “Registered Owner” or any similar term shall mean any person who shall be the Registered Owner of any Outstanding Bond as hereinafter defined.

“Bonds” or “Series 2009 A Bonds” shall mean the not more than \$2,900,000 in aggregate principal amount of the City of Buckhannon Sewerage System Refunding Revenue Bonds, Series 2009 A, authorized by this Ordinance to be issued.

“Bonds Sinking Fund” shall mean the Bonds Sinking Fund created by Section 4.01(A) hereof.

“Bonds Proceeds Fund” shall mean the Bonds Proceeds Fund created by Section 4.01 hereof.

“Certificate of Authentication and Registration” shall mean the Certificate of Authentication and Registration on the Series 2009 A Bonds, substantially in the form set forth in Exhibit A attached hereto.

“Closing Date” shall mean the date or dates upon which there is an exchange of the Bonds for all or a portion of the proceeds of the Bonds from the Purchaser.

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

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

"Consulting Engineers" shall mean any engineer or firm of engineers, licensed by the State, which shall at any time hereafter be retained by the City as Consulting Engineers for the System in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended.

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

"Council," "City Council" or "Governing Body" shall mean the Council of the Issuer or any other governing body of the Issuer that succeeds to the functions of the Council as presently constituted.

"Depository Bank" shall mean the bank or banks to be designated as such in the Supplemental Resolution, and its successors and assigns.

"Escrow Agent" shall mean the Escrow Agent with respect to each Escrow Agreement, which shall be appointed pursuant to a resolution supplemental hereto.

"Escrow Agreement" shall mean the agreement between the City and the Escrow Agent, substantially in the form of the agreement attached to a resolution supplemental hereto and by this reference made a part hereof, relating to the refunding and defeasance of the Series 1996 A Bonds.

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

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

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

"Gross Revenues" shall mean 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 of other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, purchased pursuant to Article VIII hereof) or any fee or charge established, levied and collected by the City from persons at the time of, and for the privilege of, making service connections to the System, as hereinafter defined, and for the furnishing by the City of miscellaneous service.

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

"Mayor" shall mean the Mayor of the City.

"Net Revenues" shall mean Revenues less Operating Expenses.

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

"Outstanding" when used with reference to Bonds and Prior Bonds, as of any particular date, describes all such Bonds theretofore and thereupon being authenticated and delivered, except (i) any such Bond canceled by the Registrar, at or prior to said date; (ii) any such Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such Bond, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any such Bond deemed to have been paid as provided in Section 6.13 hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any such Bond registered to the City.

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

"Paying Agent" shall mean the Commission, the bank or such other entity to be designated as the Paying Agent for the Bonds in the Supplemental Resolution and its successors and assigns.

"Prior Bonds" shall mean the Series 1986 B Bonds of the Issuer.

"Prior Ordinance" shall mean the ordinance of the Issuer authorizing the Prior Bonds.

"Private Business Use" shall mean use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit; provided that, use as a member of the general public shall not be taken into account, all as determined by the Code.

"Purchase Price," for the purpose of computation of the Yield of the Bonds, has the same meaning as the term "issue price" in Sections 1273(b) and 1274 of the Code, and, in general, means the price paid by the first buyer of the Bonds or the acquisition cost of the first buyer. "Purchase Price," for purposes of computing Yield of Nonpurpose Investments, means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Bonds.

"Purchaser" shall mean the entity designated as such in a Supplemental Resolution.

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

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

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

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

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

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of the 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 agreements shall have a prior perfected security interest in the collateral therefore; must have (or its agency must have) possession of such collateral; and such collateral must be free of all claims by third parties;

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

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

"Rebate Fund" shall mean the Rebate Fund created by Section 6.18 hereof.

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

"Registrar" shall mean the entity named as such in the Supplemental Resolution as the registrar for the Bonds, and any successor thereto.

"Regulations" shall mean the temporary and permanent regulations promulgated under the Code.

"Renewal and Replacement Fund" shall mean the fund created by Section 5.01(3) of the Prior Ordinance and continued hereby.

"Reserve Account Requirement" shall mean any amount established in the Prior Ordinance for the Prior Bonds.

"Reserve Accounts" shall mean, collectively, the respective Reserve Accounts created for the Prior Bonds and the Bonds, if any.

"Revenue Fund" shall mean the Revenue Fund created pursuant to Section 5.01(1) of the Prior Ordinance and continued hereby.

"Series 1996 A Bonds" shall mean the Sewerage System Refunding Revenue Bonds, Series 1996 A of the Issuer dated December 1, 1996, issued in the original aggregate principal amount of \$2,885,000.

"Series 1996 A Bonds Redemption Date" shall mean the date or dates established in the Supplemental Resolution for the redemption of the Series 1996 A Bonds.

"Sinking Funds" shall mean, collectively, the respective Sinking Funds created for the Prior Bonds and the Bonds.

"State" shall mean the State of West Virginia.

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

"Surplus Revenues" shall mean the Net Revenues not required by the Prior Ordinance and this Ordinance, as supplemented and amended, to be set aside and held in, including but not limited to, any sinking funds, reserve accounts and depreciation accounts.

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

"Tap Fees" means the fees, if any, paid by prospective customers of the System in order to connect thereto.

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

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

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

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

ARTICLE II AUTHORIZATION OF THE REFUNDING OF THE SERIES 1996 A BONDS

Section 2.01. Authorization of Refunding. The Series 1996 A Bonds Outstanding as of the date of issuance of the Series 2009 A Bonds and all unpaid interest accrued thereon, if any, are hereby ordered to be refunded and paid in full pursuant to the terms of the Escrow Agreement and the lien of said Series 1996 A Bonds imposed by the Series 1996 A Ordinance on the Net Revenues of the System is hereby ordered terminated, discharged and released upon payment into the Escrow Fund from the

proceeds of the Bonds, together with other moneys available therefore, including those moneys transferred as provided below, of the following:

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

(b) an amount which will be simultaneously invested in Governmental Obligations bearing interest and having maturities sufficient to provide (i) for the payment of the principal of the Series 1996 A Bonds on the Series 1996 A Bonds Redemption Date and (ii) for the payment of the interest on the Series 1996 A Bonds as the same becomes due to but not including the Series 1996 A Bonds Redemption Date. Contemporaneously with the deposit of proceeds of the Series 2009 A Bonds into the Escrow Fund, as prescribed by the Escrow Agreement, the amounts on deposit in sinking fund created and maintained on behalf of the Series 1996 A Bonds and the amounts on deposit in the Reserve Account created and maintained under the Series 1996 A Ordinance shall be deposited into the Escrow Fund and simultaneously invested as provided in the Escrow Agreement.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

Section 3.01. Authorization and Terms of Bonds. For the purposes of refunding all of the outstanding Series 1996 A Bonds and paying costs of issuance of the Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the Bonds of the City. The Bonds shall be issued in one series as set forth in the Supplemental Resolution, designated as "Sewerage System Refunding Revenue Bonds, Series 2009 A", in an aggregate principal amount of not more than \$2,900,000. The Bonds shall be issued in such principal amounts, shall have the series designation, shall be dated as of the date of delivery thereof, shall bear interest at such rate or rates, not exceeding the then legal maximum rate, and shall mature at such times and in such amounts as shall be set forth in the Supplemental Resolution. The repayment of principal and interest, if any, on the Bonds shall be as set forth in the Supplemental Resolution. The Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Ordinance and as the Council of the City shall prescribe by resolution (or by supplemental or amendatory ordinance of said Council as said Council shall determine) adopted in connection with the sale of such Bonds.

The Bonds shall be payable as to principal at the office of the Paying Agent in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds shall be paid by check or draft mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar.

Each series of Bonds shall be issued in fully registered form, in such denominations and shall have such terms as set forth in the Supplemental Resolution. The Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond in aggregate principal amount equal to the amount of the Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of the Bonds.

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

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

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

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

Bonds shall be transferable only upon the books of the Registrar, by the Registered Owner thereof in person or by the Registered Owner's attorney duly authorized in writing, upon surrender thereto, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or the Registered Owner's duly authorized attorney.

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

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

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

Section 3.06. Bonds not to be Indebtedness of the City. The Bonds shall not, in any event, be or constitute a corporate indebtedness of the City within the meaning of any statutory or constitutional limitations, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No Registered Owner of the Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay the Bonds or any interest thereon.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Bonds shall be secured equally and ratably with each other by a first lien on the Net Revenues derived from the System, which is on a parity and is shared with the holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and the Prior Bonds and to make the payments into the sinking funds and the reserve accounts, if any, and in the renewal and replacement fund established herein or in the Prior Ordinance are hereby irrevocably pledged to the payment of the principal of and any interest on the Bonds and the Prior Bonds as the same become due.

Section 3.08. Form of Bonds. The text of the Bonds shall be substantially as set forth in Exhibit A, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Ordinance or any subsequent resolution or ordinance adopted or enacted prior to the issuance thereof.

Section 3.09. Sale of Bonds. The Bonds shall be sold as soon as practical and in the best interests of the Issuer, as may be authorized and permitted by applicable law, and delivered to the Purchaser thereof; provided that the Purchaser and the Issuer shall have agreed to the terms of the purchase thereof.

Section 3.11. Designation of Bonds as "Qualified Tax-Exempt Obligations." The Issuer hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3)(B) of the Code and covenants that the Bonds do not constitute private activity bonds as defined in Section 141 of the Code, and that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income tax purposes (excluding, however, obligations issued to currently refund any obligation of the Issuer to the extent the amount of the refunding obligation does not exceed the amount of the refunded obligation and private activity bonds, as defined in Section 141 of the Code, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code), including the Bonds, have been or shall be issued by the Issuer, including all subordinate entities of the Issuer, during the calendar year 2009, all as determined in accordance with the Code.

ARTICLE IV APPLICATION OF BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. Application of Bond Proceeds. From the moneys received from the sale of the Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. All accrued interest, if any, received from the Purchaser of the Bonds shall be deposited in the Sinking Fund and used to pay the next maturing interest on the Series 2009 A Bonds.

B. The amount of the Bond proceeds necessary, together with such funds of the Issuer as are made available by the defeasance of the Series 1996 A Bonds, to refund the Series 1996 A Bonds, which amount shall be set forth in the Supplemental Resolution, shall be applied by the Issuer pursuant to the provisions of the Escrow Agreement.

C. The amount, set forth in the Supplemental Resolution derived from the sale of the Bonds shall be deposited by the Issuer in the Costs of Issuance Account. All costs of issuance shall be paid within 60 days of the Closing Date.

Section 4.02. Establishment of Funds and Accounts; Flow of Funds. The funds and accounts established by the Prior Ordinance are hereby continued. In addition to the funds and accounts established by the Prior Ordinance, there is hereby created at the Commission the Series 2009 A Bonds Sinking Fund.

The entire revenues derived from the operation of the System and all parts thereof shall be deposited by the Issuer in the Revenue Fund. All moneys in the Revenue Fund shall be disposed of only in the following manner and order of priority and in compliance with the Prior Ordinance:

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

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) the amount necessary to pay the interest on the Prior Bonds as prescribed in the Prior Ordinance; and (ii) an amount equal to the amount of interest which will become due on the Series 2009 A Bonds on the next monthly interest payment date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) the amount necessary to pay the principal on the Prior Bonds as prescribed in the Prior Ordinance; and (ii) an amount equal to the amount of principal which will mature and become due on the Series 2009 A Bonds on the next monthly principal payment date.

(4) If the Purchaser waives the funding of a reserve account, then the Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission the amount necessary to pay the required Reserve Account payments as prescribed by the Prior Ordinance. If the Purchaser does not waive a reserve requirement, then such requirement shall be established in the Supplemental Resolution.

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund to the Renewal and Replacement Fund the amounts required by the Prior Ordinance with respect to the Prior Bonds.

Moneys in the Sinking Fund shall be used only for the purposes of paying principal of and interest on the Bonds as the same shall become due. The Series 2009 A Bonds shall have no lien on the Prior Bonds Reserve Account held at the Commission.

The Issuer shall also, from the Revenue Fund, remit to the Commission on such dates or at such other times as the Commission shall require such additional sums as shall be necessary to pay the Prior Bonds.

Moneys in the Sinking Fund shall be invested and reinvested by the Commission in accordance with Section 4.03 hereof.

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

The City shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Paying Agent the required interest, principal and reserve account payments.

Except as provided above and in the Supplemental Resolution, all sinking fund, reserve account, payments shall remain as governed by the Prior Ordinance and depreciation fund.

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

Section 4.03. Investments. Any moneys held as a part of the funds and accounts created by this Ordinance shall be invested and reinvested by the Commission, the Depository Bank or such other bank or national banking association holding such fund or account, as the case may be, at the direction of the City in any Qualified Investments to the fullest extent possible under applicable laws, this Ordinance, the Prior Ordinance, the need for such moneys for the purposes set forth herein and the specified restrictions and provisions set forth in this Section 4.03.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount. The Paying Agent, the Depository Bank or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss of such liquidation. The Depository Bank or such other bank or national banking association may make any and all investments permitted by this section through its own investment or trust department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the City, at least once each year (or more often if reasonably requested by the City), a summary of such funds, accounts and investment earnings. The City shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest on the Bonds from gross income for federal income tax purposes.

ARTICLE V

DEFAULT AND REMEDIES

Section 5.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

- (1) If default occurs in the due and punctual payment of the principal of or interest on the Bonds; or
- (2) If default occurs in the City's observance of any of the covenants, agreements or conditions on its part relating to the Bonds set forth in this Ordinance, any supplemental resolution or in the Bonds, and such default shall have continued for a period of 30 days after the City shall have been given written notice of such default by the Paying Agent, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Registered Owner of a Bond; or
- (3) If the City files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or
- (4) If default occurs with respect to the Prior Bonds or the Prior Ordinance.

Section 5.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the City to perform its duties under the Act and the Ordinance relating

thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds; (iv) by action at law or bill in equity require the City to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Ordinance with respect to the Bonds, or the rights of such Registered Owners.

Section 5.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the City under the Ordinance and the Act, including, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to the Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the City, with the power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Ordinance and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of the System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the City exercise all the rights and powers of the City with respect to said facilities as the City itself might exercise.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Ordinance for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Ordinance shall have been cured and made good, possession of the System shall be surrendered to the City upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the City and for the joint protection and benefit of the City and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the City and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Ordinance, and the title to and ownership of the System shall remain in the City, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE VI

ADDITIONAL COVENANTS OF THE CITY

All the covenants, agreements and provisions of the Prior Ordinance shall remain in full force and effect as long as the Prior Bonds are outstanding and shall apply

to the Bonds as if fully set out herein. The following covenants are supplemental and in addition to the covenants set forth in the Prior Ordinance.

Section 6.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Ordinance shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Registered Owner of the Bonds. In addition to the other covenants, agreements and provisions of this Ordinance, the Issuer hereby covenants and agrees with the Registered Owner of the Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 6.02. Bonds not to be Indebtedness of the Issuer. The Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Ordinance. No Registered Owner of the Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Bonds or the interest, if any, thereon.

Section 6.03. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Bonds shall be secured equally and ratably by a first lien on the Net Revenues derived from the operation of the System with each other and with the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and the Prior Bonds and to make the payments into the sinking funds and the reserve accounts, if any, therein and in the Renewal and Replacement Fund established herein or in the Prior Ordinance are hereby irrevocably pledged to the payment of the principal of and any interest on the Bonds and the Prior Bonds as the same become due.

Section 6.04. Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. The schedule of rates and charges shall at all times be adequate to produce gross revenues from said System sufficient to pay operating expenses and to make the prescribed payments into the funds and accounts created or maintained hereunder. Such schedule of rates and charges shall be revised from time to time, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes.

So long as the Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Ordinance. The Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be at least sufficient to provide for all reasonable operating expenses of the System and leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum annual amount required to pay the interest on and principal of the Bonds and all other obligations secured by or payable from the revenues of the System prior to or on a parity with the Bonds, as the same become due and accomplish retirement of all Bonds for the payment of which such revenues have or shall have been pledged, charged or otherwise encumbered. In the event the schedule of rates and charges initially established for the System in connection with the Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Ordinance, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Ordinance. To the extent permitted by law, all such rates and charges, if not paid when due, shall constitute a lien upon the premises served by the System.

Section 6.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of or encumber the System, or any part thereof, except as provided in the Prior Ordinance. Additionally, so long as the Bonds are outstanding and except as otherwise required by law or with the written consent of the Purchaser, the System may not be sold, mortgaged, leased or

otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding in accordance with Article X hereof. A portion of proceeds from any such sale, mortgage, lease or other disposition of the System that is sufficient to pay the entire outstanding principal and interest on the Bonds shall, with respect to the Bonds, immediately be remitted to the Paying Agent for deposit in the Bonds Sinking Fund and the Issuer shall direct the Paying Agent to apply such proceeds to the payment of principal of and interest, if any, on the Bonds. Any balance remaining after the payment of the Bonds and the interest, if any, thereon shall be remitted to the Issuer by the Paying Agent.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$100,000, the Issuer shall first, determine, upon consultation with the Consulting Engineers, that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$10,000 and not in excess of \$100,000, shall, with the written consent of the Authority, be deposited in the Renewal and Replacement Fund. Such payment of such proceeds into the Sinking Funds or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Ordinance.

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 \$100,000 and insufficient to pay all Bonds then Outstanding, without the prior approval and consent in writing of the Registered Owners, or their duly authorized representatives, of sixty-six and two-thirds percent (66 2/3%) of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Registered Owners of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 6.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 6.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds. All obligations issued by the Issuer after the issuance of the Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Bonds, and the interest, if any, thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Ordinance, or upon the System or any part thereof.

The Issuer shall give the Purchaser prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System

or from any grants for the Project, or any other obligations related to the Project or the System.

Section 6.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinance shall be applicable. Additionally, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Bonds except under the conditions and in the manner provided in this Ordinance.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of design, acquisition or construction of additions, extensions, improvements or betterments to the System or refunding any Bonds outstanding or both such purposes.

All covenants and other provisions of this Ordinance (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Registered Owners of the Bonds, the Prior Bonds and the Registered Owners of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section and the Prior Ordinance. All such Bonds, Prior Bonds and Parity Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Net Revenues of the System, and their source of and security for payment from the Net Revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Ordinance required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Ordinance.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Bonds.

No Parity Bonds shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Ordinance and the Prior Ordinance with respect to the Bonds then Outstanding, and any other payments provided for in this Ordinance and the Prior Ordinance, shall have been made in full as required to the date of delivery of the Parity Bonds, and the Issuer then be in full compliance with all the covenants, agreements and terms of this Ordinance and the Prior Ordinance and every ordinance supplemental thereto, or shall have fully corrected any delinquency or deficiency in such payments and compliance.

Section 6.08. Books; Records and Audit. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Registered Owner of the Bonds issued pursuant to this Ordinance shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

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

The Issuer shall mail in each year to any Registered Owner of the Bonds requesting the same, an annual report containing the following:

(A) A statement of Revenues and Operating Expenses derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Ordinance and the status of all said funds and accounts.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants (and to the extent legally required in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto), and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Registered Owner of the Bonds. Such audit report submitted to the Purchaser shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Section 6.09. Rates. Prior to the issuance of the Bonds, equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of the rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder and meet the requirements of the Prior Ordinance.

The Issuer hereby covenants to commence enactment of such ordinance or ordinances as shall be required to increase the rates and charges for the services and facilities of the System within 60 days following a determination of the Issuer that less than the above-required coverage exists or in the event that the annual audit report shows less than the above-required coverage, such increase to provide rates and charges sufficient to produce such required coverage.

Section 6.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Purchaser within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate by a professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Registered Owner of the Bonds who shall file his or her address with the Issuer and request in writing that copies of any such budgets and Ordinances be furnished him or her, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Registered Owner of the Bonds, or anyone acting for and on behalf of such Registered Owner.

Section 6.11. Insurance and Bonds. A. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Bonds remain outstanding, insurance

with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(i) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured immediately upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(ii) Public Liability Insurance, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Bonds.

(iii) Vehicular Public Liability Insurance, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated at any time or times for the benefit of the Issuer, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle for the Issuer.

(iv) Workers' Compensation Coverage for All Employees of the City Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds have been or will be filed with the Clerk of the County Commission of said County prior to commencement of any construction in compliance with West Virginia Code Section 38-2-39. Workers' compensation coverage shall be maintained as required by the laws of the State of West Virginia.

(v) Flood Insurance to be procured, to the extent available at reasonable cost to the Issuer.

(vi) Fidelity Bonds will be provided as to every member of the Governing Body and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues or other funds of the Issuer in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of \$50,000, upon the treasurer.

Section 6.12. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided as long as the Bonds are outstanding.

Section 6.13. Compliance With Law. The City hereby covenants and agrees to perform, satisfy and comply with all terms, conditions and requirements of all applicable laws, rules and regulations issued by the State, federal or local bodies in regard to the operation, maintenance and use of the System.

Section 6.14. Operating Budget. The Sanitary Board shall annually prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for the operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Purchaser within 30 days of the adoption thereof.

Section 6.15. Tax Covenants. The City hereby further covenants and agrees as follows:

A. PUBLIC PURPOSE BONDS. The City shall use the Bond proceeds solely for the current refunding of the Series 1996 A Bonds and as otherwise set forth herein.

B. PRIVATE ACTIVITY BOND COVENANT. The City shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The City will take all actions necessary to comply with the Code in order to assure the tax-exempt status of the Bonds.

C. PRIVATE LOAN LIMITATION. The City shall assure that not in excess of the lesser of 5% of the proceeds of the Bonds or \$5,000,000 are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

D. FEDERAL GUARANTEE PROHIBITION. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

E. INFORMATION RETURN. The City shall file all statements, instruments and returns necessary to assure the tax-exempt status of the Bonds, and the interest thereon, including, without limitation, the information return required under Section 149(e) of the Code.

F. FURTHER ACTIONS. The City shall take any and all actions that may be required of it so that the interest on the Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those deemed necessary by the Authority) which would adversely affect such exclusion.

G. QUALIFIED TAX-EXEMPT OBLIGATION STATUS. The Issuer does not reasonably expect to issue more than \$10,000,000 of tax-exempt obligations during the calendar year 2009 (excluding, however, private activity bonds, as defined in Section 141 of the Code, other than qualified Section 501(c)(3) bonds, as defined in Section 145 of the Code, and certain refunding bonds, as described in Section 265(b)(3)(D)(ii) of the Code), and the Issuer has designated the Bonds as "qualified tax-exempt obligations," as defined in Section 265(b)(3)(B) of the Code.

Section 6.16. Small Issuer Exemption from Rebate of Excess Investment Earnings to the United States. In accordance with Section 148(f)(4)(D) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that no part of the Bonds are private activity bonds; 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) issued by the Issuer during the calendar year in which the Bonds are issued does

not and will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code and the Regulations from time to time in effect and applicable to the Bonds. For purposes of the first paragraph of this Section and for purposes of applying Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this first paragraph of this Section and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this first paragraph of this Section and Section 148(f)(4)(D) of the code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(D) of the Code and all other entities benefitting thereby shall be treated as one issuer.

Section 6.17. Arbitrage. The City covenants that (i) it will not take, or permit or suffer to be taken, any action with respect to the proceeds of the Bonds which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Bonds) so that the interest on the Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 6.18. Tax Certificate and Rebate. The City shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the Bonds. In addition, the City covenants to comply with all Regulations from time to time in effect and applicable to the Bonds as may be necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds and fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of the Ordinance.

If it is determined that the City does not qualify for an exception to Section 148 of the Code or the City is otherwise subject to rebate in connection with the Bonds, the City shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Purchaser, the City shall deposit, or cause to be deposited, with the Depository Bank in a separate fund designated the Rebate Fund, such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder, if any, and used only for payment of rebatable arbitrage to the United States. The City shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the City to be used for any lawful purpose of the System. The City shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the City shall assure that such payments are made by the City to the United States, on a timely basis, from any funds lawfully available therefor. In addition, the City shall cooperate with the Purchaser 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 Purchaser at the expense of the City. The City may provide for the employment of independent attorneys, accountants or

consultants compensated on such reasonable basis as the City may deem appropriate in order to assure compliance with this Section 6.18. The City shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 6.18 in accordance with the requirements of Section 148(f) of the Code. In the event the City fails to make such rebates as required, the City shall pay the required rebate amount and all interest, penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, and take any other actions necessary, in order to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes.

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

ARTICLE VII

PAYMENT OR DEFEASANCE OF BONDS

Section 7.01. Payment or Defeasance of Bonds. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the respective Registered Owners of all the Series 2009 A Bonds the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Ordinance, then this Ordinance and the pledges of the Net Revenues and other moneys and securities pledged hereunder, and all covenants, agreements and other obligations of the City on behalf of the Registered Owners of the Series 2009 A Bonds made hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied, except as may be necessary to assure the exclusion of interest on the Series 2009 A Bonds from gross income for federal income tax purposes.

Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due the respective principal of and interest on such Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or an escrow trustee either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Commission or said escrow trustee at the same or earlier time shall be sufficient, to pay when due the principal of, any redemption premium on and interest due and to become due on said Bonds on and prior to the maturity date thereof, or if the City irrevocably determines to redeem any of said Bonds prior to the maturity thereof, on and prior to said redemption date. Neither securities nor moneys deposited with the Commission or an escrow trustee pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on said Bonds; provided, that any cash received from such principal, redemption premium, if any, and interest payments on such securities deposited with the Commission or said escrow trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and redemption premium, if any, and interest to become due on said Bonds on and prior to such maturity or redemption dates thereof,

and interest earned from such reinvestments shall be paid over to the City as received by the Commission or said escrow trustee, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations or such additional securities as shall be set forth in the Supplemental Resolution.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Modification or Amendment. Prior to the issuance of the Bonds, this Ordinance may be amended or supplemented in any way by a Supplemental Resolution. Following issuance of the Bonds, no material modification or amendment of this Ordinance or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Registered Owners shall be made without the consent in writing of the Registered Owners of the Bonds then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the City to pay such principal and interest out of the revenues of the System without the consent of the Registered Owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds required for consent to the above permitted amendments or modifications. Notwithstanding the foregoing, this Ordinance may be amended without the consent of any Registered Owner as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest on the Bonds from gross income of the Registered Owners thereof.

Section 8.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Bonds.

Section 8.03. Repeal of Conflicting Ordinances. All ordinances, resolutions and orders, or parts thereof, other than the Prior Ordinance, in conflict with this Ordinance are, to the extent of such conflict, repealed.

Section 8.04. Covenant of Due Procedure. The City covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the Recorder and members of Council and the Sanitary Board were at all times when any actions in connection with this Ordinance occurred, and are, duly in office and duly qualified for such office.

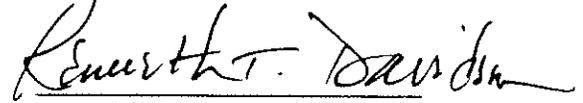
Section 8.05. Statutory Notice and Public Hearing. Upon adoption hereof, the abstract of this Ordinance in the form set forth in Exhibit B attached hereto and incorporated herein by reference, shall be published once a week for two successive weeks, with at least 6 full days intervening between each publication, in the Record Delta, a qualified newspaper published and of general circulation in the City of Buckhannon, together with a notice stating that this Ordinance has been adopted and that the City contemplates the issuance of the Bonds, and that any person interested may appear before the Council upon a certain date, not less than 10 days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the City for review by interested persons during office hours of the City. The Council hereby determines that the abstract contains sufficient information as to give notice of the contents hereof. At such hearing, all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

Section 8.06. Effective Date. This Ordinance shall take effect immediately following public hearing and final reading hereof.

First Reading: February 19, 2009

Second Reading: March 5, 2009

Public Hearing
and Third Reading: March 19, 2009


Mayor

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as City Recorder of the City of Buckhannon, Upshur County, West Virginia, do hereby certify that the foregoing document is a true and accurate copy of the official record of the City of Buckhannon, such records being in the custody of the undersigned and maintained at the City of Buckhannon, City Hall, Buckhannon, Upshur County, West Virginia, and that the action taken by the Council in the foregoing document remains in full force and effect and has not been amended.

Dated this 19th day of March, 2009.

Nancy C. Shobe
City Recorder

[SEAL]

EXHIBIT A

FORM OF SERIES 2009 A BOND

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS,
SERIES 2009 A

NUMBER: A-__ INTEREST RATE: ____ %
MATURITY DATE: _____, ____ BOND DATE: _____
REGISTERED OWNER: _____
PRINCIPAL AMOUNT: _____ DOLLARS
(\$ _____)

KNOW ALL MEN BY THESE PRESENTS THAT THE CITY OF BUCKHANNON, (hereinafter called the "Issuer"), for value received, promises to pay to the order of _____, or its registered assigns (the "Purchaser"), but solely from the sources and in the manner hereinafter provided, the principal sum of _____ DOLLARS (\$ _____), in lawful money of the United States of America, together with interest on the unpaid principal balance thereof from the date of advance as endorsed hereon until paid, as follows:

The Bonds shall be payable and shall mature as follows:

- (A) _____
- (B) _____

(C) Notwithstanding any other provision of this Bond or the Ordinance to the contrary, in the event of a Determination of Taxability, the rate of interest on the Bonds shall be equal to the Taxable Rate. Interest at the Taxable Rate shall commence to accrue on the date upon which a Determination of Taxability becomes effective, and such interest rate shall be charged retroactively and prospectively for all periods in which interest paid on the Bonds is asserted, declared or determined to be includable in gross income for federal income tax purposes, and shall continue until the entire principal of and interest on the Bonds are paid, notwithstanding that the entire principal amount of the Bonds may have been paid in full prior to the Determination of Taxability and any interest being past due by reason of such increase shall become immediately due and payable; further, the present or former owners of the Bonds shall be entitled to payment, on demand, of any Special Charges. Special Charges means (a) an amount equal to any penalties or interest paid to the Internal Revenue Service or to the State by the present and former owners of the Bonds resulting from the failure to include interest on the Bonds in their gross income for purposes of determining their federal income tax or State income tax, plus any tax payable by them as a consequence of the receipt of such amount; plus (b) an amount equal to all reasonable administrative, out-of-pocket and other expenses, including legal fees and costs, incurred by the present and former holders which are directly or indirectly attributable to interest on the Bonds becoming subject to

federal or State income tax as a result of the failure to include interest on the Bonds in their gross income for purposes of determining their federal or State income tax, including, without limitation, costs incurred by the present and former Bondholders in amending their federal or State tax returns. Principal and interest on this bond are payable by the Paying Agent on the Principal and Interest Payment Dates. The principal of and interest on this Bond are payable in lawful money of the United States of America without deduction for the services of the paying agent.

THE BONDS SHALL HAVE A LIEN ON THE NET REVENUES OF THE SYSTEM THAT IS ON A PARITY WITH RESPECT TO THE LIEN ON THE NET REVENUES OF THE PRIOR BONDS. THE BONDS ARE NOT SECURED BY A RESERVE ACCOUNT.

This Bond is issued with the intent that the laws of the State of West Virginia shall govern its construction. This Bond constitutes the entire issuance of an authorized issue of Sewerage System Refunding Revenue Bonds, Series 2009 A (the "Bonds"), issued in the aggregate principal amount of \$_____ pursuant to the provisions of Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), for the purpose of financing all or a portion of the cost of current refunding the Series 1996 A Bonds and the cost of issuance thereof. The Bonds are issued under and are equally and ratably secured by and entitled to the protection of the Refunding Bond Ordinance enacted by the Issuer on _____, 2009 (the "Ordinance").

An executed counterpart of the Ordinance is on file at the office of said Issuer. The Ordinance contains provisions for the issuance of Parity Bonds. Reference is hereby made to the Ordinance and Supplemental Resolutions supplemental thereto for the provisions, among others, with respect to the custody and application of the proceeds of the Bonds, the collection and disposition of revenues, the special subaccounts and revenues charged with and pledged to the payment of the principal of and interest on the Bonds, the nature and extent of the security, the terms and conditions under which the Bonds are issued, the terms and conditions under which Additional Bonds may be issued, the rights, duties and obligations of the Issuer, and the rights of the holders of the Bonds, and, by the acceptance of this Bond, the holder hereof assents to all the provisions of the Ordinance.

This Bond is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar but only in the manner, subject to the limitations and upon payment of the charges provided in the Ordinance, and upon surrender and cancellation of this bond. Upon such transfer a new bond or bonds of the same series, interest rate, maturity or maturities and of authorized denomination or denominations, for the same aggregate principal amount, will be issued to the transferee in exchange therefore.

The Issuer and Paying Agent may deem and treat the Registered Owner thereof as the absolute owner hereof (whether or not this Bond shall be overdue) for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

The Bonds may, at the option of the Registered Owner thereof, upon the surrender thereof at the principal office of the Registrar with a written instrument of transfer, in form and with guarantee of signature satisfactory to the Registrar, duly executed by the Registered Owner or its duly authorized attorney, be exchanged for an equal aggregate principal amount of fully registered bonds of the same series, maturity and interest rate of any other authorized denomination.

This Bond is subject to prepayment of the principal balance in whole on a scheduled payment date without a prepayment premium.

The Bonds are limited special obligations of the Issuer and are payable solely out of the money payable under the Ordinance and the Issuer shall not be obligated to pay the Bonds or the interest thereon, except from the special funds derived from the Ordinance. Under the Ordinance, the Issuer must pay the Paying Agent such payments as will be fully sufficient to pay the principal of and interest on the Bonds, as the same mature.

The Registered Owner of the Bond shall have no right to enforce the provisions of the Ordinance or to institute any action to enforce the covenants therein, or to take any action with respect to any event of default under the Ordinance, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Ordinance. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the bonds issued under the Ordinance and then outstanding, may become or may be declared due and payable before the stated maturity thereof together with interest accrued thereon. Modifications or alterations of the Ordinance, or of any supplements thereto, may be made only to the extent and in the circumstances permitted by the Ordinance.

Under the Act, this Bond and the interest hereon are exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

This bond has been designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended. The Issuer does not reasonably expect to issue more than \$10,000,000 of tax-exempt obligations during the calendar year 2009 (excluding, however, private activity bonds, as defined in Section 141 of the Code, other than qualified Section 501(c)(3) bonds, as defined in Section 145 of the Code, and certain refunding bonds, as described in Section 265(b)(3)(D)(ii) of the Code), and the Issuer has designated the Bonds as "qualified tax-exempt obligations," as defined in Section 265(b)(3)(B) of the Code.

In accordance with Section 148(f)(4)(D) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that no part of the Bonds are private activity bonds; 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) issued by the Issuer during the calendar year in which the Bonds are issued does not and will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code and the Regulations from time to time in effect as applicable to the Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts and conditions necessary to be done or performed by the Issuer or to have happened precedent to and in the issuance of this Bond in order to make this Bond a legal, valid and binding special obligation of the Issuer in accordance with its terms, and precedent to and in the execution and delivery of the Ordinance, have happened and have been performed in regular and due form as required by law; that this Bond does not exceed or violate any constitutional or statutory limitation and that a sufficient amount of money has been pledged to and will be set aside into the Principal and Interest Account by the Issuer for the prompt payment of the principal of and interest on this Bond.

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

IN WITNESS WHEREOF, THE CITY OF BUCKHANNON has caused this Bond to be executed in its name by the manual signature of its Mayor and its seal to be hereunto impressed or imprinted hereon and attested by the manual signature of its City Recorder, all as of the date set forth above.

CITY OF BUCKHANNON

(SEAL)

By: Kim H. Davis
Mayor

By: Nancy C. Hobbe
City Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 A Bonds described in the within named Ordinance and has been duly registered in the name set forth above as of the date set forth below.

Dated: _____.

_____, as Registrar

By: _____
Authorized Officer

EXHIBIT A
DEBT SERVICE SCHEDULE

(Form of Assignment)

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

(Please print or type name, address and Social Security Number of Transferee) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, as Attorney, to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

EXHIBIT B

CITY OF BUCKHANNON, WEST VIRGINIA
NOTICE OF PUBLIC HEARING AND ABSTRACT OF
BOND ORDINANCE

Notice is hereby given to any person interested that on _____, 2009, the City Council of the City of Buckhannon, West Virginia (the "City") adopted an ordinance which, among other things:

1. Authorized the issuance of not more than \$2,900,000 in aggregate principal amount of Sewerage System Refunding Revenue Bonds, Series 2009 A for the purposes of currently refunding the Issuer's Sewer System Refunding Revenue Bonds, Series 1996 A, and payment of the cost of issuance of the Bonds.

3. Directed that the Bonds be issued in such principal amounts, bear interest at such rate or rates, not exceeding the then legal maximum rate, mature on such dates and in such amounts and redeemable, in whole or in part, as prescribed in a supplemental resolution.

4. Directed the continuation of the revenue fund and the disposition of the System revenues; provided for the payment of operating expenses of the System and debt service on the Bonds; directed the creation of a sinking fund for the Bonds and a reserve account for the Bonds and continuation of the renewal and replacement fund; and directed the creation of a bond proceed trust fund and the disbursement of Bond proceeds.

5. Provided that the Bonds shall not be or constitute a corporate indebtedness of the City within the meaning of any statutory or constitutional limitations, but shall be payable solely from the Net Revenues of the System; pledged the Net Revenues of the System to payment of the Bonds and established the rights of the registered owners of the Bonds to such Net Revenues; provided certain conditions for the issuance of additional bonds.

6. Provided for insurance coverage on the System, enforcement of collection of fees, rates or other charges for the System and other covenants in favor of the registered owners; established the events of default and the remedies of the registered owners; and provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The City contemplates the issuance of and the Bonds described in, and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of the City of Buckhannon at a regular meeting on March __, 2009, at 7:00 p.m., in the Council Chambers, City Hall, Buckhannon, West Virginia, at 70 East Main Street, Buckhannon, West Virginia 26201, and present protests and be heard as to whether the above-described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of City on _____, 2009, is on file with the City Recorder for review by interested persons at the City Hall during regular office hours, to-wit: 8:00 a.m. to 4:00 p.m., Monday through Friday.

/s/ _____

City Recorder of the City of Buckhannon,
West Virginia

RESOLUTION 2009-06
OF THE CITY COUNCIL OF THE CITY OF BUCKHANNON

**RESOLUTION PUTTING SERIES 2009 A REFUNDING BOND
ORDINANCE INTO EFFECT**

WHEREAS, the City Council of the City of Buckhannon (the "Council") on March 5, 2009, adopted an ordinance (the "Ordinance") entitled as follows:

ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$2,900,000 IN AGGREGATE PRINCIPAL AMOUNT OF CITY OF BUCKHANNON SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A FOR THE PURPOSES OF CURRENTLY REFUNDING THE ISSUER'S SEWER SYSTEM REFUNDING REVENUE BONDS, SERIES 1996 A AND PAYMENT OF THE COST OF ISSUANCE OF THE BONDS; AUTHORIZING AN ESCROW AGREEMENT IN CONNECTION WITH THE DEFEASANCE OF SAID REFUNDING REVENUE BONDS; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS ; AND ADOPTING OTHER PROVISIONS RELATED THERETO

WHEREAS, as required by the Ordinance, an abstract of the Ordinance, together with a notice of public hearing (the "Notice"), was published as a Class II legal advertisement in the Record Delta on March 20 and March 27, 2009, and an affidavit of such publication shall be attached as Exhibit A hereto; and

WHEREAS, in accordance with the Notice, a public hearing was held on the date hereof, and all interested persons, if any, appeared before the Council to be heard as to whether the Ordinance should be put into effect, and all such protests, objections and suggestions, if any, were heard;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL
OF THE CITY OF BUCKHANNON, WEST VIRGINIA, AS FOLLOWS:**

1. No protests, objections or suggestions were heard by Council at the public hearing that would make it necessary or desirable not to put the Ordinance into effect. Accordingly, the Ordinance shall be put into effect at the expiration of the 30-day period succeeding its adoption on March 5, 2009; provided, that the issuance of the Bonds authorized by the Ordinance shall be further approved by the Supplemental Resolution described in the Ordinance.

2. This Resolution shall take effect immediately upon adoption.

ADOPTED this 2nd day of April 2009.



Mayor

RESOLUTION NO. 2009-08

THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A

SUPPLEMENTAL RESOLUTION.

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNTS, SERIES DESIGNATIONS, DATES, MATURITY DATES, INTEREST RATES, PAYMENT SCHEDULE, SALE PRICES AND OTHER TERMS OF THE CITY OF BUCKHANNON SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A (THE "BONDS"); DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; APPROVING THE SALE OF THE SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the City Council (sometimes referred to herein as the "Governing Body") of The City of Buckhannon (the "Issuer") duly and officially adopted a Bond Ordinance on March 5, 2009 (the "Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$2,900,000 IN AGGREGATE PRINCIPAL AMOUNT OF CITY OF BUCKHANNON SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A FOR THE PURPOSES OF CURRENTLY REFUNDING THE ISSUER'S SEWER SYSTEM REFUNDING REVENUE BONDS, SERIES 1996 A AND PAYMENT OF THE COST OF ISSUANCE OF THE BONDS; AUTHORIZING AN ESCROW AGREEMENT IN CONNECTION WITH THE DEFEASANCE OF SAID REFUNDING REVENUE BONDS; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO;

WHEREAS, the capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Ordinance when used herein;

WHEREAS, the Ordinance provides for the issuance of the Sewerage System Refunding Revenue Bonds, Series 2009 A (the "Bonds" or "Series 2009 A Bonds"), of the Issuer, in an aggregate principal amount of not more than \$2,900,000, all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"); and further provides that the principal amounts, series designations, dates, maturity dates, interest rates, payment schedule, sale prices and other terms of the Series 2009 A Bonds should be established by a supplemental resolution, and that other matters relating to the Series 2009 A Bonds be herein provided for;

WHEREAS, the Ordinance provides that the Series 2009 A Bonds be sold to a Purchaser so designated in a supplemental resolution, upon terms of purchase agreed to by such Purchaser and the Issuer; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the principal amounts, series designations, dates, maturity dates, interest rates, payment schedule, sale prices and other terms of the Series 2009 A Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Series 2009 A Bonds be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BUCKHANNON, WEST VIRGINIA, AS FOLLOWS:

Section 1. Pursuant to the Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewerage System Refunding Revenue Bonds, Series 2009 A, of the Issuer, originally represented by a single Bond, numbered AR-1, in the original principal amount of approximately, but not to exceed, \$2,010,000. The Series 2009 A Bonds shall be dated the date of delivery and shall finally mature on October 1, 2025. The Series 2009 A Bonds shall bear interest at the rate of 4.23% per annum or such lesser rate of interest to which the Purchaser may agree. The Series 2009 A Bonds shall contain such terms and provisions and be in substantially the form set forth in Schedule 1 hereto, with such changes as are determined as necessary and approved by the Mayor, with his execution of the Series 2009 A Bonds to constitute conclusive evidence of such determination and approval. Among other things, the Series 2009 A Bonds shall set forth the exact original principal amount of and interest rate on the Series 2009 A Bonds, subject to the maximum principal amount and interest rate set forth above. The principal of and interest on the Series 2009 A Bonds shall be payable monthly, on the first day of each month, commencing June 1, 2009, in the amounts as set forth in Exhibit A attached to the

Series 2009 A Bonds. The Series 2009 A Bonds shall be subject to prepayment in whole on any scheduled payment date with a one percent (1%) prepayment premium.

Section 2. No Reserve Account shall be established for the Series 2009 A Bonds; provided, that the Purchaser shall execute and deliver a waiver of the Reserve Account prior to the issuance of the Series 2009 A Bonds. The reserve account established for the Prior Bonds shall not secure the Series 2009 A Bonds.

Section 3. The following non-substantive, clerical corrections are hereby made to the Ordinance in order to correct internal section references made within the Ordinance document:

(A) The definition of “Bonds Sinking Fund” in Section 1.04 is hereby corrected to read as follows:

“Bonds Sinking Fund” shall mean the Bonds Sinking Fund created by Section 4.02 hereof

(B) The definition of “Bonds Proceeds Fund” in Section 1.04 is hereby deleted.

(C) The parenthetical in the definition of “Gross Revenues” in Section 1.04 is hereby corrected to read as follows:

(including Qualified Investments, as hereinafter defined, purchased pursuant to Section 4.03 hereof)

(D) Item (iii) in the definition of “Outstanding” in Section 1.04 is hereby corrected to read as follows:

(iii) any such Bond deemed to have been paid as provided in Section 7.01 hereof

(E) In the second sentence of the first paragraph of Section 6.05, the reference to “Article X hereof” is hereby corrected to read “Article VII hereof”.

(F) Section 8.06 of the Ordinance and the dates set forth below Section 8.06 are hereby corrected to read as follows:

This Ordinance shall take effect on the later of
(i) immediately after the public hearing or (ii) 30 days after the adoption of the Ordinance.

First Reading: February 19, 2009
Adoption: March 5, 2009
Public Hearing: April 2, 2009
Effective Date: April 4, 2009

Section 4. Except as herein provided, all other provisions relating to the Series 2009 A Bonds shall be as provided in the Ordinance, and the Series 2009 A Bonds shall be in substantially the form provided in the Ordinance with such changes, insertions and omissions as may be approved by the Mayor of the Issuer. The execution of the Series 2009 A Bonds by the Mayor shall be conclusive evidence of such approval.

Section 5. Branch Banking and Trust Company (the "Purchaser") is hereby designated as the Purchaser of the Series 2009 A Bonds. The sale of the Series 2009 A Bonds to the Purchaser within the terms set forth in Section 1, above, and, except as specifically set forth in Section 1, above, substantially as set forth in the term sheet delivered by the Purchaser, a copy of which is attached to this Supplemental Resolution as Schedule 2, is hereby approved. The Issuer acknowledges that the Purchaser is being appointed as the Registrar and Depository Bank below and is an affiliate of Scott & Stringfellow, Inc., the financial advisor for the Issuer. The Mayor is authorized and directed to execute and deliver a commitment letter, bond purchase agreement or similar agreement with the Purchaser (the "Bank Commitment Letter"), in such form as the Mayor, upon advice of counsel, may approve. The Mayor's signature on such Bank Commitment Letter shall be conclusive evidence of such approval.

Section 6. The Issuer hereby appoints and designates Branch Banking and Trust Company to serve as Registrar (the "Registrar") for the Series 2009 A Bonds under the Ordinance and approves and accepts the Registrar's Agreement to be dated the date of delivery of the Series 2009 A Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved. Anything to the contrary in the Ordinance, this Supplemental Resolution or the Registrar Agreement notwithstanding, the Series 2009 A Bonds may be transferred only to institutional investors and other purchasers who meet the criteria set forth in the letter delivered to the Issuer and Bond Counsel by the Purchaser upon its original purchase of the Series 2009 A Bonds and who, as a condition to such purchase, deliver to Bond Counsel an executed letter substantially in the form delivered by the Purchaser.

Section 7. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Commission"), to serve as Paying Agent for the Series 2009 A Bonds under the Ordinance.

Section 8. The Issuer hereby appoints and designates Branch Banking and Trust Company to serve as Depository Bank under the Ordinance.

Section 9. The Issuer hereby appoints and designates the Commission to serve as the Escrow Agent for the Series 1996 A Bonds being refunded with the proceeds of the Series 2009 A Bonds. The Issuer hereby approves the Escrow Agreement between the Issuer and the Escrow Agent, substantially in the form of the agreement attached hereto as Schedule 3, relating to said refunding and defeasance of the Series 1996 A Bonds. The Mayor is authorized to execute and deliver the Escrow Agreement with such changes as are determined necessary and approved by the Mayor, with his execution of the Escrow Agreement to constitute conclusive evidence of such determination and approval.

Section 10. From the moneys received from the sale of the Series 2009 A Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

(A) \$1,914,107.78 of such proceeds, which is hereby found to be the amount necessary, together with such funds of the Issuer as are made available by the defeasance of the Series 1996 A Bonds, to refund the Series 1996 A Bonds, shall be applied by the Issuer pursuant to the provisions of the Escrow Agreement; and

(B) \$90,000 of such proceeds is hereby approved by the Issuer as the costs of issuance, and the Issuer authorizes the deposit of such funds in the Costs of Issuance Account with the Depository Bank and the payment of the same.

Section 11. The Mayor and Recorder are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Series 2009 A Bonds hereby and by the Ordinance approved and provided for, to the end that the Series 2009 A Bonds may be delivered to the Purchaser pursuant to the Bank Commitment Letter on or about April 23, 2009.

Section 12. The refunding of the Series 1996 A Bonds, in part with proceeds of the Series 2009 A Bonds, is hereby found and determined to be in the public interest, serve a public purpose of the Issuer and promote the health, welfare and safety of the residents of the Issuer. The Series 1996 A Bonds shall be redeemed on May 6, 2009, which shall be the redemption date, as further provided in the Escrow Agreement.

Section 13. The Issuer hereby determines to invest any moneys in the funds and accounts established by the Ordinance held by the Depository Bank until expended in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the

Series 2009 A Bonds Sinking Fund shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 14. In Section 3.11 of the Ordinance, the Issuer designated the Series 2009 A Bonds as “qualified tax-exempt obligations.” In doing so, the Issuer covenanted not to issue more than \$10,000,000 in obligations the interest on which is excludable from gross income for federal income tax purposes during calendar year 2009. The American Recovery and Reinvestment Act of 2009 temporarily increased the limit applicable to qualified tax-exempt obligations from \$10,000,000 to \$30,000,000. Accordingly, the Issuer confirms its designation of the Series 2009 A Bonds as “qualified tax-exempt obligations” but covenants that it has not and will not issue more than \$30,000,000 or such lesser amount as is allowable under the Code in aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income tax purposes (excluding, however, obligations issued to currently refund any obligation of the Issuer to the extent the amount of the refunding obligation does not exceed the amount of the refunded obligation and private activity bonds, as defined in Section 141 of the Code, other than qualified 501(c)(3) bonds as defined in Section 145 Code), including the Series 2009 A Bonds, during calendar year 2009, all as determined in accordance with the Code.

Section 15. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 16th day of April, 2009.

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VOTE ON RESOLUTION

IN FAVOR

OPPOSED

(1) Kenneth H. Davidson
Kenneth Davidson, Mayor

(2) Nancy C. Shobe
Nancy C. Shobe, City Recorder

(3) M. Keith Queen
M. Keith Queen, Council Member

(4) Pamela Cuppari
Pamela Cuppari, Council Member

(5) Geraldine Henderson
Geraldine Henderson, Council Member

(6) Elizabeth Lee
Elizabeth Lee, Council Member

(7) J. David Thomas
J. David Thomas, Council Member

CERTIFICATE OF ENACTMENT

I, Nancy C. Shobe, City Recorder, do hereby certify that the foregoing Resolution No. 2009-68 was lawfully ordained and enacted by the Council of the City of Buckhannon during a regular session of the said Council assembled on April 16, 2009.

Nancy C. Shobe
Nancy C. Shobe, City Recorder

SCHEDULE 1

BOND FORM

(attach copy)

THIS BOND IS TRANSFERABLE ONLY IN ACCORDANCE WITH
THE REQUIREMENTS OF THE ORDINANCE DESCRIBED BELOW

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS,
SERIES 2009 A

INTEREST RATE: 4.23%

DATE: October 1, 2025

BOND DATE: April 23, 2009

REGISTERED OWNER: Branch Banking and Trust Company

AMOUNT: TWO MILLION FOUR THOUSAND SIX HUNDRED
EIGHT DOLLARS (\$2,004,608)

KNOW ALL MEN BY THESE PRESENTS THAT THE CITY OF BUCKHANNON, (hereinafter called the "Issuer"), for value received, promises to pay to the order of Branch Banking and Trust Company (the "Purchaser"), or its registered assigns but solely from the sources and in the manner hereinafter provided, the principal sum of TWO MILLION FOUR THOUSAND SIX HUNDRED EIGHT DOLLARS (\$2,004,608), in lawful money of the United States of America, together with interest on the unpaid principal balance thereof from the Bond Date set forth above until paid, as follows:

The Bonds shall be subject to payment of principal and interest on the first day of each month, beginning June 1, 2009, in accordance with the schedule attached as Exhibit A hereto and incorporated herein by reference and shall finally mature on October 1, 2025, on which date all unpaid principal and accrued interest on the Bonds shall be paid. The principal of and interest on this Bond are payable in lawful money of the United States of America without deduction for the services of the Paying Agent.

Notwithstanding any other provision of this Bond or the Ordinance to the contrary, in the event of a Determination of Taxability, the rate of interest on the Bonds shall be equal to the Taxable Rate. Interest at the Taxable Rate shall commence to accrue on the date upon which a Determination of Taxability becomes effective, and such interest rate shall be charged retroactively and prospectively for all periods in which interest paid on the Bonds is asserted, declared or determined to be includable in gross

income for federal income tax purposes, and shall continue until the entire principal of and interest on the Bonds are paid, notwithstanding that the entire principal amount of the Bonds may have been paid in full prior to the Determination of Taxability and any interest being past due by reason of such increase shall become immediately due and payable; further, the present or former owners of the Bonds shall be entitled to payment, on demand, of any Special Charges. Special Charges means (a) an amount equal to any penalties or interest paid to the Internal Revenue Service or to the State by the present and former owners of the Bonds resulting from the failure to include interest on the Bonds in their gross income for purposes of determining their federal income tax or State income tax, plus any tax payable by them as a consequence of the receipt of such amount; plus (b) an amount equal to all reasonable administrative, out-of-pocket and other expenses, including legal fees and costs, incurred by the present and former holders which are directly or indirectly attributable to interest on the Bonds becoming subject to federal or State income tax as a result of the failure to include interest on the Bonds in their gross income for purposes of determining their federal or State income tax, including, without limitation, costs incurred by the present and former Bondholders in amending their federal or State tax returns.

This Bond is subject to prepayment of the principal balance in whole on a scheduled payment date with a prepayment premium of one percent (1%) of the principal balance.

THE BONDS SHALL HAVE A LIEN ON THE NET REVENUES OF THE SYSTEM THAT IS ON A PARITY WITH RESPECT TO THE LIEN ON THE NET REVENUES OF THE PRIOR BONDS. THE BONDS ARE NOT SECURED BY A RESERVE ACCOUNT.

This Bond is issued with the intent that the laws of the State of West Virginia shall govern its construction. This Bond constitutes the entire issuance of an authorized issue of Sewerage System Refunding Revenue Bonds, Series 2009 A (the "Bonds"), issued in the aggregate principal amount of \$2,004,608 pursuant to the provisions of Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), for the purpose of financing a portion of the cost of the current refunding of the Series 1996 A Bonds and the cost of issuance thereof. The Bonds are issued under and are equally and ratably secured by and entitled to the protection of the Refunding Bond Ordinance enacted by the Issuer on March 5, 2009, as supplemented on April 16, 2009 (the "Ordinance").

An executed counterpart of the Ordinance is on file at the office of said Issuer. The Ordinance contains provisions for the issuance of Parity Bonds. Reference is hereby made to the Prior Ordinance, the Ordinance and Supplemental Resolutions supplemental thereto for the provisions, among others, with respect to the custody and application of the proceeds of the Bonds, the collection and disposition of revenues, the special subaccounts and revenues charged with and pledged to the payment of the principal of and interest on the Bonds, the nature and extent of the security, the terms and conditions under which the Bonds are issued, the terms and conditions under which Additional

Bonds may be issued, the rights, duties and obligations of the Issuer, and the rights of the holders of the Bonds, and, by the acceptance of this Bond, the holder hereof assents to all the provisions of the Ordinance.

This Bond is transferable only to certain qualified purchasers as described in the Ordinance. Assuming those qualifications are met, this Bond is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar but only in the manner, subject to the limitations and upon payment of the charges provided in the Ordinance, and upon surrender and cancellation of this bond. Upon such transfer a new bond or bonds of the same series, interest rate, maturity or maturities and of authorized denomination or denominations, for the same aggregate principal amount, will be issued to the transferee in exchange therefor.

The Issuer and Paying Agent may deem and treat the Registered Owner of this Bond as the absolute owner hereof (whether or not this Bond shall be overdue) for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes, and neither the Issuer nor the Paying Agent shall be affected by any notice to the contrary.

The Bonds may, at the option of the Registered Owner thereof, upon the surrender thereof at the principal office of the Registrar with a written instrument of transfer, in form and with guarantee of signature satisfactory to the Registrar, duly executed by the Registered Owner or its duly authorized attorney, be exchanged for an equal aggregate principal amount of fully registered bonds of the same series, maturity and interest rate of any other authorized denomination.

The Bonds are limited, special obligations of the Issuer and are payable solely out of the money payable under the Ordinance, and the Issuer shall not be obligated to pay the Bonds or the interest thereon, except from the special fund provided from the Net Revenues of the System, as described in the Ordinance. The Bonds shall not constitute a general obligation of the Issuer or an indebtedness of the Issuer within the meaning of the Constitution of the State. Under the Ordinance, the Issuer must pay the Paying Agent such payments as will be fully sufficient to pay the principal of and interest on the Bonds, as the same come due.

The Registered Owner of the Bond shall have no right to enforce the provisions of the Ordinance or to institute any action to enforce the covenants therein, or to take any action with respect to any event of default under the Ordinance, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Ordinance. In certain events, on the conditions, in the manner and with the effect set forth in the Ordinance, the principal of all the bonds issued under the Ordinance and then outstanding may become or may be declared due and payable before the stated maturity thereof together with interest accrued thereon. Modifications or alterations of the Ordinance, or of any supplements thereto, may be made only to the extent and in the circumstances permitted by the Ordinance.

Under the Act, this Bond and the interest hereon are exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

This Bond has been designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended. The Issuer does not reasonably expect to issue more than \$30,000,000 of tax-exempt obligations during the calendar year 2009 (excluding, however, private activity bonds, as defined in Section 141 of the Code, other than qualified Section 501(c)(3) bonds, as defined in Section 145 of the Code, and certain refunding bonds, as described in Section 265(b)(3)(D)(ii) of the Code), and the Issuer has designated the Bonds as "qualified tax-exempt obligations," as defined in Section 265(b)(3)(B) of the Code.

In accordance with Section 148(f)(4)(D) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that no part of the Bonds are private activity bonds; 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) issued by the Issuer during the calendar year in which the Bonds are issued does not and will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code and the Regulations from time to time in effect as applicable to the Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts and conditions necessary to be done or performed by the Issuer or to have happened precedent to and in the issuance of this Bond in order to make this Bond a legal, valid and binding special obligation of the Issuer in accordance with its terms, and precedent to and in the execution and delivery of the Ordinance, have happened and have been performed in regular and due form as required by law; that this Bond does not exceed or violate any constitutional or statutory limitation and that a sufficient amount of money has been pledged to and will be set aside into the Sinking Fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Ordinance until the Certificate of Authentication appearing hereon shall have been duly and manually executed by the Registrar.

IN WITNESS WHEREOF, THE CITY OF BUCKHANNON has caused this Bond to be executed in its name by the manual signature of its Mayor and its seal to be hereunto impressed or imprinted hereon and attested by the manual signature of its City Recorder, all as of the date set forth above.

THE CITY OF BUCKHANNON

(SEAL)

By: Kenneth T. Davidson
Mayor

By: Wendell C. Shobe
City Recorder

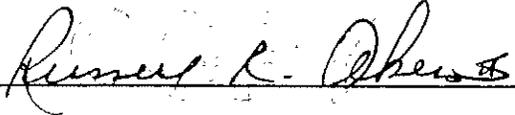
CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within-mentioned Ordinance.

Date of Authentication: April 23, 2009

BRANCH BANKING AND TRUST
COMPANY, AS REGISTRAR

By



Its Authorized Officer

EXHIBIT A
PAYMENT SCHEDULE

Debt Service Requirements and Proof of Yield on the Bonds

The City of Buckhannon, West Virginia

Date	\$2,004,608 Bonds			Debt Service Requirements of the Bonds	Present Value of Future Payments at 04/23/09 Using a Rate of 4.267424%
	Principal	Coupon Rate	Interest		
06/01/09	\$5,187.75	4.230%	\$8,950.57	\$14,138.32	\$14,075.44
07/01/09	7,097.01	4.230%	7,047.96	14,144.97	14,032.60
08/01/09	7,122.03	4.230%	7,022.94	14,144.97	13,983.31
09/01/09	7,147.14	4.230%	6,997.83	14,144.97	13,934.19
10/01/09	7,172.33	4.230%	6,972.64	14,144.97	13,885.25
11/01/09	7,197.61	4.230%	6,947.36	14,144.97	13,836.47
12/01/09	7,222.98	4.230%	6,921.99	14,144.97	13,787.87
01/01/10	7,248.44	4.230%	6,896.53	14,144.97	13,739.44
02/01/10	7,274.00	4.230%	6,870.97	14,144.97	13,691.18
03/01/10	7,299.64	4.230%	6,845.33	14,144.97	13,643.09
04/01/10	7,325.37	4.230%	6,819.60	14,144.97	13,595.16
05/01/10	7,351.19	4.230%	6,793.78	14,144.97	13,547.41
06/01/10	7,377.10	4.230%	6,767.87	14,144.97	13,499.82
07/01/10	7,403.11	4.230%	6,741.86	14,144.97	13,452.40
08/01/10	7,429.20	4.230%	6,715.77	14,144.97	13,405.15
09/01/10	7,455.39	4.230%	6,689.58	14,144.97	13,358.06
10/01/10	7,481.67	4.230%	6,663.30	14,144.97	13,311.14
11/01/10	7,508.04	4.230%	6,636.93	14,144.97	13,264.39
12/01/10	7,534.51	4.230%	6,610.46	14,144.97	13,217.79
01/01/11	7,561.07	4.230%	6,583.90	14,144.97	13,171.37
02/01/11	7,587.72	4.230%	6,557.25	14,144.97	13,125.10
03/01/11	7,614.47	4.230%	6,530.50	14,144.97	13,079.00
04/01/11	7,641.31	4.230%	6,503.66	14,144.97	13,033.06
05/01/11	7,668.24	4.230%	6,476.73	14,144.97	12,987.28
06/01/11	7,695.28	4.230%	6,449.69	14,144.97	12,941.66
07/01/11	7,722.40	4.230%	6,422.57	14,144.97	12,896.20
08/01/11	7,749.62	4.230%	6,395.35	14,144.97	12,850.90
09/01/11	7,776.94	4.230%	6,368.03	14,144.97	12,805.76
10/01/11	7,804.35	4.230%	6,340.62	14,144.97	12,760.78
11/01/11	7,831.86	4.230%	6,313.11	14,144.97	12,715.95
12/01/11	7,859.47	4.230%	6,285.50	14,144.97	12,671.29
01/01/12	7,887.18	4.230%	6,257.79	14,144.97	12,626.78
02/01/12	7,914.98	4.230%	6,229.99	14,144.97	12,582.43
03/01/12	7,942.88	4.230%	6,202.09	14,144.97	12,538.23
04/01/12	7,970.88	4.230%	6,174.09	14,144.97	12,494.19
05/01/12	7,998.97	4.230%	6,146.00	14,144.97	12,450.30
06/01/12	8,027.17	4.230%	6,117.80	14,144.97	12,406.57
07/01/12	8,055.47	4.230%	6,089.50	14,144.97	12,362.99
08/01/12	8,083.86	4.230%	6,061.11	14,144.97	12,319.56
09/01/12	8,112.36	4.230%	6,032.61	14,144.97	12,276.29

Debt Service Requirements and Proof of Yield on the Bonds

The City of Buckhannon, West Virginia

Date	\$2,004,608 Bonds			Debt Service Requirements of the Bonds	Present Value of Future Payments at 04/23/09 Using a Rate of 4.267424%
	Principal	Coupon Rate	Interest		
10/01/12	8,140.95	4.230%	6,004.02	14,144.97	12,233.17
11/01/12	8,169.65	4.230%	5,975.32	14,144.97	12,190.20
12/01/12	8,198.45	4.230%	5,946.52	14,144.97	12,147.38
01/01/13	8,227.35	4.230%	5,917.62	14,144.97	12,104.71
02/01/13	8,256.35	4.230%	5,888.62	14,144.97	12,062.19
03/01/13	8,285.45	4.230%	5,859.52	14,144.97	12,019.82
04/01/13	8,314.66	4.230%	5,830.31	14,144.97	11,977.60
05/01/13	8,343.97	4.230%	5,801.00	14,144.97	11,935.53
06/01/13	8,373.38	4.230%	5,771.59	14,144.97	11,893.60
07/01/13	8,402.90	4.230%	5,742.07	14,144.97	11,851.82
08/01/13	8,432.52	4.230%	5,712.45	14,144.97	11,810.19
09/01/13	8,462.24	4.230%	5,682.73	14,144.97	11,768.71
10/01/13	8,492.07	4.230%	5,652.90	14,144.97	11,727.37
11/01/13	8,522.01	4.230%	5,622.96	14,144.97	11,686.18
12/01/13	8,552.05	4.230%	5,592.92	14,144.97	11,645.13
01/01/14	8,582.19	4.230%	5,562.78	14,144.97	11,604.22
02/01/14	8,612.44	4.230%	5,532.53	14,144.97	11,563.46
03/01/14	8,642.80	4.230%	5,502.17	14,144.97	11,522.85
04/01/14	8,673.27	4.230%	5,471.70	14,144.97	11,482.37
05/01/14	8,703.84	4.230%	5,441.13	14,144.97	11,442.04
06/01/14	8,734.52	4.230%	5,410.45	14,144.97	11,401.85
07/01/14	8,765.31	4.230%	5,379.66	14,144.97	11,361.80
08/01/14	8,796.21	4.230%	5,348.76	14,144.97	11,321.89
09/01/14	8,827.22	4.230%	5,317.75	14,144.97	11,282.12
10/01/14	8,858.33	4.230%	5,286.64	14,144.97	11,242.49
11/01/14	8,889.56	4.230%	5,255.41	14,144.97	11,203.00
12/01/14	8,920.89	4.230%	5,224.08	14,144.97	11,163.65
01/01/15	8,952.34	4.230%	5,192.63	14,144.97	11,124.43
02/01/15	8,983.90	4.230%	5,161.07	14,144.97	11,085.36
03/01/15	9,015.57	4.230%	5,129.40	14,144.97	11,046.42
04/01/15	9,047.35	4.230%	5,097.62	14,144.97	11,007.62
05/01/15	9,079.24	4.230%	5,065.73	14,144.97	10,968.95
06/01/15	9,111.24	4.230%	5,033.73	14,144.97	10,930.42
07/01/15	9,143.36	4.230%	5,001.61	14,144.97	10,892.03
08/01/15	9,175.59	4.230%	4,969.38	14,144.97	10,853.77
09/01/15	9,207.93	4.230%	4,937.04	14,144.97	10,815.64
10/01/15	9,240.39	4.230%	4,904.58	14,144.97	10,777.65
11/01/15	9,272.96	4.230%	4,872.01	14,144.97	10,739.80
12/01/15	9,305.65	4.230%	4,839.32	14,144.97	10,702.07
01/01/16	9,338.45	4.230%	4,806.52	14,144.97	10,664.48
02/01/16	9,371.37	4.230%	4,773.60	14,144.97	10,627.02
03/01/16	9,404.41	4.230%	4,740.56	14,144.97	10,589.69

Debt Service Requirements and Proof of Yield on the Bonds

The City of Buckhannon, West Virginia

Date	\$2,004,608 Bonds			Debt Service Requirements of the Bonds	Present Value of Future Payments at 04/23/09 Using a Rate of 4.267424%
	Principal	Coupon Rate	Interest		
04/01/16	9,437.56	4.230%	4,707.41	14,144.97	10,552.49
05/01/16	9,470.82	4.230%	4,674.15	14,144.97	10,515.43
06/01/16	9,504.21	4.230%	4,640.76	14,144.97	10,478.49
07/01/16	9,537.71	4.230%	4,607.26	14,144.97	10,441.68
08/01/16	9,571.33	4.230%	4,573.64	14,144.97	10,405.01
09/01/16	9,605.07	4.230%	4,539.90	14,144.97	10,368.46
10/01/16	9,638.93	4.230%	4,506.04	14,144.97	10,332.04
11/01/16	9,672.90	4.230%	4,472.07	14,144.97	10,295.74
12/01/16	9,707.00	4.230%	4,437.97	14,144.97	10,259.58
01/01/17	9,741.22	4.230%	4,403.75	14,144.97	10,223.54
02/01/17	9,775.56	4.230%	4,369.41	14,144.97	10,187.63
03/01/17	9,810.02	4.230%	4,334.95	14,144.97	10,151.85
04/01/17	9,844.60	4.230%	4,300.37	14,144.97	10,116.19
05/01/17	9,879.30	4.230%	4,265.67	14,144.97	10,080.65
06/01/17	9,914.12	4.230%	4,230.85	14,144.97	10,045.24
07/01/17	9,949.07	4.230%	4,195.90	14,144.97	10,009.96
08/01/17	9,984.14	4.230%	4,160.83	14,144.97	9,974.80
09/01/17	10,019.33	4.230%	4,125.64	14,144.97	9,939.76
10/01/17	10,054.65	4.230%	4,090.32	14,144.97	9,904.85
11/01/17	10,090.10	4.230%	4,054.87	14,144.97	9,870.05
12/01/17	10,125.66	4.230%	4,019.31	14,144.97	9,835.38
01/01/18	10,161.36	4.230%	3,983.61	14,144.97	9,800.84
02/01/18	10,197.17	4.230%	3,947.80	14,144.97	9,766.41
03/01/18	10,233.12	4.230%	3,911.85	14,144.97	9,732.11
04/01/18	10,269.19	4.230%	3,875.78	14,144.97	9,697.92
05/01/18	10,305.39	4.230%	3,839.58	14,144.97	9,663.86
06/01/18	10,341.72	4.230%	3,803.25	14,144.97	9,629.91
07/01/18	10,378.17	4.230%	3,766.80	14,144.97	9,596.08
08/01/18	10,414.75	4.230%	3,730.22	14,144.97	9,562.38
09/01/18	10,451.47	4.230%	3,693.50	14,144.97	9,528.79
10/01/18	10,488.31	4.230%	3,656.66	14,144.97	9,495.32
11/01/18	10,525.28	4.230%	3,619.69	14,144.97	9,461.96
12/01/18	10,562.38	4.230%	3,582.59	14,144.97	9,428.73
01/01/19	10,599.61	4.230%	3,545.36	14,144.97	9,395.61
02/01/19	10,636.98	4.230%	3,507.99	14,144.97	9,362.61
03/01/19	10,674.47	4.230%	3,470.50	14,144.97	9,329.72
04/01/19	10,712.10	4.230%	3,432.87	14,144.97	9,296.95
05/01/19	10,749.86	4.230%	3,395.11	14,144.97	9,264.29
06/01/19	10,787.75	4.230%	3,357.22	14,144.97	9,231.75
07/01/19	10,825.78	4.230%	3,319.19	14,144.97	9,199.32
08/01/19	10,863.94	4.230%	3,281.03	14,144.97	9,167.01
09/01/19	10,902.24	4.230%	3,242.73	14,144.97	9,134.81

Debt Service Requirements and Proof of Yield on the Bonds

The City of Buckhannon, West Virginia

Date	\$2,004,608 Bonds			Debt Service Requirements of the Bonds	Present Value of Future Payments at 04/23/09 Using a Rate of 4.267424%
	Principal	Coupon Rate	Interest		
10/01/19	10,940.67	4.230%	3,204.30	14,144.97	9,102.72
11/01/19	10,979.23	4.230%	3,165.74	14,144.97	9,070.75
12/01/19	11,017.93	4.230%	3,127.04	14,144.97	9,038.89
01/01/20	11,056.77	4.230%	3,088.20	14,144.97	9,007.14
02/01/20	11,095.75	4.230%	3,049.22	14,144.97	8,975.50
03/01/20	11,134.86	4.230%	3,010.11	14,144.97	8,943.97
04/01/20	11,174.11	4.230%	2,970.86	14,144.97	8,912.55
05/01/20	11,213.50	4.230%	2,931.47	14,144.97	8,881.25
06/01/20	11,253.03	4.230%	2,891.94	14,144.97	8,850.05
07/01/20	11,292.69	4.230%	2,852.28	14,144.97	8,818.96
08/01/20	11,332.50	4.230%	2,812.47	14,144.97	8,787.99
09/01/20	11,372.45	4.230%	2,772.52	14,144.97	8,757.12
10/01/20	11,412.54	4.230%	2,732.43	14,144.97	8,726.36
11/01/20	11,452.76	4.230%	2,692.21	14,144.97	8,695.71
12/01/20	11,493.14	4.230%	2,651.83	14,144.97	8,665.16
01/01/21	11,533.65	4.230%	2,611.32	14,144.97	8,634.72
02/01/21	11,574.30	4.230%	2,570.67	14,144.97	8,604.39
03/01/21	11,615.10	4.230%	2,529.87	14,144.97	8,574.17
04/01/21	11,656.05	4.230%	2,488.92	14,144.97	8,544.05
05/01/21	11,697.13	4.230%	2,447.84	14,144.97	8,514.04
06/01/21	11,738.37	4.230%	2,406.60	14,144.97	8,484.13
07/01/21	11,779.75	4.230%	2,365.22	14,144.97	8,454.33
08/01/21	11,821.27	4.230%	2,323.70	14,144.97	8,424.64
09/01/21	11,862.94	4.230%	2,282.03	14,144.97	8,395.04
10/01/21	11,904.76	4.230%	2,240.21	14,144.97	8,365.56
11/01/21	11,946.72	4.230%	2,198.25	14,144.97	8,336.17
12/01/21	11,988.83	4.230%	2,156.14	14,144.97	8,306.89
01/01/22	12,031.09	4.230%	2,113.88	14,144.97	8,277.71
02/01/22	12,073.50	4.230%	2,071.47	14,144.97	8,248.63
03/01/22	12,116.06	4.230%	2,028.91	14,144.97	8,219.66
04/01/22	12,158.77	4.230%	1,986.20	14,144.97	8,190.79
05/01/22	12,201.63	4.230%	1,943.34	14,144.97	8,162.02
06/01/22	12,244.64	4.230%	1,900.33	14,144.97	8,133.35
07/01/22	12,287.80	4.230%	1,857.17	14,144.97	8,104.78
08/01/22	12,331.12	4.230%	1,813.85	14,144.97	8,076.31
09/01/22	12,374.58	4.230%	1,770.39	14,144.97	8,047.94
10/01/22	12,418.21	4.230%	1,726.76	14,144.97	8,019.67
11/01/22	12,461.98	4.230%	1,682.99	14,144.97	7,991.50
12/01/22	12,505.91	4.230%	1,639.06	14,144.97	7,963.43
01/01/23	12,549.99	4.230%	1,594.98	14,144.97	7,935.46
02/01/23	12,594.23	4.230%	1,550.74	14,144.97	7,907.58
03/01/23	12,638.62	4.230%	1,506.35	14,144.97	7,879.81

Debt Service Requirements and Proof of Yield on the Bonds

The City of Buckhannon, West Virginia

Date	\$2,004,608 Bonds			Debt Service Requirements of the Bonds	Present Value of Future Payments at 04/23/09 Using a Rate of 4.267424%
	Principal	Coupon Rate	Interest		
04/01/23	12,683.18	4.230%	1,461.79	14,144.97	7,852.13
05/01/23	12,727.88	4.230%	1,417.09	14,144.97	7,824.55
06/01/23	12,772.75	4.230%	1,372.22	14,144.97	7,797.06
07/01/23	12,817.77	4.230%	1,327.20	14,144.97	7,769.68
08/01/23	12,862.96	4.230%	1,282.01	14,144.97	7,742.38
09/01/23	12,908.30	4.230%	1,236.67	14,144.97	7,715.19
10/01/23	12,953.80	4.230%	1,191.17	14,144.97	7,688.09
11/01/23	12,999.46	4.230%	1,145.51	14,144.97	7,661.08
12/01/23	13,045.29	4.230%	1,099.68	14,144.97	7,634.17
01/01/24	13,091.27	4.230%	1,053.70	14,144.97	7,607.36
02/01/24	13,137.42	4.230%	1,007.55	14,144.97	7,580.64
03/01/24	13,183.73	4.230%	961.24	14,144.97	7,554.01
04/01/24	13,230.20	4.230%	914.77	14,144.97	7,527.47
05/01/24	13,276.84	4.230%	868.13	14,144.97	7,501.03
06/01/24	13,323.64	4.230%	821.33	14,144.97	7,474.68
07/01/24	13,370.60	4.230%	774.37	14,144.97	7,448.43
08/01/24	13,417.73	4.230%	727.24	14,144.97	7,422.27
09/01/24	13,465.03	4.230%	679.94	14,144.97	7,396.19
10/01/24	13,512.49	4.230%	632.48	14,144.97	7,370.21
11/01/24	13,560.13	4.230%	584.84	14,144.97	7,344.33
12/01/24	13,607.93	4.230%	537.04	14,144.97	7,318.53
01/01/25	13,655.89	4.230%	489.08	14,144.97	7,292.82
02/01/25	13,704.03	4.230%	440.94	14,144.97	7,267.20
03/01/25	13,752.34	4.230%	392.63	14,144.97	7,241.68
04/01/25	13,800.81	4.230%	344.16	14,144.97	7,216.24
05/01/25	13,849.46	4.230%	295.51	14,144.97	7,190.89
06/01/25	13,898.28	4.230%	246.69	14,144.97	7,165.63
07/01/25	13,947.27	4.230%	197.70	14,144.97	7,140.46
08/01/25	13,996.44	4.230%	148.53	14,144.97	7,115.38
09/01/25	14,045.77	4.230%	99.20	14,144.97	7,090.39
10/01/25	14,094.72	4.230%	49.68	14,144.40	7,065.20
	<u>\$2,004,608.00</u>		<u>\$781,943.87</u>	<u>\$2,786,551.87</u>	<u>\$2,004,608.00</u>
			Principal Amount of the Bonds		<u>\$2,004,608.00</u>

SCHEDULE 2

BANK COMMITMENT LETTER

(attach copy)

April 3, 2009

David Kirby
Financial Advisor
Scott & Stringfellow, Inc.
300 Summers Street, Suite 500
Charleston, WV 25301

Governmental Finance

501 Tennessee Avenue
Charleston, WV 25302
(304) 353-1635
Fax (304) 340-4702

Dear Mr. Kirby:

Branch Banking and Trust Company ("BB&T") is pleased to offer this proposal for the financing requested by the City of Buckhannon, West Virginia ("City").

- (1) **Project:** Refunding Sewerage Revenue Bonds, Series 2009
- (2) **Amount To Be Financed:** \$2,004,608.00
- (3) **Interest Rates, Financing Terms and Corresponding Payments:**

<u>Maturity</u>	<u>Rate</u>
October 1, 2025	4.23%

Payments shall be principal and interest monthly in arrears, as requested. See the attached amortization schedule(s) for information on payments.

The interest rates stated above are valid for a closing not later than 30 days after today. Closing of the financing is contingent upon completing documentation acceptable to BB&T and upon the condition of the property being acceptable to BB&T.

Remuneration for our legal expenses, preparation of documentation and for providing the financing services for this financing transaction shall be \$4,250.00. All applicable taxes, permits, costs of lawyers for the City and any other costs shall be the City's responsibility and separately payable by the City. The financing documents shall allow prepayment of the principal balance in whole on a scheduled payment date with a 1% prepayment premium.

The stated interest rates assume that the City expects to borrow less than \$30,000,000 in calendar year 2009 and that the City shall comply with IRS Code Sections 141, 148 and 149. BB&T reserves the right to terminate its interest in this bid or to negotiate a mutually acceptable rate if the financing is not qualified tax-exempt financing for the purpose of IRS Code Section 265(b)(3).

(4) Financing Documents:

It shall be the responsibility of the City to retain and compensate counsel to appropriately structure the revenue bonds according to Federal and West Virginia State Statutes. BB&T shall also require the City's Bond Counsel to provide an unqualified legal opinion. BB&T reserves the right to review the bonds and it must be mutually accepted by BB&T and the City.

(5) Security:

The sewerage revenue bonds shall be secured by a first lien on the revenues of the City of Buckhannon Sanitary Board, on parity with the city's Series 1986B revenue bonds.

* * * * *

BB&T appreciates the opportunity to make this financing proposal and requests to be notified within five days of this proposal should BB&T be the successful proposer.

BB&T shall have the right to cancel this offer by notifying the City of its election to do so (whether or not this offer has previously been accepted by the City) if at any time prior to the closing there is a material adverse change in the City's financial condition, if we discover adverse circumstances of which we are currently unaware, if we are unable to agree on acceptable documentation with the City or if there is a change in law (or proposed change in law) that changes the economic effect of this financing to BB&T. We reserve the right to negotiate and/or terminate our interest in this transaction should we be the successful proposer.

Please call me at (304) 353-1635 with your questions and comments. We look forward to hearing from you.

Sincerely,

BRANCH BANKING AND TRUST COMPANY



Russell R. Akers, II
Vice President

Enclosure

SCHEDULE 3

ESCROW AGREEMENT

(attach copy)

THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS
SERIES 2009 A

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this "Agreement"), made and entered into the 23rd day of April, 2009, by and between THE CITY OF BUCKHANNON, a municipal corporation of the State of West Virginia (the "Issuer"), and the WEST VIRGINIA MUNICIPAL BOND COMMISSION, an agency of the State of West Virginia established pursuant to West Virginia Code § 13-3-1 *et seq.* (the "Escrow Agent").

W I T N E S S E T H:

WHEREAS, the Issuer, pursuant to a Bond Ordinance effective October 17, 1996 (the "1996 A Ordinance"), issued its Sewerage System Refunding Revenue Bonds, Series 1996 A (the "Series 1996 A Bonds"), in the original principal amount of \$2,885,000, dated December 1, 1996, of which \$2,195,000 principal amount remains outstanding;

WHEREAS, the Issuer, pursuant to a Bond Ordinance enacted on March 5, 2009, and supplemented by Supplemental Resolution adopted on April 16, 2009 (collectively, the "Ordinance"), authorized the issuance of its Sewerage System Refunding Revenue Bonds, Series 2009 A (the "Series 2009 A Bonds"), in the original principal amount of \$2,004,608, dated the date hereof, to currently refund the Series 1996 A Bonds, and contemporaneously with the issuance thereof, legally defease the Series 1996 A Bonds by applying a portion of the proceeds of the Series 2009 A Bonds and certain moneys of the Issuer ("Issuer's Funds") to gross fund the Escrow Fund herein described;

WHEREAS, the cash amounts in the Escrow Fund which will be delivered to the Escrow Agent simultaneously with the delivery of the Series 2009 A Bonds, are in such amounts as to insure the payment on May 6, 2009 (the "Redemption Date"), of the entire principal amount of the Series 1996 A Bonds then outstanding, together with the interest accrued thereon (collectively, the "Redemption Price");

WHEREAS, the Issuer has found it desirable to appoint the Escrow Agent and the Escrow Agent has agreed to such appointment for the purposes of holding title, as

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trustee, to the cash deposit, disbursing to the paying agent such amounts as may be necessary to provide for payment of the Redemption Price of the Series 1996 A Bonds on the Redemption Date and holding, investing and reinvesting any cash balances which may at any time not be needed for immediate disbursement.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the mutual agreements contained herein, and in order further to secure payment of the Series 1996 A Bonds, as hereinabove provided, the parties hereto mutually undertake, promise and agree for themselves, their respective representatives, successors and assigns, as follows:

1. The Issuer hereby appoints the West Virginia Municipal Bond Commission as Escrow Agent for the Escrow Fund. The Escrow Agent hereby acknowledges receipt of true and correct copies of the 1996 A Ordinance and the Ordinance, copies of which are made a part hereof and incorporated herein. Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Ordinance.

2. There is hereby created and established with the Escrow Agent a special and irrevocable trust fund designated the "Escrow Fund", to be held in the custody of the Escrow Agent, separate and apart from any other funds of the Issuer or the Escrow Agent. The deposit of moneys in the Escrow Fund shall constitute an irrevocable deposit of said moneys in trust for, and such moneys together with any income or interest earned thereon, shall be applied, except as otherwise provided herein, to the payment of the Redemption Price on the Redemption Date, all in accordance with paragraph 6 hereof.

3. Concurrently with the delivery of the Series 2009 A Bonds, the Escrow Agent shall deposit in the Escrow Fund (i) the sum of \$201,135 from the Series 1996 A Bonds Debt Service Reserve Fund; and (ii) the sum of \$91,000 from the Debt Service Fund.

4. Concurrently with the delivery of the Series 2009 A Bonds, the Issuer and the Escrow Agent shall cause (i) Series 2009 A Bonds proceeds in the amount of \$1,914,107.78; and (ii) the amounts described in paragraph 3 above, on deposit with the Escrow Agent in the Series 1996 A Debt Service Reserve Fund and Debt Service Fund (total of \$2,206,242.78) to be deposited in the Escrow Fund and the cash in the Escrow Fund shall be applied solely to the payment of the redemption price of the Series 1996 A Bonds on May 6, 2009 (the "Redemption Date"). A copy of the Notice of Redemption is attached as Exhibit A hereto.

5. If the Issuer requests that the Escrow Agent use the moneys in the Escrow Fund to purchase certain United States Treasury Obligations, and upon receipt of an opinion of nationally recognized bond counsel that such substitution will not affect the tax-exempt status of interest on the Series 2009 A Bonds under the Internal Revenue Code of 1986, as amended and then in effect (the "Code"), the Escrow Agent may substitute United States Treasury Obligations for the cash in the Escrow Fund, provided that such United States Treasury Obligations being substituted must be non-callable obligations of the United States of America ("Direct Obligations"), must be sufficient to pay the Redemption Price on the Redemption Date and provided further, that the Escrow Agent receives verification by a certified public accountant of the sufficiency of the escrowed securities to pay the Redemption Price on the Redemption Date.

6. The Escrow Agent shall transfer from the Escrow Fund and deposit directly with the paying agent for the Series 1996 A Bonds, in immediately available funds on the Redemption Date, an amount sufficient to pay the Redemption Price. The registrar of the Series 1996 A Bonds has previously provided a notice of redemption by first-class mail to the registered owners of the Series 1996 A Bonds, not more than 60 days nor less than 30 days prior to the Redemption Date, in accordance with the requirements of the 1996 A Ordinance. Such notice, a copy of which is attached as Exhibit A hereto, is hereby ratified, approved and confirmed by the Issuer.

7. The holders of the Series 1996 A Bonds shall have an express lien on all moneys and assets in the Escrow Fund until paid out, used and applied in accordance with this Agreement.

8. After the provision for payment of all the Outstanding Series 1996 A Bonds and the interest thereon, any amounts remaining in the Escrow Fund shall be immediately transferred to the Issuer and applied to the next ensuing interest payment on the Series 2009 A Bonds.

9. The Escrow Agent shall be entitled to fees for services rendered under this Agreement and reasonable expenses. The Issuer shall pay those fees and expenses from its own funds. In no event shall the Escrow Agent or any paying agent have any lien whatsoever upon any of the moneys or assets in the Escrow Fund for the payment of any fees or expenses.

10. The Issuer and the Escrow Agent independently hereby covenant that no part of the moneys or funds at any time in the Escrow Fund shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause any of the Series 1996 A Bonds or the Series 2009 A Bonds to be an "arbitrage bond" as

defined in Section 148 of the Code, or to be subject to treatment under Section 148 as an obligation not described in Section 103 of the Code.

11. The Escrow Agent shall not have any responsibility with respect to the sufficiency of this Agreement to effect payment, redemption or defeasance of the Series 1996 A Bonds. The liability of the Escrow Agent for the payment of the principal of and the interest on, the Series 1996 A Bonds shall be limited to the application of the moneys and assets available for such purposes in the Escrow Fund, and the Escrow Agent shall not be liable or responsible because of the failure of the Issuer to perform any act required of it by this Agreement. The Escrow Agent shall have no responsibility to the Issuer or any other person in connection with this Agreement, except as specifically provided herein, and shall not be responsible for anything done or omitted to be done by it except for its own negligence or willful default in the performance of any obligation imposed on it hereunder.

12. By execution of this Agreement, the Escrow Agent accepts the duties and obligations as Escrow Agent hereunder. The Escrow Agent represents that it has all requisite power, and has taken all action necessary to execute the trusts hereby created.

13. If the Escrow Agent is called upon by the terms of this Agreement to determine the occurrence of any event or contingency, the Escrow Agent may request from the Issuer or any other person such reasonable additional evidence as the Escrow Agent in its discretion may deem necessary to determine any fact relating to the occurrence of such event or contingency, and in this connection may inquire and consult with the Issuer, at any time. The Escrow Agent may request an opinion of counsel for a determination of any legal issue which might arise in the performance of its duties hereunder and may act in accordance with the advice given in such opinion.

14. The Escrow Agent shall not be liable for any loss resulting from any investment made pursuant to the terms and provisions of this Agreement.

15. The Escrow Agent may act upon any notice, request, waiver, consent, certificate, receipt, authorization, power of attorney or other instrument or document which the Escrow Agent in good faith believes to be genuine and correct and to have been signed or sent by the proper person or persons.

16. The Escrow Agent may resign or be removed by the Issuer, and thereby become discharged from the trusts hereby created, by notice given to the Issuer and each insurer of any of the Series 1996 A Bonds not less than thirty (30) days before such resignation or removal shall take effect. Such resignation or removal shall take

effect immediately, however, upon the earlier appointment of a new Escrow Agent hereunder and acceptance of the trusts hereby created. The Escrow Agent shall continue to serve as Escrow Agent until a successor is appointed and the funds held hereunder transferred. The Escrow Agent shall provide a proper accounting to the Issuer of all funds deposited pursuant to this Agreement within 30 days of the appointment of a successor Escrow Agent. If no such appointment has been made at the end of the 30 day period, the Escrow Agent may petition a court of competent jurisdiction for appointment of a successor or temporary Escrow Agent. In the event of the resignation or removal of the Escrow Agent, the Escrow Agent shall rebate to the Issuer any fees theretofore paid in advance by the Issuer to the Escrow Agent for its services under this Agreement.

17. This Agreement is made for the benefit of the Issuer, the Escrow Agent and the holders from time to time of the Series 1996 A Bonds, except as otherwise expressly provided herein. This Agreement may be modified or amended at anytime, provided, however, that no such modification or amendment shall be made which would materially adversely affect the interest of any of the holders of the Series 1996 A Bonds.

18. If any of the Outstanding Series 1996 A Bonds are not presented for payment on the Redemption Date, and moneys are held by the Escrow Agent for payment thereof, but not including any funds held by the paying agent for the Series 1996 A Bonds, such moneys shall be held for such purposes for a period of one year from the date such payment was due, at which time such moneys shall be paid to the Issuer. Following such payment to the Issuer, the Issuer shall be responsible for payment to any holder of the Series 1996 A Bonds presenting the Series 1996 A Bonds to the Escrow Agent of the amount payable to such holder.

19. The Escrow Agent shall act on behalf of the Issuer in the conduct of the proceedings for the redemption of the Outstanding Series 1996 A Bonds to be redeemed in accordance with the 1996 A Ordinance and the Ordinance.

20. This Agreement shall terminate on the earlier of the date on which all the Outstanding Series 1996 A Bonds have been paid in full and discharged in accordance with the respective provisions of the 1996 A Ordinance and the Ordinance or, as described in Paragraph 18 above, one year after the last date on which payment on the Series 1996 A Bonds is due, and at such time the balance of the Escrow Fund shall be transferred to the Issuer; provided, that the Issuer's obligations set forth in Paragraph 18 shall continue after such termination.

21. If any one or more of the covenants or agreements provided in this Agreement to be performed on the part of any of the parties hereto should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement

shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

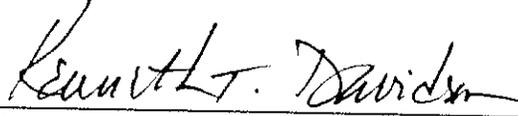
22. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

23. This Agreement is made in the State of West Virginia under the Constitution and laws of such state and is to be so construed.

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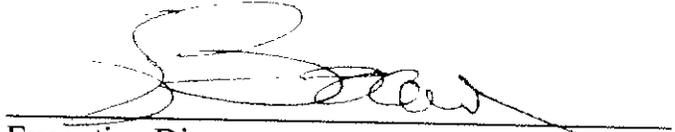
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

THE CITY OF BUCKHANNON



Mayor

WEST VIRGINIA MUNICIPAL BOND
COMMISSION



Executive Director

NAME	ADDRESS	NAME	ADDRESS
1 <i>Lynda C. Miller</i>	<i>74 S Florida St</i>	1 <i>Denise Pulliam</i>	<i>49 W. Wooda Street</i>
2 <i>Harold Miller</i>	<i>74 S Florida St</i>	2 <i>Lickie Posey</i>	<i>48 Boggess St</i>
3 <i>Eric & Sue</i>	<i>13 Elizabeth St</i>	3 <i>Mary Albaugh</i>	<i>47 Boggess St</i>
4 <i>FAZ</i>	<i>78 S. Fla. St</i>	4 <i>Ryllis Thacker</i>	<i>42 Boggess St</i>
5 <i>Frank & Bess</i>	<i>73 S. Florida St</i>	5	
6 <i>Frank & Bess</i>	<i>73 S. Florida St</i>	6	
7 <i>John & Mary</i>	<i>117 Fessenden St</i>	7	
8 <i>John & Mary</i>	<i>117 Fessenden St</i>	8	
9 <i>John & Mary</i>	<i>41 Maple Street</i>	9	
10 <i>John & Mary</i>	<i>41 Maple Street</i>	10	
11 <i>John & Mary</i>	<i>41 Maple Street</i>	11	
12 <i>John & Mary</i>	<i>72 Boggess St</i>	12	
13 <i>John & Mary</i>	<i>117 Fessenden St</i>	13	
14 <i>John & Mary</i>	<i>117 Fessenden St</i>	14	
15 <i>John & Mary</i>	<i>116 FAYE ST</i>	15	
16 <i>John & Mary</i>	<i>117 Fessenden St</i>	16	
17		17	
18		18	
19		19	
20		20	
21		21	
22		22	
23		23	
24		24	
25		25	

WE, WHOSE NAMES AND ADDRESSES HEREBY ARE WRITTEN UPON THIS PETITION ARE AGAINST ADDRESS CHANGES AS RESIDENTS OF THE CITY OF BUCKHANNON, COUNTY OF UPSHUR, STATE OF WEST VIRGINIA.

WE, WHOSE NAMES AND ADDRESSES HEREBY ARE WRITTEN UPON THIS PETITION ARE AGAINST ADDRESS CHANGES AS RESIDENTS OF THE CITY OF BUCKHANNON, COUNTY OF UPSHUR, STATE OF WEST VIRGINIA.

Mrs. Albaugh advised the petitions were delivered to the County Commission at their meeting today. She asked City Council to take in consideration the voice of the people. She also presented the following suggestions which were also give to the Commission:

Recommendations:

1. Additional training or an improvement in the training process of 911 operators. These personnel should be included in training with or by the City Police force, County Sheriff Department, Fire Department and Emergency Squad and any Emergency Management Teams that exist. They should ride the routes, drive the streets and be familiar with the area and included in drills and be involved in an active ongoing training program.
2. I am aware of the experience and qualification requirements for 911 operator positions. I have seen it advertised in the paper. A review of these qualifications and position descriptions for this critical type of position might be necessary. I have been told they are serving in stressful position with a low salary. I don't think changing addresses will ever eliminate that problem. I do believe that through training, proper supervision, salary incentives and a performance and position review might be beneficial to these employees who serve city and county residents.
3. Some residents don't have numbers on there homes. It was recommended to the City Council that homes be properly identified with a big enough number, strategically placed on the homes.
4. I would implore that there be an improvement in the communications to the residents of the City of Buckhannon and those who live in the County about these proposed changes.
5. I would also like to recommend that there be assistance provided to those who have to make these changes. A checklist of some type to remind them of there being more than a simple driver's license change necessary. Vehicle Registration, Car Insurance, Home Owners Insurance, Health Providers, utilities of all sorts. Someone needs to be legally certain that personal wills and property documentation do not need to be changed. Maybe have someone available at the Senior City to assist those who are effected by the change.

DEPARTMENT REPORTS:

CHIEF OF POLICE: Chief Gregory introduced the newest officer K9 Tess and her handler Officer Shahan. Officer Shahan advised that Tess is a Dutch Malawi and therefore receives her commands in Dutch. She explained the difference between the passive and aggressive dogs. She said Tess is passive and is trained to go to the source.

Chief Gregory reported his department has been awarded another DUI Grant in the amount of \$5,000.00, which will run from February 20 to May 24, 2009. He said Buckhannon's record is one DUI arrest for every 19 hours of patrol.

Chief Gregory presented the following January 2009 report:

POLICE ACTIVITIES		Run: 2/22/2009 4:28AM	Upshur County ComCenter End Of Month Report 1/1/2009 To 1/31/2009 (Filtered by Unit Department Assignment)	Page: 1
MONTH: <u>JANUARY</u>		30 Buckhannon Police Department		
YEAR: <u>2009</u>		ALL CALLS CALLS WITH RPT NO RPT# (FIRST ONE ONLY) (LAST IS AVOID)		
ACTIVITIES:		W11 Fatigue	NATURE CODE 911H	3 0
		Abandoned/Disabled Vehicle	NATURE CODE AND	1 0
		Alarm	NATURE CODE ALRM	10 0
		Altered Mental Status	NATURE CODE ALT MEN	1 0
		B & E / Vehicle	NATURE CODE B&E-CAR	2 0
		B & E/Business	NATURE CODE B&E-BUS	2 0
		B & E/Residential	NATURE CODE B&E-RES	1 0
		Burglar Alarm - Business/Res	NATURE CODEBURGALM	2 0
		Call Per Officer	NATURE CODECALLOFF	14 0
		Car/Motor	NATURE CODE CIVL	1 0
		Destruction Of Property	NATURE CODE DOP	5 0
		Deceased Vehicle	NATURE CODE DCE VEH	3 0
		Dispute / Verbal	NATURE CODE DISP	2 0
		Disturbance	NATURE CODE DIST	4 0
		Domestic / Active	NATURE CODE DOMA	3 0
		Domestic / Non-Active	NATURE CODE DOMN	8 0
		Drug-Traffic	NATURE CODE DRUG	4 0
		Drunk Driving	NATURE CODE DUI	3 0
		Duplicate Call	NATURE CODE DUPL	1 0
		Fight	NATURE CODE FIGHT	4 0
		FOLLOW-UP	NATURE CODE FOLUP	16 0
		Forgery	NATURE CODE FORGE	1 0
		Found Item/Property	NATURE CODE FOUND	1 0
		Gas Drive Off	NATURE CODEGASDRIOFF	1 0
		General Info	NATURE CODE INFO	8 0
		Harrassment	NATURE CODEHARRASS	7 0
		Hit And Run	NATURE CODE HIT&RUN	5 0
		Homocide/Murder	NATURE CODEHOMICIDE	1 1
		Illegal Driving	NATURE CODE ILL DRY	2 0
		Juvinate Complaint	NATURE CODEJUV COMP	1 0
		Littering	NATURE CODE LITTER	1 0
		MVA - No Injuries	NATURE CODE MVA	15 1
		Noise Complaint	NATURE CODE NOISE	4 0

Run: 2/22/2009 4:28AM	Upshur County ComCenter End Of Month Report 1/1/2009 To 1/31/2009 (Filtered by Unit Department Assignment)	Page: 2
Parking Complaint	NATURE CODEPRKCOMP 1 0	
Prohibition Violation/Call	NATURE CODE PROB 1 0	
Property Dispute	NATURE CODE PROP 1 0	
Provider	NATURE CODEPROVLSR 4 0	
Public Intoxication	NATURE CODE PUBINT 1 0	
Punish	NATURE CODE PUR 3 1	
Reckless Driving	NATURE CODERECK DRY 3 0	
Recovered Property	NATURE CODERESCOVER 2 0	
Removal Unwanted Person	NATURE CODEREMOV PER 5 0	
Rental Dispute	NATURE CODE RDNDP 2 0	
Road/Traffic Hazard	NATURE CODE RD HAZ 1 0	
Sexual Assault	NATURE CODESEX ASLT 2 0	
Stolen Property	NATURE CODE THEFT 8 0	
Structure Fire	NATURE CODE STR FIRE 1 1	
Suspicious Vehicle	NATURE CODE SUS VEH 1 0	
Suspicious Activity	NATURE CODE SUS ACT 5 0	
Suspicious Item	NATURE CODE SUS ITEM 1 0	
Suspicious Person	NATURE CODE SUS PER 2 0	
Threats	NATURE CODE THREAT 7 0	
Traffic Stop	NATURE CODE TS 296 0	
Unrock Vehicle	NATURE CODEUNLCK VEH 1 0	
Utility Problems / Issues	NATURE CODE UTILITY 1 0	
Vandalism	NATURE CODE VAND 2 0	
victim Of A Fall	NATURE CODE FALL 1 1	
Warrant - EPO	NATURE CODE WARR-EPO 1 0	
Welfare Concern	NATURE CODE WELCHK 7 0	
Totals For: Buckhannon Police Department		489 8

FIRE CHIEF: Chief Mitch Tacy said the reported the pre-planning and inspection of the restaurants continue. The department continues to work with WVWC and the students. The pump operator's class will start in March. He reported that engine 11 has had some maintenance issues. Mrs. Shobe asked which vehicle this was and Chief Tacy said it was the cities front line pumper.

STREET COMMISSIONER: Jerry Arnold, Street Commissioner reported the following from the meeting with the Addressing and Mapping Coordinator Terri Jo Bennett and Mr. Parker:

**ADDRESSING AND MAPPING
JOINT MEETING OF UPSHUR COUNTY COMMISSION AND BUCKHANNON CITY COUNCIL, FEBRUARY 17, 2009**

Burt Smith provided a handout that read as follows: "At the Special Meeting of the Buckhannon City Council which was held on February 10, 2009, a motion was made by Jerry Henderson and seconded by J. David Thomas to draft a resolution to establish a cooperative effort between the Upshur County Commission and the Buckhannon City Council and their respective designees to fully address the issue of street addressing within the municipal corporate limits in such a manner whereby the city will maximize the preservation of current street names and city residents' street numbers.

The representatives for the City of Buckhannon are as follows: Street Commissioner, Jerry Arnold; Zoning Officer, Rich Clemens and City Engineer, Burt Smith."

The City and County Representatives met at 9:30 a.m. at City Hall.

The joint representatives agreed on the following actions:

1. Shawnee Drive-begin numbering at Rt 20 South Rd and renumber based on the County ordinance
2. Ev-Un Breth Acres Road-begin numbering at Morton Ave and renumber based on the County ordinance
3. Old Weston Road-(none in city per city representatives) -begin numbering at the US 33 overpass to Buckhannon Mountain Rd
4. Liggett Addition Road-no decision made, need to gather additional information
5. Scott Street-begin numbering at Shawnee Dr and renumber based on the County ordinance
6. Carol Street-(begins off of an unnamed street)-renumber based on the County ordinance
7. Unnamed Street-(proposed to be named Ratcliff Street-City needs to recommend name to Commission)-renumber based on the County ordinance
8. Hall Road-begins at the intersection of Morton Ave/Fifth St and renumber based on the County ordinance
9. Old Elkins Road - begins at the Millrace Bridge and renumber based on the County ordinance.
10. Armory Road-begins at Rt 20 South Rd and renumber based on the County ordinance
11. Rohr Avenue-begins at Shawnee Dr and renumber based on the County ordinance
12. WBUC Road-begins at US 33 and renumber based on the County ordinance
13. Brushy Fork Road and Brushy Fork Xing-begins at US 33 and renumber based on the County ordinance
14. Toggle Street-no action taken
15. Clarksburg Road-begins at the US 33 overpass and renumber based on the County ordinance
16. West Victoria Street-(still reviewing the designated St name) begins off Rt 20 South Rd and renumber based on the County ordinance
17. Lincoln Place-road name changed to Larchmont Lane-renumber based on the County ordinance
18. Red Rock Road-(currently unnamed)-renumber based on the County ordinance
19. Upper Drive-need to deal with one resident on the right going up the hill - begins at the Vicksburg Rd and we still need to review. County reps want to renumber entire street/City reps want to leave the numbering as is.
20. Lower Drive-begins at the Upper Dr and renumber based on the County ordinance

Agreement was reached to merge the following streets:

1. Franklin Place- merge with Chestnut St
2. Part of Chestnut Street-to merge with Blanche Street
3. Hibbs Street-no action taken-both City and County reps agreed to leave as is

Discussion or action on currently unnamed streets:

1. Street between Shawnee Drive and Rezer Street-Ratcliff Street - proposed
2. Street/Road off Hall Road before bridge-Weatherford Boulevard -proposed
3. Street/Road off Cambridge Heights Drive-no action taken
4. Street/Road off Liggett Addition Road (old soccer field)- determined it does not need to be named
5. Street of Main Street beside 88 Restaurant-Zeno Street-proposed
6. Street between Fifth Street and Sixth Street-no street (per City reps. - removed when park was created)
7. Street/Road off Island Avenue just before city limits-determined it does not need to be named
8. Street/Road off Hinkle Drive-no action taken

Discussion or action on streets with duplicate names:

1. Third Street-Third Ave--rename Third Ave - City needs to recommend to the Commission
2. Pinnel Street-Finnell Hill--no action taken
3. Hickory Street-Hickory Lane--rename Hickory Street - City needs to recommend to the Commission
4. Cooper Street(city)-Cooper Street(county)--rename Cooper St in county
5. Walnut Street(city)-Walnut Street and Walnut Drive(county)--no action taken
6. No action taken on street names with N. S. E. W prefixes.

The meeting adjourned at 11:40 a.m.

The Council questioned several of the suggestions. Council Lee asked if they were going to use the Mill Race Bridge to rename Island Avenue, she felt the residents needed to have input. Council Queen said he would like to see Island Avenue go to the Vicksburg Road.

Mary Albaugh asked what needed to be done in the timeframe. Mayor Davidson said time was crucial to the County Commission, as they needed to have a certain amount done before reimbursement.

City Recorder Nancy Shobe asked if City Council was not getting ahead of their selves as they would be reviewing and approving a Resolution tonight to deal with this subject.

Mayor Davidson asked Mr. Arnold to proceed with his report.

Mr. Arnold reported the storm damage cleanup from last week's storm is almost 50 to 60% complete. He estimated when all is done there will be a total cost of about \$15 to \$20 thousand dollars in cleanup. Mrs. Shobe said she checked with the insurance to see if anything was covered with the damages to markers at the cemetery and she was advised the cities insurance did not cover the markers as they belong to whomever owns the lots.

ZONING OFFICER: Mr. Clemens was absent

CITY ENGINEER/SANITARY SUPT: Report will be given under Board reports.

CITY ENGINEER: Report will be given under Board reports.

STOCKERT YOUTH CENTER - Debora Brockleman was absent.

CITY ATTORNEY - Mr. McCauley reported that he and Council Lee will be working on the annexation of Rt. 20 North. He also said he had a problem with the Cable Co. (Suddenlink), sudden change in take WTAE channel 4, Pittsburg off the cable lineup. He said channel 4 has always been a part of the dial and he believes there is leverage to make Suddenlink carry the Pittsburgh channel. He reminded Council of the TV Cable Board meeting on March 2 at 6:00 pm at City Hall.

Mr. McCauley reported the Go-Green conference would be held at WVWC on Saturday the 24th of February. He said Mayor Davidson has signed a proclamation and the city will have a table display.

Building & Wiring Permits: None

Payment of Bills:

Motion was made by Keith Queen and seconded by Elizabeth Lee to order the payment of the bills as presented. Motion carried.

CORRESPONDENCE:

WV STRAWBERRY FESTIVAL LETTER:

Mayor Davidson read the following 2009 request from the WV Strawberry Festival:



Honorable Mayor Davidson and City Council
70 East Main St.
Buckhannon, WV 26201

February 2, 2009

Dear Mayor Davidson and Council Members,

The West Virginia Strawberry Festival Association, Inc. would like to make the following requests for the use of city owned property and services during the 68th annual event on May 13th - 17th 2009.

1. The use of the street parking lot across from the Buckhannon Post Office for the carnival from May 13th - 17th 2009.
2. Permission for the three parades to use Strawberry Lane (Marion, Kanawha, & Mingo Streets) as the parade route.
3. The use of Camden Ave, Pocahontas, Wood, Randolph, Tucker, Marston, College Streets for the purpose of parade line-up for all three parades.
4. Permission to place business vendors and marketing booths on various locations throughout the City (William Martin Lot, Spring St. & Main St.)
5. Permission to use the CVB Lot for license vendors. (also sending letter will go to CVB)
6. Permission to use Main St. from City Hall to the Courthouse for the Friday and Saturday Street Parties. The street will need to be closed following the parades. This time is needed to set-up. The activities will conclude by 12:00 midnight each evening.
7. Permission for one-way on Spring St. during the day and to block Spring and Madison streets during Carnival hours as we did last year.
8. The use of the parking lot (Kramer Foodland) on Spring Street, the parking lot at the Buckhannon Fire Dept. and the use of the property by the farmers market for vendor supply truck parking.
9. The use of Jewhouse Park and the pavilion for the purpose of children's activities.
10. The use of the Buckhannon River for the purpose of a canoe race. (Stanley)
11. The complimentary sanitary sewage sludging for visiting buses.
12. Request for any street repair along the parade route to avoid accidents.
13. The use of the city workers to help with street decorations.
14. Requesting Road Closed barricades for parade line-up streets.
15. Request for the participation of the City Police Department during festival week. We will work with the Chief on special arrangements for the various events.

In addition to these above requests, we appreciate the normal customary activities that the city does during the week of festival. (e.g., additional police protection, waste pick-up, and street cleaning and road races). The Board of Directors would like to thank the City for their contributions, both monetary and otherwise given to the festival and its board each year.

Sincerely,


Debra Hepp, President
68th WV Strawberry Festival



PO Box 117 • Buckhannon, WV 26201-0117 • 800-472-7836 • Fax (800) 472-9817 • www.wvstrawberryfestival.com

Mayor Davidson said this is the same request as last year. Motion was made by Keith Queen and seconded by Pam Cuppari to approve the request as presented. Motion carried.

Mayor Davidson read the following request for funding from the WV Strawberry Festival:



Mayor Office
70 Nancy Shobe
70 East Main Street
Buckhannon, WV 26201

February 2, 2009

Dear Mrs. Shobe,

The West Virginia Strawberry Festival is finalizing plans for this year's festival. The Board of Directors of the 68th West Virginia Strawberry Festival asks for your help with a sponsorship as you do every year. You and your staff are a big part of the festival. We give special thanks for your help to bring in the tourism to our wonderful city and state.

Our dates this year are May 13th - 17th 2009. Once again the Grand Feature Parade will be live on WDTV Channel 5 and the streets will be lined with over 100,000 people. This year we are requesting \$200,000 to sponsor Opening Ceremonies and \$700,000 to co-sponsor a float with the County Commissioners. If you would like to add more to your sponsorship it would be greatly appreciated.

Please look over the material and call if you have any questions. Hope you can help as with a great sponsorship as you always do. We need the contract returned as soon as possible.

The Board of Directors would like to thank you for your contributions to the festival and its board each year.

Sincerely,


Debra Hepp, President
68th WV Strawberry Festival

Motion was made by Keith Queen and seconded by Elizabeth Lee to approve the \$500.00 request for sponsorship of the opening ceremonies but deny the request for \$700.00 for float. Motion carried.

UNFINISHED BUSINESS: None

ANNEXATION COMMITTEE FOR RT. 20 NORTH:

NEW BUSINESS:

RESOLUTION 2009-03:

The following Resolution 2009-03 was presented:

*CITY OF BUCKHANNON
Resolution # 2009-03
of Support for Health Care Reform in West Virginia*

WHEREAS: The opportunity to have access to health care is a basic need that all West Virginians share and it is the foundation for future generations.

WHEREAS: We believe that West Virginia's crisis of health care affordability can be solved. Significant and lasting improvement in the physical and financial health of the people of our state, our families, businesses, and communities can be achieved if West Virginia enacts state health care reform legislation.

WHEREAS: All West Virginians should have access to affordable health care, including prescription drugs, and these costs should not burden future generations and all West Virginians must have access to high quality health care and coverage, without discrimination or exclusions based on income, medical condition, employment status, gender, age, geography, or other factors.

WHEREAS: Wellness and prevention efforts, including changes in personal behavior such as diet and exercise, should be top priorities.

WHEREAS: Health care coverage must be comprehensive and continuous, assuring that the medical and behavioral care needs of all West Virginians are met throughout all stages of life, from birth to death.

WHEREAS: Comprehensive health care and coverage must be affordable to all purchasers: individuals, families, businesses, and government.

WHEREAS: The financing of West Virginia's health care must be a responsibility shared on a sustainable basis by individuals, businesses, and government and the rising costs of West Virginia health care and coverage must be effectively contained.

WHEREAS: The quality of health care must be continuously improved and health care reform in West Virginia shall not undermine existing levels or quality of coverage or care for anyone.

WHEREAS: Individuals, businesses, health care providers, non-profit organizations, and government must work together to find solutions — personally, privately and publicly.

WHEREAS: More than 58 local, state and national organizations and businesses and numerous individuals have committed to be champions for Health Care Reform and to call Governor Manchin and the West Virginia Legislature to work together across party lines to provide action and answers on this issue.

THEREFORE BE IT RESOLVED that the City of Buckhannon supports The West Virginia Campaign for a Healthy Future and health care reform legislation in 2009 and we urge our state elected officials to do the same.

Given under my hand and official seal of the City of Buckhannon this _____ day of _____, 2009.

Kenneth T. Davidson - Mayor

Motion was made by Pam Cuppari and seconded by Keith queen to approve Resolution 2009-03 as presented. Motion carried.

RESOLUTION 2009-04:

The following Resolution 2009-04 was presented:

RESOLUTION NO. 2009-04

Be it resolved that the City Council of the City of Buckhannon hereby authorize the Honorable Kenneth T. Davidson, Mayor of the City of Buckhannon, to act on its behalf to apply for grant funds under the Perdue Pharma Forfeiture Advanced Law Enforcement Training Grant (PPFALT).

Signed: _____
Nancy C. Shobe
City Recorder

Chief Gregory explained to Council the funding for this grant and advised if approved, it would provide 12 classes of advanced training for about 1/5 of the law enforcement within the state.

Motion was made by Elizabeth Lee and seconded by Keith Queen to approve Resolution 2009-04 as presented. Motion carried.

MUTUAL AID AGREEMENT WITH UPSHUR COUNTY SHERIFF DEPARTMENT:

Mayor Davidson presented the following mutual aid agreement with the Upshur Co. Sheriff Department:



Upshur County Sheriff's Department
Law Enforcement Division



Virgil D. Miller

V. E. Kelley

January 27, 2009

Mark Gregory, Chief of Police
Buckhannon City Police Department
706 Main Street
Buckhannon, WV 26201

Chief Gregory:

Your department entered into a Mutual Aid Agreement with the Upshur County Sheriff's Department. The terms of this agreement expired twelve months from the date of signing.

If you agree to renew the existing Mutual Aid Agreement for the next twelve months, the following page contains a place for your signature as well as the signature of the president of the County Commission.

I have enclosed one extra copy with signatures. After signing and obtaining the County Commission's President's signature, keep one for your office files and return one to me.

Thank you for your assistance.

Sincerely,

Virgil D. Miller
Sheriff
Upshur County

YDM:uly

Enclosure

Page 2

IN WITNESS WHEREOF, this Mutual Aid Agreement has been executed and approved and is effective and operative as to each of the parties as herein provided for the term of twelve months.

UPSHUR COUNTY SHERIFF'S DEPARTMENT

Virgil D. Miller, Sheriff

Date 1/28/09

President, County Commission

Date _____

BUCKHANNON CITY POLICE DEPARTMENT

Mark Gregory, Chief of Police

Date _____

President, County Commission
Mayor, City of Buckhannon

Date _____

Motion was made by Keith Queen and seconded by Elizabeth Lee to approve the mutual aid agreement between the Buckhannon Police Department and the Upshur County Sheriff Department as presented. Motion carried.

1ST READING OF ORDINANCE #343:

City Attorney David McCauley read by caption the following Ordinance # 343:

CITY OF BUCKHANNON

SERIES 2009-A REFUNDING BOND ORDINANCE #343

CITY OF BUCKHANNON

SERIES 2009 A REFUNDING BOND ORDINANCE

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CITY OF BUCKHANNON
SERIES 2009 A REFUNDING BOND ORDINANCE

ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$2,900,000 IN AGGREGATE PRINCIPAL AMOUNT OF CITY OF BUCKHANNON SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A FOR THE PURPOSES OF CURRENTLY REFUNDING THE ISSUER'S SEWER SYSTEM REFUNDING REVENUE BONDS, SERIES 1996 A AND PAYMENT OF THE COST OF ISSUANCE OF THE BONDS; AUTHORIZING AN ESCROW AGREEMENT IN CONNECTION WITH THE DEFEASANCE OF SAID REFUNDING REVENUE BONDS; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

Be It Ordained by the City Council of the City of Buckhannon, West Virginia:

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

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

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

A. The City of Buckhannon, West Virginia (the "City" or the "Issuer"), is a municipal corporation and political subdivision of the State of West Virginia in Upshur County of said State.

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

C. In accordance with Section 2 of the Act, the System is under the supervision and control of the Sanitary Board of the City (the "Sanitary Board").

D. The Sanitary Board has presented a petition to the City for the enactment of this Ordinance and the issuance of sewerage system refunding revenue bonds.

E. The City may now refund its Sewer System Refunding Revenue Bonds, Series 1996 A (the "Series 1996 A Bonds") at a savings to the City and, therefore, it is in the best interests of the Issuer to issue its Sewerage System Refunding Revenue Bonds, Series 2009 A (the "Bonds" or "Series 2009 A Bonds"), in an aggregate principal amount of not more than \$2,900,000 to currently refund the Series 1996 A Bonds and to pay the costs of issuance and related costs.

F. The estimated maximum cost of currently refunding the Series 1996 A Bonds is \$2,195,000, which will be obtained from the proceeds of the Bonds herein authorized and from funds in accounts held on behalf of the Series 1996 A Bonds.

G. The acquisition and construction of the System were financed or refinanced with proceeds of certain obligations of the City, which obligations are designated and have lien positions with respect to the Bonds as follows:

	Designation		Lien Position
1.	\$2,885,000 Sewer System Refunding Revenue Bonds, Series 1996 A (the "Series 1996 A Bonds").	First Lien	
2.	\$1,081,160 Sewer Revenue Bonds, Series 1996 B (the "Series 1996 B Bonds")	First Lien	

The Series 1996 B Bonds are sometimes referred to as the "Prior Bonds." The Series 1996 A Bonds will be paid with the proceeds of the Series 2009 A Bonds.

H. The Series 1996 A Bonds are currently outstanding in the aggregate principal amount of \$2,195,000 and the Series 1996 B Bonds are currently outstanding in the aggregate principal amount of \$459,493.

I. After the defeasance of the Series 1996 A Bonds, the Series 2009 A Bonds and the Series 1996 B Bonds will be secured by a shared first lien on the Net Revenues of the System.

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

K. The estimated revenues to be derived in each year after the enactment of this Ordinance from the operation of the System will be sufficient to pay all costs of the operation and maintenance of the System, the principal of and interest on the Prior Bonds and the Bonds and all funds and accounts and other payments provided for in this Ordinance and the Prior Ordinance.

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

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

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

O. The City, with the assistance of its financial advisor, Scott & Stringfellow, Inc., a wholly-owned subsidiary of BB&T Corporation, plans to solicit proposals for the purchase of said Bonds. If the City determines that it is in its best interest, it may direct the financial advisor to negotiate directly with a single, prospective lender including BB&T. It is in the best interests of the City that the Bonds be sold pursuant to the terms and provisions set forth in, and to the purchaser (the "Purchaser"), designated in the Supplemental Resolution.

P. The City has complied with all requirements of West Virginia law relating to the issuance of the Bonds, or will have so complied prior to the issuance of any thereof.

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

R. The City and all subordinate entities of the City reasonably expect to issue \$10,000,000 or less in tax exempt obligations during calendar year 2006.

Section 1.03. Ordinance Constitutes Contract. In consideration of the acceptance of the Bonds authorized to be issued hereunder by those who shall own the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the City and such Registered Owners, and the covenants and agreements herein set forth to be performed by the City shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Bonds issued hereunder, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bond by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. Except as provided below, terms used in this Supplemental Ordinance have the meanings set forth in the Prior Ordinance, as supplemented by this Supplemental Ordinance, unless the context expressly requires otherwise.

"Act" shall mean Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended and in effect on the date of enactment of this Ordinance.

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

"Bond Counsel" shall mean any law firm having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds, appointed by the City or the Sanitary Board, and shall initially mean Jackson Kelly PLLC and The Vaughan Law Firm, Charleston, West Virginia.

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

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

"Bondholder" or "Holder of the Bonds" or "Owner of the Bonds" or "Registered Owner" or any similar term shall mean any person who shall be the Registered Owner of any Outstanding Bond as hereinafter defined.

"Bonds" or "Series 2006 A Bonds" shall mean the not more than \$2,900,000 in aggregate principal amount of the City of Buckhannon Sewerage System Refunding Revenue Bonds, Series 2006 A, authorized by this Ordinance to be issued.

"Bonds Sinking Fund" shall mean the Bonds Sinking Fund created by Section 4.01(A) hereof.

"Bonds Proceeds Fund" shall mean the Bonds Proceeds Fund created by Section 4.01 hereof.

"Certificate of Authentication and Registration" shall mean the Certificate of Authentication and Registration on the Series 2006 A Bonds, substantially in the form set forth in Exhibit A attached hereto.

"Closing Date" shall mean the date or dates upon which there is an exchange of the Bonds for all or a portion of the proceeds of the Bonds from the Purchaser.

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

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

"Consulting Engineers" shall mean any engineer or firm of engineers, licensed by the State, which shall at any time hereafter be retained by the City as Consulting Engineers for the System in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended.

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

"Council," "City Council" or "Governing Body" shall mean the Council of the Issuer or any other governing body of the Issuer that succeeds to the functions of the Council as presently constituted.

"Depository Bank" shall mean the bank or banks to be designated as such in the Supplemental Resolution, and its successors and assigns.

"Escrow Agent" shall mean the Escrow Agent with respect to each Escrow Agreement, which shall be appointed pursuant to a resolution supplemental hereto.

"Escrow Agreement" shall mean the agreement between the City and the Escrow Agent, substantially in the form of the agreement attached to a resolution supplemental hereto and by this reference made a part hereof, relating to the refunding and defeasance of the Series 1996 A Bonds.

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

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

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations

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

"Gross Revenues" shall mean 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 of other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, purchased pursuant to Article VIII hereof) or any fee or charge established, levied and collected by the City from persons at the time of, and for the privilege of, making service connections to the System, as hereinafter defined, and for the furnishing by the City of miscellaneous service.

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

"Mayor" shall mean the Mayor of the City.

"Net Revenues" shall mean Revenues less Operating Expenses.

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

"Outstanding" when used with reference to Bonds and Prior Bonds, as of any particular date, describes all such Bonds theretofore and thereupon being authenticated and delivered, except (i) any such Bond canceled by the Registrar, at or prior to said date; (ii) any such Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such Bond, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any such Bond deemed to have been paid as provided in Section 6.13 hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any such Bond registered to the City.

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

"Paying Agent" shall mean the Commission, the bank or such other entity to be designated as the Paying Agent for the Bonds in the Supplemental Resolution and its successors and assigns.

"Prior Bonds" shall mean the Series 1986 B Bonds of the Issuer.

"Prior Ordinance" shall mean the ordinance of the Issuer authorizing the Prior Bonds.

"Private Business Use" shall mean use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit; provided that, use as a member of the general public shall not be taken into account, all as determined by the Code.

"Purchase Price," for the purpose of computation of the Yield of the Bonds, has the same meaning as the term "issue price" in Sections 1273(b) and 1274 of the Code, and, in general, means the price paid by the first buyer of the Bonds or the acquisition cost of the first buyer. "Purchase Price," for purposes of computing Yield of Nonpurpose Investments, means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Bonds.

"Purchaser" shall mean the entity designated as such in a Supplemental Resolution.

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

- (a) Government Obligations;
 - (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
 - (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;
 - (d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;
 - (e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;
 - (f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;
 - (g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of the 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 agreements shall have a prior perfected security interest in the collateral therefore; must have (or its agency must have) possession of such collateral; and such collateral must be free of all claims by third parties;
- (b) The West Virginia "consolidated fund" managed by the West Virginia Board of Treasury Investments pursuant to Chapter 12, Article 6C of the West Virginia Code of 1951, 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.

"Rebate Fund" shall mean the Rebate Fund created by Section 6.18 hereof.

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

"Registrar" shall mean the entry named as such in the Supplemental Resolution as the registrar for the Bonds, and any successor thereto.

"Regulations" shall mean the temporary and permanent regulations promulgated under the Code.

"Renewal and Replacement Fund" shall mean the fund created by Section 5.01(3) of the Prior Ordinance and continued hereby.

"Reserve Account Requirement" shall mean any amount established in the Prior Ordinance for the Prior Bonds.

"Reserve Accounts" shall mean, collectively, the respective Reserve Accounts created for the Prior Bonds and the Bonds, if any.

"Revenue Fund" shall mean the Revenue Fund created pursuant to Section 5.01(1) of the Prior Ordinance and continued hereby.

"Series 1996 A Bonds" shall mean the Sewerage System Refunding Revenue Bonds, Series 1996 A of the Issuer dated December 1, 1996, issued in the original aggregate principal amount of \$2,885,000.

"Series 1996 A Bonds Redemption Date" shall mean the date or dates established in the Supplemental Resolution for the redemption of the Series 1996 A Bonds.

"Sinking Funds" shall mean, collectively, the respective Sinking Funds created for the Prior Bonds and the Bonds.

"State" shall mean the State of West Virginia.

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

"Surplus Revenues" shall mean the Net Revenues not required by the Prior Ordinance and this Ordinance, as supplemented and amended, to be set aside and held in, including but not limited to, any sinking funds, reserve accounts and depreciation accounts.

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

"Tap Fees" means the fees, if any, paid by prospective customers of the System in order to connect thereto.

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

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

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

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

ARTICLE II AUTHORIZATION OF THE REFUNDING OF THE SERIES 1996 A BONDS

Section 2.01. Authorization of Refunding. The Series 1996 A Bonds Outstanding as of the date of issuance of the Series 2009 A Bonds and all unpaid interest accrued thereon, if any, are hereby ordered to be refunded and paid in full pursuant to the terms of the Escrow Agreement and the lien of said Series 1996 A Bonds imposed by the Series 1996 A Ordinance on the Net Revenues of the System is hereby ordered terminated, discharged and released upon payment into the Escrow Fund from the proceeds of the Bonds, together with other moneys available therefore, including those moneys transferred as provided below, of the following:

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

(b) an amount which will be simultaneously invested in Governmental Obligations bearing interest and having maturities sufficient to provide (i) for the payment of the principal of the Series 1996 A Bonds on the Series 1996 A Bonds Redemption Date and (ii) for the payment of the interest on the Series 1996 A Bonds as the same becomes due to but not including the Series 1996 A Bonds Redemption Date. Contemporaneously with the deposit of proceeds of the Series 2009 A Bonds into the Escrow Fund, as prescribed by the Escrow Agreement, the amounts on deposit in sinking fund created and maintained on behalf of the Series 1996 A Bonds and the amounts on deposit in the Reserve Account created and maintained under the Series 1996 A Ordinance shall be deposited into the Escrow Fund and simultaneously invested as provided in the Escrow Agreement.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

Section 3.01. Authorization and Terms of Bonds. For the purposes of refunding all of the outstanding Series 1996 A Bonds and paying costs of issuance of the Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the Bonds of the City. The Bonds shall be issued in one series as set forth in the Supplemental Resolution, designated as "Sewerage System Refunding Revenue Bonds, Series 2009 A", in an aggregate principal amount of not more than \$2,900,000. The Bonds shall be issued in such principal amounts, shall have the series designation, shall be dated as of the date of delivery thereof, shall bear interest at such rate or rates, not exceeding the then legal maximum rate, and shall mature at such times and in such amounts as shall be set forth in the Supplemental Resolution. The repayment of principal and interest, if any, on the Bonds shall be as set

forth in the Supplemental Resolution. The Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Ordinance and as the Council of the City shall prescribe by resolution (or by supplemental or amendatory ordinance of said Council as said Council shall determine) adopted in connection with the sale of such Bonds.

The Bonds shall be payable as to principal at the office of the Paying Agent in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds shall be paid by check or draft mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar.

Each series of Bonds shall be issued in fully registered form, in such denominations and shall have such terms as set forth in the Supplemental Resolution. The Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond in aggregate principal amount equal to the amount of the Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of the Bonds.

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

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

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

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

Bonds shall be transferable only upon the books of the Registrar, by the Registered Owner thereof in person or by the Registered Owner's attorney duly authorized in writing, upon surrender thereto, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or the Registered Owner's duly authorized attorney.

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

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

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

Section 3.06. Bonds not to be Indebtedness of the City. The Bonds shall not, in any event, be or constitute a corporate indebtedness of the City within the meaning of any statutory or constitutional limitations, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No Registered Owner of the Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay the Bonds or any interest thereon.

Section 3.07. Bonds Secured by Pledges of Net Revenues. The payment of the debt service of the Bonds shall be secured equally and ratably with each other by a first lien on the Net Revenues derived from the System, which is on a parity and is shared with the holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and the Prior Bonds and to make the payments into the sinking funds and the reserve accounts, if any, and in the renewal and replacement fund established herein or in the Prior Ordinance are hereby irrevocably pledged to the payment of the principal of and any interest on the Bonds and the Prior Bonds as the same become due.

Section 3.08. Form of Bonds. The text of the Bonds shall be substantially as set forth in Exhibit A, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Ordinance or any subsequent resolution or ordinance adopted or enacted prior to the issuance thereof.

Section 3.09. Sale of Bonds. The Bonds shall be sold as soon as practical and in the best interests of the issuer, as may be authorized and permitted by applicable law, and delivered to the Purchaser thereof; provided that the Purchaser and the issuer shall have agreed to the terms of the purchase thereof.

Section 3.11. Designation of Bonds as "Qualified Tax-Exempt Obligations." The Issuer hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of Section 285(b)(3)(B) of the Code and covenants that the Bonds do not constitute private activity bonds as defined in Section 141 of the Code, and that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income tax purposes (excluding, however, obligations issued to currently refund any obligation of the issuer to the extent the amount of the refunding obligation does not exceed the amount of the refunded obligation and private activity bonds, as defined in Section 141 of the Code, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code), including the Bonds, have been or shall be issued by the issuer, including all subordinate entities of the issuer, during the calendar year 2009, all as determined in accordance with the Code.

Section 4.01. Application of Bond Proceeds. From the moneys received from the sale of the Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. All accrued interest, if any, received from the Purchaser of the Bonds shall be deposited in the Sinking Fund and used to pay the next maturing interest on the Series 2009 A Bonds.

B. The amount of the Bond proceeds necessary, together with such funds of the Issuer as are made available by the defeasance of the Series 1996 A Bonds, to refund the Series 1996 A Bonds, which amount shall be set forth in the Supplemental Resolution, shall be applied by the Issuer pursuant to the provisions of the Escrow Agreement.

C. The amount, set forth in the Supplemental Resolution derived from the sale of the Bonds shall be deposited by the Issuer in the Costs of Issuance Account. All costs of issuance shall be paid within 60 days of the Closing Date.

Section 4.02. Establishment of Funds and Accounts; Flow of Funds. The funds and accounts established by the Prior Ordinance are hereby continued. In addition to the funds and accounts established by the Prior Ordinance, there is hereby created at the Commission the Series 2009 A Bonds Sinking Fund.

The entire revenues derived from the operation of the System and all parts thereof shall be deposited by the Issuer in the Revenue Fund. All moneys in the Revenue Fund shall be disposed of only in the following manner and order of priority and in compliance with the Prior Ordinance:

- (1) The Issuer shall first, each month, pay from the Revenue Fund the current Operating Expenses of the System.
- (2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) the amount necessary to pay the interest on the Prior Bonds as prescribed in the Prior Ordinance; and (ii) an amount equal to the amount of interest which will become due on the Series 2009 A Bonds on the next monthly interest payment date.
- (3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) the amount necessary to pay the principal on the Prior Bonds as prescribed in the Prior Ordinance; and (ii) an amount equal to the amount of principal which will mature and become due on the Series 2009 A Bonds on the next monthly principal payment date.
- (4) If the Purchaser waives the funding of a reserve account, then the Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission the amount necessary to pay the required Reserve Account payments as prescribed by the Prior Ordinance. If the Purchaser does not waive a reserve requirement, then such requirement shall be established in the Supplemental Resolution.
- (5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund to the Renewal and Replacement Fund the amounts required by the Prior Ordinance with respect to the Prior Bonds.

Moneys in the Sinking Fund shall be used only for the purposes of paying principal of and interest on the Bonds as the same shall become due. The Series 2009 A Bonds shall have no lien on the Prior Bonds Reserve Account held at the Commission.

The Issuer shall also, from the Revenue Fund, remit to the Commission on such dates or at such other times as the Commission shall require such additional sums as shall be necessary to pay the Prior Bonds.

Moneys in the Sinking Fund shall be invested and reinvested by the Commission in accordance with Section 4.03 hereof.

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

The City shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Paying Agent the required interest, principal and reserve account payments.

Except as provided above and in the Supplemental Resolution, all sinking fund, reserve account, payments shall remain as governed by the Prior Ordinance and depreciation fund.

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

Section 4.03. Investments. Any moneys held as a part of the funds and accounts created by this Ordinance shall be invested and reinvested by the Commission, the Depository Bank or such other bank or national banking association holding such fund or account, as the case may be, at the direction of the City at any Qualified Investments to the fullest extent possible under applicable laws, this Ordinance, the Prior Ordinance, the need for such moneys for the purposes set forth herein and the specified restrictions and provisions set forth in this Section 4.03.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount. The Paying Agent, the Depository Bank or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss of such liquidation. The Depository Bank or such other bank or national banking association may make any and all investments permitted by this section through its own investment or trust department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the City, at least once each year (or more often if reasonably requested by the City), a summary of such funds, accounts and investment earnings. The City shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest on the Bonds from gross income for federal income tax purposes.

ARTICLE V

DEFAULT AND REMEDIES

Section 5.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

- (1) If default occurs in the due and punctual payment of the principal of or interest on the Bonds; or
- (2) If default occurs in the City's observance of any of the covenants, agreements or conditions on its part relating to the Bonds set forth in this Ordinance, any supplemental resolution or in the Bonds, and such default shall have continued for a period of 30 days after the City shall have been given written notice of such default by the Paying Agent, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Registered Owner of a Bond; or
- (3) If the City files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or
- (4) If default occurs with respect to the Prior Bonds or the Prior Ordinance.

Section 5.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the City to perform its duties under the Act and the Ordinances relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds; (iv) by action at law or bill in equity require the City to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Ordinances with respect to the Bonds, or the rights of such Registered Owners.

Section 5.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the City under the Ordinance and the Act, including, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to the Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the City, with the power to charge rates, rents, 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, rents, fees, charges or other revenues in conformity with the provisions of this Ordinance and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of the System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the City exercise all the rights and powers of the City with respect to said facilities as the City itself might exercise.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Ordinance for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Ordinance shall have been cured and made good, possession of the System shall be surrendered to the City upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the City and for the joint protection and benefit of the City and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the City and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Ordinance, and the title to and ownership of the System shall remain in the City, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE VI

ADDITIONAL COVENANTS OF THE CITY

All the covenants, agreements and provisions of the Prior Ordinance shall remain in full force and effect as long as the Prior Bonds are outstanding and shall apply to the Bonds as if fully set out herein. The following covenants are supplemental and in addition to the covenants set forth in the Prior Ordinance.

Section 6.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Ordinance shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Registered Owner of the Bonds. In addition to the other covenants, agreements and provisions of this Ordinance, the Issuer hereby covenants and agrees with the Registered Owner of the Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 6.02. Bonds not to be Indebtedness of the Issuer. The Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Ordinance. No Registered Owner of the Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Bonds or the interest, if any, thereon.

Section 6.03. Bonds Secured by Pledges of Net Revenues: Lien Position with respect to Prior Bonds. The payment of the debt service of the Bonds shall be secured equally and ratably by a first lien on the Net Revenues derived from the operation of the System with each other and with the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and the Prior Bonds and to make the payments into the sinking funds and the reserve accounts, if any, therein and in the Renewal and Replacement Fund established herein or in the Prior Ordinance are hereby irrevocably pledged to the payment of the principal of and any interest on the Bonds and the Prior Bonds as the same become due.

Section 6.04. Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. The schedule of rates and charges shall at all times be adequate to produce gross revenue from said System sufficient to pay operating expenses and to make the prescribed payments into the funds and accounts created or maintained hereunder. Such schedule of rates and charges shall be revised from time to time, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes.

So long as the Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Ordinance. The Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be at least sufficient to provide for all reasonable operating expenses of the System and leave a balance each

year equal to at least one hundred fifteen percent (115%) of the maximum annual amount required to pay the interest on and principal of the Bonds and all other obligations secured by or payable from the revenues of the System prior to or on a parity with the Bonds, as the same become due and accomplish retirement of all Bonds for the payment of which such revenues have or shall have been pledged, charged or otherwise encumbered. In the event the schedule of rates and charges initially established for the System in connection with the Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Ordinance, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Ordinance. To the extent permitted by law, all such rates and charges, if not paid when due, shall constitute a lien upon the premises served by the System.

Section 6.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of or encumber the System, or any part thereof, except as provided in the Prior Ordinance. Additionally, so long as the Bonds are outstanding and except as otherwise required by law or with the written consent of the Purchaser, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding in accordance with Article X hereof. A portion of proceeds from any such sale, mortgage, lease or other disposition of the System that is sufficient to pay the entire outstanding principal and interest on the Bonds shall, with respect to the Bonds, immediately be remitted to the Paying Agent for deposit in the Bonds Sinking Fund and the Issuer shall direct the Paying Agent to apply such proceeds to the payment of principal of and interest, if any, on the Bonds. Any balance remaining after the payment of the Bonds and the interest, if any, thereon shall be remitted to the Issuer by the Paying Agent.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$100,000, the Issuer shall first, determine, upon consultation with the Consulting Engineers, that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$10,000 and not in excess of \$100,000, shall, with the written consent of the Authority, be deposited in the Renewal and Replacement Fund. Such payment of such proceeds into the Sinking Funds or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Ordinance.

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 \$100,000 and insufficient to pay all Bonds then Outstanding, without the prior approval and consent in writing of the Registered Owners, or their duly authorized representatives, of sixty-six and two-thirds percent (66 2/3%) of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Registered Owners of the Bonds for the disposition of the sale, lease or other disposition of such properties of the System.

Section 6.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 6.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds. All obligations issued by the Issuer after the issuance of the Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Bonds, and the interest, if any, thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Ordinance, or upon the System or any part thereof.

The Issuer shall give the Purchaser prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants for the Project, or any other obligations related to the Project or the System.

Section 6.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinance shall be applicable. Additionally, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Bonds except under the conditions and in the manner provided in this Ordinance.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of design, acquisition or construction of additions, extensions, improvements or betterments to the System or refunding any Bonds outstanding or both such purposes.

All covenants and other provisions of this Ordinance (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Registered Owners of the Bonds, the Prior Bonds and the Registered Owners of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section and the Prior Ordinance. All such Bonds, Prior Bonds and Parity Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Net Revenues of the System, and their source of and security for payment from the Net Revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Ordinance required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Ordinance.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Bonds.

No Parity Bonds shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Ordinance and the Prior Ordinance with respect to the Bonds then Outstanding, and any other payments provided for in this Ordinance and the Prior Ordinance, shall have been made in full as required to the date of delivery of the Parity Bonds, and the Issuer then be in full compliance with all the covenants, agreements and terms of this Ordinance and the Prior Ordinance and every ordinance supplemental thereto, or shall have fully corrected any delinquency or deficiency in such payments and compliance.

Section 6.08. Books, Records and Audit. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Registered Owner of the Bonds issued pursuant to this Ordinance shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

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

The Issuer shall mail in each year to any Registered Owner of the Bonds requesting the same, an annual report containing the following:

- (A) A statement of Revenues and Operating Expenses derived from and relating to the System.
- (B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Ordinance and the status of all said funds and accounts.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants (and to the extent legally required in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto), and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Registered Owner of the Bonds. Such audit report submitted to the Purchaser shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Section 6.09. Rates. Prior to the issuance of the Bonds, equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of the rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder and meet the requirements of the Prior Ordinance.

The Issuer hereby covenants to commence enactment of such ordinance or ordinances as shall be required to increase the rates and charges for the services and facilities of the System within 60 days following a determination of the Issuer that less than the above-required coverage exists or in the event that the annual audit report shows less than the above-required coverage, such increase to provide rates and charges sufficient to produce such required coverage.

Section 6.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Purchaser within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate by a professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Registered Owner of the Bonds who shall file his or her address with the Issuer and request in writing that copies of any such budgets and Ordinances be furnished him or her, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Registered Owner of the Bonds, or anyone acting for and on behalf of such Registered Owner.

Section 6.11. Insurance and Bonds. A. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Bonds remain outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(i) **Fire, Lightning, Vandalism, Malignant Mischief and Extended Coverage Insurance,** to be procured immediately upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(ii) **Public Liability Insurance,** with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Bonds.

(iii) **Vehicular Public Liability Insurance,** in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated at any time or times for the benefit of the Issuer, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle for the Issuer.

(iv) **Workers' Compensation Coverage for All Employees of the City Eligible Therefor and Performance and Payment Bonds,** such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds have been or will be filed with the Clerk of the County Commission of said County prior to commencement of any construction in compliance with West Virginia Code Section 38-2-39. Workers' compensation coverage shall be maintained as required by the laws of the State of West Virginia.

(v) **Flood Insurance** to be procured, to the extent available at reasonable cost to the Issuer.

(vi) **Fidelity Bonds** will be provided as to every member of the Governing Body and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues or other funds of the Issuer in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of \$50,000, upon the treasurer.

Section 6.12. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided as long as the Bonds are outstanding.

Section 6.13. Compliance With Law. The City hereby covenants and agrees to perform, satisfy and comply with all terms, conditions and requirements of all applicable laws, rules and regulations issued by the State, federal or local bodies in regard to the operation, maintenance and use of the System.

Section 6.14. Operating Budget. The Sanitary Board shall annually prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for the operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Purchaser within 30 days of the adoption thereof.

Section 6.15. Tax Covenants. The City hereby further covenants and agrees as follows:

- A. **PUBLIC PURPOSE BONDS.** The City shall use the Bond proceeds solely for the current refunding of the Series 1998 A Bonds and as otherwise set forth herein.
- B. **PRIVATE ACTIVITY BOND COVENANT.** The City shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The City will take all actions necessary to comply with the Code in order to assure the tax-exempt status of the Bonds.
- C. **PRIVATE LOAN LIMITATION.** The City shall assure that not in excess of the lesser of 6% of the proceeds of the Bonds or \$5,000,000 are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.
- D. **FEDERAL GUARANTEE PROHIBITION.** The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be "federally guaranteed" within the meaning of Section 148(b) of the Code.
- E. **INFORMATION RETURN.** The City shall file all statements, instruments and returns necessary to assure the tax-exempt status of the Bonds, and the interest thereon, including, without limitation, the information return required under Section 149(e) of the Code.
- F. **FURTHER ACTIONS.** The City shall take any and all actions that may be required of it so that the interest on the Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those deemed necessary by the Authority) which would adversely affect such exclusion.
- G. **QUALIFIED TAX-EXEMPT OBLIGATION STATUS.** The Issuer does not reasonably expect to issue more than \$10,000,000 of tax-exempt obligations during the calendar year 2009 (excluding, however, private activity bonds, as defined in Section 141 of the Code, other than qualified Section 501(c)(3) bonds, as defined in Section 145 of the Code, and certain refunding bonds, as described in Section 268(b)(3)(D)(ii) of the Code), and the Issuer has designated the Bonds as "qualified tax-exempt obligations," as defined in Section 266(b)(3)(B) of the Code.

Section 6.16. Small Issuer Exemption from Rebate of Excess Investment Earnings to the United States. In accordance with Section 148(f)(4)(D) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that no part of the Bonds are private activity bonds; 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) issued by the Issuer during the calendar year in which the Bonds are issued does not and will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code and the Regulations from time to time in effect and applicable to the Bonds. For purposes of the first paragraph of this Section and for purposes of applying Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying the first paragraph of this Section and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this first paragraph of this Section and Section 148(f)(4)(D) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(D) of the Code and all other entities benefiting thereby shall be treated as one issuer.

Section 6.17. Arbitrage. The City covenants that (i) it will not take, or permit or suffer to be taken, any action with respect to the proceeds of the Bonds which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Bonds) so that the interest on the Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 6.18. Tax Certificate and Rebate. The City shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebates and other tax matters as a condition to issuance of the Bonds. In addition, the City covenants to comply with all Regulations from time to time in effect and applicable to the Bonds as may be necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds and fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of the Ordinance.

If it is determined that the City does not qualify for an exception to Section 148 of the Code or the City is otherwise subject to rebate in connection with the Bonds, the City shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 149(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Purchaser, the City shall deposit, or cause to be deposited, with the Depository Bank in a separate fund designated the Rebate Fund, such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder, if any, and used only for payment of rebatable arbitrage to the United States. The City shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the City to be used for any lawful purpose of the System. The City shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the City shall assure that such payments are made by the City to the United States, on a timely basis, from any funds lawfully available therefor. In addition, the City shall cooperate with the Purchaser 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 Purchaser at the expense of the City. The City may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the City may deem appropriate in order to assure compliance with this Section 6.18. The City shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 6.18 in accordance with the requirements of Section 148(f) of the Code. In the event the City fails to make such rebates as required, the City shall pay the required rebate amount and all interest, penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, and take any other actions necessary, in order to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes.

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

ARTICLE VII

PAYMENT OR DEFEASANCE OF BONDS

Section 7.01. Payment or Defeasance of Bonds. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the respective Registered Owners of all the Series 2009 A Bonds the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Ordinance, then this Ordinance and the pledges of the Net Revenues and other moneys and securities pledged hereunder, and all covenants, agreements and other obligations of the City on behalf of the Registered Owners of the Series 2009 A Bonds made hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied, except as may be necessary to assure the exclusion of interest on the Series 2009 A Bonds from gross income for federal income tax purposes.

Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due the respective principal of and interest on such Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or an escrow trustee either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Commission or said escrow trustee or if the City irrevocably determines to redeem any of said Bonds prior to the maturity thereof, on and prior to said redemption date. Neither securities nor moneys deposited with the Commission or an escrow trustee pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on said Bonds; provided, that any cash received from such principal, redemption premium, if any, and interest payments on such securities deposited with the Commission or said escrow trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and interest to become due on said Bonds on and prior to such maturity or redemption dates thereof, and interest earned from such reinvestments shall be paid over to the City as received by the Commission or said escrow trustee, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations or such additional securities as shall be set forth in the Supplemental Resolution.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Modification or Amendment. Prior to the issuance of the Bonds, this Ordinance may be amended or supplemented in any way by a Supplemental Resolution. Following issuance of the Bonds, no material modification or amendment of this Ordinance or of any ordinance or resolution ancillary hereto or supplemental hereto which would materially and adversely affect the rights of Registered Owners shall be made without the consent in writing of the Registered Owners of the Bonds then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the City to pay such principal and interest out of the revenues of the System without the consent of the Registered Owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds required for consent to the above permitted amendments or modifications. Notwithstanding the foregoing, this Ordinance may be amended without the consent of any Registered Owner as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest on the Bonds from gross income of the Registered Owners thereof.

Section 8.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Bonds.

Section 8.03. Repeal of Conflicting Ordinances. All ordinances, resolutions and orders, or parts thereof, other than the Prior Ordinance, in conflict with this Ordinance are, to the extent of such conflict, repealed.

Section 8.04. Covenant of Due Procedure. The City covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the Recorder and members of Council and the Sanitary Board were at all times when any actions in connection with this Ordinance occurred, and are, duly in office and duly qualified for such office.

Section 8.05. Statutory Notice and Public Hearing. Upon adoption hereof, the abstract of this Ordinance in the form set forth in Exhibit B attached hereto and incorporated herein by reference, shall be published once a week for two successive weeks, with at least 6 full days intervening between each publication, in the Record Delta, a qualified newspaper published and of general circulation in the City of Buckhannon, together with a notice stating that this Ordinance has been adopted and that the City contemplates the issuance of the Bonds, and that any person interested may appear before the Council upon a certain date, not less than 10 days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the City for review by interested persons during office hours of the City. The Council hereby determines that the abstract contains sufficient information as to give notice of the contents hereof. At such hearing, all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

Section 8.06. Effective Date. This Ordinance shall take effect immediately following public hearing and final reading hereof.

First Reading:	February 19, 2009
Second Reading:	March 5, 2009
Public Hearing and Third Reading:	March 19, 2009

Mayor

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as City Recorder of the City of Buckhannon, Upshur County, West Virginia, do hereby certify that the foregoing document is a true and accurate copy of the official record of the City of Buckhannon, such records being in the custody of the undersigned and maintained at the City of Buckhannon, City Hall, Buckhannon, Upshur County, West Virginia, and that the action taken by the Council in the foregoing document remains in full force and effect and has not been amended.

Dated this _____ day of _____, 2009.

City Recorder

[SEAL]

EXHIBIT A

FORM OF SERIES 2009 A BOND

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS,
SERIES 2009 A

NUMBER: A- _____ **INTEREST RATE:** _____%

MATURITY DATE: _____ **BOND DATE:** _____

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____ DOLLARS
(\$ _____)

KNOW ALL MEN BY THESE PRESENTS THAT THE CITY OF BUCKHANNON, (hereinafter called the "Issuer"), for value received, promises to pay to the order of _____ or its registered assignee (the "Purchaser"), but solely from the sources and in the manner hereinafter provided, the principal sum of _____ DOLLARS (\$ _____), in lawful money of the United States of America, together with interest on the unpaid principal balance thereof from the date of advance as endorsed hereon until paid, as follows:

The Bonds shall be payable and shall mature as follows:

(A) _____

(B) _____

(C) Notwithstanding any other provision of this Bond or the Ordinances to the contrary, in the event of a Determination of Taxability, the rate of interest on the Bonds shall be equal to the Taxable Rate. Interest at the Taxable Rate shall commence to accrue on the date upon which a Determination of Taxability becomes effective, and such interest rate shall be charged retroactively and prospectively for all periods in which interest paid on the Bonds is asserted, declared or determined to be includable in gross income for federal income tax purposes, and shall continue until the entire principal of and interest on the Bonds are paid, notwithstanding that the entire principal amount of the Bonds may have been paid in full prior to the Determination of Taxability and any interest being past due by reason of such increase shall become immediately due and payable; further, the present or former owners of the Bonds shall be entitled to payment, on demand, of any Special Charges. Special Charges means (a) an amount equal to any penalties or interest paid to the Internal Revenue Service or to the State by the present and former owners of the Bonds resulting from the failure to include interest on the Bonds in their gross income for purposes of determining their federal income tax or State income tax, plus any tax payable by them as a consequence of the receipt of such amount; plus (b) an amount equal to all reasonable administrative, out-of-pocket and other expenses, including legal fees and costs, incurred by the present and former holders which are directly or indirectly attributable to interest on the Bonds becoming subject to federal or State income tax as a result of the failure to include interest on the Bonds in their gross income for purposes of determining their federal or State income tax, including, without limitation, costs incurred by the present and former Bondholders in amending their federal or State tax returns. Principal and interest on this bond are payable by the Paying Agent on the Principal and Interest Payment Dates. The principal of and interest on this Bond are payable in lawful money of the United States of America without deduction for the services of the paying agent.

THE BONDS SHALL HAVE A LIEN ON THE NET REVENUES OF THE SYSTEM THAT IS ON A PARITY WITH RESPECT TO THE LIEN ON THE NET REVENUES OF THE PRIOR BONDS. THE BONDS ARE NOT SECURED BY A RESERVE ACCOUNT.

This Bond is issued with the intent that the laws of the State of West Virginia shall govern its construction. This Bond constitutes the entire issuance of an authorized issue of Sewerage System Refunding Revenue Bonds, Series 2009 A (the "Bonds"), issued in the aggregate principal amount of \$ _____ pursuant to the provisions of Chapter 18, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), for the purpose of financing all or a portion of the cost of current refunding the Series 1996 A Bonds and the cost of issuance thereof. The Bonds are issued under and are equally and ratably secured by and entitled to the protection of the Refunding Bond Ordinance enacted by the Issuer on _____, 2009 (the "Ordinance").

An executed counterpart of the Ordinance is on file at the office of said Issuer. The Ordinance contains provisions for the issuance of Parity Bonds. Reference is hereby made to the Ordinance and Supplemental Resolutions supplemental thereto for the provisions, among others, with respect to the custody and application of the proceeds of the Bonds, the collection and disposition of revenues, the special subaccounts and revenues charged with and pledged to the payment of the principal of and interest on the Bonds, the nature and extent of the security, the terms and conditions

under which the Bonds are issued, the terms and conditions under which Additional Bonds may be issued, the rights, duties and obligations of the Issuer, and the rights of the holders of the Bonds, and, by the acceptance of this Bond, the holder hereof assents to all the provisions of the Ordinance.

This Bond is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar but only in the manner, subject to the limitations and upon payment of the charges provided in the Ordinance, and upon surrender and cancellation of this bond. Upon such transfer a new bond or bonds of the same series, interest rate, maturity or maturities and of authorized denomination or denominations, for the same aggregate principal amount, will be issued to the transferee in exchange therefore.

The Issuer and Paying Agent may deem and treat the Registered Owner thereof as the absolute owner hereof (whether or not this Bond shall be overdue) for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

The Bonds may, at the option of the Registered Owner thereof, upon the surrender thereof at the principal office of the Registrar with a written instrument of transfer, in form and with guarantee of signature satisfactory to the Registrar, duly executed by the Registered Owner or its duly authorized attorney, be exchanged for an equal aggregate principal amount of fully registered bonds of the same series, maturity and interest rate of any other authorized denomination.

This Bond is subject to prepayment of the principal balance in whole on a scheduled payment date without a prepayment premium.

The Bonds are limited special obligations of the Issuer and are payable solely out of the money payable under the Ordinance and the Issuer shall not be obligated to pay the Bonds or the interest thereon, except from the special funds derived from the Ordinance. Under the Ordinance, the Issuer must pay the Paying Agent such payments as will be fully sufficient to pay the principal of and interest on the Bonds, as the same mature.

The Registered Owner of the Bond shall have no right to enforce the provisions of the Ordinance or to institute any action to enforce the covenants therein, or to take any action with respect to any event of default under the Ordinance, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Ordinance. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the bonds issued under the Ordinance and then outstanding, may become or may be declared due and payable before the stated maturity thereof together with interest accrued thereon. Modifications or alterations of the Ordinance, or of any supplements thereto, may be made only to the extent and in the circumstances permitted by the Ordinance.

Under the Act, this Bond and the interest hereon are exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

This bond has been designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended. The Issuer does not reasonably expect to issue more than \$10,000,000 of tax-exempt obligations during the calendar year 2009 (excluding, however, private activity bonds, as defined in Section 141 of the Code, other than qualified Section 501(c)(3) bonds, as defined in Section 145 of the Code, and certain refunding bonds, as described in Section 265(b)(3)(D)(ii) of the Code), and the Issuer has designated the Bonds as "qualified tax-exempt obligations," as defined in Section 265(b)(3)(B) of the Code.

In accordance with Section 148(f)(4)(D) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that no part of the Bonds are private activity bonds; that 85% 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) issued by the Issuer during the calendar year in which the Bonds are issued does not and will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code and the Regulations from time to time in effect as applicable to the Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts and conditions necessary to be done or performed by the Issuer or to have happened precedent to and in the issuance of this Bond in order to make this Bond a legal, valid and binding special obligation of the Issuer in accordance with its terms, and precedent to and in the execution and delivery of the Ordinance, have happened and have been performed in regular and due form as required by law; that this Bond does not exceed or violate any constitutional or statutory limitation and that a sufficient amount of money has been pledged to and will be set aside into the Principal and Interest Account by the Issuer for the prompt payment of the principal of and interest on this Bond.

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

IN WITNESS WHEREOF, THE CITY OF BUCKHANNON has caused this Bond to be executed in its name by the manual signature of its Mayor and its seal to be hereunto impressed or imprinted hereon and attested by the manual signature of its City Recorder, all as of the date set forth above.

CITY OF BUCKHANNON

(SEAL)

By: _____
Mayor

By: _____
City Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 A Bonds described in the within named Ordinance and has been duly registered in the name set forth above as of the date set forth below.

Dated: _____

_____ as Registrar

By: _____
Authorized Officer

EXHIBIT A

DEBT SERVICE SCHEDULE

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ (Please print or type name, address and Social Security Number of Transferee) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ as Attorney, to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

EXHIBIT B

CITY OF BUCKHANNON, WEST VIRGINIA

NOTICE OF PUBLIC HEARING AND ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on _____, 2009, the City Council of the City of Buckhannon, West Virginia (the "City") adopted an ordinance which, among other things:

1. Authorized the issuance of not more than \$2,900,000 in aggregate principal amount of Sewerage System Refunding Revenue Bonds, Series 2009 A for the purposes of currently refunding the Issuer's Sewer System Refunding Revenue Bonds, Series 1996 A, and payment of the cost of issuance of the Bonds.
3. Directed that the Bonds be issued in such principal amounts, bear interest at such rate or rates, not exceeding the then legal maximum rate, mature on such dates and in such amounts and redeemable, in whole or in part, as prescribed in a supplemental resolution.
4. Directed the continuation of the revenue fund and the disposition of the System revenues; provided for the payment of operating expenses of the System and debt service on the Bonds; directed the creation of a sinking fund for the Bonds and a reserve account for the Bonds and continuation of the renewal and replacement fund; and directed the creation of a bond proceed trust fund and the disbursement of Bond proceeds.
5. Provided that the Bonds shall not be or constitute a corporate indebtedness of the City within the meaning of any statutory or constitutional limitations, but shall be payable solely from the Net Revenues of the System; pledged the Net Revenues of the System to payment of the Bonds and established the rights of the registered owners of the Bonds to such Net Revenues; provided certain conditions for the issuance of additional bonds.
6. Provided for insurance coverage on the System, enforcement of collection of fees, rates or other charges for the System and other covenants in favor of the registered owners; established the events of default and the remedies of the registered owners; and provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The City contemplates the issuance of and the Bonds described in, and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of the City of Buckhannon at a regular meeting on March ____, 2009, at 7:00 p.m., in the Council Chambers, City Hall, Buckhannon, West Virginia, at 70 East Main Street, Buckhannon, West Virginia 26201, and present protests and be heard as to whether the above-described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of City on _____, 2009, is on file with the City Recorder for review by interested persons at the City Hall during regular office hours, to-wit: 8:00 a.m. to 4:00 p.m., Monday through Friday.

/s/ _____
City Recorder of the City of Buckhannon,
West Virginia

Mr. McCauley reminded Council this is a two reading ordinance. Council Lee said she understood the ordinance would not take effect until the city gets an interest rate at below 4%. David Kirby said it may be difficult to come under 4% and right now, the rate is 4.3 basis points. He said they like to see the net present value savings above 3%. He will continue to monitor it after the second reading.

Mayor Davidson said the concern with the Sanitary Board and City Council was why there were two bond counsels. Taunja Willis-Miller of Jackson & Kelley was present and said she had spoken with Dennis Vaughn. Mr. Vaughn has had a long established relationship with the City. He is winding down to retirement and did not want to leave the city without representation. He has worked on the possible refinancing of the sewer bonds for about five to six years and he asked Jackson & Kelley to work on the documents. The reason for the two letters of engagement is transparency and Mr. Vaughn wanted to be up front with what he was doing. With respect to the fee, Mr. Vaughn thinks the fee is appropriate because of the work over the past five to six years. This arrangement will be co-bond counsel and they will share the responsibility.

Mrs. Shobe asked if the \$90,000.00 cost of issuance had the total bond counsel fees and Mr. Kirby said it did.

Ms. Willis-Miller stated that although the city passes the ordinance on second reading it would still take a supplemental resolution to complete the refinancing of the bonds. She said neither bond counsel is paid until the bond closure.

Mrs. Shobe said she spoke with Mr. Vaughn and he will attend the next city council meeting.

Motion was made by Elizabeth Lee and seconded by Keith Queen to approve Ordinance #343 on first reading. Motion carried.

RESOLUTION 2009-05:

The following Resolution 2009-05 concerning the addressing and mapping in the city was presented:

RESOLUTION NO. 2009-05 OF THE COUNCIL OF THE CITY OF BUCKNANHON ESTABLISHING THE CITY'S POSITION CONCERNING STREET ADDRESSING INCLUDING THE COUNCIL'S DECLARATION OF COOPERATIVE EFFORT WITH THE UPSHUR COUNTY COMMISSION WHILE MAXIMIZING THE PRESERVATION OF CURRENT CITY STREET NAMES AND NUMBERS THROUGH "GRANDFATHERING" OR OTHERWISE, ALL FOR THE SAFETY AND GENERAL CONVENIENCE OF BUCKNANHON CITY RESIDENTS

WHEREAS, the State of West Virginia by and through the State Legislature created the West Virginia Statewide Addressing and Mapping Board in 2001 to enable city-type addressing to be established in most areas of the state primarily for the purpose of accessing and improving 911-1, i.e., emergency response, services; and,

WHEREAS, the Upshur County Commission ultimately was signed by the State with the least of receiving street addressing concerns in Upshur County; and then, when and where appropriate, to implement street address changes; and,

WHEREAS, only very recently the City Council was advised by the Upshur County Commission's representatives that the magnitude of proposed changes of street names and numbers of homes and businesses situated within Bucknannon's corporate limits was likely to affect a majority and potentially all or nearly all of the residents' addressing within the corporate limits; and,

WHEREAS, the City Council has expressed its general concern and disagreement with suggestions that a majority of any substantial minority of addresses within the Bucknannon corporate limits is either required or should be recommended to be changed to strictly conform with state proposed rules and regulations, i.e., the September 2008 "draft" of the West Virginia 911-1 Addressing Reference Guide; and,

WHEREAS, specifically the foregoing proposed and prospectively applicable, State rules and regulations pursuant to "Draft" Rule 6.6.5 and these following provide in pertinent parts that: (1) "(1) It is recommended that any re-numbering of properties or re-numbering of streets be applied only to those specific properties or streets that are a problem, and not to all properties or streets in the community"; (2) "Only existing numbers and names should be changed, leaving alone what is clear, consistent, and acceptable"; and (3) "Under extreme circumstances, a county or municipality with existing city-type addresses may find it needs to re-number all streets of significant numbering consistencies throughout the entire community"; and,

WHEREAS, the City Council specifically finds that with respect to addressing concerns that: (1) there are very few problematic properties or streets within the corporate limits; (2) there are very few conflicting street numbers and street names within the corporate limits and the overwhelming majority of street names and numbers within the corporate limits are clear, consistent, and acceptable; (3) extensive circumstances do not exist within the corporate limits of Bucknannon with the existing city-type addressing that merit comprehensive re-numbering or renumbering of Bucknannon's streets; and (4) there are not significant numbering inconsistencies throughout Bucknannon's corporate limits to justify comprehensive re-numbering and renumbering of Bucknannon's streets; and,

WHEREAS, the City Council expressly rejects any and all findings respecting street addressing by any other person whatsoever or body public whatsoever, contrary to those findings enumerated in the immediately preceding paragraph; and,

WHEREAS, the City Council further finds that there are some certain specific street

addressing problems existing within the Bucknannon corporate limits that may be corrected on a case-by-case, structure-by-structure basis without comprehensive street re-numbering; and,

WHEREAS, in such certain specific problematic areas existing within Bucknannon's corporate limits, the City Council is committed to cooperate with the Upshur County Commission representatives in effort to correct such street addressing problems in the spirit of the 911-1 Addressing Reference Guide; and,

WHEREAS, the City Council finds that the most expedient manner of correcting specific street addressing problems is through the Council's designation of a committee of City officials whose task shall be to cooperate with the Upshur County Commission's designees to identify specific street addressing problems within Bucknannon's corporate limits, and then to promptly bring recommendations for correction back to the City Council for the Council's consideration and possible approval and implementation; and,

WHEREAS, to the maximum extent possible as allowed by law or otherwise, the City Council now desires to declare or to have declared the City of Bucknannon as being "grandfathered" from any mandatory compliance with any technical requirements as arising from any federal or State statute or administrative rule or regulation, or any Upshur County ordinance provision enacted pursuant thereto respecting the issue of street addressing, and specifically street re-numbering and renumbering; and,

WHEREAS, the City Council specifically hereby adopts the Appendix C3 Number Posting Standards completing a portion of the heretofore referenced, proposed West Virginia 911-1 Addressing Reference Guide requiring among other things that: (1) a particular structure's street number shall be permanently displayed on the structure in the vicinity of the front door or entry; (2) numbers shall be a minimum of four (4) inches high and be of a contrasting color to their background; and (3) any numbers different from the officially assigned street address number shall be immediately removed by the property owner, and the Council further directs and orders that all property owners shall comply with all of the foregoing Appendix C3 Number Posting Standards as of before July 1, 2008.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BUCKNANHON, AS FOLLOWS:

(1) The immediately heretofore contained provisions are hereby received by the City Council to be the position of the City of Bucknannon respecting street addressing and numbering within the corporate limits;

(2) Mayor Kenneth Davidson, is expressly hereby authorized to execute and deliver on the City's behalf unto the Upshur County Commission as any other party or entity, any and all reasonable, necessary or appropriate correspondence or other documents to evidence the City Council's position established herein;

(3) The City Recorder shall certify the passage and adoption of this Resolution No. 2009-05, and further shall prepare a certified copy of said Resolution to be delivered unto the Upshur County Commission; and,

(4) This Resolution, or a copy thereof, may be appended to, and made a part of any and all other formal contracts, agreements, correspondence and/or other documentation respecting the matters described herein and further to evidence the actions taken hereon by the Council of the City of Bucknannon.

COUNCIL COMMENTS:

J. David Thomas - Absent

Jerry Henderson - Absent

Keith Queen - Mr. Queen wanted to thank Jerry, Mitch, and their respective departments for the work during the recent storm damage. Chief Tacy said his department answered about 80 calls during the storm.

Pam Cuppari - Mrs. Cuppari said she felt it was a wise decision to get the police dog.

Libby Lee - Mrs. Lee said the mapping and addressing issue could be worked out to meet the needs of the residents.

Nancy Shobe - Mrs. Shobe reminded Council they had just started the budget process and they were not finished.

Mayor Davidson - None

Mayor Davidson asked for an executive session to discuss property, and litigation (6-9a-4). Motion was made by Keith Queen and seconded by Pam Cuppari to go into executive session to discuss property and litigation (6-9a-4). Motion carried.

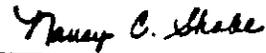
Council went into executive session at 8:40 pm.

No decisions were made in the executive session.

There being no further business to be transacted before this meeting, meeting adjourned at 9:02 p.m.



MAYOR



RECORDER-TREASURER

STATE OF WEST VIRGINIA, COUNTY OF UPSHUR, CITY OF BUCKHANNON, TO-WIT:

The regularly scheduled meeting of the Buckhannon City Council was held on Thursday, March 5, 2009 at 7:00 p.m. at City Hall. The following members attended Mayor Kenneth Davidson, City Recorder Nancy Shobe, Council members: Pam Cuppari, Jerry Henderson, Elizabeth Lee Keith Queen and J. David Thomas. Also attending was City Engineers Sam Ludlow and Burl Smith, Zoning Officer Rich Clemens, City Attorney David McCauley, Fire Chief Mitch Tacy and Police Chief Matt Gregory. SYC Debora Brockleman and Street Commissioner Jerry Arnold were absent. Also attending from the news media was Gary Mallonee of the Inter Mountain, Allison Sharp of the Record Delta and Betty Irvin for TV 3. Also attending were the following:

James P. KUSHAD - J.	2020 KAW BLVD, CHARLESTON, WV
William J. C.	147 Magnolia
John J. C.	167 Randolph
Lee DeWitt	217 Randolph St
Robert C. C.	29 Mason Ave
David R. C.	114 South Brooke Drive, Huntington, WV
Yves L. C.	49 Congress St, Buckhannon, WV 26001
David J. C.	28 E. Randolph St, Ripley, WV 26221
David J. C.	203 W. Randolph St, Ripley, WV 26221
Mary Albaugh	65 Beggs St
Mary Albaugh	47 Beggs St
James L. C.	170 26th St, Ripley, WV 26221
James L. C.	170 26th St, Ripley, WV 26221

Mayor Davidson called the meeting to order and determined a quorum was present. He asked that a moment of silent meditation be observed.

Council member Keith Queen led the pledge to the flag.

The minutes of the meeting held on February 18, 2009 were approved as submitted.

Mayor Davidson asked city council approval to amend the agenda to add mapping upgrade proposal under Engineer Burl Smith's report. Council had no objection

GUESTS:

WVWC Students -

Mayor Davidson asked the students from WVWC to stand and introduce themselves.

Mary Albaugh:

Mary Albaugh appeared before city council to report that she along with three other residents attended the county commission meeting today. She gave each council member a copy of the commission agenda and advised the Resolution 2009-05 was on their agenda but they took no action on the request for grandfathering of city addresses.

The commission representative, Mapping & Address Coordinator, Terri Jo Bennett advised them not to make a decision because she was going to a WV Statewide Mapping and Addressing Board meeting in Charleston that afternoon to discuss the problems with the city. We were asked if we had any questions and we informed them we only came to observe the meeting and we had assumed our Mayor was going to be there to represent the city's request for grandfathering. They further explained to the commission, they could not speak for the city council but only as residents of the City.

The commission confirmed that the grandfathering in is one process and the city having their own ordinance is another. The commission also informed us that no decision would be made until Terri Jo Bennett's questions to the State Board were addressed and more information was brought back to them.

Mrs. Bennett advised them as they were leaving the meeting the purpose of going to the meeting today in Charleston was to ask if the county proceeds with its project up to where they are now, would they be reimbursed. The second questions is it better for the city to have their own ordinance rather than being grandfathered in with the county because it appears the city and county will never agree on the issue even if they would be working under the guidelines of the county's ordinance. She said she is going to ask if it is acceptable for the City of Buckhannon to create an independent ordinance or is it too late for the city to do that. She provided a copy of the county ordinance to her at the meeting. She advised that Mayor Davidson was originally going to attend the meeting today; however, he felt it should be more than just one person from council attending. Her concern was the residents had no representation from the council at the commission meeting today or at the WV State Board meeting in Charleston.

Mayor Davidson advised that he heard from Terri Jo Bennett this evening and she said the State Address & Mapping Board is sympathizes with the city and if they receive a letter from the city, they are willing to opt them out of the county ordinance. One other option is for the city to draft their own ordinance.

Mrs. Bennett felt she got positive feed back from the meeting today in Charleston. Mr. Davidson said he would know more on Monday after he can speak directly with Mrs. Bennett.

Mrs. Albaugh said Mrs. Bennett had indicated to her she had not been invited to the meeting on March 12 @ SYC and she encouraged Mayor Davidson to ask Mrs. Bennett to attend.

DEPARTMENT REPORTS:

CHIEF OF POLICE: Chief Gregory reported the newest officer Canine Tess has started programs in the schools and has been at the Buckhannon-Academy Elementary School. He advised the new cruiser is on the road and is sporting the new striping scheme, which will be used on future police cars. He said this give the police department a unique quality and has the city seal on the cars.

Chief Gregory presented the following report for February 09:

POLICE ACTIVITIES

MONTH: **FEBRUARY**

YEAR: **2009**

ACTIVITIES:

Parking Tickets Issued:

By Parking Enforcement Officer: 318

By Officers: 20

TOTAL ISSUED: 338

Warning Tickets Issued: 84

Citations Issued: 127

Misdemeanor Arrests: 11

Felony Arrests: 3

Calls Answered: 514

Complaint Reports: 21

Accidents Investigated: 14

Training Hours: 000

Community Policing Hours: 116

Patrol Mileage: 7,850

Run 3/02/2009 11:18AM	Upshur County Court/Clerk End Of Month Report 2/1/2009 To 2/28/2009 (Filtered by Unit Department Assignment)	Page 1	Run 3/02/2009 11:18AM	Upshur County Court/Clerk End Of Month Report 2/1/2009 To 2/28/2009 (Filtered by Unit Department Assignment)	Page 2		
30	Buckhannon Police Department						
		ALL CALLS	CALLS WITH NPT NO	Legal Activity / Criminal Misdemeanor			
		IN THAT UNIT OR ASSIGNED UNIT OR UNIT					
911 Abandoned Car	NATURE CODE: 911A	1	0	Injured / Dazed Driver	NATURE CODE: ILACT	1	0
911 Hangup	NATURE CODE: 911H	2	0	Juvenile Complaint	NATURE CODE: DEBR	2	0
911 Open Lid	NATURE CODE: 911O	2	0	License Complaint	NATURE CODE:AN COMP	2	0
Abandoned/Clashed Vehicle	NATURE CODE: AVD	1	0	Live Demo	NATURE CODE: LINE DN	1	0
Arrest	NATURE CODE: ARRS	15	0	Moving Person	NATURE CODE:MSB PER	1	0
Animal Problem	NATURE CODE: ANMAL	2	0	MVA - No Injuries	NATURE CODE: MVA	15	2
Assault	NATURE CODE: ASLT	1	1	MVA-Uninjured Injuries	NATURE CODE: MVA-UNINJ	1	1
Assist Other Agency	NATURE CODE: ASBRT	1	0	Noise Complaint	NATURE CODE: NOISE	4	0
B & E / Vehicle	NATURE CODE: B&E-CAR	1	0	Overpass	NATURE CODE: OO	1	1
B & E/Business	NATURE CODE: B&E-BUS	4	0	Parking Complaint	NATURE CODE:SPRNGCOMP	1	0
Battery	NATURE CODE: BATT	2	1	Property Dispute	NATURE CODE: PROP	2	0
Be On The Look Out For	NATURE CODE: BOLD	1	0	Private	NATURE CODE:PRIVMULEA	3	0
Bugler Alarm - Business/Place	NATURE CODE:BUGALARM	7	0	Public Intoxication	NATURE CODE: PUBINT	3	0
Call For Officer	NATURE CODE:CALLOFF	10	0	Reckless Driving	NATURE CODE:RECK DRV	0	0
Call Melder	NATURE CODE: CIVL	2	0	Revealed Unlicensed Person	NATURE CODE:REUN/PER	3	0
Courtesy/Violation	NATURE CODE: CURTAS	1	0	Road/Traffic Hazard	NATURE CODE: RD HAZ	2	0
Disturbance Of Property	NATURE CODE: DOP	0	0	Sexual Offense	NATURE CODE: SEX OFF	1	0
Disturb Vehicle	NATURE CODE: DIS VEH	1	0	Shots Fired	NATURE CODE:SHOTS-FIR	1	0
Disturbance	NATURE CODE: DIST	2	0	Stolen Property	NATURE CODE: THEFT	3	0
DO NOT TOW	NATURE CODE: NO TOW	1	0	Suicide-Threatened	NATURE CODE: SUIC-THR	1	0
Domestic / Active	NATURE CODE: DOMA	3	0	Suspicious Activity	NATURE CODE: SUSP ACT	3	0
Domestic / Non-Active	NATURE CODE: DOMN	2	0	Suspected Person	NATURE CODE: SUSP PER	4	0
Drug-Tip Job	NATURE CODE: DRUG	4	0	Threats	NATURE CODE: THREAT	0	0
Drunk Driving	NATURE CODE: DUI	1	0	Traffic Stop	NATURE CODE: TS	150	0
Duplicate Call	NATURE CODE: DUPL	1	0	Unconscious Person	NATURE CODE: UNCON	1	1
Emergency Assist	NATURE CODE: EMER	1	0	Unknown Medical	NATURE CODE:UNKN MED	1	1
Exit Patrol	NATURE CODE: EXT PAT	1	0	Unrec Vehicle	NATURE CODE:UNREC VEH	3	0
Flight	NATURE CODE: FIGHT	0	0	Unresponsive Person	NATURE CODE: UNRESP	2	2
FOLLOW-UP	NATURE CODE: POLUP	17	0	Vanless	NATURE CODE: VAND	2	0
Fraud	NATURE CODE: FRAUD	1	0	Victim Of A Fall	NATURE CODE: FALL	3	3
Garage Sale	NATURE CODE: INFO	0	0	Warrant - EPO	NATURE CODE:WAR-EPO	3	0
Harassment	NATURE CODE: HARASS	4	0	Welfare Concern	NATURE CODE: WELFCN	0	2
Hi And Run	NATURE CODE: HIRUN	5	0	Wrong Way Vehicle	NATURE CODE: WWV	1	0
				Totals For: Buckhannon Police Department		363	10

FIRE CHIEF: Chief Mitch Tacy reported the pump operator class would begin next week. He updated council on the radio tower being built by a grant received by the Upshur County Commission. He said he would need to update the fire department license. The tower is expected to be complete by July or August 09.

He said he had not received formal word but was getting calls from the press about the fire department being awarded a \$44,000.00 fire act grant. This will be used for a new cascade system to refill the air bottles and other miscellaneous equipment.

STREET COMMISSIONER: Mr. Arnold was absent.

ZONING OFFICER: Mr. Clemens presented the following report:

To: Members of City Council
 From: Nick Clemens, Zoning Officer
 Date: Thursday, February 6, 2009
 Re: Activity report for the month of February 2009

Zoning, Planning and Development

The **Zoning Board of Appeals** met on February 24, 2009 and approved a variance request to construct a residential structure in the downtown area that meets the residential fire code but does not meet the commercial fire code as is required but not stated in the C-1 district. One position continues to be open and available on the board.

Zoning and Building received applications with emphasis on repair, storage buildings, and small additions plus a single parcel in excess of 2.0 acres for the construction of a wooden ball on the campus of West Virginia University.

The **Historic Landmark Commission** continues to work on the planned Historic District in the City and has had to modify their plans at the direction of the West Virginia Department of History and Culture to provide only one historic district (the downtown district) under the current grant along with a survey of a total of 238 houses and buildings in the City.

The **Planning Commission** working group has distributed a DRAFT of the Buckhannon 2010 plan to City Council, City Commission, and the County Commissioners. We will be holding a second draft and we will be holding a public hearing with the full planning Commission in March 16 at 7:00 in Council Chambers for additional comments. We strongly encourage your review of the draft and please provide written comments regarding the draft by March 16 if you have not already provided your comments.

Activity Report:

1) Building Permits Issued	Total Value \$1,674,286	Median Value \$2,580
2) Zoning Applications Received		
1) approved		
0) pending		
1) denied		
0) appealed		
2) Variances/Conditional		
1) certain permits/revised subordinate complete received		
2) certain permits/revised or pending		
4) major construction projects are active within the City		

Meeting Subcommittees

- Weekly inspections of the City and investigation of complaints continue.

Buildings-Inspector/Asst. Authority

- The Asst. Authority held a meeting on February 10 and has authorized the design and construction of an additional set of restrooms on the South side of the airport.

Technology Subcommittees

- Preliminary configuration of the new servers.
- An RFP for a new Financial Information System has been completed and issued with its responses and the bids received. The review of the bid proposals has begun and I anticipate having a recommendation for Council in the near term.

Council member Pam Cuppari asked about the Latham house on Latham Street and if there was anything that could be done to make it safe. She said the windows are being broken out and the door is open. Mr. Clemens said the Historic Landmark Commission is working with the owner to help safe probably the most notable home left in Buckhannon.

Council Cuppari also asked when how a zoning application was denied. Mr. Clemens said he was only permitted to grant approval for those meeting the zoning code. He said is always tries to reach an agreement with the owner but if the permit is denied they have the right to appeal to the Zoning Board of Appeals.

CITY ENGINEER/SANITARY SUPT: Mr. Ludlow reported most of his department work has been routine.

CITY ENGINEER: Mr. Smith presented the following memo concerning the mapping project:

Memo

CITY OF BUCKHANNON
 70 East Main Street
 Buckhannon, WV 26001
 Tele 304-472-1801 FAX 304-472-4628

To: Members of City Council, Water Board, Water Board, Sanitary Board & Consolidated Public Works Board
 From: Neil Smith, Sam Ludlow, Jerry Arnold
 Date: February 13, 2009
 Re: Mountain Air Service, Mountain Air Service, LLC

On Wednesday, January 14th Mountain Air Services LLC (MAS) presented a written proposal and determination to various members of Council and the Board regarding the acquisition, processing and delivery of Orthoregistry and Lidar Data for 467 maps measured 1500' by 1000' (over 14,000 acres). This area includes all of the City of Buckhannon corporation and area presently covered by our utilities outside of the City with additional area for expansion.

Simply speaking this is a proposal to provide:

- Current aerial photos for all of existing mapped area and for the entire 16,000 acres at a 6-inch pixel resolution. The current photos are for 352 of the 467 maps and are at an 8-inch pixel resolution;
- One-foot contour mapping for the entire area. The current mapping is dated 1993, is a two-foot contour and is for 352 of the 467 maps;
- and, Lidar data to be available for future use for the entire area.

The above items can be used in conjunction with our existing mapping for current projects and projects many years in the future such as: water projects, sanitary & storm sewer projects, permitting for the Transfer Station and Landfill, access, roads, parks, and other unassignable uses.

The total cost is \$12,718.98 with the proposal for the Water Board, Water Board, Sanitary Board and Council Panel to share equally in the cost - \$4,142.25. **In the discussions, Board and Council members are reminded that such matters are the responsibility of the Board.**

A copy of the four-page proposal from MAS dated January 14, 2009 is attached.

We advertised in our local paper for competitive proposals but MAS was the only proposal received by the February 12th deadline.

Questions? Please call us.

Motion was made by Jerry Henderson and seconded by Keith Queen to approve the participation in the purchase of the mapping system at a cost of \$8,125.25 for the general fund share of the project. Motion carried.

Mr. Ludlow said without this tool they would not be able to do the project they have done and it has been an effective investment since 1993.

STOCKERT YOUTH CENTER – Debora Brockleman was absent.

CITY ATTORNEY – Mr. McCauley reported the city had a booth at the GO GREEN CONVENTION held at WVWC. He worked the booth and had several folks stop by for the information provided by the city. He said there were about 1000 attendees.

He reported he continues to work on the TV Cable matters and the city is in the process of re-negotiating the franchise agreement with Suddenlink. Two issues discussed at the TV Cable meeting was HDTV and the removal of WTAE – channel 4 Pittsburgh. He said he hoped to have a good outcome with both matters.

He said if channel 4 is re-activated, the citizens needed to know that WBOY has the right to exercise their exclusive right to broadcast ABC and therefore the channel would be blacked out most of the time. He suggested citizens write letters to Representative Shelly Moore-Capito since it is federal law, which permits them to do this. He also suggested letter to Bray Cary, owner of WV Media and WBOY.

He reminded council there are opening on the TV Cable Board due to Andy Duncan's moving out of the area.

He continues to work on the annexation of Rt. 20 North. He said he has been helping Sam Ludlow with documentation that the city owns Madison and Spring Streets. This is being done for the Army Corps of Engineers grant for the sanitary sewer at Jawbone

RELEASE AGREEMENT WITH CLAREDON LAW SUIT:

The following release agreement from the Claredon lawsuit was presented for the record:

RELEASE AND SETTLEMENT AGREEMENT

RECITALS

1. WHEREAS the City of Buckhannon, West Virginia was insured by Claredon National Insurance Company pursuant to Policy No. APR12-0293-03.
2. WHEREAS the City of Buckhannon, West Virginia had claims and/or a lawsuit filed against it by several defendants alleging various employment related claims in the case styled: *Anderson et al. v. The City of Buckhannon*, Civil Action No. 05-C-15 (Circuit Court of Upshur County, West Virginia) (hereinafter referred to as "the underlying lawsuit").
3. WHEREAS the City of Buckhannon, West Virginia claims that it is or was entitled to a defense and indemnity by or from Claredon National Insurance Company with respect to the claims in the underlying lawsuit.
4. WHEREAS Claredon National Insurance Company claims that pursuant to the terms, conditions and exclusions of Policy No. APR12-0293-03 that the City of Buckhannon, West Virginia was never entitled to a defense or indemnity for the allegations for the reasons disclosed more particularly in the Complaint for Declaratory Judgment filed in the case styled: *Claredon National Insurance Company v. The City of Buckhannon, West Virginia*, Civil Action No. 2:08-CV-17 (United States District Court, Northern District of West Virginia at Elkins) (hereinafter "the subject lawsuit").
5. WHEREAS the parties now wish to compromise and settle any and all claims and counterclaims that have arisen or could have arisen out of the underlying lawsuit and the subject lawsuit including the declaratory judgment claims of Claredon and the counterclaim of the City of Buckhannon, West Virginia.

COPY

GENERAL RELEASE AND AGREEMENT

For and in consideration of the sum of Fifty Thousand Dollars (\$50,000.00) cash in hand paid by Claredon National Insurance Company to the City of Buckhannon, West Virginia, the receipt and sufficiency of which is hereby acknowledged, the City of Buckhannon, West Virginia hereby releases, acquits and discharges the said Claredon National Insurance Company, its successors, servants, employees, agents and assigns and insurers, and any and all other persons, firms or corporations, of and from any and all actions, causes of action, damages, claims or demands that the City of Buckhannon, West Virginia may now or hereafter have, including but not limited to claims for a defense or indemnity, insurance coverage, warranty, negligence, breach of contract, property damage, common law or statutory bad faith, or any other claims arising out of the underlying lawsuit or the subject lawsuit.

To procure payment of said amount and sum, the City of Buckhannon, West Virginia acknowledges that no representations about the nature or extent of said damages or claims made by any party hereby released, nor any representations regarding the nature or extent of legal liability or financial responsibility of any parties hereby released, have induced the City of Buckhannon, West Virginia to make this settlement; that in determining said amount and sum, there has been taken into consideration not only the ascertained damages, but also the possibility that the damages sustained by the City of Buckhannon, West Virginia may be permanent and/or progressive in nature, so that consequences not now anticipated may result therefrom; that in making this settlement it is understood and agreed that the City of Buckhannon, West Virginia relies wholly upon its belief, judgment, and knowledge of the nature, extent, and duration of said damages and claims.

The undersigned agrees as further consideration and inducement for this compromise settlement, that it shall apply to all unknown and unanticipated claims, losses, and damages arising out of the underlying lawsuit or the subject lawsuit.

The undersigned further agrees that the settlement set forth in this Release represents a full and complete settlement of any and all claims which the City of Buckhannon, West Virginia may have in connection with the underlying lawsuit or the subject lawsuit and the City of Buckhannon, West Virginia agrees that it shall be solely responsible for any payment or repayment that may be due to any party or entity who has an interest or subrogation interest with respect to any payments made, so or on its behalf, for any expenses arising from the above-described claims. The City of Buckhannon, West Virginia expressly agrees to indemnify, defend, and hold harmless those individuals who are discharged by this Release from any and all claims by way of subrogation or with respect to payments made to the City of Buckhannon, West Virginia or on its behalf.

The City of Buckhannon, West Virginia understands that the parties hereto released claim no liability of any sort and that said amounts said sum, in payment and settlement, is a compromise settlement made of disputed claims, and is made to terminate further controversy respecting all claims for damages that the City of Buckhannon, West Virginia has heretofore asserted or could have heretofore asserted.

This Release and Settlement Agreement contains the entire agreement between the parties hereto and the terms of this Release are contractual and not a mere receipt.

The City of Buckhannon, West Virginia does hereby direct its attorney of record, John W. Cooper, Esquire, to consent to a dismissal with prejudice of Civil Action No. 208-CV-17 and all claims or counterclaims thereunder filed in the United States District Court

for the Northern District of West Virginia at Elkins wherein Cheswood National Insurance Company is the plaintiff and The City of Buckhannon, West Virginia is the defendant.

I state that I have carefully read the foregoing Release and know the contents thereof, and sign this agreement as a free act and deed.

Signed and sealed this 25th day of February, 2009.

City of Buckhannon, West Virginia

By Kenneth Davidson
in Mayor

STATE OF WEST VIRGINIA

COUNTY OF Tucker to wit,

On this 22nd day of February, 2009, before me personally appeared Kenneth T. Davidson to me known to be the person(s) who executed this foregoing instrument, and on the date acknowledged this act before me as a free act and deed.

My commission expires July 9, 2014



Nancy A. Williams
NOTARY PUBLIC

He said that he and Mrs. Shobe had thought from the beginning the insurance owed the city the \$50,000.00 and was glad city council did not settle for the \$10,000.00, which was initially sent.

He advised he had three matters to discuss with council in the executive session.

Building & Wiring Permits:

Permit Number	Submitted By	Location	Description of Work to be Performed			Total Fees Paid	Zoning	Asbestos	Flood Zone	Elev. Certificate
			Building Description and Value	Electrical # Outlets	Demolition Sq. Ft.					
71042	Freda Fitzgerald	12 Elias St	Wooden deck with metal roof	\$1,500.00		\$10.00	X			
71043	Mike Ross Inc	29 Morton Ave	20'x60'x14' Pole Bldg Electrical	\$12,500.00	<40	\$25.00 \$40.00	X			
71044	Megan Bennett	102 Fayette St	Metal Roof over shingles	\$2,000.00		\$10.00				
71045	Rusty Nestor	115 Wood St	Inside Remodel	\$5,000.00		\$10.00				
71046	Joanne Morrison	2 W Victoria St	Porch Enclosure --not to be used for living space	\$1,500.00		\$10.00				
71047	Catherine Cuppari	57 E Main St	Window Replacement	\$2,000.00		\$10.00				
71048	WVWC	59 College Ave	Renovation of Fleming Hall	\$3,832,000.00		\$2,529.00				
71049	Mark Coyner	63 W Lincoln St	Metal Roof over shingles	\$7,000.00		\$10.00				
71050	Elizabeth Leigh	98 Barbour St	Window Replacement	\$5,800.00		\$12.00				
71051	Thomas Hasbrouck	6 E View Terrace	Inside Remodel	\$3,000.00		\$10.00				
71052	Uphur Lewis Community Corrections	25 W Main St	Inside Remodel	\$1,500.00		\$10.00				
71053	Ilene Serrine	218 Randolph St	Replace deck-same size	\$9,500.00		\$19.00				
71054	Balance Counseling	40 E Main St	Signage 48"x25" window Signage 24"x24" door	\$155.00		\$15.00	X			

Motion was made by Keith Queen and seconded by Elizabeth Lee to approve the Building & Wiring Permits as submitted. Motion carried.

Payment of Bills:

Motion was made by Jerry Henderson and seconded by Pam Cuppari to order the payment of the bills as presented. Motion carried.

CORRESPONDENCE:

LETTER FROM WV STRAWBERRY FESTIVAL:

The following letter was received from the WV Strawberry Festival:



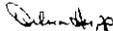
March 3, 2009

Mayor Kenny Davidson and City Council
City of Buckhannon
40 East Main St.
Buckhannon, WV 26201

Dear Mayor and City Council,

The West Virginia Strawberry Festival, Inc. would like to request the use of Kanawha Street. (From the corner of Main Street to the Alley) during the week of festival. This will help us relocate the vendors that were on the CVB Lot. We understand that the building will be under construction during this time frame. If possible we would like to place information booths to help dress up the corner during the festival. This would be something that would not interfere with the work on the lot. Good Luck to the CVB on their new building. We know you have been waiting along time for this.

Sincerely,


Debra Hupp, President
68th WV Strawberry Festival

Council Henderson ask Fire Chief Tacy if he had any concerns with this request. Chief Tacy and Chief Gregory ask if it were North or South Kanawha St. They were advised it was North Kanawha. Chief Tacy said he did not have any concerns.

Motion was made by Jerry Henderson and seconded by Pam Cuppari to approve the use of North Kanawha Street to the first alley during the Strawberry Festival. Motion carried.

Council asks that the businesses located on North Kanawha Street be notified of the decision.

LETTER FROM BUCKHANNON HOUSING AUTHORITY:

The following letter was received from the Buckhannon Housing Authority:



**The Housing Authority
of the
City of Buckhannon**

31 HANBLE DRIVE
BUCKHANNON, WV 26201
740-472-7000

February 13, 2009

Honorable Mayor Kenneth Davidson
City of Buckhannon
ATTN: Nancy Shobe
70 E. Main St.
Buckhannon, WV 26201

Dear Mayor Davidson/Ms. Shobe:

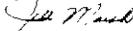
One of the original Board members of the Buckhannon Housing Authority has passed away. W. L. (Bill) Kelley was an active and valuable member of the Board of Commissioners for the Housing Authority for 48 years. His humor, advice, knowledge and support will be sadly missed.

The commissioners and I discussed possible candidates for a replacement for Bill. The commissioners have suggested that Margaret Kelley might be considered.

Whoever is appointed to replace Mr. Kelley would serve the remainder of his unexpired term which would end on April 6, 2013.

Thank you for your consideration.

Sincerely,


Jill Marsh,
Executive Director

Motion was made by Jerry Henderson and seconded by Keith Queen to appoint Margaret Kelley to the un-expired term of Willard "Bill" Kelley on the Buckhannon Housing Authority. Motion carried.

Mayor Davidson reminded citizens there are openings on the following Board:

- T V Cable Board**
- Police Civil Service Commission (Democrat)**
- Zoning Board of Appeals**

Any resident interested in serving should contact city hall.

UNFINISHED BUSINESS:

Second READING OF ORDINANCE NO. 343:

City Attorney David McCauley read Ordinance 343 by caption:

CITY OF BUCKHANNON
SERIES 2009 A REFUNDING BOND ORDINANCE NO. 343

ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$2,900,000 IN AGGREGATE PRINCIPAL AMOUNT OF CITY OF BUCKHANNON SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A FOR THE PURPOSES OF CURRENTLY REFUNDING THE ISSUER'S SEWER SYSTEM REFUNDING REVENUE BONDS, SERIES 1996 A AND PAYMENT OF THE COST OF ISSUANCE OF THE BONDS; AUTHORIZING AN ESCROW AGREEMENT IN CONNECTION WITH THE DEFEASANCE OF SAID REFUNDING REVENUE BONDS; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

Mr. McCauley said if passed by city council tonight, the ordinance would take place 30 days from tonight. He said there would still need to be a supplemental resolution before any action on the refinancing could be done.

Mayor Davidson said the passing of the ordinance tonight does not commit the City to refinance. Mr. McCauley said that was true.

Mayor Davidson advised the questions being raised was why the city needed two-bond counsel.

Dennis Vaughn said he had worked with the city on the 1986 and the 1996 issue. He has worked on this refinancing as far back as 2004. He advised that he is reaching retirement age and many things done are based on relationships. He said he has a great deal of respect for the Jackson & Kelley law firm and he is the one who chose to bring them in as co-counsel. He said the fee negotiated with David Kirby was the same as being charged for both bond counsels. In other words, there are no additional charges for the second bond counsel. He said he has been general counsel for the WVML since 1972 and it has been a pleasure to do business with the City of Buckhannon over the years.

David Kirby said the fee discussed fell in the range of the cost of issuance. He said the interest rate continues to climb and he is monitoring it every day. He advised council when the net present value savings and gross savings gets to at least a 3% or better savings, he will give the Mayor a call. He said his firm is willing to negotiate their fees. Ms. Willis-Miller stated a public hearing would need to be held. Mr. McCauley stated council could convene a special meeting with a three-day notice to approve the resolution to lock in the rates.

City Attorney McCauley recommended to city council the approval of Ordinance #343 - refinancing of sewer revenue bonds.

Motion was made by J. David Thomas and seconded by Keith Queen to approve Ordinance #343 on 2nd and final reading. Motion carried.

Motion was made by Jerry Henderson and seconded by Keith Queen authorizing Mayor Davidson to execute the necessary agreements with the bond counsel of Vaughn Law Firm and Jackson & Kelley. Motion carried.

Motion was made by J. David Thomas and seconded by Pam Cuppari authorizing Mayor Davidson to execute the necessary agreement with Scott & Stringfellow. Motion carried.

NEW BUSINESS:

HEALTH INSURANCE RENEWAL:

Mrs. Shobe advised city council the renewal for the employee health insurance has been switched from November to July and she has been notified there will be no increase in the 09-10 fiscal year.

Client No: 094743

February 18, 2009

Amby Jenkins
City Of Buckhannon
70 E. Main Street
Buckhannon WV, 26201

Dear Amby Jenkins,

Calculations have been completed and rates established for your group renewal effective July 1, 2009. These rates will stay in effect until July 1, 2010, at which time they will again be adjusted based in part on your group's own claims experience.

This renewal represents a 0.00% increase to your current rates. Your group has a 69.03% loss ratio based on \$541,561 in incurred claims and \$784,529 in calculated premiums.

In an attempt to offer an alternative to your present coverage, optional programs are available. Please contact your agent, William Hamilton, at (304)472-1532 or your Mountain State Blue Cross Blue Shield (MSBCBS) Account Executive, Debbie Rogers, at (800) 344-5514 to discuss these programs at your convenience.

As required by the HIPAA Privacy Rule, MSBCBS is providing Summary Health Information to you for one or more of the following purposes: obtaining premium bids from health plans for providing health insurance coverage under the group health plan or modifying, amending, or terminating the group health plan. The Privacy Rule requires that MSBCBS only disclose this information to a Plan Sponsor for these stated purposes.

A copy of this letter is attached for your approval of the new rates or for any contract change. Please sign and return the copy to your Mountain State Sales Rep.

Sincerely,



Steven R. Hunt, Vice President
Actuarial and Underwriting

Maintain Present Coverage
Coverage Change

Approved By _____ Date _____

BOARD REPORTS:

CPWB: Council Elizabeth Lee reported the CPWB did not have a quorum at their meeting but they were advised the notice for receiving the cemetery mowing bids will be published in the Record-Delta with return of the bids by the next meeting of the CPWB.

WASTE: Council Keith Queen reported the Waste Board met today and heard the following:

1. Approved the financial report as presented.
2. Opened bids for the new forklift and EQUIPCO were the low bidder. The Board approved accepting the low bid pending review of the bids by Jerry Arnold.
3. Members of the Upahur Co. Solid Waste Authority were present at the meeting to discuss the curbside recycling. The board agreed to continue the curbside recycling until the end of the year and look at the feasibility then. The UCSWA will remit to the Waste Board the amount of Three hundred dollars per month to help cover the loss with the program.
4. Board reviewed the rates and recommend to city council the following proposed rate increase:

**Waste Collection Dept
Rate Calculation Sheet
Proposed for January 2009**

Transfer Station: From 2008-09 Budget, 16,657 tons
Landfill tipping fees = \$800,000.00
\$28.50/ton for City to operate facility

37 03/ton Revenue: 1670 tons of CO @ \$45.83/ton =	\$ 103,353.00
48 75/ton 15087 tons MSW @ \$75.25/ton	\$ 1,139,287.00
Total Transfer Station Revenue...	\$ 1,242,640.00
Expense: 20% of Landfill cost... \$73,600.00	\$ 18,375.00
25% of Admin., billing, insurance... \$38,288.00	\$ 11,560.00
Transfer Station budget for new equipment	\$ 1,180,788.00
Annual new equipment allowance	\$ 75,000.00
Total Transfer Station Expenses...	\$ 1,344,723.00
Annual amount needed to raise revenue for balance...	\$ 108,083.00
Price increase per ton.....	\$ 8.37
	Use \$8.99 or \$26.00/ton

Waste Collection: From 2008-09 Budget

Revenue: Billings	\$ 2,116,700.00
Recycling	\$ 69,000.00
Dumpsters & Rental	\$ 58,000.00
Fuel surcharge	\$ 20,000.00
Material billing other dep't.	\$ 13,400.00
Misc.	\$ 15,000.00
Total Waste Collection Revenue...	\$ 2,291,100.00
Expense: 75% of Landfill cost... \$73,600.00	\$ 56,125.00
75% of Admin., billing, insurance... \$38,288.00	\$ 244,860.00
Waste Collection	\$ 925,320.00
Recycling	\$ 179,500.00
Comp Fee - (1105 tons MSW @ \$91 /ton)	\$ 100,595.00
Total Waste Collection Expenses...	\$ 2,266,470.00
Annual amount needed to raise revenue for balance...	\$ 17,078.00
Price percentage increase required to raise \$170K.....	7.00%
\$15.49 X 107% for City = \$16.57	Use \$16.78
\$16.99 X 107% for Rural = \$18.18	Use \$18.78

See Page 2 for Commercial Calculations (H)

549 Commercial Customers
5602 Residential Customers: 1388 City, 4214 County
62% of tonnage collected on trucks comes from residents
38% of tonnage collected on trucks comes from commercial
Annual tonnage on trucks is 11062 tons, 6652 residential, 4200 tons commercial
Transfer Station Revenue From Residential & Commercial = \$1,621,000.00

Proposed Residential:

City Billing	12	1388	\$ 16.75	Months	Annually
County Billing	12	4214	\$ 18.75	\$ 23,248.00	\$ 278,988.00
				\$ 79,012.50	\$ 948,150.00
Sum					\$ 1,227,138.00

Existing Residential:

City Billing	12	1388	\$ 16.48	Months	Annually
County Billing	12	4214	\$ 18.08	\$ 21,500.12	\$ 258,001.44
				\$ 71,568.00	\$ 861,350.36
Sum					\$ 1,117,181.78
Difference					\$ 109,956.22

If do about 7% increase for Commercial:
Commercial Inside City Minimum \$21.75; 275 Customers
Commercial Outside City Minimum \$26.00; 275 Customers
Each Additional Can \$1.50 ea above 3/4

4200 Tons @ 2000/ton @ 1 Can/20pounds = 420,000 cans
550 customers x 3 cans/week x 52 weeks = 86,800 cans

Proposed Commercial:

Inside City @	12	275	\$ 24.00	\$ 6,600.00	\$ 79,200.00
Outside County	12	275	\$ 26.00	\$ 7,200.00	\$ 92,400.00
				Subtotal	\$ 171,600.00
Adm. Billing		334,200	\$ 1.70		\$ 568,140.00
Total					\$ 739,740.00

Existing Commercial:

Inside City @	12	275	\$ 22.02	\$ 6,056.00	\$ 72,668.00
Outside County	12	275	\$ 26.27	\$ 7,224.36	\$ 92,611.00
				Subtotal	\$ 169,279.00
Adm. Billing		334,200	\$ 1.60		\$ 534,720.00
Total					\$ 704,000.00
Difference					\$ 43,740.00

Transfer Station Revenue = 1670 tons @ \$80.00/ton	\$ 20,960.00
Residential Increase =	\$ 100,988.24
Commercial Increase =	\$ 45,863.00
TOTAL EXPECTED REVENUE INCREASE =	\$ 177,811.24

- Note: 40% of Commercial Cost is the Transfer Station Cost (\$81.75/ton).
Proposed:
- Charge only collection used for certain Commercial recycle items (60% of \$1.70/ton or \$1.02/ton).
 - No charge for Residential recycle items dropped off at Crossroads Recycling Center.
 - No charge for Commercial or Residential recycle items dropped off at Monthly Recycling Center.
 - Commercial customers who take less than 3 cans/week will have a \$10/week adjustment fee.

Proposed Revised Ordinance Page

ARTICLE II - NEW RATE AND CHARGE SCHEDULE: The following rates and charges shall be paid for waste collection and other solid waste services offered by the Waste Collection Board of the City of Buchanan, upon the Ordinance's effectuation:

TYPE OF USER/PROVIDE	CURRENT RATE	NEW RATE	% Increase
Residential within Corporation - (up to two containers per week)	\$15.48 per month <i>(includes bulky items)</i>	\$16.75 per month	8.13%
Residential outside Corporation - (up to two containers per week)	\$18.90 per month <i>(includes bulky items)</i>	\$18.75 per month	10.36%
Residential - per additional container in excess of two containers per week	\$1.08 per add. container <i>(does not include additional tags at City Hall)</i>	\$1.70 per add. container	6%
Commercial within Corporation - (up to three containers per week)	\$22.02 per month	\$24.00 per month	9.00%
Commercial outside Corporation - (up to three containers per week)	\$26.27 per month	\$26.00 per month	5.58%
Commercial - per additional container in excess of three containers per week	\$1.60 per add. container	\$1.70 per add. container	6.25%
Commercial Recycle items - pickup <i>(this service available only to commercial customers with volume in excess of 8 containers per week)</i>	\$0.80 per container	\$1.02 per container	13.33%
Commercial Recycle items - dropoff <i>(this service available only at Monthly Recycling Center)</i>	No charge	No charge	
Residential Recycle items - dropoff <i>(this service available at Crossroads Recycling Center and at Monthly Recycling Center)</i>	No charge	No charge	
Residential Recycle items - curbside <i>(this service available for waste Corporation residents on first and third Tuesdays)</i>	No charge	No charge	
Transfer Station - construction debris			
(a) transfer station charge	\$28.50 per ton	\$36.00 per ton	
(b) landfill tipping fee	\$37.33 per ton	\$37.33 per ton	
Total	\$65.83 per ton	\$73.33 per ton	9.87%
Transfer Station - ordinary solid waste			
(a) transfer station charge	\$28.50 per ton	\$36.00 per ton	
(b) landfill tipping fee	\$38.75 per ton	\$48.75 per ton	
Total	\$75.25 per ton	\$81.75 per ton	8.64%

Overall % increase = Total Expected Revenue Increase/2008-09 Budget Projected Income x 100
Overall % increase = \$176,012,243/248,458,305.00 x 100
Overall % increase = 7.14%

Motion was made by Keith Queen and seconded by Jerry Henderson authorizing City Attorney McCauley to prepare the ordinance for the proposed waste collection increase as recommended by the Waste Board. Motion carried.

City Attorney McCauley advised this would be a three reading ordinance with a 45 effectuation date after final passage.

Mayor Davidson asked Council Henderson to report on the CVB meeting. Mrs. Henderson advised the Board had a presentation from the builder of the new CVB building. The Board approved to proceed with the building and authorized Mayor Davidson, who is Chairman of the CVB Board, to sign the necessary documents to proceed with the project. She advised the plans are presently at the Fire Marshall's office and the approval is expected early next week. She said the CVB Board looks forward to a quick end to a long journey.

Council Thomas asked if the project was put out for bid. City Attorney McCauley said the Buckhannon Convention & Visitor's Bureau is a non-profit corporation and therefore is not a governmental entity. The State of W. Va. only created a mechanism to collect the money from the lodging establishments and remit to the CVB and did not actually create the Convention & Visitor's Bureau. Mr. McCauley said when the Buckhannon CVB was initially formed as a non-profit corporation the amount remitted to them was only about five to ten thousand. He said the CVB has now been able to put aside money to help fund the new facility.

Mr. McCauley said he would like to speak to a legal problem. At the time the D & L Tire building property was purchased by the Buckhannon CVB, the deed was taken in the name of the City of Buckhannon. He said he is now looking at what conduit the city needs to go through to re-title the property into the Buckhannon CVB name. The total purchase price of \$127,000.00 came from the funds collected by the lodging establishments. The city put up the first \$5,000.00 but the CVB repaid that when their money was transferred back to them from the Buckhannon Chamber of Commerce. He said he felt there probably should be some reversionary clause in the deed that if the Buckhannon CVB no longer exists the title to the property would revert to the City of Buckhannon.

COUNCIL COMMENTS:

J. David Thomas - Mr. Thomas said he had a couple of budget concerns and would be writing a letter to council. He said he has a problem with the line item for gifts and bonuses for employees. He questions the legality of the \$250.00 Christmas Bonus which costs the city almost \$20,000.00. He said he would oppose it this year. He feels it is the responsibility of city council to pay fair wages and benefits. He questioned the transparency with the budget. He said during last year's budget session council agreed on a 3% COLA and the last two weeks of the 07-08 fiscal year, previous Mayor Jim Knorr gave substantial increases to about 9 to 11 people who were loyal to him. He feels the lack of transparency compromises and undermines the budget process. He said council did not find out about it until a concerned employee came to the current Mayor. They were told it had always been past practice.

Jerry Henderson - Mrs. Henderson said she wanted to follow-up on Mr. Thomas's comments. She said she felt his statements made tonight reflected on the integrity of the entire council. She said when statements like these come out in a public meeting that actually speaks to the lack of transparency in itself. She said she was not prepared to speak to this tonight but "by golly, bring it on". She said where is the transparency in one or two council members knowing something that not all council is informed about. At an executive session, council learned of information Mayor Davidson requested, which cost the city almost \$4,000.00 to compile. At that meeting, she asked that council be given the same information to review. To this date, that information has not been made available to her. She said evidently Mr. Thomas was given the information and therefore was able to comment.

She said during the budget process she gets the budget, reviews the budget and has every opportunity to ask questions and get answers. Nothing has been hidden and she worries about the image Mr. Thomas is presenting tonight. The practice of merit increases have been done in the past, in fact current Mayor Davidson gave an increase four months into his term. She said if we are going to attack the integrity of previous Mayors then we need to look at current also. She stated she feels this is directed at one or two employees and her feeling is this council has done nothing wrong. She said the Mayor is the only direct supervisor of the department heads and has every right to acknowledge their job performance.

Keith Queen - None

Pam Cuppari - None

Libby Lee - Council Lee said she would like to congratulate the Fire Department on securing the grant. She thanked Mrs. Shobe and her staff for sending the letters to the residents for the Special Meeting on March 12. She thanked Mr. McCauley, his son Connor and Sabrina Hodges for their work on the city's behalf at the Go Green Convention at WWC.

Nancy Shobe - Mrs. Shobe reminded Council the next session on the General Fund budget would be held on March 16 @ 9:00 am.

Mayor Davidson - None

Mayor Davidson asked for an executive session to discuss property, personnel and litigation (6-9a-4). Motion was made by Keith Queen and seconded by J. David Thomas to go into executive session to discuss personnel, property and litigation (6-9a-4). Motion carried.

Council went into executive session at 8:42 pm.

No decisions were made in the executive session.

There being no further business to be transacted before this meeting, meeting adjourned at 9:28 p.m.

Kenneth T. Davida

MAYOR

Nancy C. Shaha

RECORDER-TREASURER

STATE OF WEST VIRGINIA, COUNTY OF UPSHUR, CITY OF BUCKHANNON, TO-WIT:

The regularly scheduled meeting of the Buckhannon City Council was held on Thursday, April 2, 2009 at 7:00 p.m. at City Hall. The following members attended Mayor Kenneth Davidson, City Recorder Nancy Shobe, Council members: Jerry Henderson, Elizabeth Lee, Keith Queen and J. David Thomas. Pam Cuppary was absent. Also attending was City Engineers Sam Ludlow and Burl Smith, City Attorney David McCauley, Police Chief Matt Gregory, and Zoning. Officer Rich Clemens. SYC Debora Brockleman, Street Commissioner Jerry Arnold and Fire Chief Mitch Tacy were absent. Also attending from the news media was Gary Mallonee of the Inter Mountain, Amanda Hayes of the Record Delta and Betty Irvin for TV 3. Also attending were the 4-H Group – Brook Scott and the following:

Jim & Sharyn Coker
Angela Errett
Catherine Miller
Brian Bergstrom
David Kirby
Tanjia Willis-Miller

Mayor Davidson called the PUBLIC HEARING to order. The following notice was published:

CITY OF BUCKHANNON, WEST VIRGINIA

NOTICE OF PUBLIC HEARING AND ABSTRACT OF
BOND ORDINANCE

Notice is hereby given to any person interested that on March 5, 2009, the City Council of the City of Buckhannon, West Virginia (the "City"), adopted an ordinance which, among other things:

1. Authorized the issuance of not more than \$2,900,000 in aggregate principal amount of Sewerage System Refunding Revenue Bonds, Series 2009 A (the "Bonds"), for the purposes of currently refunding the Issuer's Sewer System Refunding Revenue Bonds, Series 1996 A, and paying the cost of issuance of the Bonds.
2. Directed that the Bonds be issued in such principal amount, bear interest at such rate or rates, not exceeding the then legal maximum rate, mature on such dates and in such amounts and be redeemable, in whole or in part, as prescribed in a supplemental resolution.
3. Directed the continuation of the revenue fund and the disposition of the System revenues; provided for the payment of operating expenses of the System and debt service on the Bonds; directed the creation of a sinking fund for the Bonds and, unless waived by the Bond purchaser, a reserve account for the Bonds and the continuation of the renewal and replacement fund; and directed the deposit of the Bond proceeds pursuant to an escrow agreement and into a costs of issuance account.
4. Provided that the Bonds shall not be or constitute a corporate indebtedness of the City within the meaning of any statutory or constitutional limitations, but shall be payable solely from the Net Revenues of the System; pledged the Net Revenues of the System to payment of the Bonds; established the right of the registered owners of the Bonds to such Net Revenues; and provided certain conditions for the issuance of additional bonds.
5. Provided for insurance coverage on the System, enforcement of collection of fees, rates or other charges for the System and other covenants in favor of the registered owners; established the events of default and the remedies of the registered owners; and provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The City contemplates the issuance of the Bonds described in, and under the conditions set forth in, the Ordinance abstracted above. Any person interested may appear before the Council of the City of Buckhannon at a regular meeting on April 2, 2009, at 7:00 p.m., in the Council Chambers, City Hall, Buckhannon, West Virginia, at 70 East Main Street, Buckhannon, West Virginia 26201, and present protests and be heard as to whether the above-described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of City on March 5, 2009, is on file with the City Recorder for review by interested persons at the City Hall during regular office hours, to-wit: 8:30 a.m. to 4:30 p.m., Monday through Friday.

Nancy Shobe
City Recorder of the City of Buckhannon,
West Virginia

Mr. Davidson asked if anyone present wanted to be heard concerning the refinancing of the sewer bonds. The record reflects no one present wanted to be heard and Mr. Davidson closed the Public Hearing.

Mayor Davidson called the regular meeting to order and determined a quorum was present. He asked that a moment of silent meditation be observed.

Mayor Davidson led the pledge to the flag.

The minutes of the meeting held on March 19, 2009 were approved as submitted.

Council J. David Thomas said he had two comments. There was the perception at the last meeting that he had information city council did not have and that was not true. He said he also wanted to offer a public apology to the hard-working city employees whose salaries were listed in the memo from City Attorney David McCauley. He said that was not his intent.

GUESTS:

Brooke Scott and 4-H group -

Mayor Davidson welcomed Brooke Scott and asked her to introduce the members of her 4-H group.

DEPARTMENT REPORTS:

CHIEF OF POLICE: Chief Gregory presented the following information concerning a communication platform for local police departments:



Welcome to Nixle!

Nixle's Municipal Wire is the first standardized, secure, and certified communication platform for local police departments, municipalities, and their agencies to communicate important neighborhood-level information to residents for free. It uses the same compelling model as social applications such as Twitter and Facebook, while adding the security that is critical to ensure your community receives Trusted and Accurate information.

Your residents can immediately receive all information you publish on their cell phones by text message, by email and over the web.

Again, the platform is free to every municipality and resident. It is simple to use and requires NO installation or training.

The most frequently asked question is "How can Nixle provide this service to all government agencies and consumers for free?" Nixle's business model provides separate revenue streams that are independent from the government service. These revenue streams include technology sales to the private sector for corporate internal communications and to international markets as well. We want you to know that NO advertising appears with any public safety and/or government messages.

The system is currently available in specific areas of the country, including yours.

Learn more about the system and its uses are included for your review.

To use our system, securely register your agency by going to www.nixle.com and click on "Agency Users Menu / Register."

Once your agency has been implemented, you will receive a certified meeting with your system manager and planner.

If you have any questions you can always contact Nixle support services at securedesk@nixle.com or 1-877-NIXLESD (1-877-649-5373)

We hope you find your new Community Information Service to be as accurate, simple, and valuable as we do. Welcome aboard.

Sincerely,



Craig B. Menick, Esq., CEO

about nixle

Police departments, municipalities and municipalities have not only legal or neighborhood and local building, neighborhood and local, and have been hungry to communicate important neighborhood-level information.

A few years ago agencies had the ability to send trusted, accurate and geographically-targeted information using their existing secure network systems.

With any network built to provide high levels of security, stability, and reliability is required and a portion of the work involved includes building out a strong infrastructure. Many of the cities facing today's personnel short, such as Twitter, Facebook and MySpace are due to a poor technology foundation which will make it very difficult, if not impossible, for these communities to effectively use support for critical services, such as identity security. Nixle was built on a

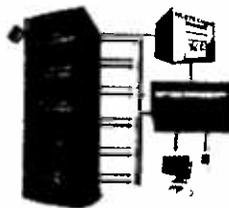


secure platform to ensure users receive TRUSTED and AUTHENTIC information.

Municipal, state and federal agencies have never had a standardized, security certified network from which they can immediately communicate day-to-day information (for example, administrative, as well as emergency notifications, on a targeted neighborhood or community-wide basis).

Nixle is free to all agencies and residents.

how nixle works



Through a unique, strategic partnership with Nixle (The International Justice and Public Safety Network), local police departments throughout the country can send immediate alerts and advisories in the most precise, geographically targeted way using their secure, closed-network systems.

key features

- No daily certification and authentication required
- Non-Nixle members can use the system through a secure internet connection with all servers being hosted in the Main primary facility
- Precise geographic targeting to the distribution of information to any point or address with radius outward
- Identity verification allows and users to always trust the integrity of the communication

nixle

nixle is the first certified and secure communication platform that allows local police departments, municipal governments and their agencies to connect with residents of their communities in the most trusted and geographically-targeted way.

FREE • SIMPLE • NO INSTALLATION OR TRAINING REQUIRED

All information is immediately available by text message, email & web.

nixle's municipal wire is built exclusively for:

- Local police departments & law enforcement agencies
- Municipal governments and their agencies
- Schools
- Fire departments & local emergency service agencies
- County, State and Federal agencies with a need to communicate neighborhood-level information



why use nixle for your community?

- Single standardized source for all agencies throughout the United States
- Free to all agencies and users
- NO advertising attached to any public safety information
- Fastest and most reliable text messaging system available
- Easy & effective publication and management tools
- Identity certified authentication ensuring end-users receive TRUSTED & ACCURATE information
- Most precise, neighborhood-level, geographically-targeted system available
- All information is immediately available by text message, email & web
- Most secure server environment (all servers located at Nixle, The International Justice and Public Safety Network)

nixle

This message was actually sent out to users located within a 10 mile radius of the missing person's home. Several hours later a second message was sent to users within an expanded radius of 5 miles from the missing person's home.

Thirty after the second message was sent, the missing person was located and rescuers were notified that the woman was safe.



other examples of nixle



To learn more about Nixle, or to test the system, visit www.nixle.com or call us at 1.877.NIXLENA (1 877 649 5362)

Chief Gregory explained the information to city council. He advised the only charge to residents would be if they want the message sent to their cell phone as text and then standard text rates apply.

Council indorsed the idea asked Chief Gregory to pursue the proposal and bring more information back to them.

Chief Gregory wanted to publicly recognize Main Street Studio and Scott Preston for the portrait of Tess and Officer Shahan.

Council Henderson said she had talked with officers in Mt. Lebanon, Pa and they are using cameras to get license plates from vehicles. Chief Gregory said this was known as automated license plate reader.

FIRE CHIEF: Chief Mitch Tacy was absent.

STREET COMMISSIONER: Mr. Arnold was absent.

ZONING OFFICER: Mr. Clemens presented the following report:

To: Members of City Council
 From: Mitch Clemens, Zoning Officer
 Date: Thursday, April 2, 2009
 Re: Activity report for the month of March 2009

Zoning, Planning and Developments

- The Zoning Board of Appeals did not meet in March. One position remains open on the board.
- Zones and Building:** Review applications with emphasis on repair, storage buildings, and small additions plus a permit for a new home located on Tucker St.
- The Historic Landmarks Commission continues to work on the planned historic district in the City.
- The Planning Commission working group has distributed a second DRAFT of the Buchanan 2015 plan to the public and will be holding a public meeting with CAC members and members of the Planning Commission the Saturday, April 4 beginning at 9:00 AM to review the current draft and prioritize the goals as stated in the plan.
- The current draft is available for review in the front lobby at City Hall and is posted on the City's web site (<http://www.ci.buchanan.mo.us>) as well as WBOY's web site.

Activity Report:

15 Building Permits Issued	Total Value \$182,046	Median Value \$3,508
5 Zoning Applications Received		
4 approved		
0 pending		
1 denied		
1 appealed		
12 zoning/planning questions		
6 grants/permits/requests/revised automobile complaints received		
0 written notices mailed or posted		
2 major construction projects are active within the City		

Housing Enforcement

- Weekly inspections of the City and investigation of complaints continue. A reminder to residents it is time to clean up their yards and around their homes and to discard those items of little or no use. Your neighbor and our community resident guests will appreciate the improvement. The City has excellent programs to help in the removal of over-sized items, yard debris and the like.

Buchanan-Upstair Airport Authority

- The Airport Authority held a meeting on March 10 and received word of a \$850,000 100% federal grant to repair and extend part of the apron at the airport. The area to be repaired does not meet FAA specifications and will be corrected in the process.

Technology Activities

- The RFP for a new Municipal Information System has been completed and issued with six responses and five bids received. The review of the five proposals has begun and I anticipate having a recommendation for Council in the near term.

WATER DEPT. MANAGER/CITY ENGINEER: Mr. Smith reported fire hydrant flushing would begin on April 13 at 8:30 am and continue until complete. He invited city council to the Buckhannon River Watershed Association meeting on April 21 @ 7:00 pm at the courthouse. He said this is a public meeting and Tom Landis, Chief Operator for the Water Plant and himself will be having the program on the flood control, cross section of the river and the city source water supply.

He reminded everyone about the Rotary blood screening on April 18 and 25. The Crossroads Recycling celebration will be April 17 & 18.

The Upshur Co. Solid Waste Authority will be paying for a wildflower area along Corr. H and Rotary will be doing the annual cleanup along Corr. H (Brushy Fork to Morton Avenue) on April 29.

SANITARY SUPT. /CITY ENGINEER – Mr. Ludlow advised work continues on the Ritchie Street storm sewer project. The Sanitary Plant had a major lab inspection last week and every thing went well. Phil Jenkins is responsible for the lab and the good report.

STOCKERT YOUTH CENTER – Debora Brockleman was absent.

CITY ATTORNEY – Mr. McCauley reported he continues to have emails with Mr. Kelemen concerning the cable franchise. He will meet with Mr. Kelemen in the next couple of weeks and Mr. Kelemen is planning to meet with Bray Cary of TV 12.

He reported he continues to work on the employee drug testing policy and vehicle noise ordinance. He said the Performing Arts Center at WWC was dedicated today and the street signage on College Avenue is receiving some good reviews.

He is waiting on the information for the cemetery mowing contract.

Council Queen asked about the property on which the CVB building will be built. He said Mr. McCauley indicated at a prior meeting the property is in the name of the city but should be in the name of the Buckhannon CVB. He felt Mr. McCauley should be directed to prepare the necessary documents to transfer the property in the rightful owner, the Buckhannon CVB.

Motion was made by Keith Queen and seconded by Jerry Henderson authorizing City Attorney McCauley to prepare the necessary documents to transfer the property titled in the City of Buckhannon, but which the Buckhannon CVB purchased into the name of the rightful owner, the Buckhannon CVB. Motion carried with Council J. David Thomas voting nay.

Building & Wiring Permits:

Permit Number	Submitted By	Location	Description of Work to be Performed			Total Fees Paid	Zoning	Asbestos	Flood Zone	Elev. Certificate
			Building Description and Value	Electrical # Outlets	Demolition Sq. Ft.					
71078	Charles Lee	80 College Ave	Soffit, Fascia, Siding	\$500.00		\$10.00				
71079	Ernest Cunningham	45 Thurman Ave	12'x16' Storage Bld	\$2,300.00		\$10.00	X	X		
71080	Wares Glass	99 W Main St	Electrical Upgrade		<40	\$15.00				
71081	Cheryl Gray	210 Pocahontas St	Re-Roof Shingles	\$10,000.00		\$10.00	X			
71082	Dale Darnell	38 N Kanawha St	Inside Remodel Electrical Upgrade	\$15,000.00	<40	\$30.00 \$15.00				
71083	Ron Pugh	102 Barbour St	Roof-Metal over Shingles	\$5,000.00		\$10.00				
71084	Larry Green	211 Camden Ave	Re-Roof Shingles	\$3,900.00		\$10.00	X			
71085	Tom Smythe	54 W Lincoln St	Re-Roof Shingles	\$9,200.00		\$10.00	X			
71086	Housing Authority	13 Hinkle Dr	Electrical Upgrade		<40	\$15.00				
71087	Housing Authority	15 Hinkle Dr	Electrical Upgrade		<40	\$15.00				
71088	Steve Posey	31 Camden Ave	Electrical Upgrade		<40	\$15.00				
71089	McDonalds	111 S Kanawha St	Roofing-Rubber	\$21,000.00		\$10.00				
71090	Conard St Clair	96 Chestnut St	Re-Roof Shingles	\$9,000.00		\$10.00	X			
71091	Lane's Auto Sales	234 S Kanawha St	Garage Addition 30'x34' Electrical	\$16,000.00	>40	\$32.00 \$50.00	X			
71092	Jean McCauley	121 Randolph St	Re-Roof Shingles	\$2,400.00		\$10.00	X			
71093	Kathy Currence	109 Camden Ave	Re-Roof Shingles	\$4,200.00		\$10.00	X			
71094	Housing Authority	54 Hinkle Dr	Electrical Upgrade		<40	\$15.00				
71095	Sharon Sabo	161 Pocahontas St	Re-Roof Shingles			\$10.00	X			
71096	Rick Rickman	33 College Ave	Re-Roof Shingles			\$10.00	X			
71097	Neil Warner	131 E Main St	Re-Roof Shingles			\$10.00	X			
71098	Jake Anderegg	164 Randolph St	Re-Roof Shingles			\$10.00	X			
71099	Lone Steer Rest.	37 S Kanawha St	Chimney Repairs	\$5,000.00		\$10.00				
71100	Harry Marks	10 Upshur Ave	Re-Roof Shingles			\$10.00	X			
71101	Wendys Restaurant	Kanawha & Madison	Replace Air Cond Unit	\$4,500.00	<40	\$15.00				
71102	Sam Darby	9 Tucker St	Sectional Home 28'x52' Curb Cut New Service Electrical	\$40,000.00	<40	\$80.00 \$15.00 \$60.00	X			
71103	St Josephs Hospital	88 W Main St	Inside Renovations Electrical Upgrade	\$30,000.00	<40	\$60.00 \$15.00				
71104	Nancy Burgess	119 Island Ave	Re-Roof Shingles	\$15,000.00		\$10.00	X			

Motion was made by Jerry Henderson and seconded by Elizabeth Lee to approve the Building & Wiring Permits as submitted. Motion carried.

Payment of Bills:

Motion was made by Keith Queen and seconded by Elizabeth Lee to order the payment of the bills as presented. Motion carried.

CORRESPONDENCE:

LETTER FROM JIM COKER - POLICE CIVIL SERVICE COMMISSION:

The following letter from Jim Coker was read by Mayor Davidson:

March 31, 2009

City of Buckhannon
Council Members
70 E. Main Street
Buckhannon, WV 26201

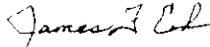
Honorable Council Members:

I understand that there is a vacant seat on the Police Civil Service Commission.

As you may know, my family and I are still fairly new to Buckhannon. We feel that the best way to learn about our community is to become involved. With that in mind, please accept this letter indicating my interest in being considered for the position on the Police Civil Service Commission. I believe that I fill the requirements for the position. If you need additional information regarding myself and or my background please do not hesitate to ask.

Thank you for your consideration in this matter. I look forward to hearing from you.

Sincerely,


James F. Coker

Motion was made by Keith Queen and seconded by Elizabeth Lee to approve the appointment of Jim Coker to the Police Civil Service Commission. Motion carried.

UNFINISHED BUSINESS: None

NEW BUSINESS:

RESOLUTION NO. 2009-06

**RESOLUTION 2009-06
OF THE CITY COUNCIL OF THE CITY OF BUCKHANNON**

**RESOLUTION PUTTING SERIES 2009 A REFUNDING BOND
ORDINANCE INTO EFFECT**

WHEREAS, the City Council of the City of Buckhannon (the "Council") on March 5, 2009, adopted an ordinance (the "Ordinance") entitled as follows:

ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$2,900,000 IN AGGREGATE PRINCIPAL AMOUNT OF CITY OF BUCKHANNON SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A FOR THE PURPOSES OF CURRENTLY REFUNDING THE ISSUER'S SEWER SYSTEM REFUNDING REVENUE BONDS, SERIES 1996 A AND PAYMENT OF THE COST OF ISSUANCE OF THE BONDS; AUTHORIZING AN ESCROW AGREEMENT IN CONNECTION WITH THE DEFEASANCE OF SAID REFUNDING REVENUE BONDS; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO

WHEREAS, as required by the Ordinance, an abstract of the Ordinance, together with a notice of public hearing (the "Notice"), was published as a Class II legal advertisement in the Record-Delta on March 20 and March 27, 2009, and an affidavit of such publication shall be attached as Exhibit A hereto; and

WHEREAS, in accordance with the Notice, a public hearing was held on the date hereof, and all interested persons, if any, appeared before the Council to be heard as to whether the Ordinance should be put into effect, and all such protests, objections and suggestions, if any, were heard;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BUCKHANNON, WEST VIRGINIA, AS FOLLOWS:

1. No protests, objections or suggestions were heard by Council at the public hearing that would make it necessary or desirable not to put the Ordinance into effect. Accordingly, the Ordinance shall be put into effect at the expiration of the 30-day period succeeding its adoption on March 5, 2009; provided, that the issuance of the Bonds authorized by the Ordinance shall be further approved by the Supplemental Resolution described in the Ordinance.

2. This Resolution shall take effect immediately upon adoption.

ADOPTED this 2nd day of April 2009.

Mayor

Taunja Willis-Miller said this resolution is necessary to verify the Public Hearing was held.

Motion was made by J. David Thomas and seconded by Keith Queen to approve Resolution 2009-06 as presented. Motion carried.

David Kirby advised city council the bids were scheduled in tomorrow and the target interest rate is 4.19% to get to the 3% net present value savings. He said if the interest rate came in higher, the cost of issuance numbers would be tweaked. He presented the following information on the reasons to refinance the bonds:

Reasons to Refinance the 1996A Sewerage System Refunding Bonds

1. **Lower the debt service coverage requirement from 1.25X to 1.15X,**
2. **Eliminate the cost of the 1996A Debt Service Reserve Fund.**
The debt service reserve fund is costing the City \$10,000 per year in negative arbitrage. The City is currently earning 0.28% on the reserve fund, but is paying 5.25% on the 1996A bonds. Collapsing the reserve fund into the refunding issue would add value to the sewerage system.
3. **Gross savings,**
Gross savings to the City will provide a reduction of 15.37% from its current level on the 1996 A Bonds. At 4.19%, gross savings per year is \$30,968.
4. **Net present value savings.**
The City can achieve net present value savings of 3%, if interest rate is 4.19% or less.

In summary, at 4.19% the City's annual gross savings would be approximately \$382,650. This includes the savings from the negative arbitrage, the gross savings from refunding at a lower interest rate, less the debt service funds and debt service reserve funds on hand.

Mr. Kirby will notify the city as soon as the bids come in tomorrow.

City Recorder-Treasurer Shobe asked if the funds from the 96A issue currently being held at, the Municipal Bond Commission will be used in this re-issuance. Mr. Kirby stated yes they would. The 1986B bonds will remain.

1ST READING OF ORDINANCE NO. 344 - ADDRESSING & MAPPING:

City Attorney McCauley read and explained Ordinance No. 344-Addressing & Mapping to city council:

ORDINANCE NO. 344 OF THE CITY OF BUCKHANNON,
AN ORDINANCE (1) ESTABLISHING FINDINGS OF THE CITY COUNCIL
RESPECTING ADDRESSING AND MAPPING; (2) PROVISION FOR THE
ESTABLISHMENT OF 9-1-1 ADDRESSING AND MAPPING STANDARDS
WITHIN THE CORPORATE LIMITS OF THE CITY OF BUCKHANNON, IN
COOPERATION WITH AND GUIDANCE FROM THE WEST VIRGINIA
STATEWIDE ADDRESSING AND MAPPING PROJECT; (3) DESIGNATING A CITY
ADDRESSING AND MAPPING COMMITTEE AND MUNICIPAL ADDRESSING
COORDINATOR TO COORDINATE ADDRESSING AND MAPPING ACTIVITIES
OCCURRING WITHIN THE CITY WITH UPBUR COUNTY COMMISSION AND
STATE OF WEST VIRGINIA ADDRESSING AND MAPPING REPRESENTATIVES;
(4) ADOPTING STREET NUMBER POSTING STANDARDS WITH
ENFORCEMENT AND PENALTY PROVISIONS RELATED THERETO; AND
(5) ADOPTING VARIOUS OTHER ADMINISTRATIVE RULES AND REGULATIONS
RESPECTING CITY ADDRESSING AND MAPPING TO FACILITATE THE
FINDINGS AND PURPOSES SET FORTH WITHIN THIS ORDINANCE

WHEREAS, pursuant to the statutory provisions of Chapter 8, Article 12, Section 8
of the West Virginia Code, as amended, the City of Buckhannon is authorized to regulate
the use of streets, avenues, roads, alleys, ways, sidewalks, crosswalks and public places
belonging to the City of Buckhannon, including the naming or renaming thereof, and further
to consult with local postal authorities, the division of highways and the directors of county
emergency communications centers to advance uniform, non-duplicate street addressing;
and,

WHEREAS, pursuant to the statutory provisions of Chapter 7, Article 1, Sections 3
and 3oo of the West Virginia Code, as amended, and consistent with the statutory
provisions of Chapter 24E, Article 1, Section 1, et seq., of the West Virginia Code, as
amended, the Upshur County Commission is generally authorized to provide for the
removal of hazards to public health and safety and further is specifically authorized to
establish and regulate the naming or renaming of roads, ways, streets, avenues, drives,
etc., in cooperation with local postal authorities, the division of highways, the director of the
Upshur County Emergency Communications Center as well as with the City of
Buckhannon, a West Virginia, municipal corporation located within Upshur County, and to
maintain and update addressing and mapping framework within Upshur County; and,

WHEREAS, an Enhanced 9-1-1 Emergency Telephones System has been
approved by the Upshur County Commission and implemented within Upshur County;
and,

WHEREAS, the establishment of the 9-1-1 system requires the assignment of
names to all streets and roads within Upshur County, the assignment of building numbers
to all buildings having telephones and/or occupancies, the erection of appropriate street
signs at intersections, and the maintenance of a countryside mapping system in conformity
with statewide mapping system guidelines; and,

WHEREAS, the City of Buckhannon is authorized to delegate, contract and
cooperate with other governmental units, including but not limited to the Upshur County
Commission insofar as addressing and mapping matters are concerned; and,

WHEREAS, the Upshur County Commission has elected to participate in the
Statewide Addressing and Mapping Project, pursuant to Title 18B, Series 2 of the Code
of State Rules, thus promoting the goal of prompt and accurate dispatch of emergency

services or 9-1-1 personnel in Upshur County, and thereby enhancing the safety of lives
and property of the citizens and residents of Upshur County; and,

WHEREAS, the Upshur County Commission previously adopted and effectuated
a County Addressing Ordinance; and,

WHEREAS, Administrative Rule 6.3 of the West Virginia 9-1-1 Addressing
Reference Guide specifically authorizes municipalities to enact their own stand-alone
addressing ordinance; and,

WHEREAS, while the Council of the City of Buckhannon desires to cooperate to a
large extent with the Upshur County Commission and their duly appointed addressing and
mapping representatives respecting addressing and mapping matters arising within the
City of Buckhannon's corporate limits, the City Council nevertheless desires to adopt and
effectuate its own stand-alone, municipal ordinance, while seeking to fulfill the State of West
Virginia's goal of enhancing the safety of the lives and property of the citizens and residents
of the City of Buckhannon; and,

WHEREAS, the Council of the City of Buckhannon, with some qualifications as are
herein described and set forth, now elects to participate in the Statewide Addressing and
Mapping Project, pursuant to Title 18B, Series 2 of the Code of State Rules, thus
promoting and facilitating the goal of prompt and accurate dispatch of emergency services
or 9-1-1 personnel in the City of Buckhannon, and thereby enhancing the safety of the lives
and property of the citizens and residents of the City of Buckhannon.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL
OF THE CITY OF BUCKHANNON, AS FOLLOWS:

ARTICLE I - TITLE OF ORDINANCE: This Ordinance hereafter shall be known
and referred to as "The City of Buckhannon's Addressing Ordinance."

ARTICLE II - APPLICABILITY:

Section 1. The provisions of this Ordinance shall apply to the entire corporate limits
of the City of Buckhannon, except as otherwise expressly provided.

Section 2. Pursuant to the Emergency Rules adopted by the West Virginia
Statewide Addressing and Mapping Board on file with the office of the Secretary of State,
Title 18B, Series 2 of the Code of State Rules, the City of Buckhannon hereby elects to
participate in the West Virginia Statewide Addressing and Mapping Project, except as
otherwise provided by this Ordinance.

Section 3. The City Recorder of Buckhannon shall serve notice of the City of
Buckhannon's election to participate in the Statewide Project by sending to the State
Board, a certified copy of this Ordinance within five (5) days following this Ordinance's
effectuation date.

Section 4. The City Recorder of Buckhannon further shall serve notice of the City of
Buckhannon's election to participate in the Statewide Project by sending to the Upshur
County Commission, a certified copy of this Ordinance within five (5) days following the
Ordinance's effectuation date.

ARTICLE III - ADDITIONAL FINDINGS OF COUNCIL: The Council of the City

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renumbering.

(9) In such certain specific problematic areas arising within Buckhannon's corporate
limits, the City Council is committed to correct such street addressing problems in the spirit
of the 9-1-1 Addressing Reference Guide.

(10) The City Council finds that the most expeditious manner of correcting specific
street addressing problems is through the Council's designation of a committee of City
officials, this Committee to be known as the City of Buckhannon's Street Addressing and
Mapping Committee, whose task shall be to identify specific street addressing problems
within Buckhannon's corporate limits, and then to promptly bring back written
recommendations for correction before the City Council for the full Council's consideration
and prospective approval and implementation.

(11) The City Council finds that it is reasonable and necessary to designate a
Municipal Addressing Coordinator whose responsibilities shall include but not necessarily
be limited to cooperating with County and State addressing and mapping officials
respecting addressing matters, and which Municipal Addressing Coordinator shall be the
City's duly appointed Street Commissioner who further shall not and serve as the chair
person of the City's Street Addressing and Mapping Committee.

(12) To the maximum extent possible as permitted by law or otherwise, the City
Council now desires to declare the City of Buckhannon as being "grandfathered" from any
mandatory compliance with any technical requirements as arising from any federal or State
statute or administrative rule or regulation, or any Upshur County ordinance provision
enacted pursuant thereto respecting the issue of street addressing, and specifically street
re-naming and renumbering.

(13) The City Council specifically desires to adopt the Appendix C3 Number
Posting Standards comprising a portion of the heretofore referenced, proposed West
Virginia 9-1-1 Addressing Reference Guide requiring among other things that: (a) a
particular structure's street number shall be prominently displayed on the structure in the
vicinity of the front door or entry; (b) numbers shall be a minimum of four (4) inches high and
be of a contrasting color to their background; and (c) any numbers different from the officially
assigned street address number shall be immediately removed by the property owner,
and the Council further finds that all property owners shall comply with all of the foregoing
Appendix C3 Number Posting Standards on or before July 1, 2008, or be subject to the
criminal enforcement and penalty provisions hereafter set forth.

**ARTICLE IV - COORDINATION WITH COUNTY & STATE ADDRESSING
PROGRAMS:**

(1) The City Addressing Coordinator shall cooperate and liberally share information
about City addressing matters with the duly designated addressing representatives of
both the Upshur County Commission and the State of West Virginia.

(2) Nothing in this Ordinance shall be deemed to affect city-type addresses, that are
otherwise satisfactory for 9-1-1 and emergency service purposes upon the formal finding
of the Buckhannon City Council following consideration of the written recommendations of
the City's Street Addressing and Mapping Committee.

(1) The State of West Virginia by and through the State Legislature created the
West Virginia Statewide Addressing and Mapping Board in 2001 to enable city-type
addressing to be established in rural areas of the state primarily for the purpose of
accommodating and improving 9-1-1, i.e., emergency responder, services.

(2) The Upshur County Commission ultimately was assigned by the State with the
task of reviewing street addressing concerns in Upshur County, and then, when and where
appropriate, to implement street address changes.

(3) Only recently the City Council was advised by the Upshur County
Commission's addressing representatives that the magnitude of proposed changes of
street names and numbers of homes and businesses situated within Buckhannon's
corporate limits was likely to effect a majority and potentially all or very nearly all of the
residents' addresses within Buckhannon's corporate limits.

(4) The City Council has expressed its general concern and disagreement with
suggestions that a majority or even any substantial minority of addresses within the
Buckhannon corporate limits is either required or should be recommended to be changed
to strictly conform with state proposed rules and regulations, i.e., the September 2008
"draft" of the "West Virginia 9-1-1 Addressing Reference Guide".

(5) Specifically the foregoing proposed and prospectively applicable, State rules
and regulations pursuant to "draft" Rule 6.3.5 and there following provide in pertinent parts
that, (a) "[I]t is recommended that any re-numbering of properties or re-naming of streets
be applied only to those specific properties or streets that are a problem, and not to all
properties or streets in the community"; (b) "Only confusing numbers and names should
be changed, leaving alone what is clear, consistent, and acceptable"; and (c) "Under
extreme circumstances, a county or municipality with existing city-type addresses may feel
it needs to re-number all streets of significant numbering inconsistencies throughout the
entire community."

(6) The City Council specifically finds that with respect to addressing concerns that:
(a) there are very few problematic properties or streets within Buckhannon's corporate
limits; (b) there are very few confusing street numbers and street names within
Buckhannon's corporate limits, and the overwhelming majority of street names and
numbers within Buckhannon's corporate limits are clear, consistent, and acceptable;
(c) extreme circumstances do not exist within the corporate limits of Buckhannon with the
existing city-type addressing that merit comprehensive re-naming or renumbering of
Buckhannon's streets; and (d) there are not significant numbering inconsistencies throughout
Buckhannon's corporate limits to justify comprehensive re-naming and renumbering of
Buckhannon's streets.

(7) The City Council expressly rejects any and all findings respecting street
addressing by any other person whatsoever or body public whatsoever, contrary to
those findings enumerated in the immediately preceding paragraph (6).

(8) The City Council further finds that there are some certain specific street
addressing problems existing within the Buckhannon corporate limits that may be corrected
on a case-by-case, structure-by-structure basis without comprehensive street re-naming or

ARTICLE V - APPOINTMENT OF CITY STREET ADDRESSING AND MAPPING COMMITTEE AND MUNICIPAL ADDRESSING COORDINATOR:

Section 1 - City Street Addressing & Mapping Committee: The Committee shall consist of five (5) City officials based upon their offices to which they have been duly appointed, who shall be respectively, the City's: (1) Street Commissioner; (2) Police Chief; (3) Fire Chief; (4) Engineer or in the case of the City employing more than one engineer, such engineer to be designated by the City Council; and (5) Zoning & Housing Enforcement Officer.

Section 2 - Chair of Committee: The chair person of the City's Street Addressing & Mapping Committee shall be the City's Street Commissioner.

Section 3 - Responsibilities of City Street Addressing & Mapping Committee: The Committee shall promptly consider and report written recommendations to the City Council upon any City addressing matter brought before the Committee upon the Committee's own initiative or otherwise referred to the Committee by any of the (a) City Council, (b) Upshur County Commission Addressing Coordinator, or (c) representatives of the West Virginia Statewide Addressing & Mapping Board.

Section 4 - Municipal Addressing Coordinator: The City's Municipal Addressing Coordinator shall be the duly appointed Street Commissioner of the City of Buckhannon.

Section 5 - Responsibilities of Municipal Addressing Coordinator: The Municipal Addressing Coordinator shall call meetings of the City Street Addressing & Mapping Committee as reasonable or necessary. The Municipal Addressing Coordinator further shall be regarded as the day-to-day administrator of the City of Buckhannon's Addressing Ordinance, and shall discuss and coordinate addressing matters in cooperation with the Upshur County Commission's Addressing Coordinator and the representatives of the West Virginia Statewide Addressing & Mapping Board, and further as appropriate with the Upshur County Emergency Communications Director, the West Virginia Enhanced 9-1-1 Council, the Upshur County Assessor's Office, the United States Postal Service, and any other interested agencies and persons respecting such street addressing matters arising and as are addressed within this Ordinance.

ARTICLE VI - ADOPTION OF STATE STREET NUMBER POSTING STANDARDS, ENFORCEMENT & CRIMINAL PENALTIES:

Section 1 - Adoption of State Number Posting Standards: The City specifically adopts the Appendix C3 Number Posting Standards comprising a portion of the heretofore referenced, proposed West Virginia EB-1-1 Addressing Reference Guide requiring among other things that:

- (a) a particular structure's street number shall be prominently displayed on the structure in the vicinity of the front door or entry;
- (b) numbers shall be a minimum of four (4) inches high and be of a contrasting color to their background; and,
- (c) any numbers different from the officially assigned street address number shall be immediately removed by the property owner, and all property owners shall comply with all of the foregoing Appendix C3 Number Posting Standards effective July 1, 2008.

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Section 2 - Failure to Comply, Enforcement & Penalty Provisions:

(a) Any person observed to fail to comply with the standards of Article VI hereof, shall be notified in writing by the Municipal Addressing Coordinator, and such person shall have ten (10) days to bring their structure into compliance with the standards hereof;

(b) Any person continuing to fail to comply with the standards of Article VI hereof, after written notice has been duly sent by the Municipal Addressing Coordinator, shall be deemed to have committed a misdemeanor criminal offense, and the Council hereby specifically authorizes, empowers, and directs all officers of the City of Buckhannon's Police Department, or any officer of any other police agency exercising proper jurisdiction within the corporate limits of the City of Buckhannon, to immediately issue a citation and to charge any person whosoever violates the provisions of this Article VI, with jurisdiction of the matter belonging to the Municipal Court of the City of Buckhannon; and,

(c) Any person adjudged guilty and convicted of any first offense established hereunder by the Municipal Court, shall be subject to a fine of not less than Twenty-Five Dollars (\$25.00), nor more than One Hundred Dollars (\$100.00), plus all duly assessed Court costs.

(d) Any person adjudged guilty and convicted of any second or further offense established hereunder by the Municipal Court, shall be subject to a fine of not less than One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars (\$500.00), plus all duly assessed Court costs.

ARTICLE VII - SEVERABILITY: The provisions of this Ordinance are severable and if any provision or part thereof shall be held invalid for any reason by a court of competent jurisdiction, such invalidity shall not affect or impair any of the other provisions or parts of this Ordinance not so invalidated. It is hereby declared to be the intent of the City Council that this Ordinance would have been adopted if such invalid provision or part thereof had not been included herein.

ARTICLE VIII - EFFECTIVE DATE: This Ordinance shall be deemed effective thirty (30) days following the second (2nd) reading, passage and adoption by the Council of the City of Buckhannon, i.e., May 16, 2008.

FIRST READING: April 2, 2008
SECOND READING, PASSAGE & ADOPTION: April 16, 2008

Kenneth Davidson, Mayor

CERTIFICATE OF ENACTMENT

I, Nancy C. Shobe, Recorder of the City of Buckhannon, do hereby certify that the foregoing Ordinance No. 344 was lawfully ordered and enacted by the Council of the City of Buckhannon at a regular session of the Council assembled on April 16, 2008.

Nancy C. Shobe, City Recorder

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He said city council has said that an overwhelming number of addresses in the city will not change and only those problems will be changed.

Mrs. Shobe asked about public hearings for the areas considered problem areas. Mr. McCauley said that would be done.

Mrs. Lee and Mrs. Henderson both asked if the owner or renter would held responsible if action is not taken on the lettering of the houses.

Mr. McCauley said he would make the change the owner would be held responsible relative to any criminal citation.

Motion was made by Jerry Henderson and seconded by Keith Queen to adopt Ordinance # 344 on 1st reading. Motion carried.

1st READING ORDINANCE NO. 345 -- WASTE COLLECTION RATES:

City Attorney McCauley read and explained Ordinance No. 345 -- Waste Collection rate increase to city council:

ORDINANCE NO. 345 OF THE CITY OF BUCKHANNON, AN ORDINANCE (1) INCREASING THE RATES CHARGED FOR MUNICIPAL WASTE COLLECTION AND DISPOSAL SERVICES WITHIN AND WITHOUT THE CORPORATE LIMITS OF BUCKHANNON; (2) INCREASING THE RATES CHARGED BY THE CITY RELATIVE TO THE CITY'S OPERATIONS OF ITS SOLID WASTE TRANSFER STATION AND THE CITY'S TRANSFER OF ALL SOLID WASTE FROM THE SOLID WASTE TRANSFER STATION TO AN APPROVED SANITARY LANDFILL; AND (3) SPECIFICALLY AMENDING ORDINANCES NO. 327, 340 AND ANY AND ALL OTHER MUNICIPAL ORDINANCES CONCERNING THE CITY'S RATES CHARGED FOR THE FOREGOING WASTE COLLECTION AND SOLID WASTE OPERATIONS.

WHEREAS, the current rates and charges of the Waste Collection Board of the City of Buckhannon for providing garbage collection and other solid waste services for the residents of the City of Buckhannon and Upshur County, as said rates and charges were established by Ordinances No. 327 and 340, are now insufficient to maintain the high quality of waste collection and other solid waste services offered by the Board and City to the residents of Buckhannon and surrounding Upshur County; and,

WHEREAS, the Board and City have not sought a waste collection rate increase since December of 2006 except for landfill tipping fee increases passed through to customers in June of 2007; and,

WHEREAS, the Board and City's cost of providing waste collection and other solid waste services has increased since 2006 and 2007; and,

WHEREAS, the Waste Collection Board of the City of Buckhannon formally received during its regularly convened meeting of March 5, 2008, to recommend to the City Council that the City increase its rates and charges for waste collection and other solid waste services, pursuant to the proposed rate and charge schedule which is hereinafter described and set forth pursuant to Article II hereof; and,

WHEREAS, the Council of the City of Buckhannon is authorized pursuant to the statutory provisions of Chapter 8, Article 13, Section 13, and Chapter 24, Article 2, Section 4b of the West Virginia Code, as amended, to impose by ordinance upon the users of waste collection and other solid waste services, such reasonable rates, fees and charges as shall be collected in the manner specified in a properly enacted ordinance; and,

WHEREAS, the Council of the City of Buckhannon desires the rates and charges proposed by the Waste Collection Board of the City of Buckhannon, and as are described and set forth pursuant to Article II hereof, to be just and reasonable; and,

WHEREAS, the statutory provisions of Chapter 8, Article 11, Section 3, Subsection (1) and Chapter 8, Article 13, Section 13 of the West Virginia Code, as amended, specifically provide that the collection of fees of any kind by a municipality shall be established by ordinance; and,

WHEREAS, the Council of the City of Buckhannon desires in all respects to comply with the statutes of the State of West Virginia insofar as the establishment of new waste collection and other solid waste rates and charges is concerned.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL

Residential - per additional container in excess of two containers per week (must purchase add'l bags at City Hall)	\$1.00 per add. container	\$1.70 per container
Residential Recycle items - curbside pickup (service available only to residents within corporation)	no charge	no charge
Residential Recycle items - dropoff (service available at Crossroads Recycling Center and at Mudlick facility)	no charge	no charge
Commercial within Corporation - (up to three containers per week)	\$22.02 per month	\$24.00 per month
Commercial outside Corporation (up to three containers per week)	\$28.27 per month	\$28.00 per month
Commercial - per additional container in excess of three containers per week	\$1.00 per add. container	\$1.70 per container
Commercial Recycle items - pickup (service available only to commercial customers with volume exceeding five containers per week)	\$0.50 per container	\$1.02 per container
Commercial Recycle items - dropoff	no charge	no charge
Transfer Station - construction debris		
(a) transfer station charge	\$28.50 per ton	\$35.00 per ton
(b) landfill tipping fee	\$37.33 per ton	\$37.33 per ton
total	\$65.83 per ton	\$72.33 per ton
Transfer Station - ordinary solid waste		
(a) transfer station fee	\$28.50 per ton	\$35.00 per ton
(b) landfill tipping fee	\$36.75 per ton	\$36.75 per ton
total fee	\$65.25 per ton	\$71.75 per ton

*as established by Ordinance No. 327 in 2006 & Ordinance No. 340 in 2007

**includes current PSC authorized bulk goods collection charge and current fuel surcharge

***the maximum transfer station fee charge for receiving solid waste is \$12.00 per vehicle load. For customers delivering solid waste by the bag, each bag up to 30 pounds in weight shall be charged a fee of \$1.50

THE CITY OF BUCKHANNON, WEST VIRGINIA, BEING A BODY CORPORATE, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS FILED WITH THE CITY CLERK.

The Mayor of the City of Buckhannon and such other appropriate officials of the City including but not limited to the City Recorder/Treasurer and City Attorney are hereby expressly authorized to prepare and file, and/or cause to be prepared and filed, any and all necessary applications, test modifications and/or other documents with the West Virginia Public Service Commission, and generally to assure the City of Buckhannon's compliance with the Public Service Commission's rules and regulations regarding waste collection and other solid waste services as offered by the City of Buckhannon's Waste Collection Board, and the establishment of rates and charges therefor.

ARTICLE IV - AMENDMENT OF CITY ORDINANCES NO. 327 & 340: The provisions of Ordinance No. 327, 340 and/or any other Ordinance of the City of

OF THE CITY OF BUCKHANNON, AS FOLLOWS:

ARTICLE I - FINANCE OF COUNCIL: The Council of the City of Buckhannon hereby makes the following findings:

(1) The current rates and charges of the Waste Collection Board of the City of Buckhannon for providing waste collection and other solid waste services for the residents of the City of Buckhannon and Upshur County, as said rates and charges are established by Ordinances No. 327 and 340, are now insufficient to maintain the high quality of waste collection and other solid waste services offered by the Board and City to the residents of Buckhannon and surrounding Upshur County;

(2) The Board and City have not sought a waste collection rate increase since 2006 and 2007;

(3) The Board and City's cost of providing waste collection and other solid waste services has increased substantially since 2006 and 2007;

(4) The Waste Collection Board of the City of Buckhannon formally received during its regularly convened meeting of March 5, 2008, to recommend to the City Council that the City increase its rates and charges for waste collection and other solid waste services, pursuant to the proposed rate and charge schedule which is hereinafter described and set forth pursuant to Article II hereof;

(5) The Council of the City of Buckhannon is authorized pursuant to the statutory provisions of Chapter 8, Article 13, Section 13, and Chapter 24, Article 2, Section 4b of the West Virginia Code, as amended, to impose by ordinance upon the users of waste collection and other solid waste services, such reasonable rates, fees and charges as shall be collected in the manner specified in a properly enacted ordinance;

(6) The Council of the City of Buckhannon desires the rates and charges proposed by the Waste Collection Board of the City of Buckhannon, and as are described and set forth pursuant to Article II hereof, to be just and reasonable;

(7) The statutory provisions of Chapter 8, Article 11, Section 3, Subsection (1) and Chapter 8, Article 13, Section 13 of the West Virginia Code, as amended, specifically provide that the collection of fees of any kind by a municipality shall be by ordinance; and,

(8) The Council of the City of Buckhannon desires in all respects to comply with the statutes of the State of West Virginia, and further with the rules and regulations as promulgated by the West Virginia Public Service Commission insofar as the establishment of new waste collection and other solid waste rates and charges is concerned.

ARTICLE II - NEW RATE AND CHARGE SCHEDULE: The following rates and charges shall be paid for waste collection and other solid waste services offered by the Waste Collection Board of the City of Buckhannon, upon this Ordinance's effectuation:

TYPE OF USER/SERVICE	CURRENT RATE	NEW RATE
Residential within Corporation - (up to two containers per week)	\$18.48 per month	\$18.75 per month
Residential outside Corporation (up to two containers per week)	\$18.08 per month	\$18.75 per month

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Buckhannon previously adopted and which concern waste collection and other solid waste services as provided by the City of Buckhannon's Waste Collection Board are hereby expressly amended pursuant to the provisions hereof.

ARTICLE V - PREVIOUS WASTE COLLECTION AND OTHER SOLID WASTE SERVICE ORDINANCES

Any and all other provisions of Ordinance No. 327, 340 and/or any other Ordinances of the City of Buckhannon previously adopted concerning waste collection and other solid waste services as provided by the City of Buckhannon or the Waste Collection Board of the City of Buckhannon, and which are not expressly amended pursuant to the provisions of this Ordinance No. 345, shall be deemed to remain in full force and legal effect, except for those rates, charges, definitions and other ordinance provisions which are expressly amended hereby.

ARTICLE VI - EFFECTIVE DATE: Pursuant to Chapter 24, Article 2, Section 4b of the West Virginia Code, as amended, this Ordinance shall be deemed effective upon the forty-sixth (46th) day following the third (3rd) reading, passage and adoption by the Council of the City of Buckhannon, i.e., June 22, 2008.

FIRST READING: April 2, 2008
SECOND READING: April 18, 2008
THIRD READING, PASSAGE AND ADOPTION: May 7, 2008

Kenneth Davidson, Mayor

CERTIFICATE OF ENACTMENT

I, Nancy C. Shobe, City Recorder, do hereby certify that the foregoing Ordinance No. 345 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on May 7, 2008.

Nancy C. Shobe, City Recorder

Burl Smith explained to city council the rate increase will generate approximately \$176,000.00 annually and it amounts to about a 7% overall increase.

Mr. McCauley said there would be a pre-adoption notice prior to the 3rd and final reading and a notice on the utility bills. Mayor Davidson should make a press release concerning the increase. The public service commission will be notified only because the city collects garbage countywide. He said if the city only collected within the city limits and a two-mile radius around Buckhannon, then nothing would need to be done with the PSC. The City of Buckhannon is one of three municipal providers. He said there are a number of hoops to jump through.

Motion was made by Keith Queen and seconded by Elizabeth Lee to approve Ordinance No. 345 on 1st reading. Motion carried.

Council Thomas asked City Attorney McCauley if the council had the authority to abolish the utility boards. Mr. McCauley stated the Boards were established by city council by ordinance and the ordinances could be changed. He said the utility boards have operated very well for well over 40 to 50 years. He said Buckhannon has always been a city other municipalities looked at on how to do it right and feels the utility boards have been a good move by the city. He reminded Mr. Thomas all the utility boards have city council serving on their boards except for the Sanitary Board and that is by WV State code. He said the Mayor of the city is chairman of all the utility boards.

BOARD REPORTS:

CPWB: Council Lee reported the CPWB met on March 26, 2009 and heard the following:

1. Opened bids for cemetery mowing and awarded to Sam's Lawn Care (the same company from 2008) pending providing insurance and necessary documents.
2. Approved changes in the yard debris pickup within the city limits effective June 1. All yard debris must be in open containers or biodegradable bags and nothing over 1 inch in diameter will be picked up with a charge. Mr. Arnold is checking with Lowe's to see if they will stock the bags.
3. Approved specifications on the new paver and authorized the advertising for bids.
4. Approved soccer request for use of North Buckhannon Riverfront Park for the 2009 season.
5. Board approved the city relinquish name of Myrtle Lane which is on the map in the North Buckhannon area. (Mayor Davidson asks that this happen as his wife's family wants to use the name of Myrtle Lane to rename Pinnell Hill).

WASTE COLLECTION:

Council Queen reported the Board met today and heard the following:

1. Approved financial report
2. Heard the new forklift has been ordered
3. May 2 is Tire Amnesty Day at the Transfer Station from 8 am to 5 pm – limit of 10 tires
4. Received information from the Upshur County Solid Waste Authority they will reimburse the city \$300.00 per month on the curbside recycling program
5. Heard report from the Transfer Station and Recycling Centers (Crossroads and curbside)

COUNCIL COMMENTS:

J. David Thomas - Nothing
Jerry Henderson - Nothing
Keith Queen - Nothing
Pam Cuppari - Absent
Libby Lee - Nothing
Nancy Shobe - Nothing

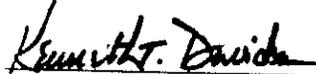
Mayor Davidson - Mayor Davidson reported he had received complaints about dogs and cats running at large. He reminded the residents the city does have an ordinance prohibiting both from running at large. He also said he had reports about a snake loose on the streets. He asked residents to be responsible pet owners.

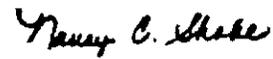
Mayor Davidson asked for an executive session to discuss property, personnel and litigation (6-9a-4). **Motion was made by Keith Queen and seconded by Elizabeth Lee to adjourn into an executive session to discuss personnel, property and litigation (6-9a-4). Motion carried.**

Council went into executive session at 8:35 pm.

No decisions were made in the executive session.

There being no further business to be transacted before this meeting, meeting adjourned at 8:50 p.m.


MAYOR


RECORDER-TREASURER

STATE OF WEST VIRGINIA, COUNTY OF UPSHUR, CITY OF BUCKHANNON, TO-WIT:

The regularly scheduled meeting of the Buckhannon City Council was held on Thursday, April 16, 2009 at 7:00 p.m. at City Hall. The following members attended Mayor Kenneth Davidson, City Recorder Nancy Shobe, Council members: Pam Cuppari, Jerry Henderson, Elizabeth Lee, Keith Queen and J. David Thomas. Also attending was City Engineer Sam Ludlow, City Attorney David McCauley, Police Chief Matt Gregory, Zoning Officer Rich Clemens, SYC Debora Brockleman and Street Commissioner Jerry Arnold. Fire Chief Mitch Tacy was absent. Also attending from the news media was Gary Mallonee of the Inter Mountain, Allison Sharp of the Record Delta and Betty Irvin for TV 3. Also attending were the following:

<u>Scott Bennett</u>	<u>54 Burgess St</u>
<u>Mary Albaugh</u>	<u>47 Burgess St</u>
<u>Chloe Albaugh</u>	<u>59 Madison Ave</u>
<u>Ray Albaugh</u>	<u>59 Madison Ave</u>
<u>Carla Williams</u>	<u>150 Clay St Mt. Vernon, KY</u>
<u>Sharon Albaugh</u>	<u>74 1/2 Main St</u>
<u>Angela Miller</u>	<u>Magnum</u>
<u>Paula Kelly</u>	<u>212 Madison St</u>

Mayor Davidson called the regular meeting to order and determined a quorum was present. He asked that a moment of silent meditation be observed.

Council Pam Cuppari led the pledge to the flag.

The minutes of the meeting held on April 2, 2009 were approved as submitted.

GUESTS:

David Kirby - sewer bond refunding

Mayor Davidson recognized David Kirby. Mr. Kirby advised city council the interest rate is the same as he reported at the last meeting. B B & T bank has indicated if the interest rate is lower at the time of closing, they will offer the lower rate. He said the 08-city audit from Tetrick & Bartlett is expected Tuesday. He said this is needed before the closing on the bonds. Mr. Kirby presented a copy of the financial model to city council. He said the savings to the city remains at approximately \$31,000.00 per year.

Resolution No. 2009-08 was presented for council approval:

RESOLUTION NO. 2009-08

**THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A**

SUPPLEMENTAL RESOLUTION.

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNTS, SERIES DESIGNATIONS, DATES, MATURITY DATES, INTEREST RATES, PAYMENT SCHEDULE, SALE PRICES AND OTHER TERMS OF THE CITY OF BUCKHANNON SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A (THE "BONDS"); DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; APPROVING THE SALE OF THE SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the City Council (sometimes referred to herein as the "Governing Body") of The City of Buckhannon (the "Issuer") duly and officially adopted a Bond Ordinance on March 5, 2008 (the "Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$2,900,000 IN AGGREGATE PRINCIPAL AMOUNT OF CITY OF BUCKHANNON SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A FOR THE PURPOSES OF CURRENTLY REFUNDING THE ISSUER'S SEWER SYSTEM REFUNDING REVENUE BONDS, SERIES 1996 A AND PAYMENT OF THE COST OF ISSUANCE OF THE BONDS; AUTHORIZING AN ESCROW AGREEMENT IN CONNECTION WITH THE DEPOSITANCE OF SAID REFUNDING REVENUE BONDS; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO;

WHEREAS, the capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Ordinance when used herein;

WHEREAS, the Ordinance provides for the issuance of the Sewerage System Refunding Revenue Bonds, Series 2009 A (the "Bonds" or "Series 2009 A Bonds"), of the Issuer, in an aggregate principal amount of not more than \$2,900,000, all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"); and further provides that the principal amounts, series designations, dates, maturity dates, interest rates, payment schedule, sale prices and other terms of the Series 2009 A Bonds should be established by a supplemental resolution, and that other matters relating to the Series 2009 A Bonds be herein provided for;

WHEREAS, the Ordinance provides that the Series 2009 A Bonds be sold to a Purchaser so designated in a supplemental resolution, upon terms of purchase agreed to by such Purchaser and the Issuer; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the principal amounts, series designations, dates, maturity dates, interest rates, payment schedule, sale prices and other terms of the Series 2009 A Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Series 2009 A Bonds be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BUCKHANNON, WEST VIRGINIA, AS FOLLOWS:

Section 1. Pursuant to the Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewerage System Refunding Revenue Bonds, Series 2009 A, of the Issuer, originally represented by a single Bond, numbered AR-1, in the original principal amount of approximately, but not to exceed, \$2,010,000. The Series 2009 A Bonds shall be dated the date of delivery and shall finally mature on October 1, 2025. The Series 2009 A Bonds shall bear interest at the rate of 4.23% per annum or such lesser rate of interest to which the Purchaser may agree. The Series 2009 A Bonds shall contain such terms and provisions and be in substantially the form set forth in Schedule 1 hereto, with such changes as are determined as necessary and approved by the Mayor, with his execution of the Series 2009 A Bonds to constitute conclusive evidence of such determination and approval. Among other things, the Series 2009 A Bonds shall set forth the exact original principal amount of and interest rate on the Series 2009 A Bonds, subject to the maximum principal amount and interest rate set forth above. The principal of and interest on the Series 2009 A Bonds shall be payable monthly, on the first day of each month, commencing June 1, 2009, in the amounts as set forth in Exhibit A attached to the Series 2009 A Bonds. The Series 2009 A Bonds shall be subject to prepayment in whole on any scheduled payment date with a one percent (1%) prepayment premium.

Section 2. No Reserve Account shall be established for the Series 2009 A Bonds; provided, that the Purchaser shall execute and deliver a waiver of the Reserve Account prior to the issuance of the Series 2009 A Bonds. The reserve account established for the Prior Bonds shall not secure the Series 2009 A Bonds.

Section 3. The following non-substantive, clerical corrections are hereby made to the Ordinance in order to correct internal section references made within the Ordinance document:

- (A) The definition of "Bonds Sinking Fund" in Section 1.04 is hereby corrected to read as follows:
"Bonds Sinking Fund" shall mean the Bonds Sinking Fund created by Section 4.02 hereof
- (B) The definition of "Bonds Proceeds Fund" in Section 1.04 is hereby deleted.
- (C) The parenthetical in the definition of "Gross Revenues" in Section 1.04 is hereby corrected to read as follows:
(including Qualified Investments, as hereinafter defined, purchased pursuant to Section 4.03 hereof)
- (D) Item (iii) in the definition of "Outstanding" in Section 1.04 is hereby corrected to read as follows:
(iii) any such Bond deemed to have been paid as provided in Section 7.01 hereof
- (E) In the second sentence of the first paragraph of Section 6.06, the reference to "Article X hereof" is hereby corrected to read "Article VII hereof".
- (F) Section 8.06 of the Ordinance and the dates set forth below Section 8.06 are hereby corrected to read as follows:

This Ordinance shall take effect on the later of (i) immediately after the public hearing or (ii) 30 days after the adoption of the Ordinance.

First Reading: February 19, 2009
Adoption: March 5, 2009
Public Hearing: April 2, 2009
Effective Date: April 4, 2009

Section 4. Except as herein provided, all other provisions relating to the Series 2009 A Bonds shall be as provided in the Ordinance, and the Series 2009 A Bonds shall be in substantially the form provided in the Ordinance with such changes, insertions and omissions as may be approved by the Mayor of the Issuer. The execution of the Series 2009 A Bonds by the Mayor shall be conclusive evidence of such approval.

Section 5. Branch Banking and Trust Company (the "Purchaser") is hereby designated as the Purchaser of the Series 2009 A Bonds. The sale of the Series 2009 A Bonds to the Purchaser within the terms set forth in Section 1, above, and, except as specifically set forth in Section 1, above, substantially as set forth in the term sheet delivered by the Purchaser, a copy of which is attached to this Supplemental Resolution as Schedule 2, is hereby approved. The Issuer acknowledges that the Purchaser is being appointed as the Registrar and Depository Bank below and is an affiliate of Scott & Stringfellow, Inc., the financial advisor for the Issuer. The Mayor is authorized and directed to execute and deliver a commitment letter, bond purchase agreement or similar agreement with the Purchaser (the "Bank Commitment Letter"), in such form as the Mayor, upon advice of counsel, may approve. The Mayor's signature on such Bank Commitment Letter shall be conclusive evidence of such approval.

Section 6. The Issuer hereby appoints and designates Branch Banking and Trust Company to serve as Registrar (the "Registrar") for the Series 2009 A Bonds under the Ordinance and approves and accepts the Registrar's Agreement to be dated the date of delivery of the Series 2009 A Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved. Anything to the contrary in the Ordinance, this Supplemental Resolution or the Registrar Agreement notwithstanding, the Series 2009 A Bonds may be transferred only to institutional investors and other purchasers who meet the criteria set forth in the letter delivered to the Issuer and Bond Counsel by the Purchaser upon its original purchase of the Series 2009 A Bonds and who, as a condition to such purchase, deliver to Bond Counsel an executed letter substantially in the form delivered by the Purchaser.

Section 7. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Commission"), to serve as Paying Agent for the Series 2009 A Bonds under the Ordinance.

Section 8. The Issuer hereby appoints and designates Branch Banking and Trust Company to serve as Depository Bank under the Ordinance.

Section 9. The Issuer hereby appoints and designates the Commission to serve as the Escrow Agent for the Series 1996 A Bonds being refunded with the proceeds of the Series 2009 A Bonds. The Issuer hereby approves the Escrow Agreement between the Issuer and the Escrow Agent, substantially in the form of the agreement attached hereto as Schedule 3, relating to said refunding and defeasance of the Series 1996 A Bonds. The Mayor is authorized to execute and deliver the Escrow Agreement with such changes as are determined necessary and approved by the Mayor, with his execution of the Escrow Agreement to constitute conclusive evidence of such determination and approval.

Section 10. From the moneys received from the sale of the Series 2009 A Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

(A) \$1,914,107.78 of such proceeds, which is hereby found to be the amount necessary, together with such funds of the Issuer as are made available by the defeasance of the Series 1996 A Bonds, to refund the Series 1996 A Bonds, shall be applied by the Issuer pursuant to the provisions of the Escrow Agreement; and

(B) \$90,000 of such proceeds is hereby approved by the Issuer as the costs of issuance, and the Issuer authorizes the deposit of such funds in the Costs of Issuance Account with the Depository Bank and the payment of the same.

Section 11. The Mayor and Recorder are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Series 2009 A Bonds hereby and by the Ordinance approved and provided for, to the end that the Series 2009 A Bonds may be delivered to the Purchaser pursuant to the Bank Commitment Letter on or about April 23, 2009.

Section 12. The refunding of the Series 1996 A Bonds, in part with proceeds of the Series 2009 A Bonds, is hereby found and determined to be in the public interest, serve a public purpose of the Issuer and promote the health, welfare and safety of the residents of the

Issuer. The Series 1996 A Bonds shall be redeemed on May 6, 2009, which shall be the redemption date, as further provided in the Escrow Agreement.

Section 13. The Issuer hereby determines to invest any moneys in the funds and accounts established by the Ordinance held by the Depository Bank until expended in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the Series 2009 A Bonds Sinking Fund shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 14. In Section 3.11 of the Ordinance, the Issuer designated the Series 2009 A Bonds as "qualified tax-exempt obligations." In doing so, the Issuer covenanted not to issue more than \$10,000,000 in obligations the interest on which is excludable from gross income for federal income tax purposes during calendar year 2009. The American Recovery and Reinvestment Act of 2009 temporarily increased the limit applicable to qualified tax-exempt obligations from \$10,000,000 to \$30,000,000. Accordingly, the Issuer confirms its designation of the Series 2009 A Bonds as "qualified tax-exempt obligations" but covenants that it has not and will not issue more than \$30,000,000 or such lesser amount as is allowable under the Code in aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income tax purposes (excluding, however, obligations issued to currently refund any obligation of the Issuer to the extent the amount of the refunding obligation does not exceed the amount of the refunded obligation and private activity bonds, as defined in Section 141 of the Code, other than qualified 501(c)(3) bonds as defined in Section 145 Code), including the Series 2009 A Bonds, during calendar year 2009, all as determined in accordance with the Code.

Section 15. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 16th day of April, 2009.

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VOTE ON RESOLUTION

	IN FAVOR	OPPOSED
(1)	_____ Kenneth Davidson, Mayor	_____
(2)	_____ Nancy C. Shobe, City Recorder	_____
(3)	_____ M. Keith Queen, Council Member	_____
(4)	_____ Pamela Cuppari, Council Member	_____
(5)	_____ Geraldine Henderson, Council Member	_____
(6)	_____ Elizabeth Lee, Council Member	_____
(7)	_____ J. David Thomas, Council Member	_____

CERTIFICATE OF ENACTMENT

I, Nancy C. Shobe, City Recorder, do hereby certify that the foregoing Resolution No. 2009-08 was lawfully ordained and enacted by the Council of the City of Buckhannon during a regular session of the said Council assembled on April 16, 2009.

Nancy C. Shobe, City Recorder

SCHEDULE 1

BOND FORM

(attach copy)

SCHEDULE 2

BANK COMMITMENT LETTER

(attach copy)

SCHEDULE 3

ESCROW AGREEMENT

(attach copy)

City Attorney McCauley advised council the resolution is in the form used by the city and he recommended passage. **Motion was made by Jerry Henderson and seconded by J. David Thomas to approve Resolution No. 2009-08 as submitted. Motion carried.**

- **Council took a twenty-minute recess in order for Mayor Davidson and City Recorder Shobe to sign documents regarding the bond refunding.**

Council reconvened at 7:20 pm.

DEPARTMENT REPORTS:

CHIEF OF POLICE: Chief Gregory advised he continues to apply for grants under the DUI enforcement and Underage Drinking grant program. He explained to city council the method used in all the grants. He said it had been brought to his attention there was perception of the Police Department they are doing too many DUI grants and underage grants thus it is giving a negative image to the department. **His question to city council tonight is two fold; 1. Does city council want him to continue to seek grants? 2. Does city council want him to back off the enforcement grants?**

Council Queen said his opinion was he needed to continue to pursue the grants and personally he likes to see the officers out doing their job.

Council Henderson said as a citizen and not just a city official she would be very upset if the Chief would allow the influence from a small group of people to stop him from doing his job. She said she wanted Chief Gregory to go out and do his job and do not worry about perceptions. She said she thought he was doing a good job.

Council Lee said she agreed with Mrs. Henderson and felt if they were law abiding they would not be threatened by law enforcement. She feels the city has an obligation to protect and if one life can be saved, it will be worth the effort.

City Recorder Shobe said she felt as an elected official it was the responsibility of council to protect the citizenry and that is done through the Police Department and did not want the Chief to stop applying for the grants. She said there is a problem and it is not only in Buckhannon but also in the entire state or grant monies would not be made available.

Council Thomas questioned if the DUI grants were for deterrents, why was the location of the checkpoint made public. Chief Gregory advised it is a requirement before any sobriety checkpoint can be made; advance notice of an alternate route must be made. He said there has to be just cause to pull a vehicle over and it cannot be pulled over just for taking the alternate route. He said the primary reason is for public awareness and his department hands out literature and it gives good visibility to his department. Mr. Thomas asked what outreach the police department had with WVWC. Chief Gregory explained to Mr. Thomas that his department has several outreach initiatives with WVWC, the High School, the Middle School and the grade school. He reminded him of the BASIC video, which he is now getting requests for as far away as Morgan County.

Chief Gregory advised the Highway Safety Commission has given 25 car seats to the department and they will be distributed in conjunction with the Children's Fair at SYC in September. He said he has a trained technician in the department who will install the car seat.

Mr. Thomas asked if it would need, based on who would get the car seats. Chief Gregory advised they do not dig into anyone's financial history. If someone says they need a seat, then they are given one on the honor system.

Chief Gregory asked for direction on issues at the skate park. He feels the new ID system being used by SYC is a good system but has two questions;

1. **How does city council want his department to handle those individuals who do not have an ID, should they be asked to leave?** Mayor Davidson said the SYC Board wants an ID for anyone wanting to skate and those not having them are to leave the park.
2. **If a problem escalates, are trespassing charges to be issued?** City Attorney McCauley stated he would need to do further checking into this matter, as it is a public place and the city needed to be careful on how far they can go with prohibiting persons on public property.

Chief Gregory said he plans a three prong approach; Bikes Patrol, Foot patrol with Officer Tess (canine) and being more knowledgeable about criminal activity in the area.

Chief Gregory said he was happy to report the bike patrol started today and he and Officer Gissy logged 10.5 miles just today.

Council Cuppari said she was glad to see the bikes out today. She asked about the speed trailer and recommended it be put back on Meade Street for the next three weeks. She also asked about the police presence at the Strawberry Festival. Chief Gregory advised his department is back to full strength and he is able to have more flexibility with his staff this year and it should not be a problem. He also anticipates having more help from other departments. He said he always builds the overtime for the festival in his budget each year. Most of his officers work 12-hour shifts during the festival.

FIRE CHIEF: Chief Mitch Tacy was absent but the following information was presented:



BUCKHANNON
FIRE DEPARTMENT
OFFICE OF FIRE CHIEF
22 South Florida Street
BUCKHANNON, WEST VIRGINIA 26201
PHONE 304-472-2868



BUCKHANNON
FIRE DEPARTMENT
OFFICE OF FIRE CHIEF
22 South Florida Street
BUCKHANNON, WEST VIRGINIA 26201
PHONE 304-472-2868

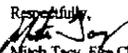
Date: April 15, 2009
To: Mayor, Treasurer, Council members

Dear all,

As you know, our new pumper is scheduled for delivery in June. We need to make a decision shortly on the financing for this vehicle.

I have done some preliminary work and the best interest that I have found is 4 1/2 % at a local bank. This is for a term of 5 years. Five years is the most affordable for us and will save about \$4800.00 in interest versus going for 6 years. The annual payment for 5 years would be about \$44,157.00. Please remember that the Volunteer Fire Department has agreed to pay one-half of the required payment. With the \$60,000.00 grant we were awarded and the down payment we will make, this will leave us financing about \$197,383.00. There is \$25,000.00 in the current budget for a down payment, and the Volunteer organization has agreed to contribute \$25,000.00 towards the down payment.

I would like some direction on how you folks want to proceed from here. I would suggest that the Treasurer and I be allowed to proceed with the necessary arrangements. We need to act soon, as you know it will take a couple of weeks to process the paper work.

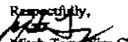
Respectfully,

Mitch Tacy, Fire Chief

sometime in the year 2011. Please keep in mind these grants are HIGHLY competitive and nothing is certain.

So in closing, I would like a commitment and or approval to take this avenue. I ask only because of the requirement for a high dollar cost share. Really a mere nothing compared to the cost of a new one. The grant application opens on April 15 and closes sometime in mid May, therefore my reason for giving you this information tonight. The grant application is intense and requires a lot of time for a project like this.

If you feel you are not interested or do not at this time feel you can commit to the funding, I will apply for other items. I just do not want to apply for a grant and then blind side you a year down the road, and I do not want to spend time on this project and then find out we are not interested.

Let me know your desire, and call me with any questions or concerns.

Respectfully,

Mitch Tacy, Fire Chief

Council approved City Treasurer Shobe and Fire Chief Tacy to work with the local bank on the financing for the truck. Council Thomas asked if bids were sent to local banks. Mrs. Shobe advised bids were not sent out. She said the Commercial Leasing is usually done locally through Progressive Bank and that is who has given the interest rate being considered now. The only difference is the city is dealing directly with the bank and not going through Commercial Leasing Company.

Motion was made by Jerry Henderson and seconded by Pam Cuppari to authorize Fire Chief Tacy to apply for the grant to refurbish the ladder truck. Motion carried.

STREET COMMISSIONER: Mr. Arnold presented the following report:

Date: April 15, 2009
To: Mayor, City Clerk, Council members

Good evening all,

As you know the Fire Department has in the past applied for and been successful, in obtaining grant funding from the Assistance to Firefighters Grant program administered by the Department of Homeland Security. In the past we have applied for the grant, received our goods and continued on our merry way without much input from anyone.

This year I would like to stray from that path somewhat and request your approval to apply for a somewhat large expenditure.

This year I am considering applying for funds to have our current ladder truck re-furbished. To have a vehicle re-furbished would mean in our case, to basically have the truck re-built to meet current standards and ensure many more years of productive life from it. The wiring would be completely replaced, (we currently have some wiring issues) the cab would be fully enclosed, rust and paint problems would be addressed, lighting would be upgraded, etc. The ladder portion of our truck would not be addressed as it is in immaculate condition. Some vehicles need more refurbishing than others. Our ladder truck is probably at the end of the scale needing less "refurbishing" due to the fact that, well basically, we take pretty darn good care of it.

The cost to re-place our ladder truck with a brand new one equivalent to it, would be in the one million dollar range. The cost to have ours re-furbished I would guess would be somewhere between \$300,000.00 to \$600,000.00. I know that is quite a spend, but honestly I don't have a firm price quote. And things that aren't seen, sometimes rear their ugly head once in the shop and repairs begin. Keep in mind, when the project is completed it would receive the rating for a new truck.

The City's cost share of the grant, if awarded would be 5%. So about \$30,000 at the most. The funding would not be needed until probably

City of Buckhannon
Council Meeting
Street Report 4/16/09

1. I have not received any information on the grants we have applied for I have calls in to the respective agencies but have not heard back from them at this time.
2. We have completed the shelter and trail head map of the walk trail which finalizes that grant and I will be submitting our final invoice as well as the final grant report.
3. We have completed the sidewalk component of the current Safe Routes to School Grant on College Ave. we still have the crosswalks to complete to finalize this grant.
4. We have completed about 90% of the renovations to Jambone Park. We just have the painting to do. The security system is to be installed tomorrow.
5. I have taken a look at the lighting situation on North Florida St. I think the primary problem is the over growth and spacing of the existing trees. I would suggest that we first remove the trees and replace with a dwarf species utilizing double spacing then evaluate the lighting. I have spoken with Downie Tenney and he said we would be looking at approximately \$100-\$125 per tree for nine trees. I have found a couple of grants that might fund this but we have missed this year deadline.
6. I have spoken to the folks at Lowes about stocking the bio-degradable lawn bags for the implementation of our revised yard debris collection procedures and they will stock the bags. The cost of the bags will be around \$7.00 for 10-33 gallon bags.
7. Dave McCauley and I have had a couple of conversations about having a panel or group at the direction of Council called (The Friends of the Walk Trail) and to establish a fund that donations may be received to add amenities to the walk trail and to have input as to the things the community would like to see happen with the walk trail system.
8. I have solicited bids for the paver with the opening date being at our next Council Meeting.
9. We will be working over the next month on curb painting, street repair, alley trimming, and removing trees from the river. We will also be getting our parks ready for the upcoming season.

Mr. Arnold advised the trees on North Florida were supposed to be dwarf trees but have grown into the power lines.

Mayor Davidson asked for comments concerning **request # 5** – lighting on N. Florida Street and cutting of the trees. Council agreed that every other tree be removed at this time and see what the lighting was at that time.

Council Henderson asked Mayor Davidson to send letters to the residents along the street advising the reason for removing the trees.

Mayor Davidson asked on **request #7** what steps would be taken to get the steering committee in place. Mr. Arnold advised the information needed out to the public. Mayor Davidson asked each newspaper and TV 3 to get the information out and anyone interested in serving on this committee to contact Teresa at City Hall 472-1651 and leave their name and phone number.

Council Cuppari asked about trees in the river. Mr. Arnold advised they would be working on those within the next month. She also asked about the debris along the riverbank at the WV Split Rail. Mayor Davidson asked Mr. Clemens to contact Mr. Hinkle about the matter.

Council Queen asked about the status of the dog park. Mr. Arnold advised that he, Mayor Davidson and Burl Smith had met with Mrs. Black who owns property near the city park on Park Street. She is interested in allowing the city to use the property adjacent to the park and they are looking at the possibility of the dog park being located there. Mrs. Cuppari said she had looked at that area and feels that would be a perfect area.

ZONING OFFICER: Mr. Clemens said he appreciated Matt's explanation of the grants. He said the 2015 group had received a lot of comments and some concerns but he said he has complete confidence in Matt taking care of the department. He also encourages the department to continue the work with WVWC for the underage drinking. He said as he is out and about he is noticing more running of stop signs and speeding.

Mr. Clemens said the 2015 is nearing the final draft and advised there will be two public meeting in May. **The first one is May 4th at 7:00 pm at the Chamber Office and the second will be the Planning Commission on May 11th at 7:00 pm. at City Hall.**

Mr. Clemens said the city might want to consider a "Friends of the walk trail/park".

Mr. Clemens presented the following information to City Council:

The City of Buchanan would like to encourage residents to be thoughtful neighbors and the staff at City Hall. A number of issues appear each year that cause complaints to be filed with the City that are easily corrected. Please note the item(s) checked below.

1. Is an irresponsible pet owner -- a pet must be in the control of the owner and it is the pet owner's responsibility to remove pet waste from public property whether it is located in a Park or along the street. If the pet owner does not own the property then it is their responsibility to remove the waste and dispose of it in an acceptable manner. Be kind to your pet, if it is not out-of-control -- does it have access to sheds, does it have access to food and fresh water.
2. Keep grass clippings out of the street -- leaving grass clippings in the street contributes to blocked storm drains and an increased threat of local flooding. When you or your yard service finishes mowing, please grass to be collected and disposed of properly. The City collects yard debris every sixth Friday morning -- if you will call and schedule a pickup before noon on Thursday, your yard waste is collected by the Street Department and is not treated as garbage. Please do not dispose of yard waste as part of your weekly trash pickup.
3. Trash cans need to be concealed -- After your scheduled pickup please remove your trash containers from along the street and reduce them to a location in the rear of your home that is a more pleasing to the appearance of your neighborhood. Leaving trash containers "out" more than 24 hours is a violation of a City Ordinance.
4. Lawn care needs to be done weekly -- The attractiveness of your neighborhood is enhanced by proper maintenance of your lawn. Failure to mow your lawn, leaving excess grass in your yard or on an open porch (fill with "leaf" when become excessive for your neighbors. Please help make our City better for our Strawberry Festival guests and your neighbors. As a regular subscriber of City services for trash collection you may call and arrange for the pickup of bulky grass and other unaccepted items by City crews for a reasonable fee.
5. Automobiles and other items are often left to rot -- in back or side yards. It only takes a few moments to arrange to have them removed from your property by a towing service and disposed of properly. If you haven't done anything with the item in the past year it will probably be there next year so ask, why not have it removed today.
6. Yard signs are limited by State Law -- State Law limits the number and length of yard signs (included instructions) that can be constructed without a business license and without the collection of sales tax. "Limited Transactions" - sale of tangible personal property or service provided by persons who are not in the business of making such sales, such as individuals selling their used furniture, if the person or business holding the sign holds no more than four in one year and each sale lasts no more than thirty-eight hours, and sales of tangible personal property who are not regularly in the business of providing tangible services, such as businesses who occasionally lease items, invent or do odd jobs (persons who regularly sell and lease at yard sales, flea markets or using the roadside are exempt from the business of selling and must register with the Department of Tax and Revenue as a business).
7. Obey traffic laws and speed limits -- All too often in our hurry to get somewhere we fail to stop at the corner or where a "speed limit". Failure to obey established traffic laws can be very expensive and extremely hazardous to a child or elderly resident. Slow down and enjoy your life.
8. Finish what you started -- Do you have a half completed project around your home? Building permits expire after 6 months and your neighbor's are getting tired of seeing the clutter.
9. Please don't litter -- Keeping Buchanan clean is everyone's job. Take that empty soda can home and dispose of it properly or keep a small plastic bag in your car to collect the trash and dispose of it properly when it is full.
10. Bushtrimming needs -- located in the City are required to be in the rear yard and completely enclosed by a six foot fence or other barrier. A zoning permit is required for fences and walls at other locations or near structures.
11. Zoning, building, zoning, zoning permit -- requires some time to process, please do not expect them to be issued on the spot. The City will advise residents but has often missing information, property located in the back yard, setbacks restrictions, etc with enclosures. PBA violations require research and time to process. Please submit your application to City Hall at least a week in advance or longer if you know you are in a need zone.

Council Thomas asked if there was an ordinance for abandoned vehicles and Mr. Clemens stated the city did not have an ordinance for abandoned vehicles on private property and encouraged council to draft one. **Motion was made by J. David Thomas and seconded by Keith Queen authorizing City Attorney McCauley draft an ordinance for abandoned vehicles on private property. Motion carried.**

WATER DEPT. MANAGER/CITY ENGINEER: Mr. Smith was absent.

SANITARY SUPT. /CITY ENGINEER – Mr. Ludlow advised work continues on the Ritchie Street storm sewer project. The Sanitary Plant had a major lab inspection last week and every thing went well. Phil Jenkins is responsible for the lab and received a score of 94 out of 100. He reported two flow meters are in use to assist in the combined sewer overflow removal efforts. He advised the hazardous toxic report has been submitted to the Army Corps of Engineers.

STOCKERT YOUTH CENTER – Debora Brockleman submitted the following report:

Stockert Youth Center
Buchannon City Council Meeting
April 16, 2009
Staff Report

Program Update:

- We are planning for summer camp. I will be hiring/rehiring camp staff, and getting them trained in the next few weeks.
- We are also planning for summer activities. Some activities will include a pony basketball program, arts camp, and outdoor movies nights.
- The Drill Team is getting ready for the Strawberry Festival with their regular practices.

Skate Park Update:

- Reopened last weekend. We have been taking pictures for ID Cards and making them at SYC.
- The Skaters have filled out registration forms for their membership and their cards have been issued.
- A new sign was made with the revision of the rules which includes No Graffiti, and required ID to skate.
- We are implementing a new program with "skate park mentors". The mentors are volunteers who are 18 or older; they will help us police the park and be role models to the skaters. The staff at SYC is also going over periodically to check on things. So far everything has gone well.

Vista Position Update:

- We will be recruiting for two Vista positions in the very near future. One will be to replace our current Vista who will be leaving in July and the second Vista is a position which we applied for last year under the Community of Promise umbrella. This vista will be a Promise Vista which is to do capacity building for us, which means she/he will be researching grants, promoting our programs in the community and some grant writing. We are advertising through the AmeriCorp web site and posters around the community and at WVWC.

Youth Involvement hours
March 09 9660
March 08 7420
30% increase

Council Cuppari asked that a notice be placed in the newspaper and possibly in the schools concerning the changes at the skate park.

Chief Gregory asked about the no graffiti policy. Mayor Davidson advised that means no graffiti period and advised if caught it would be a criminal offense.

CITY ATTORNEY – Mr. McCauley reported Mr. Arnold had referred to the trees on North Florida as being dwarf trees and maybe they should now be referred to as munchkin trees.

Mr. McCauley said he continues to work with Mr. Kelemen on the cable franchise and will meet with him on May 4th.

Mr. McCauley advised that two new signs will be dedicated at the walk trail on Saturday May 9th at 11:00 am and encouraged council to attend. He said he hoped this would be the first annual river trail appreciation day. The SYC drill team will perform and former Mayor Knorr will be asked to participate.

Building & Wiring Permits:

Motion was made by Jerry Henderson and seconded by Elizabeth Lee to approve the Building & Wiring Permits as submitted. Motion carried.

COUNCIL MEETING
Building, Electrical, Demolition Permits
April 14, 2009

Permit Number	Submitted by	Location	Description of Work to be Performed			Total Fees Paid	Zoning	Subdivision	Flood Zone	Elev. Certificate
			Building Description and Value	Electrical # Outlets	Demolition Sq. Ft.					
71105	Kelley Tierney	7 Latham St	Fence	\$250.00		\$10.00	X			
71106	Jane Huncow	65 1/2 Smithfield St	Re-Roof Shingles	\$4,200.00		\$10.00		X		
71107	Kelley Queen	18 Monongalia St	Roof Shingles over Shingles Soffit, Fascia, Gutters	\$2,775.00 \$532.00		\$10.00 \$10.00				
71108	Charles Lee	136 E Main St	Roof Porch Shingles over Shingles & Siding	\$3,000.00		\$10.00				
71109	James Wilco	135 Camden Ave	Roof Shingles over Shingles	\$800.00		\$10.00				
71110	Mary Ellen Arbogast	17 Island Ave	Windows, Doors, Siding	\$5,000.00		\$10.00				
71111	Pam Martin	14 Gum St	Heat & Air Unit	\$15,000.00	<40	\$15.00				
71112	Dan Hackett	16 Carol St	Heat & Air Unit	\$7,500.00	<40	\$15.00				
71113	Alburgers Pub	5 W Main St	Signage	\$185.00		\$15.00	X			
71114	John Petterson	104 Pocahontas St	Electrical Upgrade		<40	\$15.00				
71115	Colonial Terrace Apt Bldg #1	140 S Florida St	Re-Roof, Siding, Gutters, Fascia	\$15,150.00		\$10.00		X		
71116	Colonial Terrace Apt Bldg #2	140 S Florida St	Re-Roof, Siding, Gutters, Fascia	\$15,150.00		\$10.00		X		
71117	Linda Talbott	102 Camden Ave	Electrical Upgrade		<40	\$15.00				
71118	Ron Pugh	102 Barbour St	Heat & Air Unit		<40	\$15.00				
71119	Keith Queen	7 Green St	Windows & Siding	\$5,000.00		\$10.00				
71120	Jonathan Hicks	7 Cooper St	Fence	\$2,000.00		\$10.00	X	X		
71121	Ralph Riffe	111 Camden Ave	Siding & Inside Remodel	\$2,000.00		\$10.00				
71122	Carol Spafford	63 Morton Ave	Roof Tin over Shingles	\$2,000.00		\$10.00				
71123	John Mundy	25 Raqer St	Re-Roof Replace Tin	\$2,300.00		\$10.00				
71124	LesAnn Groah	64 Fifth St	Re-Roof Replace Tin	\$2,000.00		\$10.00				
71125	Lucinda McWhorter	12 Island Ave Lt 5	Electrical Upgrade		<40	\$15.00				
71126	Buckston Convention & Visitors Bureau	9 S Spring St	New Building Construction Electrical	\$372,839.00	>40	\$745.00 \$70.00	X			

Payment of Bills:

Motion was made by Keith Queen and seconded by Pam Cuppari to approve the payment of the bills. Motion carried.

CORRESPONDENCE:

LETTER FROM MARY ALBAUGH – APPOINTMENT TO ZONING BOARD OF APPEALS:

Mayor Davidson read the following letter from Mary Albaugh:

31 March 2009

Mr. Richard Clewes
Zoning Inspector
City of Buckhannon

Dear Mr. Clewes:

I am submitting this letter of interest in regards to the vacant position on the Zoning Board of Appeals Committee. I recall that you mentioned a vacancy at a recent City Council Meeting. I am a resident of the City of Buckhannon. My home address is 47 Bogges Street, Buckhannon, WV 26201.

I have talked with my friend and neighbor, Dorothy Short about the responsibilities of the committee. She assures me that it is a very interesting work. I also understand that it is volunteer work with no monetary compensation only that of self satisfaction for the opportunity to learn and participating by volunteering in our community.

I would gladly meet with you to learn more about the functions and responsibilities. This would also give you an opportunity to learn more about my personal work history and who I am on a personal level.

Thank you for your consideration of the opportunity to serve and I look forward to your reply.

Mary Albaugh

Mary Albaugh
47 Bogges Street
Buckhannon, WV 26201
Home 473-0738
Work 472-9601 (11:30 AM 4:00)

Motion was made by Keith Queen and seconded by Elizabeth Lee to approve the appointment of Mary Albaugh to the Zoning Board of Appeals. Motion carried.

LETTER FROM HOUSING AUTHORITY – APPOINTMENT OF SARAH CARR:

Mayor Davidson read the following letter from the Housing Authority:



BUCKHANNON HOUSING AUTHORITY
23 1/2 HINKLE DRIVE
BUCKHANNON, WV 26201-2417
304-472-1305

March 27, 2009

Honorable Kenneth Davidson
City of Buckhannon
ATTN: Nancy Shobe
70 E. Main St.
Buckhannon, WV 26201

Dear Mr. Davidson/Ms. Shobe:

The term of office of Sarah Carr as a member of the Board of Commissioners of the Housing Authority of the City of Buckhannon expires on April 6, 2009.

Ms. Carr (or her successor) should be reappointed (Appointed) by the City Council for a five (5) year term ending April 6, 2014.

Please furnish us with a letter verifying the appointment.

We would also like to express our thanks to the City and the Street Department for their quick and diligent work in keeping the streets cleaned and tressed during the recent winter weather.

Sincerely,

Jerry Marsh
Jerry Marsh,
Executive Director

Motion was made by Jerry Henderson and seconded by Elizabeth Lee to approve the appointment of Sarah Carr to the Housing Authority. Motion carried.

LETTER 2009 FRIENDLY WAY DAY HONOREE:

Mayor Davidson read the following letter to the 2009 Friendly Way Day Honoree Buddy Ray Zickefoose:

CITY OF BUCKHANNON

WEST VIRGINIA
26201

72 MAIN STREET
BUCKHANNON, WV 26201

TELEPHONE
(800) 472-1831
100 F 13841 472-9558
FAX F 13841 472-4628

April 15, 2009

Mr. Buddy Ray Zickefoose
88 West Lincoln Street
Buckhannon, WV 26201

RE: City's 2009 Friendly Way Day Honoree

Dear Buddy Ray:

I am very pleased to inform you that you have been selected by the City Council as our City's 2009 Friendly Way Day honoree. As you know, Buckhannon began the Friendly Way Day celebration when the street connecting South Florida and East Main Streets was dedicated in May of 2007. The street bearing the name of "Friendly Way" is in tribute to our longtime fire chief, and your friend and colleague, Carl R. "Bud," "Old Friendly" Bennett. Bud Bennett was posthumously honored as our first Friendly Way Day recipient in 2007, and Harley Brown was honored as our City's second selectee in 2008.

This annual award honors one of our City's own who has contributed to the success of our City operations and generally to Buckhannon's "friendly" spirit. Everyone associated with our City operations, Buddy, is excited to recognize you as our 2009 Friendly Way Day recipient.

On Friday, May 15, 2009, at 4:00 p.m. at our City's Public Safety Complex, located at One Friendly Way, City officials, members of our Fire Department, Tools Bennett, and a number of other residents of our community along with me, will gather to honor you and celebrate your decades of service as a dedicated City employee. After our program at the Public Safety Complex, you and your wife, Edna Jean, are invited to be driven in the annual Firefighters' Parade as part of our tribute to you during the 2009 Strawberry Festival. After your more than 38 years of manufacturing our fire trucks around the streets of Buckhannon, I cannot imagine a more appropriate way of steering a parade than to have you lead a hundred or so fire trucks and ambulances down Strawberry Lane on the evening of our Firefighters' Parade.

Your friends of the City will look forward to greeting you Friday afternoon, May 15. If you have any questions, please feel free to contact me or Nancy Shobe at City Hall at (304) 472-1861. Again, Buddy, please accept our most heartfelt congratulations on this most deserved recognition!

Very truly yours,



Kenneth Davidson, Mayor

cc: Members of City Council
Mitch Tacy, Fire Chief
Mrs. Tools Bennett
Mrs. Debra Hupp, President, WV Strawberry Festival

LETTER SERVICE TO THE 2009 SERVICE TO YOUTH CHAMPION DAY HONOREE:

Mayor Davidson read the following letter to the 2009 Service to Youth Champion Day Honoree Cathy McCauley:

CITY OF BUCKHANNON

WEST VIRGINIA
26201

72 MAIN STREET
BUCKHANNON, WV 26201

TELEPHONE
(800) 472-1831
100 F 13841 472-9558
FAX F 13841 472-4628

April 15, 2009

Mrs. Catherine McCauley
10 Meads Street
Buckhannon, WV 26201

RE: Stockert Youth Center's 2009 Service to Youth Champion Honoree

Dear Cathy:

On behalf of the entire Stockert Youth Center Board of Directors and our City of Buckhannon, I am very pleased to inform you that you have been selected by the SYC Board as our City's 2009 Service to Youth Champion. Last year, Patty Muncy was posthumously honored at Stockert, and the SYC Board subsequently resolved to annually honor other exemplary individuals who have given selflessly of themselves for the benefit of the youth of our community. You are only the second person to be formally recognized by SYC and our City for your many contributions to children of our community.

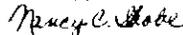
We are very mindful of the incredible amount of time that you have volunteered during the past 13 years as Director of the SYC drill team. We recognize your drill team as the seminal program at SYC when our youth center first opened its doors. You not only started the drill team program, but have sustained and expanded it throughout the years. A generation of young women numbering many hundreds, have been taught and inspired by you. Please consider this honor as a thank-you from all of those little girls who have loved pom-poms, batons, flags and rifles under your kind instruction and caring guidance in the many parades that the drill team has performed in throughout northcentral West Virginia.

Your many other contributions to our youth are also noted and appreciated, including your leadership and organization of the annual Red Ribbon Week campaign in our school system, your involvement in UCARE (Upshur County Alcohol Reduction Effort), Rachee's Challenge and the Kindness Initiative, and organizing SYC girls' summer volleyball.

On Thursday, May 14, 2009, at 3:00 p.m. at the Stockert Youth Center, SYC and City officials and a number of our residents including me, will gather to honor you and celebrate your many years of volunteerism benefiting the youth of our community. There will be a special dedication at SYC during this time as well. After our program, I know that you will be leading our award winning, SYC Drill Team down Strawberry Lane in the annual Junior Royalty Parade. While even then working for our children on the very day we honor you, know that you also will be recognized during that evening's parade.

Your friends at SYC and City Hall will look forward to greeting you Thursday afternoon, May 14. Again, Cathy, thank you, and please accept our most heartfelt congratulations on receiving this most deserved recognition!

Very truly yours,



Nancy C. Shobe, City Recorder & SYC Board

cc: Members of the SYC Board of Directors
Members of City Council
Mrs. Debra Hupp, President, WV Strawberry Festival

UNFINISHED BUSINESS:

2ND READING OF ORDINANCE NO. 344 ADDRESSING AND MAPPING:

ORDINANCE NO. 344 OF THE CITY OF BUCKHANNON AN ORDINANCE (1) ESTABLISHING PROVISIONS OF THE CITY COUNCIL RESPECTING ADDRESSING AND MAPPING; (2) PROVISIONS FOR THE ESTABLISHMENT OF 9-1-1 ADDRESSING AND MAPPING STANDARDS WITHIN THE CORPORATE LIMITS OF THE CITY OF BUCKHANNON IN COOPERATION WITH AND GUIDANCE FROM THE WEST VIRGINIA COORDINATOR TO COORDINATE ADDRESSING AND MAPPING ACTIVITIES OCCURRING WITHIN THE CITY WITH UPSHUR COUNTY COMMISSION AND STATEWIDE ADDRESSING AND MAPPING PROJECT; (3) ADOPTING STREET NUMBER POSTING STANDARDS WITH ENFORCEMENT AND PENALTY PROVISIONS AGAINST PROPERTY OWNERS RELATED THERETO; AND (4) ADOPTING VARIOUS OTHER ADMINISTRATIVE RULES AND REGULATIONS NECESSARY TO FACILITATE THE FINANCING AND PURPOSES SET FORTH WITHIN THIS ORDINANCE.

WHEREAS, pursuant to the statutory provisions of Chapter 8, Article 12, Section 5 of the West Virginia Code, as amended, the City of Buckhannon is authorized to regulate the use of streets, avenues, roads, alleys, ways, sidewalks, crosswalks and public places belonging to the City of Buckhannon, including the naming or renaming thereof, and further to consult with local postal authorities, the division of Highways and the director of county emergency communications centers to advance uniform, non-duplicative street addressing; and

WHEREAS, pursuant to the statutory provisions of Chapter 7, Article 1, Sections 3 and 3cc of the West Virginia Code, as amended, and consistent with the statutory provisions of Chapter 94E, Article 1, Section 1, et. seq., of the West Virginia Code, as amended, the Upshur County Commission is generally authorized to provide for the elimination of hazards to public health and safety and further is specifically authorized to establish and regulate the naming or renaming of roads, ways, streets, avenues, drives, etc., in cooperation with local postal authorities, the division of Highways, the director of the Upshur County Emergency Communications Center as well as with the City of Buckhannon, a West Virginia, municipal corporation located within Upshur County, and to maintain and update addressing and mapping frameworks within Upshur County; and

WHEREAS, an Enhanced 9-1-1 Emergency Telephone System has been approved by the Upshur County Commission and implemented within Upshur County; and

WHEREAS, the establishment of the 9-1-1 system requires the assignment of names to all streets and roads within Upshur County, the assignment of building numbers to all buildings having telephones and/or occupancies, the erection of appropriate street signs at intersections, and the maintenance of a countywide mapping system in conformity with statewide mapping system guidelines; and

WHEREAS, the City of Buckhannon is authorized to delegate, contract and cooperate with other governmental units, including but not limited to the Upshur County Commission insofar as addressing and mapping matters are concerned; and

WHEREAS, the Upshur County Commission has elected to participate in the Statewide Addressing and Mapping Project, pursuant to Title 18B, Series 2 of the Code of State Rules, thus promoting the goal of prompt and accurate dispatch of emergency

services or 9-1-1 personnel in Upshur County, and thereby enhancing the safety of lives and property of the citizens and residents of Upshur County; and

WHEREAS, the Upshur County Commission previously adopted and allocated a County Addressing Ordinance; and

WHEREAS, Administrative Rule 6.6 of the West Virginia 9-1-1 Addressing Reference Guide specifically authorizes municipalities to enact their own stand-alone addressing ordinance; and

WHEREAS, while the Council of the City of Buckhannon desires to cooperate to a large extent with the Upshur County Commission and their duly appointed addressing and mapping representatives regarding addressing and mapping matters arising within the City of Buckhannon's corporate limits, the City Council nevertheless desires to adopt and enforce its own stand-alone, municipal ordinance, while seeking to fulfill the State of West Virginia's goal of enhancing the safety of the lives and property of the citizens and residents of the City of Buckhannon; and

WHEREAS, the Council of the City of Buckhannon, with some qualifications as are herein described and set forth, now elects to participate in the Statewide Addressing and Mapping Project, pursuant to Title 18B, Series 2 of the Code of State Rules, thus promoting and facilitating the goal of prompt and accurate dispatch of emergency services or 9-1-1 personnel in the City of Buckhannon, and thereby enhancing the safety of the lives and property of the citizens and residents of the City of Buckhannon.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF BUCKHANNON, AS FOLLOWS:

ARTICLE I - TITLE OF ORDINANCE: This Ordinance hereafter shall be known and referred to as "The City of Buckhannon's Addressing Ordinance."

ARTICLE II - APPLICABILITY:

Section 1. The provisions of this Ordinance shall apply to the entire corporate limits of the City of Buckhannon, except as otherwise expressly provided.

Section 2. Pursuant to the Emergency Rules adopted by the West Virginia Statewide Addressing and Mapping Board on file with the office of the Secretary of State, Title 18B, Series 2 of the Code of State Rules, the City of Buckhannon hereby elects to participate in the West Virginia Statewide Addressing and Mapping Project, except as otherwise provided by this Ordinance.

Section 3. The City Recorder of Buckhannon shall serve notice of the City of Buckhannon's election to participate in the Statewide Project by sending to the State Board, a certified copy of this Ordinance within five (5) days following the Ordinance's effective date.

Section 4. The City Recorder of Buckhannon further shall serve notice of the City of Buckhannon's election to participate in the Statewide Project by sending to the Upshur County Commission, a certified copy of this Ordinance within five (5) days following the Ordinance's effective date.

ARTICLE III - ADDITIONAL FINDINGS OF COUNCIL: The Council of the City of Buckhannon hereby makes the following additional findings:

(1) The State of West Virginia by and through the State Legislature created the West Virginia Statewide Addressing and Mapping Board in 2001 to enable city-type addressing to be established in A-1 areas of the state primarily for the purpose of accommodating and improving 9-1-1, i.e., emergency responder, services.

(2) The Upshur County Commission ultimately was assigned by the State with the task of reviewing street addressing concerns in Upshur County, and then, when and where appropriate, to implement street address changes.

(3) Only recently the City Council was advised by the Upshur County Commission's addressing representatives that the magnitude of proposed changes of street names and numbers of homes and businesses situated within Buckhannon's corporate limits was likely to affect a majority and possibly all or very nearly all of the residents' addresses within Buckhannon's corporate limits.

(4) The City Council has expressed its general concern and disagreement with suggestions that a majority or even any substantial minority of addresses within the Buckhannon corporate limits be either required or should be recommended to be changed to comply conform with state proposal rules and regulations, i.e., the September 2008 "draft" of the "West Virginia 9-1-1 Addressing Reference Guide".

(5) Specifically the foregoing proposed and prospectively applicable, State rules and regulations pursuant to "draft" Rule 6.6.8 and those following provide in pertinent parts that, (a) "It is recommended that any re-numbering of properties or re-naming of streets be applied only to those specific properties or streets that are a problem, and not to all properties or streets in the community"; (b) "Only confusing numbers and names should be changed, leaving alone what is clear, consistent, and acceptable"; and (c) "Under extreme circumstances, a county or municipality with existing city-type addresses may feel it needs to re-number all streets of significant numbering inconsistencies throughout the entire community."

(6) The City Council specifically finds that with respect to addressing concerns that: (a) there are very few problematic properties or streets within Buckhannon's corporate limits; (b) there are very few existing street numbers and street names within Buckhannon's corporate limits, and the overwhelming majority of street names and numbers within Buckhannon's corporate limits are clear, consistent, and acceptable; (c) extreme circumstances do not exist within the corporate limits of Buckhannon with the existing city-type addressing that merit comprehensive re-naming or re-numbering of Buckhannon's streets; and (d) there are not significant numbering inconsistencies throughout Buckhannon's corporate limits to justify comprehensive re-naming and re-numbering of Buckhannon's streets.

(7) The City Council expressly rejects any and all findings regarding street addressing by any other person whatsoever or body public whatsoever, contrary to those findings enumerated in the immediately preceding paragraph (6).

(8) The City Council further finds that there are some certain specific street addressing problems existing within the Buckhannon corporate limits that may be corrected on a case-by-case, structure-by-structure basis without comprehensive street re-naming or

re-numbering.

(9) In such certain specific problematic areas existing within Buckhannon's corporate limits, the City Council is committed to correct such street addressing problems in the spirit of the 9-1-1 Addressing Reference Guide.

(10) The City Council finds that the most expedient manner of correcting specific street addressing problems is through the Council's designation of a committee of City officials, this Committee to be known as the City of Buckhannon's Street Addressing and Mapping Committee, whose task shall be to identify specific street addressing problems within Buckhannon's corporate limits, and then to promptly bring back written recommendations for correction before the City Council for the full Council's consideration and prospective approval and implementation.

(11) The City Council finds that it is reasonable and necessary to designate a Municipal Addressing Coordinator whose responsibilities shall include but not necessarily be limited to cooperating with County and State addressing and mapping officials regarding addressing matters, and which Municipal Addressing Coordinator shall be the City's duly appointed Streets Commissioner who further shall act and serve as the chair person of the City's Street Addressing and Mapping Committee.

(12) To the maximum extent possible as permitted by law or otherwise, the City Council now desires to declare that City of Buckhannon as being "grandfathered" from any regulatory compliance with any technical requirements as existing from any Federal or State statute or administrative rule or regulation, or any Upshur County ordinance provision enacted pursuant thereto respecting the issue of street addressing, and specifically street re-naming and re-numbering.

(13) The City Council specifically desires to adopt the Appendix C3 Number Posting Standards comprising a portion of the heretofore referenced, proposed West Virginia 9-1-1 Addressing Reference Guide regarding among other things that: (a) a particular structure's street number shall be permanently displayed on the structure in the vicinity of the front door or entry; (b) numbers shall be a minimum of four (4) inches high and be of a contrasting color to their background; and (c) any numbers different from the officially assigned street address number shall be immediately removed by the property owner, and the Council further finds that all property owners shall comply with all of the foregoing Appendix C3 Number Posting Standards on or before July 1, 2008, or be subject to the criminal enforcement and penalty provisions hereinafter set forth.

ARTICLE IV - COORDINATION WITH COUNTY & STATE ADDRESSING PROGRAMS:

(1) The City Addressing Coordinator shall cooperate and liberally share information about City addressing matters with the duly designated addressing representatives of both the Upshur County Commission and the State of West Virginia.

(2) Nothing in this Ordinance shall be deemed to affect city-type addresses, that are otherwise satisfactory for 9-1-1 and emergency service purposes upon the formal finding of the Buckhannon City Council following consideration of the written recommendations of the City's Street Addressing and Mapping Committee.

ARTICLE V - APPOINTMENT OF CITY STREET ADDRESSING AND MAPPING COMMITTEE AND MUNICIPAL ADDRESSING COORDINATOR:

Section 1 - City Street Addressing & Mapping Committee: The Committee shall consist of five (5) City officials based upon their offices to which they have been duly appointed, who shall be respectively, the City's: (1) Street Commissioner; (2) Police Chief; (3) Fire Chief; (4) Engineer or in the case of the City employing more than one engineer, such engineer to be designated by the City Council; and (5) Zoning & Housing Enforcement Officer.

Section 2 - Chair of Committee: The chair person of the City's Street Addressing & Mapping Committee shall be the City's Street Commissioner.

Section 3 - Responsibilities of City Street Addressing & Mapping Committee: The Committee shall promptly consider and report written recommendations to the City Council upon any City addressing matter properly brought before the Committee upon the Committee's own initiative or otherwise referred to the Committee by any of the (a) City Council; (b) Upshur County Commission Addressing Coordinator, or (c) representatives of the West Virginia Statewide Addressing & Mapping Board.

Section 4 - Municipal Addressing Coordinator: The City's Municipal Addressing Coordinator shall be the duly appointed Street Commissioner of the City of Buckhannon.

Section 5 - Responsibilities of Municipal Addressing Coordinator: The Municipal Addressing Coordinator shall call meetings of the City Street Addressing & Mapping Committee as reasonable or necessary. The Municipal Addressing Coordinator further shall be regarded as the day-to-day administrator of the City of Buckhannon's Addressing Ordinance, and shall discuss and coordinate addressing matters in cooperation with the Upshur County Commission's Addressing Coordinator and the representatives of the West Virginia Statewide Addressing & Mapping Board, and further as appropriate with the Upshur County Emergency Communications Director, the West Virginia Behavioral 9-1-1 Council, the Upshur County Assessor's Office, the United States Postal Service, and any other interested agencies and persons respecting such street addressing matters arising and as are addressed within this Ordinance.

ARTICLE VI - ADOPTION OF STATE STREET NUMBER POSTING STANDARDS AND ENFORCEMENT OF ORDINANCE AGAINST PROPERTY OWNERS:

Section 1 - Adoption of State Number Posting Standards: The City specifically adopts the Appendix C3 Number Posting Standards comprising a portion of the hereinbefore referenced, proposed West Virginia 89-1-1 Addressing Reference Guide requiring among other things that:

(a) a particular structure's street number shall be prominently displayed on the structure in the vicinity of the front door or entry;

(b) numbers shall be a minimum of four (4) inches high and be of a contrasting color to their background; and,

(c) any numbers different from the officially assigned street address number shall be immediately removed by the property owner, and all property owners shall comply with all of the foregoing Appendix C3 Number Posting Standards effective July 1, 2008.

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Section 2 - Property Owner's Failure to Comply, Enforcement & Penalty Provisions:

(a) Any property owner observed to fail to comply with the standards of Article VI hereof, shall be notified in writing by the Municipal Addressing Coordinator, and such person shall have ten (10) days to bring their structure into compliance with the standards hereof;

(b) Any property owner continuing to fail to comply with the standards of Article VI hereof, after written notice has been duly sent by the Municipal Addressing Coordinator, shall be deemed to have committed a misdemeanor criminal offense, and the Council hereby specifically authorizes, empowers, and directs all officers of the City of Buckhannon's Police Department, or any officer of any other police agency exercising proper jurisdiction within the corporate limits of the City of Buckhannon, to immediately issue a citation and to charge any property owner who violates the provisions of this Article VI, with jurisdiction of the matter belonging to the Municipal Court of the City of Buckhannon; and,

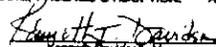
(c) Any property owner adjudged guilty and convicted of any first offense established hereunder by the Municipal Court, shall be subject to a fine of not less than Twenty-Five Dollars (\$25.00), nor more than One Hundred Dollars (\$100.00), plus all duly assessed Court costs.

(d) Any property owner adjudged guilty and convicted of any second or further offense established hereunder by the Municipal Court, shall be subject to a fine of not less than One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars (\$500.00), plus all duly assessed Court costs.

ARTICLE VII - SEVERABILITY: The provisions of this Ordinance are severable and if any provision or part thereof shall be held invalid for any reason by a court of competent jurisdiction, such invalidity shall not affect or impair any of the other provisions or parts of this Ordinance not so invalidated. It is hereby declared to be the intent of the City Council that this Ordinance would have been adopted if such invalid provision or part thereof had not been included herein.

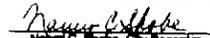
ARTICLE VIII - EFFECTIVE DATE: This Ordinance shall be deemed effective thirty (30) days following the second (2nd) reading, passage and adoption by the Council of the City of Buckhannon, La., May 18, 2008.

FIRST READING: April 2, 2008
SECOND READING, PAMMAGE & ADOPTION: April 18, 2008


Kenneth Davidson, Mayor

CERTIFICATE OF ENACTMENT

I, Nancy C. Shobe, Recorder of the City of Buckhannon, do hereby certify that the foregoing Ordinance No. 344 was lawfully adopted and enacted by the Council of the City of Buckhannon at a regular session of the Council assembled on April 18, 2008.


Nancy C. Shobe, City Recorder

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City Attorney McCauley advised there were minor administrative changes requested by city council at the last meeting. The words against property owners have been added for the enforcement of the ordinance.

City Recorder Nancy Shobe reminded city council she had suggested a public meeting or notification to effected residents, if the city were going into an area to make changes to addressees. Mr. McCauley said that should be a part of the administrative rules for the administration of the ordinance.

Motion was made by Keith queen and seconded by J. David Thomas to approve Ordinance No. 344 on second and final reading. Motion carried.

2nd READING OF ORDINANCE NO. 345 WASTE COLLECTION INCREASE:

ORDINANCE NO. 346 OF THE CITY OF BUCKHANNON
AN ORDINANCE TO INCREASE THE RATES CHARGED FOR MUNICIPAL WASTE COLLECTION AND DISPOSAL SERVICES WITHIN AND WITHOUT THE CORPORATE LIMITS OF BUCKHANNON; TO INCREASE THE RATES CHARGED BY THE CITY RELATIVE TO THE CITY'S OPERATIONS OF ITS SOLID WASTE TRANSFER STATION AND THE CITY'S TRANSFER OF ALL SOLID WASTE FROM THE SOLID WASTE TRANSFER STATION TO AN APPROVED SANITARY LANDFILL; AND TO SPECIFICALLY AMEND ORDINANCES NO. 327, 340 AND ANY AND ALL OTHER MUNICIPAL ORDINANCES WHICH SET THE CITY'S RATES CHARGED FOR THE ORIGINAL WASTE COLLECTION AND SOLID WASTE OPERATIONS

WHEREAS, the current rates and charges of the Waste Collection Board of the City of Buckhannon for providing garbage collection and other solid waste services for the residents of the City of Buckhannon and Upshur County, as said rates and charges were established by Ordinances No. 327 and 340, are now insufficient to maintain the high quality of waste collection and other solid waste services offered by the Board and City to the residents of Buckhannon and surrounding Upshur County; and,

WHEREAS, the Board and City have not sought a waste collection rate increase since December of 2006 except for landfill tipping fee increases passed through to customers in June of 2007; and,

WHEREAS, the Board and City's cost of providing waste collection and other solid waste services has increased since 2006 and 2007; and,

WHEREAS, the Waste Collection Board of the City of Buckhannon formally resolved during its regularly convened meeting of March 8, 2008, to recommend to the City Council that the City increase its rates and charges for waste collection and other solid waste services, pursuant to the proposed rate and charge schedule which is hereinafter described and set forth pursuant to Article II hereof; and,

WHEREAS, the Council of the City of Buckhannon is authorized pursuant to the statutory provisions of Chapter 8, Article 13, Section 13, and Chapter 24, Article 2, Section 4b of the West Virginia Code, as amended, to impose by ordinance upon the users of waste collection and other solid waste services, such reasonable rates, fees and charges as shall be collected in the manner specified in a properly enacted ordinance; and,

WHEREAS, the Council of the City of Buckhannon deems the rates and charges proposed by the Waste Collection Board of the City of Buckhannon, and as are described and set forth pursuant to Article II hereof, to be just and reasonable; and,

WHEREAS, the statutory provisions of Chapter 8, Article 11, Section 3, Subsection (1) and Chapter 8, Article 13, Section 13 of the West Virginia Code, as amended, specifically provide that the collection of fees of any kind by a municipality shall be established by ordinance; and,

WHEREAS, the Council of the City of Buckhannon desires in all respects to comply with the statutes of the State of West Virginia insofar as the establishment of new waste collection and other solid waste rates and charges is concerned.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL

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Residential - per additional container in excess of two containers per week (must purchase additional bags at City Hall)	\$1.80 per add.container	\$1.70 per container
Residential Recycle Items - outside pickup (service available only to residents with corporation)	no charge	no charge
Residential Recycle Items - dropoff (service available at Crossroads Recycling Center and at Midland facility)	no charge	no charge
Commercial within Corporation - (up to three containers per week)	\$22.02 per month	\$24.00 per month
Commercial outside Corporation (up to three containers per week)	\$28.27 per month	\$28.00 per month
Commercial - per additional container in excess of three containers per week	\$1.80 per add.container	\$1.70 per container
Commercial Recycle Items - pickup (service available only to commercial customers with volume exceeding five containers per week)	\$2.80 per container	\$1.02 per container
Commercial Recycle Items - dropoff	no charge	no charge
Transfer Station - construction debris		
(a) transfer station charge	\$28.80 per ton	\$28.00 per ton
(b) landfill bypass fee	\$17.25 per ton	\$17.25 per ton
total	\$46.05 per ton	\$45.25 per ton
Transfer Station - ordinary solid waste		
(a) transfer station fee	\$28.80 per ton	\$28.00 per ton
(b) landfill bypass fee	\$17.25 per ton	\$17.25 per ton
total fee	\$46.05 per ton	\$45.25 per ton

*as established by Ordinance No. 327 in 2006 & Ordinance No. 346 in 2007

**includes current PBO authorized bulk goods collection charge and current fuel surcharge

***the minimum transfer station fee charge for receiving solid waste is \$12.00 per vehicle load. For customers delivering solid waste by the bag, each bag up to 30 pounds in weight shall be charged a fee of \$1.00

ATTEST:

The Mayor of the City of Buckhannon and such other appropriate officials of the City including but not limited to the City Recorder/Treasurer and City Attorney are hereby expressly authorized to prepare and file, under oath to be prepared and filed, any and all necessary applications, tariff modifications and/or other documents with the West Virginia Public Service Commission, and generally to assure the City of Buckhannon's compliance with the Public Service Commission's rules and regulations respecting waste collection and other solid waste services as offered by the City of Buckhannon's Waste Collection Board, and the establishment of rates and charges therefor.

ARTICLE IV - AMENDMENT OF CITY ORDINANCE NO. 327 & 340: The provisions of Ordinance No. 327, 340 and/or any other Ordinances of the City of

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OF THE CITY OF BUCKHANNON, AS FOLLOWS:

ARTICLE I - FINDINGS OF COUNCIL: The Council of the City of Buckhannon hereby makes the following findings:

(1) The current rates and charges of the Waste Collection Board of the City of Buckhannon for providing waste collection and other solid waste services for the residents of the City of Buckhannon and Upshur County, as said rates and charges are established by Ordinances No. 327 and 340, are now insufficient to maintain the high quality of waste collection and other solid waste services offered by the Board and City to the residents of Buckhannon and surrounding Upshur County;

(2) The Board and City have not sought a waste collection rate increase since 2006 and 2007;

(3) The Board and City's cost of providing waste collection and other solid waste services has increased substantially since 2006 and 2007;

(4) The Waste Collection Board of the City of Buckhannon formally resolved during its regularly convened meeting of March 8, 2008, to recommend to the City Council that the City increase its rates and charges for waste collection and other solid waste services, pursuant to the proposed rate and charge schedule which is hereinafter described and set forth pursuant to Article II hereof;

(5) The Council of the City of Buckhannon is authorized pursuant to the statutory provisions of Chapter 8, Article 13, Section 13, and Chapter 24, Article 2, Section 4b of the West Virginia Code, as amended, to impose by ordinance upon the users of waste collection and other solid waste services, such reasonable rates, fees and charges as shall be collected in the manner specified in a properly enacted ordinance;

(6) The Council of the City of Buckhannon deems the rates and charges proposed by the Waste Collection Board of the City of Buckhannon, and as are described and set forth pursuant to Article II hereof, to be just and reasonable;

(7) The statutory provisions of Chapter 8, Article 11, Section 3, Subsection (1) and Chapter 8, Article 13, Section 13 of the West Virginia Code, as amended, specifically provide that the collection of fees of any kind by a municipality shall be by ordinance; and,

(8) The Council of the City of Buckhannon desires in all respects to comply with the statutes of the State of West Virginia, and further with the rules and regulations as promulgated by the West Virginia Public Service Commission insofar as the establishment of new waste collection and other solid waste rates and charges is concerned.

ARTICLE II - NEW RATE AND CHARGE SCHEDULE: The following rates and charges shall be paid for waste collection and other solid waste services offered by the Waste Collection Board of the City of Buckhannon, upon this Ordinance's enactment:

TYPE OF USER/SERVICE	CURRENT RATE	NEW RATE
Residential within Corporation - (up to two containers per week)	\$18.48 per month	\$18.75 per month
Residential outside Corporation (up to two containers per week)	\$18.99 per month	\$18.75 per month

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Buckhannon previously adopted and which concern waste collection and other solid waste services as provided by the City of Buckhannon's Waste Collection Board are hereby expressly amended pursuant to the provisions hereof.

ARTICLE V - PREVIOUS WASTE COLLECTION AND OTHER SOLID WASTE SERVICE ORDINANCES

Any and all other provisions of Ordinance No. 327, 340 and/or any other Ordinances of the City of Buckhannon previously adopted concerning waste collection and other solid waste services as provided by the City of Buckhannon or the Waste Collection Board of the City of Buckhannon, and which are not expressly amended pursuant to the provisions of this Ordinance No. 346, shall be deemed to remain in full force and legal effect, except for those rates, charges, definitions and other ordinance provisions which are expressly amended hereby.

ARTICLE VI - EFFECTIVE DATE: Pursuant to Chapter 24, Article 2, Section 4b of the West Virginia Code, as amended, this Ordinance shall be deemed effective upon the forty-eighth (48th) day following the third (3rd) reading, passage and adoption by the Council of the City of Buckhannon, i.e., June 22, 2008.

FIRST READING: April 8, 2008
 SECOND READING: April 15, 2008
 THIRD READING, PASSAGE AND ADOPTION: May 7, 2008

Kenneth Davidson, Mayor

CERTIFICATE OF ENACTMENT

I, Nancy C. Shobe, City Recorder, do hereby certify that the foregoing Ordinance No. 346 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on May 7, 2008.

Nancy C. Shobe, City Recorder

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City Attorney advised there were no changes on this ordinance but this reading requires three readings. He advised there would be a public hearing at the next council meeting.

Motion was made by Keith Queen and seconded by Jerry Henderson to approve Ordinance No. 346 on second reading. Motion carried.

NEW BUSINESS:

RESOLUTION NO. 2008-07

RESOLUTION NO. 2009-07

Be it resolved that the City Council of the City of Buckhannon hereby authorize Matthew Gregory, Chief of Police for the City of Buckhannon, to act on its behalf to apply for grant funds under the Justice Assistant Grant (JAG) grant program

Signed: Nancy C. Shobe City Recorder

Motion was made by Jerry Henderson and seconded by J. David Thomas to approve Resolution 2009-07 as presented. Motion carried.

ORDINANCE NO. 346 - TRANSFER PROPERTY TO CVB

(CVB PURCHASED PROPERTY - TITLE PUT IN NAME OF CITY - CLERICAL ADMINISTRATIVE CORRECTION)

City Attorney David McCauley presented Ordinance 346 and explained to council the need for the ordinance. He said at the last council meeting, Council Queen reminded council of the administrative correction needed in the deed for the old D & L Tire property, which the Buckhannon CVB purchased but the title was in the name of City of Buckhannon. Ordinance 322 clearly states the property was for the Buckhannon Convention & Visitors Bureau. It is also very clear the equitable owners of the property were the Buckhannon CVB as all funds used for purchase were made by the Buckhannon CVB. He recommended city council's passage of Ordinance 346 on 1st reading.

ORDINANCE NO. 346 OF THE CITY OF BUCKHANNON, AN ORDINANCE (1) AUTHORIZING AND DIRECTING THE MAYOR, EXECUTION AND DELIVERY OF A CORRECTIVE DEED VESTING ALL LEGAL AND EQUITABLE TITLE IN AND TO THAT CERTAIN LOT OR PARCEL OF LAND SITUATED AT THE SOUTHWESTERN CORNER OF EAST MAIN AND SOUTH SPRING STREETS IN THE CITY OF BUCKHANNON, BUCKHANNON CORPORATION DISTRICT OF UPSHUR COUNTY, WEST VIRGINIA WITH THE BUCKHANNON CONVENTION AND VISITORS BUREAU, INC., A PRIVATE, NON-PROFIT, WEST VIRGINIA CORPORATION, (2) AMENDING CITY ORDINANCE NO. 322 (4) ESTABLISHING REVERSIONARY RIGHTS IN AND TO THE SUBJECT REAL ESTATE FAVORING THE CITY UNDER CERTAIN CONDITIONS, AND (5) AMENDING CITY OF BUCKHANNON ORDINANCE NO. 322

WHEREAS, pursuant to Ordinance No. 322 of the City of Buckhannon, enacted on April 18, 2008, the City Council approved the purchase of all of that certain lot or parcel of land aggregating approximately 0.34 of an acre, more or less, said real estate fronting on the southern side of East Main Street and further on the western side of South Spring Street in the City of Buckhannon, Buckhannon Corporation District of Upshur County, West Virginia; and,

WHEREAS, the express and primary purpose of Ordinance No. 322 was to facilitate the establishment of an office center for the Buckhannon Convention and Visitors Bureau, Inc., hereinafter referred to as Buckhannon CVB, Inc., in the downtown Buckhannon area, specifically seeking to draw guests and visitors to the heart of the City; and,

WHEREAS, the City and Buckhannon CVB, Inc. officials negotiated the purchase price of One Hundred Twenty-Seven Thousand Dollars (\$127,000.00) with the previous owners of the real estate being John L. Moss and Debra A. Moss, husband and wife; and,

WHEREAS, all of the aforesaid purchase money proceeds paid to the said Mosses were funds belonging to Buckhannon CVB, Inc., a private, non-profit, West Virginia corporation; and,

WHEREAS, the purchase of the subject real estate was in fact consummated as evidenced by that certain deed dated April 24, 2008, from John L. Moss and Debra A. Moss, husband and wife, unto The City of Buckhannon, said deed appearing of record in the Office of the Clerk of the County Commission of Upshur County, West Virginia in Deed Book 488 at page 621; and,

WHEREAS, while the aforesaid deed vested legal title in the subject real estate with the City of Buckhannon, all equitable interests in the subject real estate were actually owned at all times exclusively by the Buckhannon CVB, Inc., as a consequence of Buckhannon CVB, Inc. funds being exclusively used to purchase the subject real estate without any City of Buckhannon funds being applied or unremitted respecting the purchase of the subject real estate; and,

WHEREAS, the Council of the City of Buckhannon now desires to correct the status of legal title respecting the subject real estate in such a manner to reflect the real intentions and actions of both the City of Buckhannon and Buckhannon CVB, Inc., through the execution and delivery of a corrective deed to vest legal title of the subject real estate with

the equitable owner thereof, i.e., Buckhannon CVB, Inc.; and,

WHEREAS, notwithstanding the forthcoming execution and delivery of the aforesaid corrective deed of conveyance respecting the subject real estate, the Council of the City of Buckhannon nevertheless desires to impress certain purchase rights of first refusal and reversionary rights in and to the subject real estate favoring the City of Buckhannon which rights shall appear within the forthcoming corrective deed; and,

WHEREAS, the statutory provisions Chapter 8, Article 11, Section 3, Paragraph (4) of the West Virginia Code, as amended, respecting the conveyance of real estate filed with a municipality require that such action of a governing body be established by ordinance; and,

WHEREAS, the Council of the City of Buckhannon desires in all respects to comply with the aforesaid statute of the State of West Virginia insofar as the conveyance of the subject real estate is concerned.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF BUCKHANNON, AS FOLLOWS:

ARTICLE I - FINDINGS OF COUNCIL: The Council of the City of Buckhannon hereby makes the following findings:

(1) Pursuant to Ordinance No. 322 of the City of Buckhannon, enacted on April 18, 2008, the City Council approved the purchase of all of that certain lot or parcel of land aggregating approximately 0.34 of an acre, more or less, said real estate fronting on the southern side of East Main Street and further on the western side of South Spring Street in the City of Buckhannon, Buckhannon Corporation District of Upshur County, West Virginia;

(2) The express and primary purpose of Ordinance No. 322 was to facilitate the establishment of an office center for the Buckhannon Convention and Visitors Bureau, Inc., in the downtown Buckhannon area, specifically seeking to draw guests and visitors to the heart of the City;

(3) The secondary purpose of Ordinance No. 322 was to address the need for additional, vehicular parking in Buckhannon's downtown area, including parking for guests and visitors to Buckhannon;

(4) The proposed building design for the Buckhannon CVB, Inc.'s office center includes the establishment of parking for guests and visitors to Buckhannon who will be visiting the Buckhannon CVB, Inc.'s facilities;

(5) It is reasonable and appropriate for the City Council to relinquish any municipal parking development opportunities otherwise anticipated at the time of the adoption of Ordinance No. 322, in favor of, and to facilitate the construction of the new Buckhannon CVB, Inc.'s office center and further for the Buckhannon CVB, Inc.'s establishment of its own parking accommodations to service guests and visitors to the City who will be visiting the Buckhannon CVB, Inc.'s facilities;

(6) The City and Buckhannon CVB, Inc. officials negotiated the purchase price of One Hundred Twenty-Seven Thousand Dollars (\$127,000.00) with the previous owners of the real estate being John L. Moss and Debra A. Moss, husband and wife;

(7) All of the aforesaid purchase money proceeds paid to the said Moores were funds belonging to Buchanan CVB, Inc., a private, non-profit, West Virginia corporation;

(8) The purchase of the subject real estate was in fact consummated as evidenced by that certain deed dated April 24, 2008, from John L. Moss and Debra A. Moss, husband and wife, unto The City of Buchanan, said deed appearing of record in the Office of the Clerk of the County Commission of Upshur County, West Virginia in Deed Book 438 at page 631;

(9) While the aforesaid deed vested legal title in the subject real estate with the City of Buchanan, all equitable interests in the subject real estate were actually owned at all times exclusively by the Buchanan CVB, Inc., as a consequence of Buchanan CVB, Inc. funds being exclusively used to purchase the subject real estate without any City of Buchanan funds being applied or unreimbursed respecting the purchase of the subject real estate;

(10) The Council of the City of Buchanan now desires to correct the status of legal title respecting the subject real estate in such a manner to reflect the real intentions and actions of both the City of Buchanan and Buchanan CVB, Inc., through the execution and delivery of a corrective deed to vest all legal title in and to the subject real estate with the equitable owner thereof, i.e., Buchanan CVB, Inc.;

(11) Notwithstanding the forthcoming execution and delivery of the aforesaid corrective deed of conveyance respecting the subject real estate, the Council of the City of Buchanan nevertheless desires to (a) reserve a purchase right of first refusal and (b) impose reversionary rights in and to the subject real estate favoring the City of Buchanan, which rights shall expressly appear within the forthcoming corrective deed;

(12) The statutory provisions Chapter 8, Article 11, Section 3, Paragraph (b) of the West Virginia Code, as amended, respecting the conveyance of real estate titled with a municipality requires that such action of a governing body be established by ordinance;

(13) The Council of the City of Buchanan desires in all respects to comply with the aforesaid statutes of the State of West Virginia insofar as the conveyance of the subject real estate is concerned.

ARTICLE II - AUTHORIZATION AND DIRECTIVES OF COUNCIL: The Council of the City of Buchanan hereby authorizes and directs as follows:

(1) The Council of the City of Buchanan now desires to formally and in all respects ratify, confirm, approve, accept and endorse the City's conveyance of the subject real estate unto Buchanan CVB, Inc., by proper, corrective deed recognizing the consideration previously paid by Buchanan CVB, Inc., in the amount of One Hundred Twenty-Seven Thousand Dollars (\$127,000);

(2) The terms and provisions of the City Council's previously enacted Ordinance No. 322 shall be deemed to be amended pursuant to, and consistent with the provisions of this Ordinance; and,

(3) The Mayor of the City of Buchanan, being Kenneth Davidson, and the City Recorder, being Nancy C. Shobe, are both hereby expressly authorized and directed to

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CERTIFICATE OF ENACTMENT

I, Nancy C. Shobe, City Recorder, do hereby certify that the foregoing Ordinance No. 348 was lawfully ordained and enacted by the Council of the City of Buchanan at a regular session of the said Council assembled on May 7, 2008.

Nancy C. Shobe, City Recorder

prepare or have prepared, and then execute, acknowledge, witness and deliver on behalf of the City of Buchanan, the corrective deed of conveyance and any and all other documents as may be deemed reasonable or necessary to realize and evidence the City's conveyance of the subject real estate to the said Buchanan Conventions and Visitors Bureau, Inc., a private, non-profit, West Virginia corporation.

ARTICLE III - CITY'S PURCHASE RIGHT OF FIRST REFUSAL: The corrective deed of conveyance from the City of Buchanan to the Buchanan CVB, Inc., shall set forth provisions specifying that prior to any sale or conveyance of the subject real estate by Buchanan CVB, Inc., to any third party whatsoever, that the City of Buchanan shall first have and enjoy the exclusive right and opportunity to purchase the subject real estate for such consideration otherwise established in writing as promised to be paid by any such third party, and such City right and opportunity shall continue for a period of sixty (60) days following the City's receipt of written notice from Buchanan CVB, Inc., respecting any such proposed sale and conveyance to any such third party purchaser. Furthermore, Buchanan CVB, Inc., upon consulting any transaction or receiving any declaration to sell and convey the subject real estate, shall promptly contact the City to explore the City's interest and opportunity to acquire and negotiate the terms of purchase of the subject real estate.

ARTICLE IV - REVERSION OF TITLE TO CITY: The corrective deed of conveyance from the City of Buchanan to the Buchanan CVB, Inc., further shall within the maximum bounds as permitted by law, set forth provisions specifying that title to the subject real estate shall immediately revert to the City of Buchanan in the event of the Buchanan CVB, Inc.'s insolvency, bankruptcy, dissolution by the State of West Virginia, or any statutorily permitted or mandated takeover, merger or other reorganization by or with any other regional or other CVB authority, or any such other entity that includes or assumes the purposes as defined or consisting of current CVB authority under the laws of the State of West Virginia, provided that in the instance of any such insolvency or bankruptcy, that such insolvency or bankruptcy has not been necessitated or caused as a consequence of the City of Buchanan's elimination or reduction in funding via the current tax assessment mechanism known as the hotel and motel tax that is collected by and paid to Buchanan CVB, Inc., insofar as said funding is established by those tax rates established pursuant to City of Buchanan Ordinance No. 304.

ARTICLE V - EFFECTIVE DATE: This Ordinance shall be deemed effective by the Council of the City of Buchanan thirty (30) days following the second (2nd) reading, passage and adoption by the Council of the City of Buchanan, i.e., June 8, 2008.

FIRST READING: April 16, 2008
SECOND READING, PASSAGE & ADOPTION: May 7, 2008

Kenneth Davidson, Mayor

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Motion was made by Keith Queen and seconded by Pam Cuppari to approve Ordinance 348 on 1st reading. Motion carried with Council J. David Thomas voting nay.

VETERANS PREFERENCE POINTS FOR POLICE CIVIL SERVICE EXAMINATION:

Chief Gregory advised city council the Police Civil Service Commission has recommended honorably discharged veterans be given the five point preference points as permitted by State code.

Search	Issue	Join	Bill Status	WV Code	Audits/Reports
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WEST VIRGINIA CODE

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS. ARTICLE 13. PREFERENCE RATING OF VETERANS ON WRITTEN EXAMINATION ON NONPARTISAN MERIT BASIS.

§6-13-1. Preference rating of veterans on written examinations for positions in state departments filled under nonpartisan merit systems.
For positions in any agency as defined in section four, article one, chapter five-f of this code or any other political subdivision of this state in which positions are filled under civil service or any job classification system, a preference of five points in addition to the regular merit-based score received on examination shall be awarded to all veterans having qualified for appointment by meeting a minimum passing grade; and to all veterans awarded the Purple Heart, or having a compensable service-connected disability, as established by any proper veterans' bureau or department of the federal government, an additional five points shall be allowed.

For the purpose of this article, a person is defined as a "veteran" if he or she fulfills the requirements of one of the following subsections:

(a) Served on active duty anytime between the seventh day of December, one thousand nine hundred forty-one, and the first day of July, one thousand nine hundred fifty-five. However, any person who was a reservist called to active duty between the first day of February, one thousand nine hundred fifty-five, and the fourteenth day of October, one thousand nine hundred seventy-six, must meet condition (b) stated below;

(b) Served on active duty anytime between the second day of July, one thousand nine hundred fifty-five, and the fourteenth day of October, one thousand nine hundred seventy-six, or a reservist called to active duty between the first day of February, one thousand nine hundred fifty-five, and the fourteenth day of October, one thousand nine hundred seventy-six, and who served for more than one hundred eighty days;

(c) Entered on active duty between the thirteenth day of October, one thousand nine hundred seventy-six, and the seventh day of September, one thousand nine hundred eighty, or a reservist who entered on active duty between the thirteenth day of October, one thousand nine hundred seventy-six, and the thirteenth day of October, one thousand

nine hundred eighty-two, and received a campaign badge or expeditionary medal or is a disabled veteran; or

(d) Enlisted in the armed forces after the seventh day of September, one thousand nine hundred eighty, or entered active duty after that by enlistment on or after the fourteenth day of October, one thousand nine hundred eighty-two; and

(1) Completed twenty-four months of continuous active duty or the full period called or ordered to active duty, or was discharged under 10 U.S.C. 1171, or for hardship under 10 U.S.C. 1173, and received or was entitled to receive a campaign badge or expeditionary medal; or

(2) Is a disabled veteran.

To receive veteran preference, separation from active duty must have been under honorable conditions. This includes honorable and general discharges. A demerency discharge does not meet the requirements of the Veteran Preference Act. Active duty for training in the military reserve and national guard programs is not considered active duty for purposes of veteran preference.

These awards shall be made for the benefit and preference in appointment of all veterans who have heretofore or who shall hereafter take examinations, but shall not operate to the detriment of any person heretofore appointed to a position in a department or agency.
Note: Code updated with legislation passed through the 2008 2nd Extraordinary Session

Motion was made by J. David Thomas and seconded by Keith Queen granting the recommendation by the Police Civil Service Commission to grant the five preference points for honorably discharged veterans applying for a position with the Buckhannon Police Department. Motion carried.

BOARD REPORTS:

WATER: Council Cuppari reported the Water Board met on April 9, 2009 and heard the following:

1. Approved minutes
2. Reviewed the Sanitary Survey report on the water system.
3. Approved adjustment of late charge for Hodgesville PSD
4. Received 09-10 draft budget from Mrs. Shobe with review and approval at the next meeting
5. Hydrant flushing will begin on April 13

6. Hydrants for the county have been ordered and the county has agreed to pay the monthly fee for the hydrants
7. Next meeting has been rescheduled for May 7th at 3:00 pm due to the Strawberry Festival.

SANITARY BOARD - Meeting canceled.

COUNCIL COMMENTS:

J. David Thomas - *Nothing*

Jerry Henderson - *Nothing*

Keith Queen - *Nothing*

Pam Cuppari - *Absent*

Libby Lee - *Nothing*

Nancy Shobe - *Mrs. Shobe reminded city council of the "Lay the Levy" meeting on Tuesday, April 21 @ 9:00 am at City Hall.*

Mayor Davidson - *Nothing*

Mayor Davidson asked for an executive session to discuss property, personnel and litigation (6-9a-4). Motion was made by Keith Queen and seconded by Pam Cuppari to adjourn into an executive session to discuss personnel, property and litigation (6-9a-4). Motion carried.

Council went into executive session at 10:00 pm.

No decisions were made in the executive session.

There being no further business to be transacted before this meeting, meeting adjourned at 10:15 p.m.

MAYOR

RECORDER-TREASURER

THE RECORD DELTA
P.O. BOX 550
BUCKHANNON, WV 26201
 (304) 472-2800
 FEIN NO. 363672215

Tanjia Willis-Miller
 Jackson Kelly PLLC
 PO Box 619
 150 Clay Street, Suite 500
 Morgantown, WV 26501

LEGAL ADVERTISEMENT INVOICE

ACCT# 7592 LEGAL# 5959

DESCRIPTION City of Buckhannon Hearing and Abstract of Bond

PUBLICATION DATES	PUBLICATION COST
3/20/2009	\$ 79.35
3/27/2009	\$ 59.51
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
AFFIDAVIT FEE	\$ 2.00
TOTAL	\$ 140.86

Legal Rate: .11 1/5 cents per word space for the first publication
 75% of the first cost for each additional publication

AFFIDAVIT

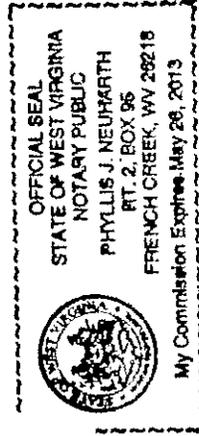
STATE OF WEST VIRGINIA, COUNTY OF UPSHUR,
 Carmela Rice, Legal Clerk of the Record Delta,
 a Newspaper Published in Buckhannon in said county,
 do hereby certify that the annexed

City of Buckhannon Hearing and Abstract of Bond
 Was published once a week for Two Successive
 weeks in said Record Delta Newspaper as aforesaid,
 commencing on the 20th day of March, 2009

Legal Clerk: Carmela Rice

WEST VIRGINIA, UPSHUR COUNTY, TO WIT:
 Subscribed and sworn before me this 27th
 day of March, 2009.

Notary Public: Phyllis J. Neuharth
 My commission expires: May 26, 2013



CITY OF BUCKHANNON, WEST VIRGINIA

NOTICE OF PUBLIC HEARING AND ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on March 5, 2009, the City Council of the City of Buckhannon, West Virginia (the "City"), adopted an ordinance which, among other things:

1. Authorized the issuance of not more than \$2,900,000 in aggregate principal amount of Sewerage System Refunding Revenue Bonds, Series 2009 A (the "Bonds"), for the purposes of currently refunding the Issuer's Sewer System Refunding Revenue Bonds, Series 1996 A, and paying the cost of issuance of the Bonds.

2. Directed that the Bonds be issued in such principal amount, bear interest at such rate or rates, not exceeding the then legal maximum rate, mature on such dates and in such amounts and be redeemable, in whole or in part, as prescribed in a supplemental resolution.

3. Directed the continuation of the revenue fund and the disposition of the System revenues; provided for the payment of operating expenses of the System and debt service on the Bonds; directed the creation of a sinking fund for the Bonds and, unless waived by the Bond purchaser, a reserve account for the Bonds and the continuation of the renewal and replacement fund; and directed the deposit of the Bond proceeds pursuant to an escrow agreement and into a costs of issuance account.

4. Provided that the Bonds shall not be or constitute a corporate indebtedness of the City within the meaning of any statutory or constitutional limitations, but shall be payable solely from the Net Revenues of the System; pledged the Net Revenues of the System to payment of the Bonds; established the rights of the registered owners of the Bonds to such Net Revenues; and provided certain conditions for the issuance of additional bonds.

5. Provided for insurance coverage on the System, enforcement of collection of fees, rates or other charges for the System and other covenants in favor of the registered owners; established the events of default and the remedies of the registered owners; and provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The City contemplates the issuance of the Bonds described in, and under the conditions set forth in, the Ordinance abstracted above. Any person interested may appear before the Council of the City of Buckhannon at a regular meeting on April 2, 2009, at 7:00 p.m., in the Council Chambers, City Hall, Buckhannon, West Virginia, at 70 East Main Street, Buckhannon, West Virginia 26201, and present protests and be heard as to whether the above-described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of City on March 5, 2009, is on file with the City Recorder for review by interested persons at the City Hall during regular office hours, to-wit: 8:30 a.m. to 4:30 p.m., Monday through Friday.

Nancy Shobe
City Recorder of the City of Buckhannon,
West Virginia
(03-20, 03-27)

THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS,
SERIES 2009 A

3.1

GENERAL CERTIFICATE ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES AND DELIVERY
6. RATES
7. INCUMBENCY AND OFFICIAL NAME
8. MEETINGS
9. INSURANCE
10. SPECIMEN BOND
11. BOND PROCEEDS
12. PUBLICATION AND PUBLIC HEARING ON BOND
ORDINANCE
13. LAND AND RIGHTS-OF-WAY
14. CONFLICTS OF INTEREST
15. TRUTH AND ACCURACY OF DOCUMENTS DELIVERED
16. COUNTERPARTS

We, the undersigned MAYOR and the undersigned RECORDER of The City of Buckhannon in Upshur County, West Virginia (the "Issuer"), and the undersigned CITY ATTORNEY for the Issuer, hereby certify in connection with The City of Buckhannon Sewerage System Refunding Revenue Bonds, Series 2009 A, numbered AR-1, dated the date hereof, in the principal amount of \$2,004,608 (the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning set forth in the Bond Ordinance duly and officially adopted by the City Council of the Issuer on March 5, 2009, effective April 16, 2009, the Supplemental Resolution duly adopted by the City Council of the Issuer on April 16, 2009 (collectively, the "Ordinance"), and the Commitment Letter by and between the Issuer and Branch Banking and Trust Company (the "Purchaser"), dated April 3, 2009 (the "Bank Commitment Letter").

2. **NO LITIGATION:** No controversy or litigation of any nature is now pending or, to the knowledge of any of the undersigned, threatened, (i) restraining, enjoining or affecting in any manner the authorization, issuance, sale and delivery of the Bonds, the operation of the System, the collection or use of the Gross Revenues, or the pledge and security of the Net Revenues for the Bonds; (ii) affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; (iii) questioning the existence of the Issuer or the title of the members or officers of the Issuer, the City Council, or the Sanitary Board to their respective offices; or (iv) questioning any proceedings of the Issuer taken with respect to the authorization, issuance, sale or delivery of the Bonds, the operation of the System, the collection or use of the Gross Revenues, or the pledge and security of the Net Revenues for the Bonds.

3. **GOVERNMENTAL APPROVALS AND BIDDING:** All applicable and necessary 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 duly and timely obtained and remain in full force and effect.

4. **NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS:** There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery by the Issuer of the Bank Commitment Letter. The Issuer has met all conditions set forth in the Bank Commitment Letter.

The Bonds are issued on a parity with the Prior Bonds, with respect to liens, pledge and source of and security for payment and in all other respects; provided, that the Prior Bonds are secured by a reserve accounts that does not also secure the Bonds. The Issuer has obtained (i) the certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the registered owner of the Prior Bonds to the issuance of the Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all the terms and provisions of the Prior Bonds and the Prior Ordinance.

5. **SIGNATURES AND DELIVERY:** The undersigned Mayor and Recorder are the duly elected or appointed, qualified and acting officers of the Issuer as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the Issuer. On the date hereof, the undersigned Mayor did officially sign all of the Bonds, consisting upon original issuance of a single Bond, dated the date hereof, by the Mayor's manual signature; the undersigned Recorder did officially cause the seal of the Issuer to be affixed upon the Bonds and to be attested by the Recorder's manual signature; and the Registrar did

officially authenticate and deliver the Bonds to a representative of the Purchaser as the original purchaser of the Bonds under the Bank Commitment Letter.

6. RATES: The Issuer has duly enacted a sewer rate ordinance on February 15, 2007 setting forth the rates and charges for the services of the System. The Issuer has complied with all requirements of the Act and the Public Service Commission of West Virginia (the "PSC") to make the rates valid and effective. The time for appeal of such rate ordinance has expired and there has been no appeal thereof and such rates are in full force and effect.

7. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is the "The City of Buckhannon." The Issuer is a municipal corporation of the State of West Virginia in Upshur County of said State. The governing Body of the Issuer is its Council, consisting of 5 Council members and the Mayor. The names and dates of commencement and termination of terms of office for all such officials are listed below:

<u>Office</u>	<u>Name</u>	<u>Date Of Commencement Of Office</u>	<u>Date Of Termination Of Office</u>
Mayor	Kenneth T. Davidson	July 1, 2008	June 30, 2012
Recorder	Nancy C. Shobe	June 29, 2006	June 30, 2010
Council Member	M. Keith Queen	July 1, 2008	June 30, 2012
Council Member	J. David Thomas	July 1, 2008	June 30, 2012
Council Member	Pamela Cuppari	July 1, 2008	June 30, 2012
Council Member	Geraldine Henderson	June 29, 2006	June 30, 2010
Council Member	Elizabeth Lee	August 21, 2008	June 30, 2010

The names of the duly appointed, qualified and acting members of the Sanitary Board of the Issuer are as follows:

Chairman: Kenneth T. Davidson
Member: Jay Hollen
Member: Philip Loftis

The duly appointed and acting City Attorney for the Issuer is David W. McCauley, Esquire, Buckhannon, West Virginia

8. MEETINGS: All actions, ordinances, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the operation of the System were authorized or adopted at meetings of the City Council duly and regularly or specifically called and held pursuant to the Rules of Procedure of the City Council and all applicable statutes including Chapter 6, Article 9A of the Code of West Virginia, 1931, as amended, and a quorum of duly elected or appointed, qualified and acting members of the City Council was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

9. INSURANCE: The Issuer will maintain or, as appropriate, will require all contractors to maintain worker's compensation, public liability and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Ordinance. All insurance for the System required by the Ordinance is in full force and effect.

10. SPECIMEN BOND: Included in the Transcript of Proceedings of which this Certificate is a part (the "Transcript") as Document No. 3.4 is a specimen of the Bond which is identical in all respects with the Bond this day delivered to the Purchaser and being substantially in the form prescribed in the Ordinance.

11. BOND PROCEEDS: On the date hereof, the Issuer received \$2,004,608 from the Purchaser, being a purchase price of the Bonds at par, less an amount equal to \$4,250 for remuneration of the Purchaser's legal expenses, preparation of documentation and providing financing services. Of such amount, \$1,914,107.78 was sent by federal funds wire directly to the West Virginia Municipal Bond Commission, as Escrow Agent, and \$90,500.22 was deposited into a Costs of Issuance Account with Branch Banking and Trust Company, as Depository Bank.

12. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE: Upon adoption of the Bond Ordinance, an abstract thereof, determined by the City Council 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 Record Delta, a qualified newspaper of general circulation in the Issuer, together with a notice to all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in the Bond Ordinance, stating that any person interested may appear before the City Council at the public hearing held at a public meeting of the City Council on April 2, 2009, at 7:00 p.m., prevailing time, in the council chambers of the City Hall in Buckhannon, West Virginia, and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the Recorder of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the City Council and the Bond Ordinance became finally adopted, enacted and effective as of the expiration of the 30-day period following its adoption on March 5, 2009, but subject to the Supplemental Resolution adopted on April 16, 2009, and remains in full force and effect.

13. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the operation and maintenance of the System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

14. CONFLICTS OF INTEREST: No member, officer or employee of the Issuer, the City Council or the Sanitary Board has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, and/or the Ordinance, including, without limitation, with respect to the Purchaser, the Financial Advisor or 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.

15. TRUTH AND ACCURACY OF DOCUMENTS DELIVERED: The copies of the following documents being delivered in connection with the closing of the sale of the Bonds and contained in the Transcript are, as of the date hereof, true, complete and accurate copies of the originals of those documents maintained on file with the Issuer, said documents have been duly adopted, enacted or entered by the City

Council of the Issuer, and said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

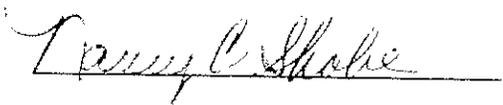
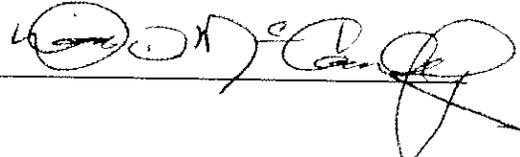
- a. Charter.
- b. Oaths of Office of Mayor, Recorder and Council Members.
- c. Ordinance Creating Sanitary Board.
- d. Appointments of Members of Sanitary Board.
- e. Petition of Sanitary Board.
- f. Series 2009 A Refunding Bond Ordinance.
- g. Resolution Putting Series 2009 A Refunding Bond Ordinance into Effect.
- h. Supplemental Resolution.
- i. Minutes of Council Meetings:
 - (i) February 19, 2009;
 - (ii) March 5, 2009;
 - (iii) April 2, 2009; and
 - (iv) April 16, 2009.
- j. Ordinance and Supplemental Resolution Authorizing the Prior Bonds.

16. COUNTERPARTS: This Certificate may be executed in counterparts and all counterparts shall be deemed to be the Certificate.

[The remainder of this page is intentionally blank.]

WITNESS our signatures and the official corporate seal of The City of Buckhannon on this 23rd day of April, 2009.

[SEAL]

<u>Signature</u>	<u>Official Title</u>
	Mayor
	Recorder
	City Attorney

April 3, 2009

David Kirby
Financial Advisor
Scott & Stringfellow, Inc.
300 Summers Street, Suite 500
Charleston, WV 25301

Governmental Finance

501 Tennessee Avenue
Charleston, WV 25302
(304) 353-1635
Fax (304) 340-4702

Dear Mr. Kirby:

Branch Banking and Trust Company ("BB&T") is pleased to offer this proposal for the financing requested by the City of Buckhannon, West Virginia ("City").

- (1) **Project:** Refunding Sewerage Revenue Bonds, Series 2009
- (2) **Amount To Be Financed:** \$2,004,608.00
- (3) **Interest Rates, Financing Terms and Corresponding Payments:**

<u>Maturity</u>	<u>Rate</u>
October 1, 2025	4.23%

Payments shall be principal and interest monthly in arrears, as requested. See the attached amortization schedule(s) for information on payments.

The interest rates stated above are valid for a closing not later than 30 days after today. Closing of the financing is contingent upon completing documentation acceptable to BB&T and upon the condition of the property being acceptable to BB&T.

Remuneration for our legal expenses, preparation of documentation and for providing the financing services for this financing transaction shall be \$4,250.00. All applicable taxes, permits, costs of lawyers for the City and any other costs shall be the City's responsibility and separately payable by the City. The financing documents shall allow prepayment of the principal balance in whole on a scheduled payment date with a 1% prepayment premium.

The stated interest rates assume that the City expects to borrow less than \$30,000,000 in calendar year 2009 and that the City shall comply with IRS Code Sections 141, 148 and 149. BB&T reserves the right to terminate its interest in this bid or to negotiate a mutually acceptable rate if the financing is not qualified tax-exempt financing for the purpose of IRS Code Section 265(b)(3).

(4) Financing Documents:

It shall be the responsibility of the City to retain and compensate counsel to appropriately structure the revenue bonds according to Federal and West Virginia State Statutes. BB&T shall also require the City's Bond Counsel to provide an unqualified legal opinion. BB&T reserves the right to review the bonds and it must be mutually accepted by BB&T and the City.

(5) Security:

The sewerage revenue bonds shall be secured by a first lien on the revenues of the City of Buckhannon Sanitary Board, on parity with the city's Series 1986B revenue bonds.

* * * * *

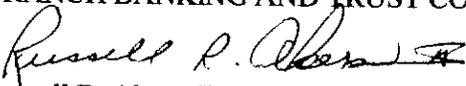
BB&T appreciates the opportunity to make this financing proposal and requests to be notified within five days of this proposal should BB&T be the successful proposer.

BB&T shall have the right to cancel this offer by notifying the City of its election to do so (whether or not this offer has previously been accepted by the City) if at any time prior to the closing there is a material adverse change in the City's financial condition, if we discover adverse circumstances of which we are currently unaware, if we are unable to agree on acceptable documentation with the City or if there is a change in law (or proposed change in law) that changes the economic effect of this financing to BB&T. We reserve the right to negotiate and/or terminate our interest in this transaction should we be the successful proposer.

Please call me at (304) 353-1635 with your questions and comments. We look forward to hearing from you.

Sincerely,

BRANCH BANKING AND TRUST COMPANY


Russell R. Akers, II
Vice President

Enclosure

April 23, 2009

Governmental Finance501 Tennessee Avenue
Charleston, WV 25302
(304) 353-1635
Fax (304) 340-4702

The City of Buckhannon
City Hall
70 East Main Street
Buckhannon, West Virginia 26201

Jackson Kelly PLLC
P.O. Box 553
Charleston, West Virginia 25322

Re: \$2,004,608 The City of Buckhannon Sewerage System Refunding Revenue
Bonds, Series 2009 A

Ladies and Gentlemen:

The undersigned, Russell R. Akers, II, of Branch Banking and Trust Company (the "Purchaser"), on behalf of the Purchaser in connection with its purchase of the \$[2,200,000] aggregate principal amount of Sewerage System Refunding Revenue Bonds, Series 2009 A (the "Bonds"), issued by The City of Buckhannon, West Virginia (the "Issuer"), on the date hereof, pursuant to a 2009 A Bond Authorizing Ordinance adopted on March 5, 2009, as supplemented on April 16, 2009 (the "Ordinance"; capitalized terms used and not otherwise defined in this letter have the respective meanings given them in the Ordinance), hereby makes the following representations and warranties to you that:

1. We have sufficient knowledge and experience in financial and business matters, including purchase and ownership of tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by our purchase of the Bonds, and our net worth and available assets are such that we are able to bear the economic risk of our purchase of the Bonds.

2. We understand that the entire principal of and interest on the Bonds are payable by the Issuer solely from and secured by a lien on the Net Revenues derived from the System; that the Bonds are special and limited obligations of the Issuer and are not general obligations or secured by any obligation or pledge of any monies received or to be received by the Issuer other than the Net Revenues; and that the Bonds do not now and shall never constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation.

Governmental Finance

501 Tennessee Avenue

Established 1892

(304) 353-1635

Fax (304) 353-1635

3. We understand that there has been no reserve account established for the Bonds and hereby waive any statutory or other right to a reserve account. Specifically, we understand and agree that we have no lien on or access to the funds in the reserve account established for the Prior Bonds.

4. We understand that no official statement, prospectus, offering circular or other offering statement containing material information with respect to the Issuer, the Sanitary Board, the System or the Bonds is being issued, that the Bonds are unrated, and that in due diligence, we have made our own inquiry and analysis with respect to the Issuer, the Sanitary Board, the System the Bonds and the security therefor, and other material factors affecting the security for and payment of the Bonds, and are relying solely on such inquiry and analysis in our purchase of the Bonds.

5. We acknowledge that during the course of the transaction and prior to the sale of the Bonds, we have requested or have had access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and we have had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Issuer, the Sanitary Board, the System, the Bonds and the security therefor, so that, as a reasonable investor, we have been able to make our decision to purchase the Bonds. No such information requested by us has been denied to us.

6. Because of our experience in financial and business matters, we feel that we are qualified to make the inquiry and analysis described in paragraph 4 and to understand fully the effect of the information described in paragraphs 2 and 3 and the documents and information described in paragraph 5.

7. We understand that the Bonds (a) are not being registered under the Securities Act of 1933, as amended, and are not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (b) will not be listed on any stock or other securities exchange, (c) will carry no rating from any rating service, and (d) may be resold only to purchasers who meet the criteria set forth herein and who, as a condition to such purchase, deliver an executed letter substantially in the form hereof to Jackson Kelly PLLC, Charleston, West Virginia.

April 23, 2009

Page 3

Governmental Finance501 Tennessee Avenue
Charleston, WV 25302
(304) 353-1635
Fax (304) 340-4702

8. We are purchasing the Bonds for investment in our own account and do not intend to divide the Bonds purchased by us or to resell or otherwise dispose of all or any part of the Bonds purchased by us, except as permitted by law on a basis of full disclosure to any subsequent holder of the Bonds and subject to applicable securities laws and regulations thereunder and as provided above.

9. The Bonds, the Ordinance and the other certificates, opinions and documents delivered in connection with the issuance of the Bonds contain such terms and are in such form that are acceptable to the Purchaser.

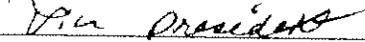
10. We have had the opportunity to consult with and be advised by legal counsel as to the significance of this letter and we have satisfied ourselves that the Bonds are a lawful investment for us under all applicable laws.

Very truly yours,

BRANCH BANKING AND TRUST COMPANY

By

Its

THIS BOND IS TRANSFERABLE ONLY IN ACCORDANCE WITH
THE REQUIREMENTS OF THE ORDINANCE DESCRIBED BELOW

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS,
SERIES 2009 A

INTEREST RATE: 4.23%

DATE: October 1, 2025

BOND DATE: April 23, 2009

REGISTERED OWNER: Branch Banking and Trust Company

AMOUNT: TWO MILLION FOUR THOUSAND SIX HUNDRED
EIGHT DOLLARS (\$2,004,608)

KNOW ALL MEN BY THESE PRESENTS THAT THE CITY OF BUCKHANNON, (hereinafter called the "Issuer"), for value received, promises to pay to the order of Branch Banking and Trust Company (the "Purchaser"), or its registered assigns but solely from the sources and in the manner hereinafter provided, the principal sum of TWO MILLION FOUR THOUSAND SIX HUNDRED EIGHT DOLLARS (\$2,004,608), in lawful money of the United States of America, together with interest on the unpaid principal balance thereof from the Bond Date set forth above until paid, as follows:

The Bonds shall be subject to payment of principal and interest on the first day of each month, beginning June 1, 2009, in accordance with the schedule attached as Exhibit A hereto and incorporated herein by reference and shall finally mature on October 1, 2025, on which date all unpaid principal and accrued interest on the Bonds shall be paid. The principal of and interest on this Bond are payable in lawful money of the United States of America without deduction for the services of the Paying Agent.

Notwithstanding any other provision of this Bond or the Ordinance to the contrary, in the event of a Determination of Taxability, the rate of interest on the Bonds shall be equal to the Taxable Rate. Interest at the Taxable Rate shall commence to accrue on the date upon which a Determination of Taxability becomes effective, and such interest rate shall be charged retroactively and prospectively for all periods in which interest paid on the Bonds is asserted, declared or determined to be includable in gross

income for federal income tax purposes, and shall continue until the entire principal of and interest on the Bonds are paid, notwithstanding that the entire principal amount of the Bonds may have been paid in full prior to the Determination of Taxability and any interest being past due by reason of such increase shall become immediately due and payable; further, the present or former owners of the Bonds shall be entitled to payment, on demand, of any Special Charges. Special Charges means (a) an amount equal to any penalties or interest paid to the Internal Revenue Service or to the State by the present and former owners of the Bonds resulting from the failure to include interest on the Bonds in their gross income for purposes of determining their federal income tax or State income tax, plus any tax payable by them as a consequence of the receipt of such amount; plus (b) an amount equal to all reasonable administrative, out-of-pocket and other expenses, including legal fees and costs, incurred by the present and former holders which are directly or indirectly attributable to interest on the Bonds becoming subject to federal or State income tax as a result of the failure to include interest on the Bonds in their gross income for purposes of determining their federal or State income tax, including, without limitation, costs incurred by the present and former Bondholders in amending their federal or State tax returns.

This Bond is subject to prepayment of the principal balance in whole on a scheduled payment date with a prepayment premium of one percent (1%) of the principal balance.

THE BONDS SHALL HAVE A LIEN ON THE NET REVENUES OF THE SYSTEM THAT IS ON A PARITY WITH RESPECT TO THE LIEN ON THE NET REVENUES OF THE PRIOR BONDS. THE BONDS ARE NOT SECURED BY A RESERVE ACCOUNT.

This Bond is issued with the intent that the laws of the State of West Virginia shall govern its construction. This Bond constitutes the entire issuance of an authorized issue of Sewerage System Refunding Revenue Bonds, Series 2009 A (the "Bonds"), issued in the aggregate principal amount of \$2,004,608 pursuant to the provisions of Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), for the purpose of financing a portion of the cost of the current refunding of the Series 1996 A Bonds and the cost of issuance thereof. The Bonds are issued under and are equally and ratably secured by and entitled to the protection of the Refunding Bond Ordinance enacted by the Issuer on March 5, 2009, as supplemented on April 16, 2009 (the "Ordinance").

An executed counterpart of the Ordinance is on file at the office of said Issuer. The Ordinance contains provisions for the issuance of Parity Bonds. Reference is hereby made to the Prior Ordinance, the Ordinance and Supplemental Resolutions supplemental thereto for the provisions, among others, with respect to the custody and application of the proceeds of the Bonds, the collection and disposition of revenues, the special subaccounts and revenues charged with and pledged to the payment of the principal of and interest on the Bonds, the nature and extent of the security, the terms and conditions under which the Bonds are issued, the terms and conditions under which Additional

Bonds may be issued, the rights, duties and obligations of the Issuer, and the rights of the holders of the Bonds, and, by the acceptance of this Bond, the holder hereof assents to all the provisions of the Ordinance.

This Bond is transferable only to certain qualified purchasers as described in the Ordinance. Assuming those qualifications are met, this Bond is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar but only in the manner, subject to the limitations and upon payment of the charges provided in the Ordinance, and upon surrender and cancellation of this bond. Upon such transfer a new bond or bonds of the same series, interest rate, maturity or maturities and of authorized denomination or denominations, for the same aggregate principal amount, will be issued to the transferee in exchange therefor.

The Issuer and Paying Agent may deem and treat the Registered Owner of this Bond as the absolute owner hereof (whether or not this Bond shall be overdue) for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes, and neither the Issuer nor the Paying Agent shall be affected by any notice to the contrary.

The Bonds may, at the option of the Registered Owner thereof, upon the surrender thereof at the principal office of the Registrar with a written instrument of transfer, in form and with guarantee of signature satisfactory to the Registrar, duly executed by the Registered Owner or its duly authorized attorney, be exchanged for an equal aggregate principal amount of fully registered bonds of the same series, maturity and interest rate of any other authorized denomination.

The Bonds are limited, special obligations of the Issuer and are payable solely out of the money payable under the Ordinance, and the Issuer shall not be obligated to pay the Bonds or the interest thereon, except from the special fund provided from the Net Revenues of the System, as described in the Ordinance. The Bonds shall not constitute a general obligation of the Issuer or an indebtedness of the Issuer within the meaning of the Constitution of the State. Under the Ordinance, the Issuer must pay the Paying Agent such payments as will be fully sufficient to pay the principal of and interest on the Bonds, as the same come due.

The Registered Owner of the Bond shall have no right to enforce the provisions of the Ordinance or to institute any action to enforce the covenants therein, or to take any action with respect to any event of default under the Ordinance, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Ordinance. In certain events, on the conditions, in the manner and with the effect set forth in the Ordinance, the principal of all the bonds issued under the Ordinance and then outstanding may become or may be declared due and payable before the stated maturity thereof together with interest accrued thereon. Modifications or alterations of the Ordinance, or of any supplements thereto, may be made only to the extent and in the circumstances permitted by the Ordinance.

Under the Act, this Bond and the interest hereon are exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

This Bond has been designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended. The Issuer does not reasonably expect to issue more than \$30,000,000 of tax-exempt obligations during the calendar year 2009 (excluding, however, private activity bonds, as defined in Section 141 of the Code, other than qualified Section 501(c)(3) bonds, as defined in Section 145 of the Code, and certain refunding bonds, as described in Section 265(b)(3)(D)(ii) of the Code), and the Issuer has designated the Bonds as "qualified tax-exempt obligations," as defined in Section 265(b)(3)(B) of the Code.

In accordance with Section 148(f)(4)(D) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that no part of the Bonds are private activity bonds; 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) issued by the Issuer during the calendar year in which the Bonds are issued does not and will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code and the Regulations from time to time in effect as applicable to the Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts and conditions necessary to be done or performed by the Issuer or to have happened precedent to and in the issuance of this Bond in order to make this Bond a legal, valid and binding special obligation of the Issuer in accordance with its terms, and precedent to and in the execution and delivery of the Ordinance, have happened and have been performed in regular and due form as required by law; that this Bond does not exceed or violate any constitutional or statutory limitation and that a sufficient amount of money has been pledged to and will be set aside into the Sinking Fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Ordinance until the Certificate of Authentication appearing hereon shall have been duly and manually executed by the Registrar.

IN WITNESS WHEREOF, THE CITY OF BUCKHANNON has caused this Bond to be executed in its name by the manual signature of its Mayor and its seal to be hereunto impressed or imprinted hereon and attested by the manual signature of its City Recorder, all as of the date set forth above.

THE CITY OF BUCKHANNON

(SEAL)

By: Kenneth T. Davis
Mayor

By: Henry C. Shobe
City Recorder

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within-mentioned Ordinance.

Date of Authentication: April 23, 2009

BRANCH BANKING AND TRUST
COMPANY, AS REGISTRAR

By

A handwritten signature in cursive script, appearing to read "R. L. O'Brien", is written over a horizontal line.

Its Authorized Officer

EXHIBIT A
PAYMENT SCHEDULE

Debt Service Requirements and Proof of Yield on the Bonds

The City of Buckhannon, West Virginia

Date	\$2,004,608 Bonds			Debt Service Requirements of the Bonds	Present Value of Future Payments at 04/23/09 Using a Rate of 4.267424%
	Principal	Coupon Rate	Interest		
06/01/09	\$5,187.75	4.230%	\$8,950.57	\$14,138.32	\$14,075.44
07/01/09	7,097.01	4.230%	7,047.96	14,144.97	14,032.60
08/01/09	7,122.03	4.230%	7,022.94	14,144.97	13,983.31
09/01/09	7,147.14	4.230%	6,997.83	14,144.97	13,934.19
10/01/09	7,172.33	4.230%	6,972.64	14,144.97	13,885.25
11/01/09	7,197.61	4.230%	6,947.36	14,144.97	13,836.47
12/01/09	7,222.98	4.230%	6,921.99	14,144.97	13,787.87
01/01/10	7,248.44	4.230%	6,896.53	14,144.97	13,739.44
02/01/10	7,274.00	4.230%	6,870.97	14,144.97	13,691.18
03/01/10	7,299.64	4.230%	6,845.33	14,144.97	13,643.09
04/01/10	7,325.37	4.230%	6,819.60	14,144.97	13,595.16
05/01/10	7,351.19	4.230%	6,793.78	14,144.97	13,547.41
06/01/10	7,377.10	4.230%	6,767.87	14,144.97	13,499.82
07/01/10	7,403.11	4.230%	6,741.86	14,144.97	13,452.40
08/01/10	7,429.20	4.230%	6,715.77	14,144.97	13,405.15
09/01/10	7,455.39	4.230%	6,689.58	14,144.97	13,358.06
10/01/10	7,481.67	4.230%	6,663.30	14,144.97	13,311.14
11/01/10	7,508.04	4.230%	6,636.93	14,144.97	13,264.39
12/01/10	7,534.51	4.230%	6,610.46	14,144.97	13,217.79
01/01/11	7,561.07	4.230%	6,583.90	14,144.97	13,171.37
02/01/11	7,587.72	4.230%	6,557.25	14,144.97	13,125.10
03/01/11	7,614.47	4.230%	6,530.50	14,144.97	13,079.00
04/01/11	7,641.31	4.230%	6,503.66	14,144.97	13,033.06
05/01/11	7,668.24	4.230%	6,476.73	14,144.97	12,987.28
06/01/11	7,695.28	4.230%	6,449.69	14,144.97	12,941.66
07/01/11	7,722.40	4.230%	6,422.57	14,144.97	12,896.20
08/01/11	7,749.62	4.230%	6,395.35	14,144.97	12,850.90
09/01/11	7,776.94	4.230%	6,368.03	14,144.97	12,805.76
10/01/11	7,804.35	4.230%	6,340.62	14,144.97	12,760.78
11/01/11	7,831.86	4.230%	6,313.11	14,144.97	12,715.95
12/01/11	7,859.47	4.230%	6,285.50	14,144.97	12,671.29
01/01/12	7,887.18	4.230%	6,257.79	14,144.97	12,626.78
02/01/12	7,914.98	4.230%	6,229.99	14,144.97	12,582.43
03/01/12	7,942.88	4.230%	6,202.09	14,144.97	12,538.23
04/01/12	7,970.88	4.230%	6,174.09	14,144.97	12,494.19
05/01/12	7,998.97	4.230%	6,146.00	14,144.97	12,450.30
06/01/12	8,027.17	4.230%	6,117.80	14,144.97	12,406.57
07/01/12	8,055.47	4.230%	6,089.50	14,144.97	12,362.99
08/01/12	8,083.86	4.230%	6,061.11	14,144.97	12,319.56
09/01/12	8,112.36	4.230%	6,032.61	14,144.97	12,276.29

Debt Service Requirements and Proof of Yield on the Bonds

The City of Buckhannon, West Virginia

Date	\$2,004,608 Bonds			Debt Service Requirements of the Bonds	Present Value of Future Payments at 04/23/09 Using a Rate of 4.267424%
	Principal	Coupon Rate	Interest		
10/01/12	8,140.95	4.230%	6,004.02	14,144.97	12,233.17
11/01/12	8,169.65	4.230%	5,975.32	14,144.97	12,190.20
12/01/12	8,198.45	4.230%	5,946.52	14,144.97	12,147.38
01/01/13	8,227.35	4.230%	5,917.62	14,144.97	12,104.71
02/01/13	8,256.35	4.230%	5,888.62	14,144.97	12,062.19
03/01/13	8,285.45	4.230%	5,859.52	14,144.97	12,019.82
04/01/13	8,314.66	4.230%	5,830.31	14,144.97	11,977.60
05/01/13	8,343.97	4.230%	5,801.00	14,144.97	11,935.53
06/01/13	8,373.38	4.230%	5,771.59	14,144.97	11,893.60
07/01/13	8,402.90	4.230%	5,742.07	14,144.97	11,851.82
08/01/13	8,432.52	4.230%	5,712.45	14,144.97	11,810.19
09/01/13	8,462.24	4.230%	5,682.73	14,144.97	11,768.71
10/01/13	8,492.07	4.230%	5,652.90	14,144.97	11,727.37
11/01/13	8,522.01	4.230%	5,622.96	14,144.97	11,686.18
12/01/13	8,552.05	4.230%	5,592.92	14,144.97	11,645.13
01/01/14	8,582.19	4.230%	5,562.78	14,144.97	11,604.22
02/01/14	8,612.44	4.230%	5,532.53	14,144.97	11,563.46
03/01/14	8,642.80	4.230%	5,502.17	14,144.97	11,522.85
04/01/14	8,673.27	4.230%	5,471.70	14,144.97	11,482.37
05/01/14	8,703.84	4.230%	5,441.13	14,144.97	11,442.04
06/01/14	8,734.52	4.230%	5,410.45	14,144.97	11,401.85
07/01/14	8,765.31	4.230%	5,379.66	14,144.97	11,361.80
08/01/14	8,796.21	4.230%	5,348.76	14,144.97	11,321.89
09/01/14	8,827.22	4.230%	5,317.75	14,144.97	11,282.12
10/01/14	8,858.33	4.230%	5,286.64	14,144.97	11,242.49
11/01/14	8,889.56	4.230%	5,255.41	14,144.97	11,203.00
12/01/14	8,920.89	4.230%	5,224.08	14,144.97	11,163.65
01/01/15	8,952.34	4.230%	5,192.63	14,144.97	11,124.43
02/01/15	8,983.90	4.230%	5,161.07	14,144.97	11,085.36
03/01/15	9,015.57	4.230%	5,129.40	14,144.97	11,046.42
04/01/15	9,047.35	4.230%	5,097.62	14,144.97	11,007.62
05/01/15	9,079.24	4.230%	5,065.73	14,144.97	10,968.95
06/01/15	9,111.24	4.230%	5,033.73	14,144.97	10,930.42
07/01/15	9,143.36	4.230%	5,001.61	14,144.97	10,892.03
08/01/15	9,175.59	4.230%	4,969.38	14,144.97	10,853.77
09/01/15	9,207.93	4.230%	4,937.04	14,144.97	10,815.64
10/01/15	9,240.39	4.230%	4,904.58	14,144.97	10,777.65
11/01/15	9,272.96	4.230%	4,872.01	14,144.97	10,739.80
12/01/15	9,305.65	4.230%	4,839.32	14,144.97	10,702.07
01/01/16	9,338.45	4.230%	4,806.52	14,144.97	10,664.48
02/01/16	9,371.37	4.230%	4,773.60	14,144.97	10,627.02
03/01/16	9,404.41	4.230%	4,740.56	14,144.97	10,589.69

Debt Service Requirements and Proof of Yield on the Bonds

The City of Buckhannon, West Virginia

Date	\$2,004,608 Bonds			Debt Service Requirements of the Bonds	Present Value of Future Payments at 04/23/09 Using a Rate of 4.267424%
	Principal	Coupon Rate	Interest		
04/01/16	9,437.56	4.230%	4,707.41	14,144.97	10,552.49
05/01/16	9,470.82	4.230%	4,674.15	14,144.97	10,515.43
06/01/16	9,504.21	4.230%	4,640.76	14,144.97	10,478.49
07/01/16	9,537.71	4.230%	4,607.26	14,144.97	10,441.68
08/01/16	9,571.33	4.230%	4,573.64	14,144.97	10,405.01
09/01/16	9,605.07	4.230%	4,539.90	14,144.97	10,368.46
10/01/16	9,638.93	4.230%	4,506.04	14,144.97	10,332.04
11/01/16	9,672.90	4.230%	4,472.07	14,144.97	10,295.74
12/01/16	9,707.00	4.230%	4,437.97	14,144.97	10,259.58
01/01/17	9,741.22	4.230%	4,403.75	14,144.97	10,223.54
02/01/17	9,775.56	4.230%	4,369.41	14,144.97	10,187.63
03/01/17	9,810.02	4.230%	4,334.95	14,144.97	10,151.85
04/01/17	9,844.60	4.230%	4,300.37	14,144.97	10,116.19
05/01/17	9,879.30	4.230%	4,265.67	14,144.97	10,080.65
06/01/17	9,914.12	4.230%	4,230.85	14,144.97	10,045.24
07/01/17	9,949.07	4.230%	4,195.90	14,144.97	10,009.96
08/01/17	9,984.14	4.230%	4,160.83	14,144.97	9,974.80
09/01/17	10,019.33	4.230%	4,125.64	14,144.97	9,939.76
10/01/17	10,054.65	4.230%	4,090.32	14,144.97	9,904.85
11/01/17	10,090.10	4.230%	4,054.87	14,144.97	9,870.05
12/01/17	10,125.66	4.230%	4,019.31	14,144.97	9,835.38
01/01/18	10,161.36	4.230%	3,983.61	14,144.97	9,800.84
02/01/18	10,197.17	4.230%	3,947.80	14,144.97	9,766.41
03/01/18	10,233.12	4.230%	3,911.85	14,144.97	9,732.11
04/01/18	10,269.19	4.230%	3,875.78	14,144.97	9,697.92
05/01/18	10,305.39	4.230%	3,839.58	14,144.97	9,663.86
06/01/18	10,341.72	4.230%	3,803.25	14,144.97	9,629.91
07/01/18	10,378.17	4.230%	3,766.80	14,144.97	9,596.08
08/01/18	10,414.75	4.230%	3,730.22	14,144.97	9,562.38
09/01/18	10,451.47	4.230%	3,693.50	14,144.97	9,528.79
10/01/18	10,488.31	4.230%	3,656.66	14,144.97	9,495.32
11/01/18	10,525.28	4.230%	3,619.69	14,144.97	9,461.96
12/01/18	10,562.38	4.230%	3,582.59	14,144.97	9,428.73
01/01/19	10,599.61	4.230%	3,545.36	14,144.97	9,395.61
02/01/19	10,636.98	4.230%	3,507.99	14,144.97	9,362.61
03/01/19	10,674.47	4.230%	3,470.50	14,144.97	9,329.72
04/01/19	10,712.10	4.230%	3,432.87	14,144.97	9,296.95
05/01/19	10,749.86	4.230%	3,395.11	14,144.97	9,264.29
06/01/19	10,787.75	4.230%	3,357.22	14,144.97	9,231.75
07/01/19	10,825.78	4.230%	3,319.19	14,144.97	9,199.32
08/01/19	10,863.94	4.230%	3,281.03	14,144.97	9,167.01
09/01/19	10,902.24	4.230%	3,242.73	14,144.97	9,134.81

Debt Service Requirements and Proof of Yield on the Bonds

The City of Buckhannon, West Virginia

Date	\$2,004,608 Bonds			Debt Service Requirements of the Bonds	Present Value of Future Payments at 04/23/09 Using a Rate of 4.267424%
	Principal	Coupon Rate	Interest		
10/01/19	10,940.67	4.230%	3,204.30	14,144.97	9,102.72
11/01/19	10,979.23	4.230%	3,165.74	14,144.97	9,070.75
12/01/19	11,017.93	4.230%	3,127.04	14,144.97	9,038.89
01/01/20	11,056.77	4.230%	3,088.20	14,144.97	9,007.14
02/01/20	11,095.75	4.230%	3,049.22	14,144.97	8,975.50
03/01/20	11,134.86	4.230%	3,010.11	14,144.97	8,943.97
04/01/20	11,174.11	4.230%	2,970.86	14,144.97	8,912.55
05/01/20	11,213.50	4.230%	2,931.47	14,144.97	8,881.25
06/01/20	11,253.03	4.230%	2,891.94	14,144.97	8,850.05
07/01/20	11,292.69	4.230%	2,852.28	14,144.97	8,818.96
08/01/20	11,332.50	4.230%	2,812.47	14,144.97	8,787.99
09/01/20	11,372.45	4.230%	2,772.52	14,144.97	8,757.12
10/01/20	11,412.54	4.230%	2,732.43	14,144.97	8,726.36
11/01/20	11,452.76	4.230%	2,692.21	14,144.97	8,695.71
12/01/20	11,493.14	4.230%	2,651.83	14,144.97	8,665.16
01/01/21	11,533.65	4.230%	2,611.32	14,144.97	8,634.72
02/01/21	11,574.30	4.230%	2,570.67	14,144.97	8,604.39
03/01/21	11,615.10	4.230%	2,529.87	14,144.97	8,574.17
04/01/21	11,656.05	4.230%	2,488.92	14,144.97	8,544.05
05/01/21	11,697.13	4.230%	2,447.84	14,144.97	8,514.04
06/01/21	11,738.37	4.230%	2,406.60	14,144.97	8,484.13
07/01/21	11,779.75	4.230%	2,365.22	14,144.97	8,454.33
08/01/21	11,821.27	4.230%	2,323.70	14,144.97	8,424.64
09/01/21	11,862.94	4.230%	2,282.03	14,144.97	8,395.04
10/01/21	11,904.76	4.230%	2,240.21	14,144.97	8,365.56
11/01/21	11,946.72	4.230%	2,198.25	14,144.97	8,336.17
12/01/21	11,988.83	4.230%	2,156.14	14,144.97	8,306.89
01/01/22	12,031.09	4.230%	2,113.88	14,144.97	8,277.71
02/01/22	12,073.50	4.230%	2,071.47	14,144.97	8,248.63
03/01/22	12,116.06	4.230%	2,028.91	14,144.97	8,219.66
04/01/22	12,158.77	4.230%	1,986.20	14,144.97	8,190.79
05/01/22	12,201.63	4.230%	1,943.34	14,144.97	8,162.02
06/01/22	12,244.64	4.230%	1,900.33	14,144.97	8,133.35
07/01/22	12,287.80	4.230%	1,857.17	14,144.97	8,104.78
08/01/22	12,331.12	4.230%	1,813.85	14,144.97	8,076.31
09/01/22	12,374.58	4.230%	1,770.39	14,144.97	8,047.94
10/01/22	12,418.21	4.230%	1,726.76	14,144.97	8,019.67
11/01/22	12,461.98	4.230%	1,682.99	14,144.97	7,991.50
12/01/22	12,505.91	4.230%	1,639.06	14,144.97	7,963.43
01/01/23	12,549.99	4.230%	1,594.98	14,144.97	7,935.46
02/01/23	12,594.23	4.230%	1,550.74	14,144.97	7,907.58
03/01/23	12,638.62	4.230%	1,506.35	14,144.97	7,879.81

Debt Service Requirements and Proof of Yield on the Bonds

The City of Buckhannon, West Virginia

Date	\$2,004,608 Bonds			Debt Service Requirements of the Bonds	Present Value of Future Payments at 04/23/09 Using a Rate of 4.267424%
	Principal	Coupon Rate	Interest		
04/01/23	12,683.18	4.230%	1,461.79	14,144.97	7,852.13
05/01/23	12,727.88	4.230%	1,417.09	14,144.97	7,824.55
06/01/23	12,772.75	4.230%	1,372.22	14,144.97	7,797.06
07/01/23	12,817.77	4.230%	1,327.20	14,144.97	7,769.68
08/01/23	12,862.96	4.230%	1,282.01	14,144.97	7,742.38
09/01/23	12,908.30	4.230%	1,236.67	14,144.97	7,715.19
10/01/23	12,953.80	4.230%	1,191.17	14,144.97	7,688.09
11/01/23	12,999.46	4.230%	1,145.51	14,144.97	7,661.08
12/01/23	13,045.29	4.230%	1,099.68	14,144.97	7,634.17
01/01/24	13,091.27	4.230%	1,053.70	14,144.97	7,607.36
02/01/24	13,137.42	4.230%	1,007.55	14,144.97	7,580.64
03/01/24	13,183.73	4.230%	961.24	14,144.97	7,554.01
04/01/24	13,230.20	4.230%	914.77	14,144.97	7,527.47
05/01/24	13,276.84	4.230%	868.13	14,144.97	7,501.03
06/01/24	13,323.64	4.230%	821.33	14,144.97	7,474.68
07/01/24	13,370.60	4.230%	774.37	14,144.97	7,448.43
08/01/24	13,417.73	4.230%	727.24	14,144.97	7,422.27
09/01/24	13,465.03	4.230%	679.94	14,144.97	7,396.19
10/01/24	13,512.49	4.230%	632.48	14,144.97	7,370.21
11/01/24	13,560.13	4.230%	584.84	14,144.97	7,344.33
12/01/24	13,607.93	4.230%	537.04	14,144.97	7,318.53
01/01/25	13,655.89	4.230%	489.08	14,144.97	7,292.82
02/01/25	13,704.03	4.230%	440.94	14,144.97	7,267.20
03/01/25	13,752.34	4.230%	392.63	14,144.97	7,241.68
04/01/25	13,800.81	4.230%	344.16	14,144.97	7,216.24
05/01/25	13,849.46	4.230%	295.51	14,144.97	7,190.89
06/01/25	13,898.28	4.230%	246.69	14,144.97	7,165.63
07/01/25	13,947.27	4.230%	197.70	14,144.97	7,140.46
08/01/25	13,996.44	4.230%	148.53	14,144.97	7,115.38
09/01/25	14,045.77	4.230%	99.20	14,144.97	7,090.39
10/01/25	14,094.72	4.230%	49.68	14,144.40	7,065.20
	<u>\$2,004,608.00</u>		<u>\$781,943.87</u>	<u>\$2,786,551.87</u>	<u>\$2,004,608.00</u>
			Principal Amount of the Bonds		<u>\$2,004,608.00</u>

BOND REGISTER

3.5

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A

<u>Bond Number</u>	<u>Principal Amount</u>	<u>Date of Bond</u>
No. AR-1	\$2,004,608	April 23, 2009

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

Branch Banking and Trust Company
5130 Parkway Plaza
Building 9
Charlotte, NC 28217

Signature of Registrar:

Branch Banking and Trust Company
5130 Parkway Plaza
Building 9
Charlotte, NC 28217


Authorized Representative

THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS
SERIES 2009 A

3.6

REQUEST AND AUTHORIZATION TO
AUTHENTICATE AND DELIVER THE BONDS

April 23, 2009

Branch Banking and Trust Company
5130 Parkway Plaza
Building 9
Charlotte, NC 28217

Ladies and Gentlemen:

We herewith hand to you, duly executed, the \$2,004,608 Sewerage System Refunding Revenue Bonds, Series 2009 A, in the form of one bond, numbered AR-1, dated April 23, 2009 (the "Bonds"), of The City of Buckhannon (the "Issuer"), authorized to be issued under and pursuant to a 2009 A Bond Authorizing Ordinance duly adopted by the Issuer on March 5, 2009, effective 30 days thereafter and after the public hearing thereon, and a Supplemental Resolution duly adopted by the Issuer on April 16, 2009.

You are hereby requested and authorized to register, authenticate and deliver the Bonds on behalf of the Issuer to the Branch Banking and Trust Company.

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THE CITY OF BUCKHANNON

Kenneth T. Davidson

Mayor

(SEAL)

Attest:

Thompson C. D. D. D.

Recorder

THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS
SERIES 2009 A

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated the 23rd day of April, 2009, by and between THE CITY OF BUCKHANNON, a municipal corporation (the "Issuer"), and BRANCH BANKING AND TRUST COMPANY, a North Carolina state-chartered bank with offices in Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$2,004,608 Sewerage System Refunding Revenue Bonds, Series 2009 A (the "Bonds"), in the form of one bond, numbered AR-2, in fully registered form, pursuant to a Series 2009 A Refunding Bond Ordinance duly adopted by the Issuer on March 5, 2009, effective 30 days thereafter, and a Supplemental Resolution duly adopted April 16, 2009 (collectively, the "Ordinance");

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 Ordinance, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Ordinance provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Ordinance and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Ordinance and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Ordinance, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or

transfer, and shall do so with the intention of maintaining the exclusion of interest, if any, on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation for services rendered as provided in the annexed schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Ordinance with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Ordinance, the terms of the Ordinance 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 Ordinance will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective address:

ISSUER:

The City of Buckhannon
70 East Main Street
Buckhannon, WV 26201
Attention: Mayor

REGISTRAR:

Branch Banking and Trust Company
5130 Parkway Plaza
Building 9
Charlotte, NC 28217
Attention: Russell R. Akers, II

The Issuer and the Registrar shall notify the other in writing of any change of address.

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Ordinance.

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EXHIBIT A

See Bond Ordinance (Document No. 2.2, Index No. 7)
See Supplemental Resolution (Document No. 2.4, Index No. 9)

THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS
SERIES 2009 A

REGISTRAR'S CERTIFICATE

Branch Banking and Trust Company, Charlotte, North Carolina, (the "Bank"), as Registrar for the above-captioned Bonds (the "Series 2009 A Bonds"), hereby certifies as follows, all capitalized terms used herein have the same meanings set forth in the Series 2009 A Refunding Bond Ordinance of The City of Buckhannon (the "Issuer") adopted by the City Council of the Issuer on March 5, 2009, effective 30 days thereafter, as supplemented by a Supplemental Resolution adopted on April 16, 2009 (collectively, the "Ordinance"):

1. The Bank is a North Carolina state-chartered bank, duly organized, validly existing, and in good standing under the laws of the State of North Carolina, is duly authorized to and may lawfully conduct business in West Virginia, and is lawfully empowered, pursuant to such laws, to accept the duties and obligations contemplated and as provided under the Ordinance and to serve in the capacities of Registrar under the Ordinance.

2. The Bank has duly authorized, by all necessary action, the authentication of the Series 2009 A Bonds and the execution and delivery of this Certificate and the acceptance of all duties of Registrar under the Ordinance, and any and all other documents and agreements as may be required to be executed, delivered and received by the Bank in order to carry out, give effect to, and consummate the transactions contemplated thereby.

3. The person indicated in paragraph 4 below was at the time of the authentication of the Series 2009 A Bonds, and is now, a duly elected, qualified and acting incumbent in his or her office; and, pursuant to authorization from the Board of Directors of the Bank, such person, in his or her official capacity, was and is authorized to authenticate the Series 2009 A Bonds for and on behalf of the Bank.

4. Appearing opposite the name and title of the person indicated below is a true and correct specimen of his or her signature.

<u>Name</u>	<u>Title</u>	<u>Signature</u>
Russell R. Akers, II	Vice President	

5. There have been filed with the Bank all of the documents listed in the Ordinance and the Series 2009 A Bonds have been duly authenticated and delivered

to the Purchaser, and proceeds of the Series 2009 A Bonds have been deposited as required by the Ordinance.

WITNESS my signature on this 23rd day of April, 2009.

BRANCH BANKING AND TRUST COMPANY

By: Philip Wendling

Its: Asst Vice-President

THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS
SERIES 2009 A

CERTIFICATE OF REGISTRATION OF BONDS

BRANCH BANKING AND TRUST COMPANY, Charlotte, North Carolina, as Registrar (the "Registrar"), hereby certifies that on the date hereof, the single, fully registered Sewerage System Refunding Revenue Bonds, Series 2009 A, of The City of Buckhannon (the "Issuer"), dated April 23, 2009, in the principal amount of \$2,004,608, and numbered AR-1, was registered as to principal and interest in the name of "Branch Banking and Trust Company" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of the Registrar.

WITNESS my signature on this 23rd day of April, 2009.

BRANCH BANKING AND TRUST COMPANY, as
Registrar



Authorized Officer

THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS
SERIES 2009 A

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

BRANCH BANKING AND TRUST COMPANY, Charlotte, North Carolina, hereby accepts appointment as Depository Bank in connection with the Series 2009 A Refunding Bond Ordinance of The City of Buckhannon (the "Issuer"), adopted by the City Council of the Issuer on March 5, 2009, effective 30 days thereafter, and a Supplemental Resolution adopted by the City Council of the Issuer on April 16, 2009 (collectively, the "Ordinance"), authorizing the issuance of The City of Buckhannon Sewerage System Refunding Revenue Bonds, Series 2009 A, in the aggregate principal amount of \$2,004,608, dated April 23, 2009, and agrees to serve as Depository Bank, all as set forth in the Ordinance.

Witness my signature on this 23rd day of April, 2009.

BRANCH BANKING AND TRUST COMPANY



Authorized Officer

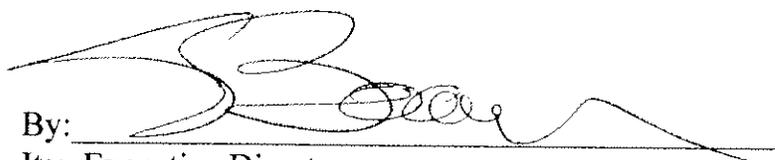
THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS
SERIES 2009 A

ACCEPTANCE BY MUNICIPAL BOND COMMISSION

The undersigned, on behalf of the West Virginia Municipal Bond Commission (the "Commission"), hereby acknowledges that she has received a copy of the Series 2009 A Refunding Bond Ordinance adopted by the City Council of The City of Buckhannon (the "Issuer") on March 5, 2009, effective 30 days thereafter, as supplemented by a resolution adopted on April 16, 2009 (collectively, the "Bond Ordinance"), regarding, among other things, the above-referenced bonds (the "Bonds"). The undersigned hereby accepts the duties and obligations imposed upon the Commission by the Bond Ordinance, including but not limited to those regarding investment of moneys in the sinking funds, and by the Certificate as to Arbitrage certified by the Issuer with respect to the Bonds.

WITNESS my signature as of this 23rd day of April, 2009.

WEST VIRGINIA MUNICIPAL BOND
COMMISSION

By: 
Its: Executive Director

THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS,
SERIES 2009 A

TAX COMPLIANCE CERTIFICATE

The undersigned Mayor of The City of Buckhannon (the "Issuer"), being an official of the Issuer duly charged with the responsibility for the issuance of the Sewerage System Refunding Revenue Bonds, Series 2009 A, dated April 23, 2009 (the "Bonds"), hereby certifies as follows, all capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Ordinance adopted on March 5, 2009, effective 30 days thereafter, as supplemented by a Supplemental Resolution adopted on April 16, 2009 (collectively, the "Ordinance"), pursuant to which the Bonds are issued:

A. DEFINITIONS

The following words and phrases shall have the following meanings or such meanings required under the Code or the Regulations. Any capitalized word or term used herein but not defined herein shall have the same meaning set forth in the Ordinance.

"Bona Fide Debt Service Fund" means a fund, which may include proceeds of an issue, that:

(a) Is used primarily to achieve a proper matching of revenues with principal and interest payments within each Bond Year; and

(b) Is depleted at least once each Bond Year, except for a reasonable carryover amount not to exceed the greater of:

(i) the earnings on the fund for the immediately preceding Bond Year; or

(ii) one-twelfth of the principal and interest payments on the Bonds for the immediately preceding Bond Year.

"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.

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

"Computation Date" means each date on which the Rebate Amount for the Bonds is computed under Section 1.148-3(e) of the Regulations.

"Computation Date Credit" means \$1,000 for each Bond Year during which there are Gross Proceeds subject to rebate, or such other amount as may then be permitted by the Regulations.

"Computation Period" means the period between computation dates. The first computation period begins on the issue date and ends on the first computation date. Each succeeding computation period begins on the date immediately following the computation date and ends on the next computation date.

"Cost of Issuance" means costs to the extent incurred in connection with, and allocable to, the issuance of the Bonds within the meaning of Section 147(g) of the Code. For example, issuance costs include the following costs but only to the extent incurred in connection with, and allocable to, the borrowing: counsel fees; financial advisory fees; paying agent fees; bond registrar, certification, and authentication fees; accounting fees; engineering and feasibility study costs; guarantee fees, other than for qualified guarantees (as defined in Section 1.148-4(f) of the Regulations); and similar costs.

"Date of Issue" means April 23, 2009.

"Discharged" means, with respect to any Bond, the date on which all amounts due with respect to such Bond are actually and unconditionally due if cash is available at the place of payment for such Bond and no interest accrues with respect to such Bond after such date.

"Fair Market Value" means fair market value as defined in Section 1.148-5(d)(6) of the Regulations.

"Final Computation Date" means the date on which the last Bond is Discharged.

"Future Value" means the future value of a payment or receipt at the end of any period, determined using the economic accrual method and equals the value of that payment or receipt when it is paid or received (or treated as paid or received), plus interest assumed to be earned and compounded over the period at a rate equal to the yield on the issue, using the same compounding interval and financial conventions used to compute that yield as provided under Section 1.148-3(c) of the Regulations.

"Gross Proceeds" means any Proceeds and Replacement Proceeds of the Bonds, all as defined in the Regulations.

"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.

"Investment Proceeds" means any amounts actually or constructively received from investing proceeds of the Bonds.

"Investment Property" means:

(A) any security (within the meaning of Section 165(g)(2)(A) or (B) of the Code),

(B) any obligation,

(C) any annuity contract,

(D) any investment-type property, or

(E) in the case of a bond other than a private activity bond, any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan.

Except as provided in the following sentence, the term "Investment Property" does not include any tax-exempt bond. With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in Section 57(a)(5)(C) of the Code), the term "Investment Property" includes a specified private activity bond (as so defined).

"IRS" means the Internal Revenue Service.

"Issue Price" means, with respect to the Bonds, \$2,004.608 (par amount, there being no accrued interest or original issue discount or premium).

"Net Sales Proceeds" means Sale Proceeds, less the portion of those Sale Proceeds, if any, invested in a reasonably required reserve or replacement fund under Section 148(d) of the Code and as part of a minor portion under Section 148(e) of the Code.

"Nonpurpose Investment" means any Investment Property, as defined in Section 148(b) of the Code, that is not a Purpose Investment.

"Payment" means a payment as defined in Section 1.148-3(d) of the Regulations for purposes of computing the Rebate Amount, and a payment as defined in Section 1.148-5(b) of the Regulations for purposes of computing the Yield on an Investment.

"Proceeds" means any Sale Proceeds, Investment Proceeds, and Transferred Proceeds of the Bonds. Proceeds do not include, however, amounts actually or constructively received with respect to a Purpose Investment that are properly allocable to the immaterially higher yield under Section 1.148-2(d) of the Regulations or Section 143(g) of the Code or to qualified administrative costs recoverable under Section 1.148-5(e) of the Regulations.

"Purchaser" means Branch Banking and Trust Company, the original purchaser of the Bonds.

"Purpose Investment" means an Investment that is acquired to carry out the governmental purpose for which the Bonds were issued.

"Rebate Amount" means 100% of the amount owed to the United States under Section 148(f)(2) of the Code, as further described in Section 1.148-3 of the Regulations.

"Rebate Analyst" means the entity or person chosen by the Issuer in accordance with Section E(6) hereof to determine the Rebate Amount.

"Rebate Payment Date" means the date following a Computation Date on which the Rebate Amount is mailed or otherwise filed with the IRS. The Rebate Payment Date cannot be a date which is more than 60 days after a Computation Date.

"Receipt" means a receipt as defined in Section 1.148-3(d) of the Regulations for purposes of computing the Rebate Amount, and a receipt as defined in Section 1.148-5(b) for purposes of computing Yield on an Investment.

"Regulation" or **"Regulations"** means the temporary, proposed or final Income Tax Regulations promulgated by the Department of the Treasury that are applicable to the Bonds.

"Replacement Proceeds" means replacement proceeds as defined in Section 1.148-1(c) of the Regulations.

"Sale Proceeds" means any amounts actually or constructively received from the sale of the Bonds, including any amounts used to pay underwriters' discount or compensation and accrued interest other than pre-issuance accrued interest. Sale proceeds also include but are not limited to, amounts derived from the sale of a right that is associated with a bond, and that is described in Section 1.148-4(b)(4) of the Regulations.

"Series 1996 A Bonds" means the Issuer's Sewer System Refunding Revenue Bonds, Series 1996 A to be currently refunded by the Bonds.

"Tax-Exempt Bond" means any bond the interest on which is excludable from gross income under Section 103(a) of the Code. For purposes of Section 148 of the Code, tax-exempt bond includes:

(1) An interest in a regulated investment company to the extent that at least 95% of the income to the holder of the interest is interest that is excludable from gross income under Section 103 of the Code; and

(2) A certificate of indebtedness issued by the United States Treasury pursuant to the Demand Deposit State and Local Government Series program described in 31 CFR part 344.

"Transferred Proceeds" means transferred proceeds as defined in Section 1.148-9 of the Regulations.

"Value" means value determined under Section 1.148-4(e) of the Regulations for the Bonds, and value determined under Section 1.148-5(d) for an Investment.

"Yield" or **"yield"** means the yield computed under Section 1.148-4 of the Regulations for the Bonds, and the yield computed under Section 1.148-5 of the Regulations for an Investment.

"Yield Restricted" means required to be invested at a Yield that is not materially higher than the Yield on the Bonds under Section 148(a) of the Code and Section 1.148-2 of the Regulations.

B. GENERAL

1. This certificate is being executed and delivered pursuant to Section 148 of the Code. The undersigned officer of the Issuer is charged with the responsibility of issuing the Bonds, is familiar with the facts, circumstances, and estimates herein certified and is duly authorized to execute and deliver this certificate on behalf of the Issuer.

2. This certificate may be relied upon as the certificate of the Issuer.

3. The Issuer has not been notified by the IRS 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 IRS 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 April 23, 2009, the date on which the Bonds are

to be physically delivered in exchange for the purchase price thereof, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

5. The Issuer has covenanted in the Ordinance that (i) it will restrict the use of the proceeds of the Bonds in such manner and to such extent as may be necessary, so that the Bonds will not constitute "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Bonds) so that the interest on the Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

6. The Bonds were sold on April 23, 2009, to the Purchaser for a purchase price of \$2,004,608.

7. The Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of providing moneys, together with the moneys transferred from the Series 1996 A Bonds sinking fund and reserve account, necessary (i) to currently refund the Series 1996 A Bonds of the Issuer; and (ii) to pay costs of issuance of the Bonds and related costs.

8. The Series 1996 A Bonds were issued for the purpose of providing funds to refund the Sewer Revenue Bonds, Series 1986 A of the Issuer (the "Prior Bonds") with respect to the existing sewerage system of the Issuer.

9. The face amount of the Bonds is \$2,004,608. The sources and uses of the proceeds of the Bonds and the moneys transferred from the Series 1996 A Bonds sinking fund and reserve account in connection with the refunding of the Series 1996 A Bonds are as follows:

Series 2009 A Bonds Sources

Principal Amount of the Series 2009 A Bonds	\$ 2,004,608.00
Transfer from Series 1996 A Bonds Sinking Fund	91,000.00
Transfer from Series 1996 A Bonds Reserve Account	\$ <u>201,135.00</u>
Total Sources	\$ 2,296,743.00

Series 2009 A Bonds Uses

Escrow Fund	\$ 2,206,242.78
Costs of Issuance ¹	<u>90,500.22</u>
Total Uses	\$ 2,296,743.00

C. THE REFUNDING

The Issuer has entered into an Escrow Agreement (the "Escrow Agreement"), dated April 23, 2009, by and between the Issuer and the West Virginia Municipal Bond Commission, as Escrow Agent. Provision will be made for the payment of the Series 1996 A Bonds by placing into the Escrow Fund established under the Escrow Agreement, cash sufficient to provide for the payment of the redemption price of the Series 1996 A Bonds, being par plus accrued interest, on May 6, 2009.

D. THE BONDS

1. The Purchaser has stated, in its certificate, a copy of which is attached hereto as EXHIBIT A - CERTIFICATE OF PURCHASER (the "Certificate of Purchaser") that the Yield on the Bonds, determined in accordance with Section 1.148-5 of the Regulations, is 4.2674% (the "Bond Yield"), and the weighted average life of the Bonds is 9.2216 years.

2. The Series 2009 A Bonds Sinking Fund (the "Sinking Fund") has been created under the Ordinance. Moneys in the Sinking Fund shall be used only for the purposes of paying principal of and interest on the Bonds as the same shall become due. Moneys deposited to the Sinking Fund, including subsequent deposits thereto, will be spent within a 13-month period beginning on the date of deposit and will be depleted at least once a year, except for a reasonable carryover amount not in excess of 1/12 of the annual debt service with respect to the Bonds. The Bonds all bear interest at a fixed rate and the average maturity of the Bonds is in excess of 5 years. The Sinking Fund is designed to achieve a proper matching of the Issuer's revenues and debt service on the Bonds within each Bond year. All moneys held in the Sinking Fund will be used to pay debt service on the Bonds. Any Proceeds of the Bonds deposited in the Sinking Fund, including any funds remaining in the Escrow Fund once the Series 1996 A Bonds have been discharged, will be applied to pay interest on the Bonds on the first Interest Payment Date occurring after such funds become available. The Sinking Fund qualifies as Bona Fide Debt Service Funds, and all moneys in the Sinking Fund will be invested without restriction as to yield and are not subject to rebate.

3. The Purchaser has waived the funding of a reserve account for the Bonds. The Bonds shall have no lien on the reserve account held at the West Virginia Municipal Bond Commission for the Series 1996 A Bonds.

4. A Renewal and Replacement Fund, which was created under the prior ordinance for the Series 1996 A Bonds, has been continued by the Bond Ordinance. The Renewal and Replacement Fund is to be funded through monthly deposits of Revenues in an amount equal to 2 1/2% of the Gross Revenues of the System. Absent an Event of Default on the Bonds, the Renewal and Replacement Fund is not expected to be used for the purpose of paying Debt Service on the Bonds. Such moneys will be invested without restriction as to yield and are not subject to rebate.

5. A Costs of Issuance Fund is created under the Ordinance, to be funded from proceeds of the Bonds in the amount of \$90,500.22 to pay costs of issuance. All such amounts shall be fully expended within 60 days from the closing date of the Bonds. Pending such disbursement, such moneys will be invested without restriction as to yield and are not subject to rebate. Such amount includes \$4,250 to pay for the Purchaser's legal expenses and financing fees.

6. Other than the funds and accounts described above, there are no other funds or accounts of the Issuer which (i) are reasonably expected to be used to pay debt service on the Bonds or which are pledged as collateral to secure repayment of debt service on the Bonds and (ii) for which there is a reasonable assurance that amounts therein will be available to pay debt service on the Bonds.

E. REBATE

1. Arbitrage Compliance. The Issuer acknowledges that the continued exclusion of interest on the Bonds from gross income of the recipients thereof for purposes of federal income taxation depends, in part, upon compliance with the arbitrage limitations imposed by Section 148 of the Code, including the rebate requirements described below. The Issuer hereby agrees and covenants that it shall not permit at any time or times any of the Gross Proceeds of the Bonds or other funds of the Issuer to be used, directly or indirectly, to acquire any asset or obligation, the acquisition of which would cause the Bonds to be "arbitrage bonds" for purposes of Section 148 of the Code. The Issuer further agrees and covenants that it shall do and perform all acts and things necessary in order to ensure that the requirements of Section 148 of the Code are met. To that end, the Issuer will take all actions described below with respect to the investment of Gross Proceeds of the Bonds. The procedures set forth below are subject to revision if necessary to comply with any additional rebate requirements of the Code or the Regulations. The Issuer hereby agrees and covenants to take all actions necessary to comply with these requirements.

2. Rebate Fund. (a) Section 148(f) of the Code requires that certain earnings on Nonpurpose Investments allocable to the Gross Proceeds of the Bonds be paid to the United States to prevent the Bonds from being arbitrage bonds. The arbitrage that must be rebated is based on the difference between the amount actually earned on Nonpurpose Investments and the amount that would have been earned if those investments had a Yield equal to the Yield on the Bonds.

(b) The Issuer has created a Rebate Fund (the "Rebate Fund") in the Ordinance with respect to the Bonds.

(c) On or before 45 days following each Computation Date, the Issuer shall deposit in the Rebate Fund, an amount such that the balance held in the Rebate Fund equals the aggregate Rebate Amount due as of the Rebate Payment Date following such Computation Date. The moneys so deposited may be derived from the Issuer's own funds

or from funds or accounts created by the Ordinance (to the extent that such transfers are permitted under the Ordinance), at the option of the Issuer.

3. Calculation of Rebate Amount. For each Computation Date, the Rebate Analyst shall calculate the Rebate Amount by the appropriate method described in the Code and Regulations applicable or which may become applicable to the Bonds.

4. Payment to United States. (a) The first rebate installment payment must be made for a Computation Date that is not later than 5 years after the Date of Issue and subsequent rebate installment payments must be made for a Computation Date that is not later than 5 years after the previous Computation Date for which an installment payment was made, as required under Section 1.148-3(f)(1) of the Regulations.

(b) A rebate installment payment must be in an amount that, when added to the Future Value, as of the Computation Date, of previous rebate payments made for the issue, equals at least 90% of the Rebate Amount as of that date, as required under Section 1.148-3(f)(1) of the Regulations.

(c) For the Final Computation Date, a final rebate payment must be paid in an amount that, when added to the Future Value of previous rebate payments made for the issue, equals 100% of the Rebate Amount as of that date, as required under Section 1.148-3(f)(2) of the Regulations.

(d) Each rebate payment must be paid no later than 60 days after the Computation Date to which the payment relates, as required under Section 1.148-3(g) of the Regulations.

(e) Each rebate payment shall be mailed to the then applicable Internal Revenue Service Center. Each rebate payment shall be accompanied by a properly completed IRS Form 8038-T or other form provided by the IRS for this purpose.

(f) If on the Rebate Payment Date the balance on deposit in the Rebate Fund is in excess of the Rebate Amount attributable to the Bonds, to the extent that such excess is attributable to amounts provided by the Issuer and not derived from any funds or accounts (other than the Rebate Fund) held under the Ordinance, such excess may be withdrawn from the Rebate Fund and paid to the Issuer. The Issuer may recover any overpayment of rebate in accordance with Section 1.148-3(i) of the Regulations.

5. Recordkeeping. In connection with the rebate requirement, the Issuer shall maintain (or cause to be maintained) the following records:

(a) The Issuer shall record all Rebate Amounts paid to the United States.

(b) The Issuer shall retain records of the rebate calculations until six years after the Final Computation Date.

(c) The Issuer shall keep and record the data pertaining to the investment of the proceeds of the Bonds until six years after the Final Computation Date.

6. Rebate Analyst. (a) The Issuer shall appoint a Rebate Analyst to perform the rebate calculations as required herein.

(b) The Issuer may rely conclusively upon the opinions, calculations, determinations, directions and advice of the Rebate Analyst. The charges and fees for such Rebate Analyst shall be paid by the Issuer upon presentation of an invoice for services rendered in connection therewith. The Issuer hereby agrees to pay the fees of the Rebate Analyst.

7. Failure to Pay Rebate Amounts. In the event the Issuer fails to pay at the proper time and in the proper amount the Rebate Amount, it will pay the Rebate Amount plus interest within 180 days after discovery of such failure as set forth in Section 1.148-3(h)(3) of the Regulations. Notwithstanding the foregoing, in the event the Issuer fails to pay at the proper time and in the proper amount any Rebate Amount, it hereby covenants and agrees to pay any penalty required by IRS in lieu of a declaration of taxability on the Bonds.

E. BANK QUALIFIED

The Issuer does not reasonably expect to issue more than \$30,000,000 of tax-exempt obligations (other than private activity bonds and bonds issued to currently refund any obligation of the Issuer) during the calendar year 2009 and in the Ordinance designated the Bonds as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code. The Bonds are the only bonds issued by the Issuer during calendar year 2009.

G. MISCELLANEOUS

1. 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 and refunding of the Series 1996 A Bonds.

2. The Issuer shall file Form 8038-G in a timely fashion with the applicable Internal Revenue Service Center.

3. None of the proceeds of the Bonds will be used (directly or indirectly) in any trade or business carried on by, or will be used to make or finance loans to, any person who is not a governmental unit.

4. The original proceeds of the Bonds will not exceed the amount necessary for the purpose of the issue, except to the extent any such proceeds are required for rebate to the United States.

5. The Issuer shall use the proceeds of the Bonds solely to accomplish the current refunding of the Series 1996 A Bonds and to pay costs of issuance.

6. 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 necessary to comply with the Code and the Treasury Regulations promulgated or to be promulgated thereunder.

7. 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.

8. The Issuer has not entered and will not enter into any transaction to reduce the Yield on an investment of the Gross Proceeds of the Bonds so as to cause the amount to be rebated to the United States Treasury to be less than it would have been had the transaction been at arm's length and the Yield on the Bonds not been relevant to either party to the transaction, and that all investments of Gross Proceeds will be made on an arm's length, Fair Market Value basis. Consistent with State policy and operations of the Escrow Agent, which is a State agency, the funds in the Escrow Fund will be invested in the State Treasurer's governmental money market fund.

9. The Issuer shall comply with the general allocation and accounting rules set forth in Section 1.148-6 of the Regulations and the special arbitrage rules for refunding issues set forth in Section 1.148-9 of the Regulations.

10. No portion of the proceeds of the Bonds will be used directly or indirectly to acquire securities or obligations which may reasonably be expected, on the date hereof, to produce a yield materially higher than the Yield on the Bonds.

11. In connection with the Bonds, there has not been created or established, and the Issuer does not expect that there will be created or established, any sinking fund, pledged fund or similar fund, other than as specifically identified in this certificate, including, without limitation, any arrangement under which money, securities, or obligations are pledged directly or indirectly to secure the Bonds or any contract securing the Bonds or any arrangements providing for compensation or minimum balances to be maintained by the Issuer or related governmental agencies with any registered owner of the Bonds.

12. The Bonds are not and will not be part of a transaction or series of transactions that (i) attempt to circumvent the provisions of Section 148 of the Code, or any successor thereto, and the Regulations promulgated thereunder which enable the Issuer to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage or (ii) increase the burden on the market for tax-exempt

obligations in any manner, including, without limitation, by selling obligations that would not otherwise be sold or selling a larger amount of obligations, or issuing them sooner, or allowing them to remain outstanding longer, that would otherwise be necessary.

13. No other obligations are being issued by the Issuer or any related entity at substantially the same time and sold pursuant to a common plan of financing and which will be paid out of substantially the same source of funds (or which will have substantially the same claim to be paid out of substantially the same source of funds) as the Bonds or which will be paid directly or indirectly from proceeds of the sale of the Bonds.

14. Gross Proceeds of the Bonds, other than gross proceeds that are allocable to:

(a) the payment of principal of, premium, if any, and interest on the Series 1996 A Bonds;

(b) the payment of the Costs of Issuance of the Bonds;

(c) the payment of administrative costs allocable to repaying the Series 1996 A Bonds, or carrying and repaying the Bonds, or the reasonable investments of proceeds of the Bonds, if any thereof;

(d) any transferred proceeds allocable to expenditures for governmental purposes of the Series 1996 A Bonds; and

(e) amounts deposited in the Sinking Fund (including investment earnings thereon) to pay debt service on the Bonds;

will not exceed 1% of the Sale Proceeds from the Bonds.

15. The issuance of the Bonds will not involve the use of a “device” or an “abusive transaction” within the meaning of Section 149(d)(4) of the Code and the Regulations thereunder.

16. The Issuer covenants to comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Bonds in order that the interest thereon be and continue to be excludable from gross income for federal income tax purposes.

17. The Issuer will rebate to the United States the amount, if any, required by the Code and to take all steps necessary to make such rebates. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and other amounts from lawfully available sources, and obtain a waiver from the IRS, if

necessary, and take all other actions required of it in order to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes.

18. The Issuer has retained the right to amend the Ordinance authorizing the issuance of the Bonds if such amendment is necessary to assure compliance with Section 148(f) of the Code or as may otherwise be necessary to assure the exclusion of interest on the Bonds from the gross income of the owners thereof.

19. The Issuer shall comply with all yield restrictions on Bond proceeds as set forth in the Code.

20. The Issuer covenants and agrees to comply with the rebate requirements of the Code if not exempted therefrom, and with all other requirements of the Code necessary, proper or desirable to maintain the tax-exempt status of the Bonds and the interest thereon. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of the Ordinance.

21. The Bonds are a fixed yield issue. No interest or other amount payable on any of the Bonds (other than in the event of an unanticipated contingency) is determined by reference to (or by reference to an index that reflects) market interest rates or stock or commodity prices after the date of issue.

22. Under Section 1.148-2(b) of the Regulations, an officer of the Issuer must certify the Issuer's expectations as of the issue date. In accordance therewith, the undersigned Mayor of the Issuer hereby in good faith certified that the representations and covenants set forth in this certificate constitute the reasonable expectations of the Issuer as of the issue date. Accordingly, the representations and covenants set forth herein are intended and may be relied upon as the certification described in Section 1.148-2(b) of the Regulations and are being delivered as part of the record of proceedings in connection with the issuance of the Bonds.

23. 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.

24. The Vaughan Law Firm and Jackson Kelly PLLC are entitled to rely upon the representations, expectations, covenants, certifications and statements contained herein in rendering its opinion regarding the tax-exempt status of interest on the Bonds.

25. Notwithstanding any other provision hereof, any provision of this certificate shall be amended at any time and such amendment shall be complied with, upon receipt by the Issuer of an opinion of Bond Counsel that such amendment is

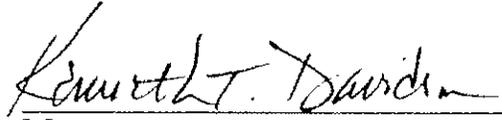
necessary or permissible under the then current Code and Regulations and is either necessary to or will not adversely affect the excludability of interest on the Bonds from gross income of the recipients thereof for federal income tax purposes.

26. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

[The remainder of this page is intentionally blank.]

WITNESS my signature this 23rd day of April, 2009.

THE CITY OF BUCKHANNON



Mayor

EXHIBIT A

CERTIFICATE OF PURCHASER

See Document No. 3.13

THE CITY OF BUCKHANNON

Sewer System Refunding Revenue Bonds, Series 2009 A

CERTIFICATE OF PURCHASER

BRANCH BANKING AND TRUST COMPANY, Charlotte, North Carolina (the "Purchaser"), as original purchaser from The City of Buckhannon, West Virginia (the "Issuer"), of the above-captioned Bonds (the "Bonds"), hereby certifies on this 23rd day of April 2009 that:

1. We are purchasing the Bonds for our own portfolio, and none of the Bonds has been the subject of an initial offering to the public. We do not intend to divide the Bonds purchased by us or to resell or otherwise dispose of all or any part of the Bonds purchased by us, except as permitted by law on a basis of full disclosure to any subsequent holder of the Bonds and subject to applicable securities laws and regulations thereunder.
2. The weighted average maturity of the Bonds is 9.2216 years.
3. The net interest cost of the Bonds is 4.2300%, and the yield, determined in accordance with Section 1.148-5 of the United States Treasury Regulations, is 4.2674%.
4. This certificate may be relied upon by the Issuer with respect to its Certificate as to Arbitrage relating to the Bonds and by the Vaughan Law Firm and Jackson Kelly PLLC in rendering their tax opinion with respect to the Bonds.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, BRANCH BANKING AND TRUST COMPANY has caused this Certificate to be executed by its duly authorized officer, as of the day and year first above written.

BRANCH BANKING AND TRUST COMPANY

By: *Russell L. Ahern*
Its: *vice president*

Acknowledgement Copy

Form **8038-G**
(Rev. November 2000)
Department of the Treasury
Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 148(e)

► See separate instructions.

Caution: If the issue price is under \$100,000, use Form 8038-GC.

OMB No. 1545-0720

Part I Reporting Authority		If Amended Return, check here ► <input type="checkbox"/>	
1 Issuer's name The City of Buckhannon, West Virginia		2 Issuer's employer identification number 55 6000152	
3 Number and street (or P.O. box if mail is not delivered to street address) 70 East Main Street		Room/suite	4 Report number 3 01
5 City, town, or post office, state, and ZIP code Buckhannon, West Virginia 26201		6 Date of issue April 23, 2009	
7 Name of issue Sewerage System Revenue Refunding Bonds, Series 2009 A		8 CUSIP number None	
9 Name and title of officer or legal representative whom the IRS may call for more information Kenneth Davidson, Mayor		10 Telephone number of officer or legal representative (304) 472-1651	

Part II Type of Issue (check applicable box(es) and enter the issue price) See instructions and attach schedule			
11 <input type="checkbox"/> Education		11	
12 <input type="checkbox"/> Health and hospital		12	
13 <input type="checkbox"/> Transportation		13	
14 <input type="checkbox"/> Public safety		14	
15 <input checked="" type="checkbox"/> Environment (including sewage bonds)		15	2,004,608
16 <input type="checkbox"/> Housing		16	
17 <input type="checkbox"/> Utilities		17	
18 <input type="checkbox"/> Other. Describe ►		18	
19 If obligations are TANs or RANs, check box ► <input type="checkbox"/> If obligations are BANs, check box ► <input type="checkbox"/>			
20 If obligations are in the form of a lease or installment sale, check box ► <input type="checkbox"/>			

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.				
	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity
21	October 1, 2025	\$ 2,004,608	\$ 2,004,608	9.2216 years
				(e) Yield
				4.2674 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)				
22	Proceeds used for accrued interest		22	0
23	Issue price of entire issue (enter amount from line 21, column (b))		23	2,004,608
24	Proceeds used for bond issuance costs (including underwriters' discount)	90,500.22	24	
25	Proceeds used for credit enhancement	0	25	
26	Proceeds allocated to reasonably required reserve or replacement fund		26	
27	Proceeds used to currently refund prior issues	1,914,107.78	27	
28	Proceeds used to advance refund prior issues	0	28	
29	Total (add lines 24 through 28)		29	2,004,608*
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)		30	0

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)	
31	Enter the remaining weighted average maturity of the bonds to be currently refunded ► 9.6576 years
32	Enter the remaining weighted average maturity of the bonds to be advance refunded ► _____ years
33	Enter the last date on which the refunded bonds will be called ► May 6, 2009
34	Enter the date(s) the refunded bonds were issued ► December 16, 1998

Part VI Miscellaneous	
35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) ► 0
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions) ► 0
b	Enter the final maturity date of the guaranteed investment contract ► _____
37	Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units ► 0
b	If this issue is a loan made from the proceeds of another tax-exempt issue, check box ► <input type="checkbox"/> and enter the name of the issuer ► _____ and the date of the issue ► _____
38	If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box ► <input checked="" type="checkbox"/>
39	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ► <input type="checkbox"/>
40	If the issuer has identified a hedge, check box ► <input type="checkbox"/>

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.

Sign Here: Kenneth Davidson 4/27/09
Signature of issuer's authorized representative Date

Kenneth Davidson, Mayor
Type or print name and title

* \$292,135 from refunded bonds accounts was also used.

THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS
SERIES 2009 A

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

The undersigned authorized representative of Branch Banking and Trust Company (the "Purchaser"), for and on behalf of the Purchaser, and the undersigned Mayor of the City of Buckhannon (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the 23rd day of April, 2009, in Charleston, West Virginia, the Purchaser received the entire original issue of \$2,004,608 in aggregate principal amount of the Sewerage System Refunding Revenue Bonds, Series 2009 A, of the Issuer, dated April 23, 2009, issued in the form of one bond, fully registered to the Purchaser, and numbered AR-1 (the "Series 2009 A Bonds").

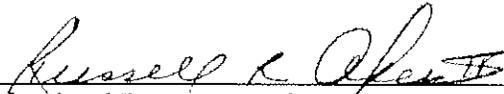
2. At the time of such receipt of the Series 2009 A Bonds, they had been executed by the Mayor of the Issuer and attested by the Recorder of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been impressed upon the Series 2009 A Bonds.

3. On the 23rd day of April, 2009, the Issuer received and hereby acknowledges receipt from the Purchaser, as the original purchaser of the Series 2009 A Bonds, of the proceeds of the Series 2009 A Bonds.

[Remainder of page intentionally left blank.]

WITNESS our signatures on this 23rd day of April, 2009.

BRANCH BANKING AND TRUST COMPANY

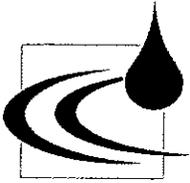


Authorized Representative

THE CITY OF BUCKHANNON



Mayor



WEST VIRGINIA

Water Development Authority

Celebrating 34 Years of Service 1974 - 2008

CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2009 A

CONSENT TO ISSUANCE OF PARITY BONDS

In reliance upon the certificate of Richard D. Trent, CPA, A.C., an independent certified public accountant and the opinion of Jackson Kelly PLLC, bond counsel, copies of which are attached, stating that the coverage and parity requirements have been met, the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Prior Bonds (hereinafter defined and described), hereby consents to the issuance of the Sewerage System Refunding Revenue Bonds, Series 2009 A (the "Bonds"), in the original principal amount of \$2,004,608, by the City of Buckhannon (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 Sewerage System Revenue Bonds, Series 1986 B (the "Prior Bonds").

WITNESS my signature this 23rd day of April 2009.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: *Glenn L. Roy*
Its Authorized Representative

180 Association Drive, Charleston, WV 25311-1217
phone (304) 558-3612 / fax (304) 558-0299
www.wvwda.org

WEST VIRGINIA MUNICIPAL BOND COMMISSION

Suite 500
8 Capitol Street, Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: April 23, 2009

ISSUE: The City of Buckhannon Sewerage System Refunding Revenue Bonds, Series 2009 A

ADDRESS: 70 East Main Street, Buckhannon, WV 26201 COUNTY: Upshur

PURPOSE OF ISSUE: New Money _____
Refunding X Refunds issue(s) dated: December 19, 1996

ISSUE DATE: April 23, 2009 CLOSING DATE: April 23, 2009

ISSUE AMOUNT: \$2,004,608 RATE: 4.23%

1st DEBT SERVICE DUE: June 1, 2009 1st PRINCIPAL DUE: June 1, 2009

1st DEBT SERVICE AMOUNT: \$14,138.32 PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Jackson Kelly PLLC UNDERWRITERS COUNSEL: _____
Contact Person: Taunja Willis-Miller, Esquire Contact Person: _____
Phone: (304) 284-4109 Phone: _____

CLOSING BANK: BB&T ESCROW TRUSTEE: Municipal Bond Commission
Contact Person: Russell "Rusty" Akers Contact Person: Sara Boardman
Phone: (304) 353-1635 Phone: (304) 558-3971 / Fax: (304) 558-1280

KNOWLEDGEABLE ISSUER CONTACT: OTHER: Issuer
Contact Person: Kenneth Davidson Contact Person: Nancy Shobe
Position: Mayor Function: Recorder
Phone: (304) 472-1651 Phone: (304) 472-1651
E-Mail: kdaavidson@mail.ci.buckhannon.wv.us

DEPOSITS TO MBC AT CLOSE: _____ Accrued Interest: \$ _____
\$1,914,107.78 Capitalized Interest: \$ _____
By X Wire _____ Reserve Account: \$ _____
_____ Check _____ Other: \$ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire _____ To Escrow Trustee: \$292,135 (including \$91,000 from 1996 A Sinking Fund and \$201,135 from 1996 A Reserve Account)
_____ Check _____ To Issuer: \$ _____
_____ IGT _____ To Cons. Invest. Fund \$ _____
_____ To Other: \$ _____

NOTES: Payoff 1996 A Bonds

FOR MUNICIPAL BOND COMMISSION USE ONLY:

Documents Required: _____
Transfers Required: _____

Notice of Optional Redemption to the Holders of

\$2,885,000

**The City of Buckhannon, West Virginia
Sewerage System Refunding Revenue Bonds,
Series 1996A**

Dated: April 6, 2009

NOTICE IS HEREBY GIVEN by the City of Buckhannon, West Virginia (the "Issuer") to the holders of its outstanding Sewerage System Refunding Revenue Bonds, Series 1996A (the "Bonds") that the Bonds have been ordered by the Issuer to be redeemed on May 6, 2009 (the "Redemption Date"), at the redemption price of par, plus interest accrued to the Redemption Date in accordance with the provisions of the Bond Resolution authorizing issuance of the Bonds.

SUCH REDEMPTION HOWEVER, TO BE SUBJECT TO SETTLEMENT AND TO THE DEPOSIT WITH THE PAYING AGENT OF MONEYS SUFFICIENT TO EFFECT SUCH REDEMPTION NOT LATER THAN THE OPENING OF BUSINESS ON MAY 6, THIS NOTICE TO BE OF NO EFFECT UNLESS SUCH MONEYS ARE SO DEPOSITED.

On the Redemption Date, each of the Bonds referred to above and further described below will be payable at, and are to be surrendered to, the principal corporate trust office of The Bank of New York Mellon Trust Company, N.A. (as "Paying Agent") for the principal of the Redemption Price thereof and interest accrued thereon to the Redemption Date, by mailing such Bonds by registered or certified mail to the following address:

The Bank of New York Mellon Trust Company, N.A.
2001 Bryan Street
8th Floor
Dallas, TX 75201

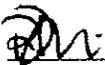
Maturity Date	Interest Rate	Par amount	Cusips
10/01/09	5.3%	85,000	118349BM0
10/01/10	5.4%	90,000	118349BN8
10/01/11	5.5%	90,000	118349BP3
10/01/25	5.25%	1,930,000	118349BQ1

From the Redemption Date, the Bonds called for redemption will be deemed to be paid and interest will cease to accrue on the Bonds.

NOTICE: Withholding of 28% gross redemption proceeds of any payment made within the United States may be required by the Interest and Dividend Tax Compliance Act of 1983 unless the Paying Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting your securities.

*The Issuer and Escrow Trustee shall not be responsible for the use of the CUSIP numbers selected, nor is any representation made as to the accuracy or correctness of the CUSIP numbers as printed in this notice or as printed on any Bond; the CUSIP numbers are included solely for the convenience of the holders. No representation is made as to the accuracy or correctness of this notice of redemption or mailing hereof (including any failure to mail such notice), and no such inaccuracy or incorrectness shall affect the validity of the redemption proceedings for any other Bonds for which notice was properly given.

The Bank of New York Mellon Trust Company, N.A.
as Paying Agent

By:  _____
It's Assistant Treasurer _____

DISCLOSE

ezDisclose Notice Proof Summary Report

252066 04/06/2009

Client Name: The Bank of New York Mellon - Dallas
 Notice Issuer: The City of Buckhannon, WV
 Issue Title: The City of Buckhannon \$2,885,000 Sewer System Refunding Revenue Bonds Series 1996
 Job Type: Redemption
 Issue Date: 04/06/2009
 Pub Date: 04/06/2009
 Call Date: 05/06/2009
 Call Type: Full
 Total Amt Called: \$2,195,000.00
 Reliance: 2

Notice Memo:

Customers:

Bank Name	Bank #	DTC Agent	Address	City	State	Zip	Phone	Address Desc
The Bank of New York Mellon - Dallas	111001150	40082501	2001 Bryan St., 9th Floor	Dallas	TX	75201	800-275-2048	Default Org Paying Agent Address

Issues:

Cusip	Interest	Accrual	Maturity	Int Type	Call Price	Par Value	Called Value	Out Value	Tenure
118349BQ1	5.2500	0.0000	10/01/2025		\$1,930,000.00	100,000,000,000	N/A	N/A	N/A
Total for CUSIP									
118349BN8	5.4000	0.0000	10/01/2010		\$90,000.00	100,000,000,000	N/A	N/A	N/A
Total for CUSIP									
118349BM0	5.3000	0.0000	10/01/2009		\$85,000.00	100,000,000,000	N/A	N/A	N/A
Total for CUSIP									
118349BP3	5.5000	0.0000	10/01/2011		\$90,000.00	100,000,000,000	N/A	N/A	N/A
Total for CUSIP									
118349BQ1					\$1,930,000.00			\$1,930,000.00	
118349BN8					\$90,000.00			\$90,000.00	
118349BM0					\$85,000.00			\$85,000.00	
118349BP3					\$90,000.00			\$90,000.00	



**NRMSIRs, SIDs, And Other Parties Specified By SEC Rule 15c2-12
Official Confirmation of SEC Required Notifications to Depositories,**

FCC Ref #: 252066
Issuer: The City of Buckhannon, WV
Issue Title: The City of Buckhannon \$2,885,000 Sewer System Refunding Revenue Bonds Series 1996
Action Date: 5/6/2009
Pub Date: 4/6/2009
Account: BUCSEW96A
Note: Redemption

Firm	Date Sent	Representative
Bloomberg	4/7/2009	Ken Fay; Gabriela Samynek
DPC Data Inc.	4/7/2009	Peter Schmiditt; Britt Alamo
DTC	4/7/2009	Tom Cavagnetto; Jackie Jarrett; Kathy Caziarc
FII	4/7/2009	Andreas McClamb; Don Hardie
IDC NRMSIR	4/7/2009	Joan Donovan; Eileen Donnelly
Mergent FIS	4/7/2009	Karen Peterson; Martha Straite
Standard & Poors	4/7/2009	Nina Cavallo; Liz Toro
Texas SID	4/7/2009	Charlotte Emmons; Dan Black

State of New York
City and County of New York:

I, Eric June, being duly sworn according to law, depose and say that I am the Director of Disclosure for Fiduciary Communications Company and that the above described notice was sent to the above listed organizations, acting through their duly designated representatives shown above.

Date: 4/7/2009

Eric June
Director, Disclosure

Notary Public

BARBARA A. JACOBSON
Notary Public, State of New York
No. 01H04604928
Qualified in Westchester County
Commission Expires April 30, 2010

THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS
SERIES 2009 A

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this "Agreement"), made and entered into the 23rd day of April, 2009, by and between THE CITY OF BUCKHANNON, a municipal corporation of the State of West Virginia (the "Issuer"), and the WEST VIRGINIA MUNICIPAL BOND COMMISSION, an agency of the State of West Virginia established pursuant to West Virginia Code § 13-3-1 *et seq.* (the "Escrow Agent").

W I T N E S S E T H:

WHEREAS, the Issuer, pursuant to a Bond Ordinance effective October 17, 1996 (the "1996 A Ordinance"), issued its Sewerage System Refunding Revenue Bonds, Series 1996 A (the "Series 1996 A Bonds"), in the original principal amount of \$2,885,000, dated December 1, 1996, of which \$2,195,000 principal amount remains outstanding;

WHEREAS, the Issuer, pursuant to a Bond Ordinance enacted on March 5, 2009, and supplemented by Supplemental Resolution adopted on April 16, 2009 (collectively, the "Ordinance"), authorized the issuance of its Sewerage System Refunding Revenue Bonds, Series 2009 A (the "Series 2009 A Bonds"), in the original principal amount of \$2,004,608, dated the date hereof, to currently refund the Series 1996 A Bonds, and contemporaneously with the issuance thereof, legally defease the Series 1996 A Bonds by applying a portion of the proceeds of the Series 2009 A Bonds and certain moneys of the Issuer ("Issuer's Funds") to gross fund the Escrow Fund herein described;

WHEREAS, the cash amounts in the Escrow Fund which will be delivered to the Escrow Agent simultaneously with the delivery of the Series 2009 A Bonds, are in such amounts as to insure the payment on May 6, 2009 (the "Redemption Date"), of the entire principal amount of the Series 1996 A Bonds then outstanding, together with the interest accrued thereon (collectively, the "Redemption Price");

WHEREAS, the Issuer has found it desirable to appoint the Escrow Agent and the Escrow Agent has agreed to such appointment for the purposes of holding title, as

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trustee, to the cash deposit, disbursing to the paying agent such amounts as may be necessary to provide for payment of the Redemption Price of the Series 1996 A Bonds on the Redemption Date and holding, investing and reinvesting any cash balances which may at any time not be needed for immediate disbursement.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the mutual agreements contained herein, and in order further to secure payment of the Series 1996 A Bonds, as hereinabove provided, the parties hereto mutually undertake, promise and agree for themselves, their respective representatives, successors and assigns, as follows:

1. The Issuer hereby appoints the West Virginia Municipal Bond Commission as Escrow Agent for the Escrow Fund. The Escrow Agent hereby acknowledges receipt of true and correct copies of the 1996 A Ordinance and the Ordinance, copies of which are made a part hereof and incorporated herein. Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Ordinance.

2. There is hereby created and established with the Escrow Agent a special and irrevocable trust fund designated the "Escrow Fund", to be held in the custody of the Escrow Agent, separate and apart from any other funds of the Issuer or the Escrow Agent. The deposit of moneys in the Escrow Fund shall constitute an irrevocable deposit of said moneys in trust for, and such moneys together with any income or interest earned thereon, shall be applied, except as otherwise provided herein, to the payment of the Redemption Price on the Redemption Date, all in accordance with paragraph 6 hereof.

3. Concurrently with the delivery of the Series 2009 A Bonds, the Escrow Agent shall deposit in the Escrow Fund (i) the sum of \$201,135 from the Series 1996 A Bonds Debt Service Reserve Fund; and (ii) the sum of \$91,000 from the Debt Service Fund.

4. Concurrently with the delivery of the Series 2009 A Bonds, the Issuer and the Escrow Agent shall cause (i) Series 2009 A Bonds proceeds in the amount of \$1,914,107.78; and (ii) the amounts described in paragraph 3 above, on deposit with the Escrow Agent in the Series 1996 A Debt Service Reserve Fund and Debt Service Fund (total of \$2,206,242.78) to be deposited in the Escrow Fund and the cash in the Escrow Fund shall be applied solely to the payment of the redemption price of the Series 1996 A Bonds on May 6, 2009 (the "Redemption Date"). A copy of the Notice of Redemption is attached as Exhibit A hereto.

5. If the Issuer requests that the Escrow Agent use the moneys in the Escrow Fund to purchase certain United States Treasury Obligations, and upon receipt of an opinion of nationally recognized bond counsel that such substitution will not affect the tax-exempt status of interest on the Series 2009 A Bonds under the Internal Revenue Code of 1986, as amended and then in effect (the "Code"), the Escrow Agent may substitute United States Treasury Obligations for the cash in the Escrow Fund, provided that such United States Treasury Obligations being substituted must be non-callable obligations of the United States of America ("Direct Obligations"), must be sufficient to pay the Redemption Price on the Redemption Date and provided further, that the Escrow Agent receives verification by a certified public accountant of the sufficiency of the escrowed securities to pay the Redemption Price on the Redemption Date.

6. The Escrow Agent shall transfer from the Escrow Fund and deposit directly with the paying agent for the Series 1996 A Bonds, in immediately available funds on the Redemption Date, an amount sufficient to pay the Redemption Price. The registrar of the Series 1996 A Bonds has previously provided a notice of redemption by first-class mail to the registered owners of the Series 1996 A Bonds, not more than 60 days nor less than 30 days prior to the Redemption Date, in accordance with the requirements of the 1996 A Ordinance. Such notice, a copy of which is attached as Exhibit A hereto, is hereby ratified, approved and confirmed by the Issuer.

7. The holders of the Series 1996 A Bonds shall have an express lien on all moneys and assets in the Escrow Fund until paid out, used and applied in accordance with this Agreement.

8. After the provision for payment of all the Outstanding Series 1996 A Bonds and the interest thereon, any amounts remaining in the Escrow Fund shall be immediately transferred to the Issuer and applied to the next ensuing interest payment on the Series 2009 A Bonds.

9. The Escrow Agent shall be entitled to fees for services rendered under this Agreement and reasonable expenses. The Issuer shall pay those fees and expenses from its own funds. In no event shall the Escrow Agent or any paying agent have any lien whatsoever upon any of the moneys or assets in the Escrow Fund for the payment of any fees or expenses.

10. The Issuer and the Escrow Agent independently hereby covenant that no part of the moneys or funds at any time in the Escrow Fund shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause any of the Series 1996 A Bonds or the Series 2009 A Bonds to be an "arbitrage bond" as

defined in Section 148 of the Code, or to be subject to treatment under Section 148 as an obligation not described in Section 103 of the Code.

11. The Escrow Agent shall not have any responsibility with respect to the sufficiency of this Agreement to effect payment, redemption or defeasance of the Series 1996 A Bonds. The liability of the Escrow Agent for the payment of the principal of and the interest on, the Series 1996 A Bonds shall be limited to the application of the moneys and assets available for such purposes in the Escrow Fund, and the Escrow Agent shall not be liable or responsible because of the failure of the Issuer to perform any act required of it by this Agreement. The Escrow Agent shall have no responsibility to the Issuer or any other person in connection with this Agreement, except as specifically provided herein, and shall not be responsible for anything done or omitted to be done by it except for its own negligence or willful default in the performance of any obligation imposed on it hereunder.

12. By execution of this Agreement, the Escrow Agent accepts the duties and obligations as Escrow Agent hereunder. The Escrow Agent represents that it has all requisite power, and has taken all action necessary to execute the trusts hereby created.

13. If the Escrow Agent is called upon by the terms of this Agreement to determine the occurrence of any event or contingency, the Escrow Agent may request from the Issuer or any other person such reasonable additional evidence as the Escrow Agent in its discretion may deem necessary to determine any fact relating to the occurrence of such event or contingency, and in this connection may inquire and consult with the Issuer, at any time. The Escrow Agent may request an opinion of counsel for a determination of any legal issue which might arise in the performance of its duties hereunder and may act in accordance with the advice given in such opinion.

14. The Escrow Agent shall not be liable for any loss resulting from any investment made pursuant to the terms and provisions of this Agreement.

15. The Escrow Agent may act upon any notice, request, waiver, consent, certificate, receipt, authorization, power of attorney or other instrument or document which the Escrow Agent in good faith believes to be genuine and correct and to have been signed or sent by the proper person or persons.

16. The Escrow Agent may resign or be removed by the Issuer, and thereby become discharged from the trusts hereby created, by notice given to the Issuer and each insurer of any of the Series 1996 A Bonds not less than thirty (30) days before such resignation or removal shall take effect. Such resignation or removal shall take

effect immediately, however, upon the earlier appointment of a new Escrow Agent hereunder and acceptance of the trusts hereby created. The Escrow Agent shall continue to serve as Escrow Agent until a successor is appointed and the funds held hereunder transferred. The Escrow Agent shall provide a proper accounting to the Issuer of all funds deposited pursuant to this Agreement within 30 days of the appointment of a successor Escrow Agent. If no such appointment has been made at the end of the 30 day period, the Escrow Agent may petition a court of competent jurisdiction for appointment of a successor or temporary Escrow Agent. In the event of the resignation or removal of the Escrow Agent, the Escrow Agent shall rebate to the Issuer any fees theretofore paid in advance by the Issuer to the Escrow Agent for its services under this Agreement.

17. This Agreement is made for the benefit of the Issuer, the Escrow Agent and the holders from time to time of the Series 1996 A Bonds, except as otherwise expressly provided herein. This Agreement may be modified or amended at anytime, provided, however, that no such modification or amendment shall be made which would materially adversely affect the interest of any of the holders of the Series 1996 A Bonds.

18. If any of the Outstanding Series 1996 A Bonds are not presented for payment on the Redemption Date, and moneys are held by the Escrow Agent for payment thereof, but not including any funds held by the paying agent for the Series 1996 A Bonds, such moneys shall be held for such purposes for a period of one year from the date such payment was due, at which time such moneys shall be paid to the Issuer. Following such payment to the Issuer, the Issuer shall be responsible for payment to any holder of the Series 1996 A Bonds presenting the Series 1996 A Bonds to the Escrow Agent of the amount payable to such holder.

19. The Escrow Agent shall act on behalf of the Issuer in the conduct of the proceedings for the redemption of the Outstanding Series 1996 A Bonds to be redeemed in accordance with the 1996 A Ordinance and the Ordinance.

20. This Agreement shall terminate on the earlier of the date on which all the Outstanding Series 1996 A Bonds have been paid in full and discharged in accordance with the respective provisions of the 1996 A Ordinance and the Ordinance or, as described in Paragraph 18 above, one year after the last date on which payment on the Series 1996 A Bonds is due, and at such time the balance of the Escrow Fund shall be transferred to the Issuer; provided, that the Issuer's obligations set forth in Paragraph 18 shall continue after such termination.

21. If any one or more of the covenants or agreements provided in this Agreement to be performed on the part of any of the parties hereto should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement

shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

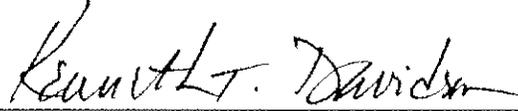
22. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

23. This Agreement is made in the State of West Virginia under the Constitution and laws of such state and is to be so construed.

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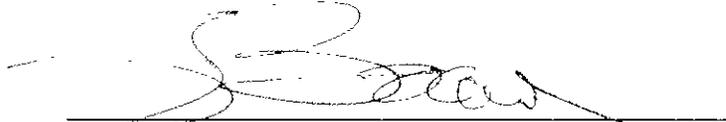
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

THE CITY OF BUCKHANNON



Mayor

WEST VIRGINIA MUNICIPAL BOND
COMMISSION



Executive Director

THE CITY OF BUCKHANNON
SEWERAGE SYSTEM REFUNDING REVENUE BONDS,
SERIES 2009 A

CERTIFICATE OF ISSUER AND ESCROW AGENT
REGARDING DEFEASANCE

The undersigned Mayor of The City of Buckhannon, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and the undersigned Executive Director of the West Virginia Municipal Bond Commission (the "Escrow Agent"), hereby jointly certify as follows in connection with the above-captioned Bond issue:

1. We have executed the Escrow Agreement between the Issuer and the Escrow Agent, dated April 23, 2009 (the "Escrow Agreement"), on behalf of the Issuer and the Escrow Agent, respectively.

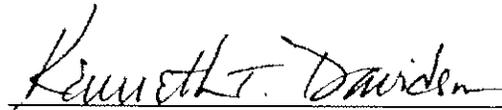
2. The Escrow Agent has the authority to act as Escrow Agent for and in connection with the Series 1996 A Bonds (defined under the Escrow Agreement) and has the requisite powers to carry out its duties under the Escrow Agreement, and the Escrow Agreement has been duly and validly authorized, executed and delivered by the Escrow Agent, and assuming due authorization, execution and delivery thereof by the Issuer, the Escrow Agreement constitutes a valid and legally binding obligation of the Escrow Agent, enforceable in accordance with its terms.

3. The funds on deposit in the Escrow Fund established by the Escrow Agreement have been invested as provided in the Escrow Agreement.

4. The funds on deposit in the Escrow Fund, without investment, are sufficient to fully pay the Series 1996 A Bonds, including payment of the redemption price of par and accrued interest on the Series 1996 A Bonds, on the redemption date of May 6, 2009, and the liens of the Series 1996 A Bonds and the ordinance pursuant to which the Series 1996 A Bonds were issued have been discharged.

WITNESS our signatures on this 23rd day of April, 2009.

THE CITY OF BUCKHANNON



Mayor

WEST VIRGINIA MUNICIPAL BOND
COMMISSION



Executive Director



April 14, 2009

VIA ELECTRONIC MAIL

Ms. Sara Boardman, Executive Director
West Virginia Municipal Bond Commission
Suite 401
1207 Quarrier Street
Charleston, WV 25301
Fax: 304-558-1280
Phone: 304-558-3971

Re: The City of Buckhannon (West Virginia)
Sewerage System Refunding Revenue Bonds, Series 2009 A

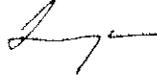
Dear Ms. Boardman:

We are serving as co-bond counsel for the issuance of the above-referenced bonds (the "Bonds"). On behalf of The City of Buckhannon (the "City"), please be advised that the City intends to issue the Bonds for the purpose of currently refunding all of its outstanding Sewerage System Refunding Revenue Bonds, Series 1996 A, dated December 1, 1996 (the "Series 1996 A Bonds"), on the redemption date of May 6, 2009, at which time they will be redeemed in full. The Bonds are expected to be issued on April 23, 2009, and are being private place with Branch Banking and Trust Company. It is our understanding that the West Virginia Municipal Bond Commission is willing to serve as Escrow Agent for the refunding.

A copy of the Bond Ordinance authorizing the Bonds is enclosed. We understand that you are on the distribution list for the Bond documents and, accordingly, have received drafts of the Supplemental Resolution, the Escrow Agreement and other documents relating to the refunding. As you may already know, the refunding will include transferring the funds currently on deposit in the sinking fund and the reserve account for the Series 1996 A Bonds to the Escrow Fund.

We appreciate very much your assistance with this transaction. Please give me a call if you have any questions at this time.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Taunja Willis-Miller', with a stylized flourish at the end.

Taunja Willis-Miller

Enclosure

Blind Copy of letter only to, via email:

Kenneth Davidson, Mayor
Nancy Shobe, Recorder/Treasurer
David Kirby
David W. McCauley, Esq.
Dennis R. Vaughan, Jr., Esq.

THE CITY OF BUCKHANNON (WEST VIRGINIA)
SEWER SYSTEM REFUNDING REVENUE BONDS, SERIES 1996 A
POLICY NUMBER: 13523BE

NOTICE OF DEFEASANCE

To: AMBAC Indemnity Corporation
One State Street Plaza
New York, New York 10004

Date: April 23, 2009

Pursuant to Section 9.04 of the Ordinance authorizing the above-referenced bonds (the "Bonds"), please be advised that the Bonds have been defeased as of the date hereof.

WEST VIRGINIA MUNICIPAL BOND
COMMISSION

By 
Executive Director

THE VAUGHAN LAW FIRM
Attorneys and Counsellors at Law

DENNIS R. VAUGHAN, JR.

WEST VIRGINIA MUNICIPAL LEAGUE CENTER
2020 KANAWHA BOULEVARD, EAST
CHARLESTON, WEST VIRGINIA 25311
April 23, 2009

TELEPHONE (304) 342-3900
TELECOPY (304) 344-2386

The City of Buckhannon
70 East Main Street
Buckhannon, WV 26201

Branch Banking and Trust Company
5130 Parkway Plaza Boulevard
Building 9
Charlotte, NC 28217

Re: The City of Buckhannon
Sewerage System Refunding Revenue Bonds, Series 2009 A

Ladies and Gentlemen:

We have served as co-bond counsel to The City of Buckhannon (the "Issuer"), a municipal corporation, in connection with the issuance of its Sewerage System Refunding Revenue Bonds, Series 2009 A, dated the date hereof (the "Bonds").

We have examined certified copies of proceedings and other papers relating to the issuance of the Bonds. The Bonds are to be purchased by Branch Banking and Trust Company (the "Purchaser") in accordance with the provisions of its commitment letter to the Issuer (the "Bank Commitment Letter"). The Bonds are issued in the principal amount of \$2,004,608, in the form of one bond, registered as to principal and interest to the Purchaser, with interest at the rate of 4.23% per annum, and with principal and interest payable monthly, on the first day of each month, commencing June 1, 2009, in the amounts set forth in Exhibit A to the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), for the purposes of (i) currently refunding the Issuer's Sewer System Refunding Revenue Bonds, Series 1996 A; and (ii) paying the costs of issuance for the Bonds.

We have also examined the applicable provisions of the Act and a Bond Ordinance duly adopted by the Issuer on March 5, 2009, effective 30 days thereafter and after the public hearing thereon, as supplemented by a Supplemental Resolution duly

adopted by the Issuer on April 16, 2009 (collectively, the "Ordinance"), pursuant to and under which Act and Ordinance the Bonds are authorized and issued. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Ordinance.

The Issuer has executed a Tax Compliance Certificate dated as of the date hereof (the "Tax Certificate"), which, among other things, sets forth restrictions on the investment and expenditure of the Bond proceeds and earnings thereon, intended to cause the requirements of the Internal Revenue Code of 1986, as amended, and regulations promulgated pursuant thereto (collectively, the "Code"), necessary to establish and maintain the excludability from gross income for federal income tax purposes of the interest on the Bonds to be met.

As to questions of fact material to our opinion, we have relied upon the representations of the Issuer and other entities contained in the herein-described documents and certifications furnished to us by or on behalf of the Issuer (including certifications as to matters that are material to paragraphs 5 and 6, below), without undertaking to verify the same by independent investigation.

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

1. The Issuer is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to operate and maintain the System, to enact the Ordinance and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The Bank Commitment Letter has been duly authorized by and executed on behalf of the Issuer and is a valid and binding special obligation of the Issuer, enforceable in accordance with the terms thereof.

3. The Issuer has legally and effectively enacted the Ordinance and adopted all other necessary resolutions in connection with the issuance and sale of the Bonds. The Ordinance constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms thereof and the provisions and covenants contained therein.

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Purchaser and are valid, legally enforceable and binding special, limited obligations of the Issuer, payable from the Net Revenues of the System

delivered by the Issuer to the Purchaser and are valid, legally enforceable and binding special, limited obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Sewer Revenue Bonds, Series 1986 B (the "Series 1986 B Bonds"), all in accordance with the terms of the Bonds and the Ordinance; provided, that the Bonds are not secured by a reserve account and have no lien on and are not payable from the reserve account created for the Series 1986 B Bonds.

5. Under existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, including but not limited to those set forth in the Tax Certificate, interest on the Bonds is excludable from the gross income of the owners thereof for federal income tax purposes under Section 103 of the Code. The opinions set forth in the preceding sentences are subject to the condition that the Issuer comply, on a continuing basis, with all representations, covenants and certifications set forth in the Ordinance, the Tax Certificate and other documents relating thereto. Failure to comply with these covenants may result in interest on the Bonds being includable in gross income for federal income tax purposes, possibly from the date of original issuance of the Bonds. We assume compliance with these covenants. We have not undertaken to determine (or to inform any person) whether any action taken (or not taken) or events occurring (or not occurring) after the date of issuance of the Bonds may adversely affect the value of, or the excludability from gross income for federal income tax purposes of interest on, the Bonds.

Certain requirements and procedures contained or referred to in the Ordinance and the Tax Certificate, and other relevant documents, may be changed and certain actions may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents. We express no opinion as to the effect on any Bond or the effect on the interest thereon if any such change occurs or action is taken or omitted upon the advice or approval of bond counsel other than this firm.

Except as described herein and in Section 6, below, we express no opinion regarding other federal tax consequences arising with respect to the Bonds.

6. The Bonds have been designated by the Issuer as "qualified tax-exempt obligations" for purposes of Subsection 265(b) of the Code. The provisions of this paragraph are subject to the continuing requirements relating to tax-exemption described in Paragraph 5, above.

The City of Buckhannon
Branch Banking and Trust Company
April 23, 2009
Page 4

7. Under the Act, the Bonds and any interest thereon are exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof.

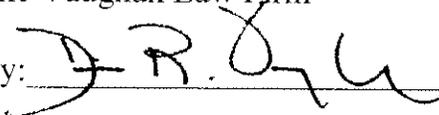
No opinion is given herein as to the effect upon enforceability of the Bonds under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or in the exercise of judicial discretion or principles of equity in appropriate cases.

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur.

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

Very truly yours,

The Vaughan Law Firm

By:  _____

April 23, 2009

The City of Buckhannon
70 East Main Street
Buckhannon, WV 26201

Branch Banking and Trust Company
5130 Parkway Plaza
Building 9
Charlotte, NC 28217

Re: The City of Buckhannon
Sewerage System Refunding Revenue Bonds, Series 2009 A

Ladies and Gentlemen:

We have served as co-bond counsel to The City of Buckhannon (the "Issuer"), a municipal corporation, in connection with the issuance of its Sewerage System Refunding Revenue Bonds, Series 2009 A, dated the date hereof (the "Bonds").

We have examined certified copies of proceedings and other papers relating to the issuance of the Bonds. The Bonds are to be purchased by Branch Banking and Trust Company (the "Purchaser") in accordance with the provisions of its commitment letter to the Issuer (the "Bank Commitment Letter"). The Bonds are issued in the principal amount of \$2,004,608, in the form of one bond, registered as to principal and interest to the Purchaser, with interest at the rate of 4.23% per annum, and with principal and interest payable monthly, on the first day of each month, commencing June 1, 2009, in the amounts set forth in Exhibit A to the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), for the purposes of (i) currently refunding the Issuer's Sewer System Refunding Revenue Bonds, Series 1996 A; and (ii) paying the costs of issuance for the Bonds.

We have also examined the applicable provisions of the Act and a Bond Ordinance duly adopted by the Issuer on March 5, 2009, effective 30 days thereafter and after the public hearing thereon, as supplemented by a Supplemental Resolution duly adopted by the Issuer on April 16, 2009 (collectively, the "Ordinance"), pursuant to and

adopted by the Issuer on April 16, 2009 (collectively, the "Ordinance"), pursuant to and under which Act and Ordinance the Bonds are authorized and issued. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Ordinance.

The Issuer has executed a Tax Compliance Certificate dated as of the date hereof (the "Tax Certificate"), which, among other things, sets forth restrictions on the investment and expenditure of the Bond proceeds and earnings thereon, intended to cause the requirements of the Internal Revenue Code of 1986, as amended, and regulations promulgated pursuant thereto (collectively, the "Code"), necessary to establish and maintain the excludability from gross income for federal income tax purposes of the interest on the Bonds to be met.

As to questions of fact material to our opinion, we have relied upon the representations of the Issuer and other entities contained in the herein-described documents and certifications furnished to us by or on behalf of the Issuer (including certifications as to matters that are material to paragraphs 4 and 5, below), without undertaking to verify the same by independent investigation.

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

1. The Issuer is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to operate and maintain the System, to enact the Ordinance and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The Issuer has legally and effectively enacted the Ordinance and adopted all other necessary resolutions in connection with the issuance and sale of the Bonds. The Ordinance constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms thereof and the provisions and covenants contained therein.

3. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Purchaser and are valid, legally enforceable and binding special, limited obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Sewer Revenue Bonds, Series 1986 B (the "Series 1986 B Bonds"), all in accordance with the terms of the Bonds and the Ordinance; provided, that the Bonds are not secured by a

reserve account and have no lien on and are not payable from the reserve account created for the Series 1986 B Bonds.

4. Under existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, including but not limited to those set forth in the Tax Certificate, interest on the Bonds is excludable from the gross income of the owners thereof for federal income tax purposes under Section 103 of the Code. Interest on the Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes. The opinions set forth in the preceding sentences are subject to the condition that the Issuer comply, on a continuing basis, with all representations, covenants and certifications set forth in the Ordinance, the Tax Certificate and other documents relating thereto. Failure to comply with these covenants may result in interest on the Bonds being includable in gross income for federal income tax purposes, possibly from the date of original issuance of the Bonds. We assume compliance with these covenants. We have not undertaken to determine (or to inform any person) whether any action taken (or not taken) or events occurring (or not occurring) after the date of issuance of the Bonds may adversely affect the value of, or the excludability from gross income for federal income tax purposes of interest on, the Bonds.

Certain requirements and procedures contained or referred to in the Ordinance and the Tax Certificate, and other relevant documents, may be changed and certain actions may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents. We express no opinion as to the effect on any Bond or the effect on the interest thereon if any such change occurs or action is taken or omitted upon the advice or approval of bond counsel other than this firm.

Except as described herein and in Paragraph 5, below, we express no opinion regarding other federal tax consequences arising with respect to the Bonds.

5. The Bonds have been designated by the Issuer as "qualified tax-exempt obligations" for purposes of Subsection 265(b) of the Code. The provisions of this paragraph are subject to the continuing requirements relating to tax-exemption described in Paragraph 5, above.

6. Under the Act, the Bonds and any interest thereon are exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof.

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

The City of Buckhannon
Branch Banking and Trust Company
April 23, 2009
Page 4

This opinion is given as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur.

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

Very truly yours,

Jackson Kelly PLLC

THE VAUGHAN LAW FIRM
Attorneys and Counsellors at Law

DENNIS R. VAUGHAN, JR.

WEST VIRGINIA MUNICIPAL LEAGUE CENTER
2020 KANAWHA BOULEVARD, EAST
CHARLESTON, WEST VIRGINIA 25311

TELEPHONE (304) 342-3900
TELECOPY (304) 344-2386

April 23, 2009

The City of Buckhannon, West Virginia
70 East Main Street
Buckhannon, West Virginia 26201

West Virginia Municipal Bond Commission
Suite 401, 1207 Quarrier Street
Charleston, West Virginia 25301

Re: The City of Buckhannon Sewer System Refunding Revenue Bonds,
Series 1996 A

Ladies and Gentlemen:

We served as bond counsel for the above-referenced bonds (the "Series 1996 A Bonds") and are serving as bond counsel for \$2,204,608 in aggregate principal amount of Sewerage System Refunding Revenue Bonds, Series 2009 A (the "Series 2009 A Bonds"), being issued on the date hereof by The City of Buckhannon, West Virginia (the "Issuer"), for the purpose of currently refunding the Series 1996 A Bonds. We have reviewed the Escrow Agreement dated the date hereof (the "Escrow Agreement") between the Issuer and the West Virginia Municipal Bond Commission, as Escrow Agent (the "Escrow Agent"), and the mathematical verification certificate of The Arbitrage Group, Inc.

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

1. The Escrow Agreement has been duly authorized, executed and delivered by the parties thereto, and is enforceable by the owners of the Series 1996 A Bonds.
2. The Escrow Agreement irrevocably pledges the funds [investments] on deposit in the Escrow Fund to the payment of the redemption price of the Series 1996 A Bonds on May 6, 2009, which pledge is not subject to modification or amendment.
3. Based upon, subject to and as a result of the foregoing, and in reliance thereon, the lien of the Series 1996 A Bonds on the revenues and funds and accounts pledged under the ordinance enacted on September 19, 1996, pursuant to which they were issued has been defeased in accordance with the terms of Section 9.04 thereof.

4. The refunding and redemption of the Series 1996 A Bonds as described in the Escrow Agreement will not adversely affect the exclusion of the interest on the Series 1996 Bonds from gross income for federal income tax purposes.

Very truly yours,

The Vaughan Law Firm

By:

A handwritten signature in black ink, appearing to read "D. R. Vaughan", is written over a horizontal line. The signature is stylized and cursive.

Intentionally blank - Will provide once received



The Arbitrage Group, Inc.

3401 Louisiana Street
Suite 238
Houston, Texas 77002

Telephone 713 522 8527
Facsimile 713 522 8471

www.thearbitragegroup.com

April 23, 2009

Dennis Vaughan
Vaughan Law Firm

Taunja Willis-Miller
Jackson Kelly PLLC

\$2,004,608
City of Buckhannon, West Virginia
Sewerage System Refunding Revenue Bonds
Series 2009

Attached please find three unbound copies of the above referenced verification report.
If you have any questions or comments please do not hesitate to contact me at (205) 330-8211.

Very truly yours,

The Arbitrage Group, Inc.

Russell E. Moore
Partner

REM/htm

cc: Mr. David Kirby - Scott and Stringfellow, LLC



The Arbitrage Group, Inc.

\$2,004,608

**The City of Buckhannon, West Virginia
Sewerage System Refunding Revenue Bonds
Series 2009**



The Arbitrage Group, Inc.

3401 Louisiana Street
Suite 238
Houston, Texas 77002

Telephone 713 522 8527
Facsimile 713 522 8471

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April 23, 2009

The City of Buckhannon, West Virginia
Buckhannon, West Virginia

Scott and Stringfellow, LLC
Charleston, West Virginia

Vaughan Law Firm
Charleston, West Virginia

The Bank of New York Mellon
Dallas, Texas

Jackson Kelly PLLC
Morgantown, West Virginia

\$2,004,608

The City of Buckhannon, West Virginia Sewerage System Refunding Revenue Bonds Series 2009

The City of Buckhannon, West Virginia (the "City") proposes to issue the above referenced bonds (the "Bonds") which are dated April 23, 2009 and will be issued on April 23, 2009.

A portion of the proceeds of the Bonds will be deposited as cash and will be placed in an irrevocable trust to be used solely to refund that portion of the City's Sewerage System Refunding Revenue Bonds, Series 1996A (the "Refunded Bonds") described below:

<u>Series</u>	<u>Original Amount Issued</u>	<u>Dated Date</u>	<u>Amount to be Refunded</u>	<u>Maturities and Sinking Fund Dates to be Refunded</u>	<u>Maturities and Sinking Fund Dates to be Optionally Redeemed</u>	<u>Optional Redemption Date and Price</u>
1996A	\$2,885,000	12-01-1996	\$2,195,000	10-01-2009 - 10-01-2025, Inclusive	10-01-2009 - 10-01-2025, Inclusive	05-06-2009 @ 100%



The City of Buckhannon, West Virginia

April 23, 2009

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At your request, we have independently verified the arithmetical accuracy of the computations provided to us by Scott and Stringfellow, LLC which indicate: (1) the sufficiency of the initial cash deposit to pay to and at early redemption the principal of and interest on the Refunded Bonds; and, (2) the "yields" to be considered by bond counsel in its determination that the Bonds are not "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended. The term "yield," as used herein, means that discount rate which, when used in computing the present value of all payments of principal and interest on an obligation compounded semiannually using a 30/360-day year basis, produces an amount equal to, in the case of the Bonds, the Issue Price to the Public.

The original computations, along with certain assumptions and information, were furnished to us by Scott and Stringfellow, LLC on behalf of the City. We have relied solely on the assumptions and information provided to us and have not made any study or evaluation of them, except as noted below. We express no opinion on the reasonableness of the assumptions, or the likelihood that the debt service requirements of the Refunded Bonds will be paid as described in the accompanying Exhibits.

In the course of our engagement, we were furnished by Scott and Stringfellow, LLC with excerpts from the Official Statement for the Refunded Bonds and the commitment letter for the Bonds. We compared the information contained in the schedules provided by Scott and Stringfellow, LLC with certain information set forth in such documents with respect to prices, principal payment dates and amounts, interest payment dates and rates, yields, and redemption dates and prices. We found that the information contained in such schedules provided to us by Scott and Stringfellow, LLC was in agreement with the above-mentioned information set forth in such documents.

In our opinion, based on the assumptions and information provided by Scott and Stringfellow, LLC on behalf of the City, the computations in the schedules provided to us are arithmetically accurate. The computations in the accompanying Exhibits prepared by us and the comparable schedules provided to us indicate that:

- (1) the initial cash deposit of \$2,206,242.78 will be sufficient to pay to and at early redemption the principal of and interest on the Refunded Bonds; and,
- (2) the yield of the Bonds is 4.267424%.

The terms of our engagement are such that we have no obligation to update this report or to verify any revised computation because of events and transactions occurring subsequent to the date of this report. This report is issued solely for your information and assistance in connection with the issuance of the Bonds. This report is not to be quoted or referred to without our prior written consent.

Very truly yours,

The Arbitrage Group, Inc.

Exhibits

- A. Sources and Uses of Funds
- B. Escrow Cash Flow
- C-1. Debt Service Requirements of the Refunded Bonds to Maturity
- C-2. Debt Service Requirements of the Refunded Bonds to Early Redemption
- D. Debt Service Requirements and Proof of Yield on the Bonds

Sources and Uses of Funds

The City of Buckhannon, West Virginia

SOURCES

Principal Amount of the Bonds	\$2,004,608.00
Transfer from Prior Debt Service Fund	91,000.00
Transfer from Prior Debt Service Reserve Fund	201,135.00
	<hr/>
	\$2,296,743.00
	<hr/> <hr/>

USES

Initial Cash Deposit	\$2,206,242.78
Costs of Issuance	90,000.00
Contingency	500.22
	<hr/>
	\$2,296,743.00
	<hr/> <hr/>

Escrow Cash Flow

The City of Buckhannon, West Virginia

<u>Date</u>	<u>Cash Balance</u>	<u>Initial Cash Deposit</u>	<u>Debt Service Requirements of the Refunded Bonds to Early Redemption</u>	<u>Ending Cash Balance</u>
04/23/09		\$2,206,242.78		\$2,206,242.78
05/06/09	\$2,206,242.78		\$2,206,242.78	\$0.00
		<u>\$2,206,242.78</u>	<u>\$2,206,242.78</u>	

Debt Service Requirements of the Refunded Bonds to Maturity

The City of Buckhannon, West Virginia

<u>Date</u>	<u>Principal</u>	<u>Coupon Rate</u>	<u>Interest</u>	<u>Debt Service Requirements of the Refunded Bonds to Maturity</u>
10/01/09	\$85,000.00	5.300%	\$57,820.00	\$142,820.00
04/01/10			55,567.50	55,567.50
10/01/10	90,000.00	5.400%	55,567.50	145,567.50
04/01/11			53,137.50	53,137.50
10/01/11	90,000.00	5.500%	53,137.50	143,137.50
04/01/12			50,662.50	50,662.50
10/01/12	95,000.00	5.250%	50,662.50	145,662.50
04/01/13			48,168.75	48,168.75
10/01/13	100,000.00	5.250%	48,168.75	148,168.75
04/01/14			45,543.75	45,543.75
10/01/14	105,000.00	5.250%	45,543.75	150,543.75
04/01/15			42,787.50	42,787.50
10/01/15	115,000.00	5.250%	42,787.50	157,787.50
04/01/16			39,768.75	39,768.75
10/01/16	120,000.00	5.250%	39,768.75	159,768.75
04/01/17			36,618.75	36,618.75
10/01/17	125,000.00	5.250%	36,618.75	161,618.75
04/01/18			33,337.50	33,337.50
10/01/18	130,000.00	5.250%	33,337.50	163,337.50
04/01/19			29,925.00	29,925.00
10/01/19	140,000.00	5.250%	29,925.00	169,925.00
04/01/20			26,250.00	26,250.00
10/01/20	145,000.00	5.250%	26,250.00	171,250.00
04/01/21			22,443.75	22,443.75
10/01/21	155,000.00	5.250%	22,443.75	177,443.75
04/01/22			18,375.00	18,375.00
10/01/22	160,000.00	5.250%	18,375.00	178,375.00
04/01/23			14,175.00	14,175.00
10/01/23	170,000.00	5.250%	14,175.00	184,175.00
04/01/24			9,712.50	9,712.50
10/01/24	180,000.00	5.250%	9,712.50	189,712.50
04/01/25			4,987.50	4,987.50
10/01/25	190,000.00	5.250%	4,987.50	194,987.50
	<u>\$2,195,000.00</u>		<u>\$1,120,742.50</u>	<u>\$3,315,742.50</u>

Debt Service Requirements of the Refunded Bonds to Early Redemption

The City of Buckhannon, West Virginia

<u>Date</u>	<u>Principal</u>	<u>Coupon Rate</u>	<u>Interest</u>	<u>Debt Service Requirements of the Refunded Bonds to Early Redemption</u>
05/06/09	\$2,195,000.00	*	\$11,242.78	\$2,206,242.78

* Coupon rates are as shown in the Debt Service Requirements of the Refunded Bonds to Maturity.

Debt Service Requirements and Proof of Yield on the Bonds

The City of Buckhannon, West Virginia

Date	\$2,004,608 Bonds			Debt Service Requirements of the Bonds	Present Value of Future Payments at 04/23/09 Using a Rate of 4.267424%
	Principal	Coupon Rate	Interest		
06/01/09	\$5,187.75	4.230%	\$8,950.57	\$14,138.32	\$14,075.44
07/01/09	7,097.01	4.230%	7,047.96	14,144.97	14,032.60
08/01/09	7,122.03	4.230%	7,022.94	14,144.97	13,983.31
09/01/09	7,147.14	4.230%	6,997.83	14,144.97	13,934.19
10/01/09	7,172.33	4.230%	6,972.64	14,144.97	13,885.25
11/01/09	7,197.61	4.230%	6,947.36	14,144.97	13,836.47
12/01/09	7,222.98	4.230%	6,921.99	14,144.97	13,787.87
01/01/10	7,248.44	4.230%	6,896.53	14,144.97	13,739.44
02/01/10	7,274.00	4.230%	6,870.97	14,144.97	13,691.18
03/01/10	7,299.64	4.230%	6,845.33	14,144.97	13,643.09
04/01/10	7,325.37	4.230%	6,819.60	14,144.97	13,595.16
05/01/10	7,351.19	4.230%	6,793.78	14,144.97	13,547.41
06/01/10	7,377.10	4.230%	6,767.87	14,144.97	13,499.82
07/01/10	7,403.11	4.230%	6,741.86	14,144.97	13,452.40
08/01/10	7,429.20	4.230%	6,715.77	14,144.97	13,405.15
09/01/10	7,455.39	4.230%	6,689.58	14,144.97	13,358.06
10/01/10	7,481.67	4.230%	6,663.30	14,144.97	13,311.14
11/01/10	7,508.04	4.230%	6,636.93	14,144.97	13,264.39
12/01/10	7,534.51	4.230%	6,610.46	14,144.97	13,217.79
01/01/11	7,561.07	4.230%	6,583.90	14,144.97	13,171.37
02/01/11	7,587.72	4.230%	6,557.25	14,144.97	13,125.10
03/01/11	7,614.47	4.230%	6,530.50	14,144.97	13,079.00
04/01/11	7,641.31	4.230%	6,503.66	14,144.97	13,033.06
05/01/11	7,668.24	4.230%	6,476.73	14,144.97	12,987.28
06/01/11	7,695.28	4.230%	6,449.69	14,144.97	12,941.66
07/01/11	7,722.40	4.230%	6,422.57	14,144.97	12,896.20
08/01/11	7,749.62	4.230%	6,395.35	14,144.97	12,850.90
09/01/11	7,776.94	4.230%	6,368.03	14,144.97	12,805.76
10/01/11	7,804.35	4.230%	6,340.62	14,144.97	12,760.78
11/01/11	7,831.86	4.230%	6,313.11	14,144.97	12,715.95
12/01/11	7,859.47	4.230%	6,285.50	14,144.97	12,671.29
01/01/12	7,887.18	4.230%	6,257.79	14,144.97	12,626.78
02/01/12	7,914.98	4.230%	6,229.99	14,144.97	12,582.43
03/01/12	7,942.88	4.230%	6,202.09	14,144.97	12,538.23
04/01/12	7,970.88	4.230%	6,174.09	14,144.97	12,494.19
05/01/12	7,998.97	4.230%	6,146.00	14,144.97	12,450.30
06/01/12	8,027.17	4.230%	6,117.80	14,144.97	12,406.57
07/01/12	8,055.47	4.230%	6,089.50	14,144.97	12,362.99
08/01/12	8,083.86	4.230%	6,061.11	14,144.97	12,319.56
09/01/12	8,112.36	4.230%	6,032.61	14,144.97	12,276.29

Debt Service Requirements and Proof of Yield on the Bonds

The City of Buckhannon, West Virginia

Date	\$2,004,608 Bonds			Debt Service Requirements of the Bonds	Present Value of Future Payments at 04/23/09 Using a Rate of 4.267424%
	Principal	Coupon Rate	Interest		
10/01/12	8,140.95	4.230%	6,004.02	14,144.97	12,233.17
11/01/12	8,169.65	4.230%	5,975.32	14,144.97	12,190.20
12/01/12	8,198.45	4.230%	5,946.52	14,144.97	12,147.38
01/01/13	8,227.35	4.230%	5,917.62	14,144.97	12,104.71
02/01/13	8,256.35	4.230%	5,888.62	14,144.97	12,062.19
03/01/13	8,285.45	4.230%	5,859.52	14,144.97	12,019.82
04/01/13	8,314.66	4.230%	5,830.31	14,144.97	11,977.60
05/01/13	8,343.97	4.230%	5,801.00	14,144.97	11,935.53
06/01/13	8,373.38	4.230%	5,771.59	14,144.97	11,893.60
07/01/13	8,402.90	4.230%	5,742.07	14,144.97	11,851.82
08/01/13	8,432.52	4.230%	5,712.45	14,144.97	11,810.19
09/01/13	8,462.24	4.230%	5,682.73	14,144.97	11,768.71
10/01/13	8,492.07	4.230%	5,652.90	14,144.97	11,727.37
11/01/13	8,522.01	4.230%	5,622.96	14,144.97	11,686.18
12/01/13	8,552.05	4.230%	5,592.92	14,144.97	11,645.13
01/01/14	8,582.19	4.230%	5,562.78	14,144.97	11,604.22
02/01/14	8,612.44	4.230%	5,532.53	14,144.97	11,563.46
03/01/14	8,642.80	4.230%	5,502.17	14,144.97	11,522.85
04/01/14	8,673.27	4.230%	5,471.70	14,144.97	11,482.37
05/01/14	8,703.84	4.230%	5,441.13	14,144.97	11,442.04
06/01/14	8,734.52	4.230%	5,410.45	14,144.97	11,401.85
07/01/14	8,765.31	4.230%	5,379.66	14,144.97	11,361.80
08/01/14	8,796.21	4.230%	5,348.76	14,144.97	11,321.89
09/01/14	8,827.22	4.230%	5,317.75	14,144.97	11,282.12
10/01/14	8,858.33	4.230%	5,286.64	14,144.97	11,242.49
11/01/14	8,889.56	4.230%	5,255.41	14,144.97	11,203.00
12/01/14	8,920.89	4.230%	5,224.08	14,144.97	11,163.65
01/01/15	8,952.34	4.230%	5,192.63	14,144.97	11,124.43
02/01/15	8,983.90	4.230%	5,161.07	14,144.97	11,085.36
03/01/15	9,015.57	4.230%	5,129.40	14,144.97	11,046.42
04/01/15	9,047.35	4.230%	5,097.62	14,144.97	11,007.62
05/01/15	9,079.24	4.230%	5,065.73	14,144.97	10,968.95
06/01/15	9,111.24	4.230%	5,033.73	14,144.97	10,930.42
07/01/15	9,143.36	4.230%	5,001.61	14,144.97	10,892.03
08/01/15	9,175.59	4.230%	4,969.38	14,144.97	10,853.77
09/01/15	9,207.93	4.230%	4,937.04	14,144.97	10,815.64
10/01/15	9,240.39	4.230%	4,904.58	14,144.97	10,777.65
11/01/15	9,272.96	4.230%	4,872.01	14,144.97	10,739.80
12/01/15	9,305.65	4.230%	4,839.32	14,144.97	10,702.07
01/01/16	9,338.45	4.230%	4,806.52	14,144.97	10,664.48
02/01/16	9,371.37	4.230%	4,773.60	14,144.97	10,627.02
03/01/16	9,404.41	4.230%	4,740.56	14,144.97	10,589.69

Debt Service Requirements and Proof of Yield on the Bonds

The City of Buckhannon, West Virginia

Date	\$2,004,608 Bonds			Debt Service Requirements of the Bonds	Present Value of Future Payments at 04/23/09 Using a Rate of 4.267424%
	Principal	Coupon Rate	Interest		
04/01/16	9,437.56	4.230%	4,707.41	14,144.97	10,552.49
05/01/16	9,470.82	4.230%	4,674.15	14,144.97	10,515.43
06/01/16	9,504.21	4.230%	4,640.76	14,144.97	10,478.49
07/01/16	9,537.71	4.230%	4,607.26	14,144.97	10,441.68
08/01/16	9,571.33	4.230%	4,573.64	14,144.97	10,405.01
09/01/16	9,605.07	4.230%	4,539.90	14,144.97	10,368.46
10/01/16	9,638.93	4.230%	4,506.04	14,144.97	10,332.04
11/01/16	9,672.90	4.230%	4,472.07	14,144.97	10,295.74
12/01/16	9,707.00	4.230%	4,437.97	14,144.97	10,259.58
01/01/17	9,741.22	4.230%	4,403.75	14,144.97	10,223.54
02/01/17	9,775.56	4.230%	4,369.41	14,144.97	10,187.63
03/01/17	9,810.02	4.230%	4,334.95	14,144.97	10,151.85
04/01/17	9,844.60	4.230%	4,300.37	14,144.97	10,116.19
05/01/17	9,879.30	4.230%	4,265.67	14,144.97	10,080.65
06/01/17	9,914.12	4.230%	4,230.85	14,144.97	10,045.24
07/01/17	9,949.07	4.230%	4,195.90	14,144.97	10,009.96
08/01/17	9,984.14	4.230%	4,160.83	14,144.97	9,974.80
09/01/17	10,019.33	4.230%	4,125.64	14,144.97	9,939.76
10/01/17	10,054.65	4.230%	4,090.32	14,144.97	9,904.85
11/01/17	10,090.10	4.230%	4,054.87	14,144.97	9,870.05
12/01/17	10,125.66	4.230%	4,019.31	14,144.97	9,835.38
01/01/18	10,161.36	4.230%	3,983.61	14,144.97	9,800.84
02/01/18	10,197.17	4.230%	3,947.80	14,144.97	9,766.41
03/01/18	10,233.12	4.230%	3,911.85	14,144.97	9,732.11
04/01/18	10,269.19	4.230%	3,875.78	14,144.97	9,697.92
05/01/18	10,305.39	4.230%	3,839.58	14,144.97	9,663.86
06/01/18	10,341.72	4.230%	3,803.25	14,144.97	9,629.91
07/01/18	10,378.17	4.230%	3,766.80	14,144.97	9,596.08
08/01/18	10,414.75	4.230%	3,730.22	14,144.97	9,562.38
09/01/18	10,451.47	4.230%	3,693.50	14,144.97	9,528.79
10/01/18	10,488.31	4.230%	3,656.66	14,144.97	9,495.32
11/01/18	10,525.28	4.230%	3,619.69	14,144.97	9,461.96
12/01/18	10,562.38	4.230%	3,582.59	14,144.97	9,428.73
01/01/19	10,599.61	4.230%	3,545.36	14,144.97	9,395.61
02/01/19	10,636.98	4.230%	3,507.99	14,144.97	9,362.61
03/01/19	10,674.47	4.230%	3,470.50	14,144.97	9,329.72
04/01/19	10,712.10	4.230%	3,432.87	14,144.97	9,296.95
05/01/19	10,749.86	4.230%	3,395.11	14,144.97	9,264.29
06/01/19	10,787.75	4.230%	3,357.22	14,144.97	9,231.75
07/01/19	10,825.78	4.230%	3,319.19	14,144.97	9,199.32
08/01/19	10,863.94	4.230%	3,281.03	14,144.97	9,167.01
09/01/19	10,902.24	4.230%	3,242.73	14,144.97	9,134.81

Debt Service Requirements and Proof of Yield on the Bonds

The City of Buckhannon, West Virginia

Date	\$2,004,608 Bonds			Debt Service Requirements of the Bonds	Present Value of Future Payments at 04/23/09 Using a Rate of 4.267424%
	Principal	Coupon Rate	Interest		
10/01/19	10,940.67	4.230%	3,204.30	14,144.97	9,102.72
11/01/19	10,979.23	4.230%	3,165.74	14,144.97	9,070.75
12/01/19	11,017.93	4.230%	3,127.04	14,144.97	9,038.89
01/01/20	11,056.77	4.230%	3,088.20	14,144.97	9,007.14
02/01/20	11,095.75	4.230%	3,049.22	14,144.97	8,975.50
03/01/20	11,134.86	4.230%	3,010.11	14,144.97	8,943.97
04/01/20	11,174.11	4.230%	2,970.86	14,144.97	8,912.55
05/01/20	11,213.50	4.230%	2,931.47	14,144.97	8,881.25
06/01/20	11,253.03	4.230%	2,891.94	14,144.97	8,850.05
07/01/20	11,292.69	4.230%	2,852.28	14,144.97	8,818.96
08/01/20	11,332.50	4.230%	2,812.47	14,144.97	8,787.99
09/01/20	11,372.45	4.230%	2,772.52	14,144.97	8,757.12
10/01/20	11,412.54	4.230%	2,732.43	14,144.97	8,726.36
11/01/20	11,452.76	4.230%	2,692.21	14,144.97	8,695.71
12/01/20	11,493.14	4.230%	2,651.83	14,144.97	8,665.16
01/01/21	11,533.65	4.230%	2,611.32	14,144.97	8,634.72
02/01/21	11,574.30	4.230%	2,570.67	14,144.97	8,604.39
03/01/21	11,615.10	4.230%	2,529.87	14,144.97	8,574.17
04/01/21	11,656.05	4.230%	2,488.92	14,144.97	8,544.05
05/01/21	11,697.13	4.230%	2,447.84	14,144.97	8,514.04
06/01/21	11,738.37	4.230%	2,406.60	14,144.97	8,484.13
07/01/21	11,779.75	4.230%	2,365.22	14,144.97	8,454.33
08/01/21	11,821.27	4.230%	2,323.70	14,144.97	8,424.64
09/01/21	11,862.94	4.230%	2,282.03	14,144.97	8,395.04
10/01/21	11,904.76	4.230%	2,240.21	14,144.97	8,365.56
11/01/21	11,946.72	4.230%	2,198.25	14,144.97	8,336.17
12/01/21	11,988.83	4.230%	2,156.14	14,144.97	8,306.89
01/01/22	12,031.09	4.230%	2,113.88	14,144.97	8,277.71
02/01/22	12,073.50	4.230%	2,071.47	14,144.97	8,248.63
03/01/22	12,116.06	4.230%	2,028.91	14,144.97	8,219.66
04/01/22	12,158.77	4.230%	1,986.20	14,144.97	8,190.79
05/01/22	12,201.63	4.230%	1,943.34	14,144.97	8,162.02
06/01/22	12,244.64	4.230%	1,900.33	14,144.97	8,133.35
07/01/22	12,287.80	4.230%	1,857.17	14,144.97	8,104.78
08/01/22	12,331.12	4.230%	1,813.85	14,144.97	8,076.31
09/01/22	12,374.58	4.230%	1,770.39	14,144.97	8,047.94
10/01/22	12,418.21	4.230%	1,726.76	14,144.97	8,019.67
11/01/22	12,461.98	4.230%	1,682.99	14,144.97	7,991.50
12/01/22	12,505.91	4.230%	1,639.06	14,144.97	7,963.43
01/01/23	12,549.99	4.230%	1,594.98	14,144.97	7,935.46
02/01/23	12,594.23	4.230%	1,550.74	14,144.97	7,907.58
03/01/23	12,638.62	4.230%	1,506.35	14,144.97	7,879.81

Debt Service Requirements and Proof of Yield on the Bonds

The City of Buckhannon, West Virginia

Date	\$2,004,608 Bonds			Debt Service Requirements of the Bonds	Present Value of Future Payments at 04/23/09 Using a Rate of 4.267424%
	Principal	Coupon Rate	Interest		
04/01/23	12,683.18	4.230%	1,461.79	14,144.97	7,852.13
05/01/23	12,727.88	4.230%	1,417.09	14,144.97	7,824.55
06/01/23	12,772.75	4.230%	1,372.22	14,144.97	7,797.06
07/01/23	12,817.77	4.230%	1,327.20	14,144.97	7,769.68
08/01/23	12,862.96	4.230%	1,282.01	14,144.97	7,742.38
09/01/23	12,908.30	4.230%	1,236.67	14,144.97	7,715.19
10/01/23	12,953.80	4.230%	1,191.17	14,144.97	7,688.09
11/01/23	12,999.46	4.230%	1,145.51	14,144.97	7,661.08
12/01/23	13,045.29	4.230%	1,099.68	14,144.97	7,634.17
01/01/24	13,091.27	4.230%	1,053.70	14,144.97	7,607.36
02/01/24	13,137.42	4.230%	1,007.55	14,144.97	7,580.64
03/01/24	13,183.73	4.230%	961.24	14,144.97	7,554.01
04/01/24	13,230.20	4.230%	914.77	14,144.97	7,527.47
05/01/24	13,276.84	4.230%	868.13	14,144.97	7,501.03
06/01/24	13,323.64	4.230%	821.33	14,144.97	7,474.68
07/01/24	13,370.60	4.230%	774.37	14,144.97	7,448.43
08/01/24	13,417.73	4.230%	727.24	14,144.97	7,422.27
09/01/24	13,465.03	4.230%	679.94	14,144.97	7,396.19
10/01/24	13,512.49	4.230%	632.48	14,144.97	7,370.21
11/01/24	13,560.13	4.230%	584.84	14,144.97	7,344.33
12/01/24	13,607.93	4.230%	537.04	14,144.97	7,318.53
01/01/25	13,655.89	4.230%	489.08	14,144.97	7,292.82
02/01/25	13,704.03	4.230%	440.94	14,144.97	7,267.20
03/01/25	13,752.34	4.230%	392.63	14,144.97	7,241.68
04/01/25	13,800.81	4.230%	344.16	14,144.97	7,216.24
05/01/25	13,849.46	4.230%	295.51	14,144.97	7,190.89
06/01/25	13,898.28	4.230%	246.69	14,144.97	7,165.63
07/01/25	13,947.27	4.230%	197.70	14,144.97	7,140.46
08/01/25	13,996.44	4.230%	148.53	14,144.97	7,115.38
09/01/25	14,045.77	4.230%	99.20	14,144.97	7,090.39
10/01/25	14,094.72	4.230%	49.68	14,144.40	7,065.20
	<u>\$2,004,608.00</u>		<u>\$781,943.87</u>	<u>\$2,786,551.87</u>	<u>\$2,004,608.00</u>
			Principal Amount of the Bonds		<u>\$2,004,608.00</u>

AICPA
Phone: 304-472-7568

Richard D. Trent, CPA, A.C.
Route 2 Box 65 Buckhannon, WV 26201
Fax: 304-472-0076

WV Society of CPA's
Email: cparadt@cebridge.net

The City of Buckhannon
Buckhannon, WV 26201

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

Jackson Kelly PLLC
506 Hall St
Charleston, WV 25301

Vaughan Law Firm
2020 Kanawha Blvd., E.
Charleston, WV 25301

Scott & Stringfellow LLC
300 Summers St #5
Charleston, WV 25301

Ladies and Gentlemen:

Independent Accountant's Report Applying Agreed-Upon Procedures

I have performed the procedures enumerated below, which were agreed to by The City of Buckhannon, Buckhannon, WV, solely to assist the specified parties in evaluating the City's compliance with the revenue requirements of the Issuer's Sewer Revenue Bonds, Series 1986B (the "Prior Bonds") and the issuance of the Issuer's Sewerage System Refunding Revenue Bonds, Series 2009A (the "Series 2009 Bonds"), on a parity with the Prior Bonds. The purpose of the Series 2009 refunding is to provide funding for the early retirement of the Series 1996 A Bond Issue. Management is responsible for the City's compliance with the parity requirements of the Prior Bonds in order to issue the Series 2009 Bonds on a parity with the Prior Bonds. This agreed-upon procedures engagement was conducted in accordance with the attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the City. Consequently, I make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

Based on the historical data provided for the purpose of determining the sufficiency of revenues generated and debt amortization required:

I have reviewed the service rates of the City of Buckhannon (the "Issuer"), enacted by the Issuer on February 15, 2007, and the projected operating expenses and anticipated customer usage provided by the City based on their historical data. It is my opinion that such rates are sufficient (i) to provide for all operating expenses of the sewerage system of the Issuer (the "System"), and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any succeeding fiscal year for the payment of the principal of and interest on the Series 2009 Bonds and all other obligations secured by or payable from revenues of the System on a parity with the Series 2009 Bonds, including the Prior Bonds.

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

Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Ordinance authorizing the Series 2009 Bonds. Operating Expenses is defined to mean the current expenses, paid or accrued, of repair, operation and maintenance of the System, excluding depreciation and amortization, and includes, without limiting the generality of the foregoing, insurance premiums, supplies, labor, wages, the cost of materials and supplies used for current operations, administrative expenses of the City or the Sanitary Board relating and chargeable to the System and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting practices.

Very truly yours,

Richard D. Trent, CPA, A.C.

Richard D. Trent, CPA, A.C.

April 13, 2009

CITY OF BUCKHANNON, WEST VIRGINIA

NOTE AND BOND SERIES 1986 A and B
AND LINE OF CREDIT ORDINANCE

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NOTE, BOND AND LINE OF CREDIT ORDINANCE

Introduced in Council

Referred to

Introduced by

Passed by Council

An Ordinance authorizing the acquisition and construction of certain extensions, improvements and additions to the existing public sewerage facilities of the City of Buckhannon and the financing of the cost not otherwise provided, thereof, through the issuance by the City of not more than \$2,866,667 in aggregate principal amount of City of Buckhannon Sewer Revenue Bonds, Series 1986 A, not more than \$1,433,333 in aggregate principal amount of City of Buckhannon Sewer Revenue Bonds, Series 1986 B and not more than \$2,000,000 in aggregate principal amount of City of Buckhannon Sewerage System Grant Anticipation Notes, Series 1986; authorizing the City to enter into an agreement with a banking institution for the extension of credit to borrow not more than \$500,000 outstanding at any one time to defray certain costs attendant to the Project (herein defined) providing for the rights and remedies of and security for the registered owners of such Bonds and Notes; authorizing execution and delivery of a trust indenture securing the Notes; authorizing the sale and providing for the terms and provisions of such Bonds and Notes and adopting other provisions relating thereto.

Be It Enacted and Ordained by the Council of the City of Buckhannon, West Virginia:

ARTICLE I

DEFINITIONS, STATUTORY AUTHORITY AND FINDINGS

Section 1.01. Definitions. The following terms shall have the following meanings in this Ordinance unless the context expressly required otherwise:

A. "Act" means Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended and in effect on the date of enactment of this Ordinance.

B. "Authority" means the West Virginia Water Development Authority, or any other agency of the State of West Virginia that succeeds to the functions of the Authority, which shall be the original purchaser of the City of Buckhannon's Sewer Revenue Bonds, Series 1986 originally authorized hereby; provided, however, that the City of Buckhannon must satisfy the legal and other requirements of the Program, as hereinafter defined.

C. "Authorized Officer" means the Mayor of the City of Buckhannon or any other officer of said City specifically designated by ordinance or resolution of the Council of the City as such.

D. "Bond Construction Trust Fund" means the Bond Construction Trust Fund established by Section 5.01(4) hereof.

E. "Bonds" means the Original Bonds, as hereinafter defined, authorized hereby, and any pari passu additional bonds hereafter issued within the terms, restrictions and conditions contained in this Ordinance.

F. "Bondholder" or "Holder of the Bonds" or any similar term means any person who shall be the registered owner of any outstanding Bond or Bonds.

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

H. "City" means the City of Buckhannon, a municipal corporation of the State of West Virginia, and, where appropriate, the Council thereof.

I. "City Recorder" means the Recorder of the City.

J. "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.

K. "Consulting Engineers" means Kelley, Gidley, Blair & Wolfe, Consulting Engineers, Charleston, West Virginia, or any engineer or firm of engineers of reputation for skill and experience with respect to the design and construction of sewerage systems or facilities that shall at any time hereafter be retained by the City as consulting engineers for the System, as hereinafter defined.

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

M. "Costs" or "Costs of the Project" means those costs described in Subsection 1.03(E) hereof to be a part of the costs of construction and acquisition of the Project.

N. "Depository Bank" means the bank, eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC, as hereinafter defined, and any successor thereto, as designated in the Supplemental Resolution.

O. "Eligible Costs" means Costs of the Project which are reimbursable in full on a dollar-for-dollar basis from EPA Grant Receipts, the total of which are equal in amount to the EPA Grant.

P. "EPA" means the United States Environmental Protection Agency or any successor to the functions of the EPA.

Q. "EPA Grant" or "Grant" means the grant from the EPA pursuant to the commitment therefor.

R. "Event of Default" means any occurrence or event specified in Section 9.01.

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

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

U. "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.

V. "Grant Agreement" means a written commitment for the payment of the EPA Grant specifying the amount of such grant, the terms and conditions upon which such grant is made and the date or dates or event or events upon which grant is to be paid to the City.

W. "Grant Receipts" means all moneys received by the City on account of the Grant after the date of issuance of the Notes.

X. "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 VIII hereof) or any fee or charge established, levied and collected by the City from persons at the time of, and for the privilege of, making service connections to the System, as hereinafter defined, and for the furnishing by the City of miscellaneous service.

Y. "Independent Certified Public Accountants" means the certified public account or firm of certified public accounts that shall at any time hereafter be retained by the City to prepare an independent annual or special audit of the accounts of the System, as hereinafter defined, or for any other purpose except keeping the accounts of such System in the normal operation of its business and affairs.

Z. "Indenture" or "Trust Indenture" means the Trust Indenture between the City and the Trustee relating to the Notes, as hereinafter defined, and all supplements or amendments thereto.

AA. "Line of Credit" means the agreement made by and between the City and a banking institution authorized to conduct banking business in the State of West Virginia whereby the banking institution agrees to extend to the City from time to time credit to borrow not more than \$500,000 outstanding at any one time to defray the construction costs of the Project and for such other purposes permitted hereby and authorized by a resolution supplemental hereto.

BB. "Loan Agreement" means the loan agreement to be entered into between the City and the Authority, pursuant to which the Authority shall agree, subject to the City's satisfying certain legal and other requirements, to purchase the Bonds originally authorized hereby with a portion of the proceeds of the Authority's bonds issued with respect to the Program, as hereinafter defined.

CC. "Mayor" means the Mayor of the City.

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

EE. "Noteholder", "Holder of the Notes", or "Holder of the GANs" or any similar term means any person who shall be the registered owner of any outstanding Note or Notes as hereinafter defined.

FF. "Notes" or "GAN" means the not more than \$2,000,000 in aggregate principal amount of Sewerage System Grant Anticipation Notes, Series 1986, originally authorized hereby, and unless the context clearly indicates otherwise, the terms "Notes" or "GAN" includes any refunding Notes or GAN of the City.

GG. "Notes Capitalized Interest Account" means the Notes Capitalized Interest Account within the Notes Debt Service Fund established by Subsection 4.01(2)(a) of the Indenture.

HH. "Notes Construction Trust Fund" means the Notes Construction Trust Fund established by Section 4.01(1) of the Indenture.

II. "Notes Cost of Issuance Account" means the Notes Cost of Issuance Account within the Notes Construction Trust Fund established by Subsection 4.01(1)(a) of the Indenture.

JJ. "Notes Debt Service Fund" means the Notes Debt Service Fund established by Subsection 4.01(2) of the Indenture.

KK. "Note Registrar" means the bank to be designated as such in the Supplemental Resolution and its successors and assigns.

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

MM. "Ordinance" means this Ordinance, as hereafter amended or supplemented.

NN. "Operation and Maintenance Fund" means the Operation and Maintenance Fund established by Section 5.01(2) hereof.

OO. "Original Bonds" or "Bonds originally authorized hereby" or similar phrases mean the not more than \$4,300,000 in total aggregate principal amount of Subordinated Sewer Revenue Bonds, Series 1986 A and B, issued for the purpose of paying a portion of the Costs of the Project and for such other purposes permitted hereby and authorized by a resolution supplemental hereto, which Bonds shall be issued in one or more series as determined by a resolution or resolutions supplemental hereto and which are originally authorized hereby. The 1986 Series A Bonds shall not exceed more than \$2,866,667 in aggregate principal amount and the 1986 Series B Bonds shall not exceed more than \$1,433,333 in aggregate principal amount. The Bonds, in total aggregate principal amount shall be second and subordinate to the lien of the Series 1960 Bonds hereafter defined.

PP. "Original Notes Purchaser" means collectively, Young, Moore & Company of Charleston, West Virginia and Russell, Rea & Zappala, Inc. of Pittsburgh, Pennsylvania, as the original purchaser of the Notes.

QQ. "Other Grants" means any other grant or grants, other than the EPA Grant, from whatever source, received by the City to aid in financing the costs of the Project.

RR. "Outstanding", when used with reference to Bonds or Notes and as of any particular date, describes all Bonds theretofore and thereupon being delivered or all Notes theretofore and thereupon being authenticated and delivered except (i) any Bond or Note cancelled by the Bond Registrar, or Note Registrar, at or prior to said date; (ii) any Bond or Note for the payment of which moneys, equal to its principal amount, with interest to the date of maturity, shall be in trust hereunder or under the Indenture, as applicable, and set aside for such payment (whether upon or prior to maturity); (iii) any Bond or Note deemed to have been paid as provided in Article X hereof or Article VIII of the Indenture, as applicable; and (iv) for purposes of consents or other action by a specified percentage of Bondholders or Noteholders, any Bonds or Notes registered to the City.

SS. "Paying Agent" means the bank or banks designated as such for the Bonds and/or the Notes in the Supplemental Resolution.

TT. "Program" means the Authority's loan program, under which the Authority purchases the revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of water development revenue bonds of the Authority or any successor to said Program as currently constituted.

UU. "Project" means the extensions, additions, betterments and improvements to the existing sewerage system of the City, to be designed by the Consulting Engineers and to be constructed in accordance with the plans and specifications so designed, subject to the provisions of Section 2.01 hereof.

VV. "PSC" means the Public Service Commission of West Virginia or any other agency of the State that succeeds to the functions of the PSC.

WW. "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; Federal Farm Credit Bank; Export-Import Bank of the United States; Federal Land Banks; Tennessee Valley Authority; Washington Metropolitan Area Transit Authority; or the Government national Mortgage Association;

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

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the

FDIC or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that such Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time account or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time account;

(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 paid 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; and

(h) The Investment Agreement by and between the Trustee and the bank designated as "Investment Bank" in the Supplemental Resolution.

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

YY. "Registrar" means as appropriate, either the Bond Registrar or the Note Registrar or both.

ZZ. "Renewal and Replacement Fund" means the Renewal and Replacement Fund established by Section 5.01 hereof.

AAA. "Reserve Account" means the City of Buckhannon Sewer Revenue Bonds, Series 1986 Reserve Account established in the Sinking Fund, as hereinafter defined, by Section 5.02(1)(a).

BBB. "Reserve Requirement" means as of any date of calculation the maximum amount of principal and interest which will become due on the Bonds in any succeeding Fiscal Year.

CC. "Revenue Fund" means the City of Buckhannon Sewer Revenue Bonds, Series 1986 Revenue Fund, to be created pursuant to Section 5.01(1).

DD. "Sanitary Board" means the Sanitary Board of the City established by ordinance duly enacted by the City and successors to the function thereof.

EE. "Series 1986 A Bonds" means the not more than \$2,866,667 in aggregate principal amount of Sewer Revenue Bonds, Series 1986 A, of the City.

FF. "Series 1986 A Bonds Reserve Account" means the Series 1986 A Bonds Reserve Account established in the Series 1986 A Bonds Sinking Fund pursuant to Section 5.02 hereof.

GG. "Series 1986 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 1986 A Bonds in any succeeding Fiscal Year.

HH. "Series 1986 A Bonds Sinking Fund" means the Series 1986 A Sinking Fund established by Section 5.02 hereof.

II. "Series 1986 B Bonds" means the not more than \$1,433,333 in aggregate principal amount of Sewer Revenue Bonds, Series 1986 B, of the City.

JJJ. "Series 1986 B Bonds Reserve Account" means the Series 1986 B Bonds Reserve Account established in the Series 1986 B Bonds Sinking Fund pursuant to Section 5.02 hereof.

KKK. "Series 1986 B Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1986 B Bonds in any succeeding Fiscal Year.

LLL. "Series 1986 B Bonds Sinking Fund" means the Series 1986 B Sinking Fund established by Section 5.02 hereof.

MMM. "Sinking Fund" means the City of Buckhannon Sewer Revenue Bonds, Series 1986 Sinking Fund established by Section 5.02(1).

NNN. "State" means the State of West Virginia.

OOO. "Supplemental Resolution" means any ordinance or resolution of the Council amending or supplementing this Ordinance and, when preceded by the article "the", refers

specifically to the Supplemental Resolution authorizing the sale of the Notes and the Supplemental Resolution authorizing the sale of the Original Bonds, and the Supplemental Resolution authorizing the Line of Credit and the extension of the credit to the City thereunder, as the case may be; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Notes, Original Bonds, or the Line of Credit, as the case may be, and not so included may be included in another Supplemental Resolution.

PPP. "Surplus Revenues" means the Net Revenues not required by the Ordinance to be set aside and held for the payment of or security for the Bonds or any other obligation of the City, including the Renewal and Replacement Fund and the Reserve Account, the proceeds of such Bonds or other obligations which are used to pay costs of the Project.

QQQ. "System" means the complete properties of the City for the collection, transportation and treatment of liquid or solid wastes, sewerage or industrial wastes, in its entirety or any integral part thereof, and shall include the existing facilities, the Project, and any further additions, betterments and improvements thereto hereafter constructed or acquired for said system from any sources whatsoever.

RRR. "Tap Fees" means any fees paid by prospective customers of the System in order to connect thereto.

SSS. "Trustee" means the banking institution designated as trustee under the Indenture in the Supplemental Resolution and its successors and assigns.

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

UUU. Words importing singular number include the plural number in each case and vice versa; words importing the masculine or neuter gender include every other gender; and words importing persons include firms, partnerships, associations and corporations.

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

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

Section 1.02. Authority of this Ordinance. This Ordinance is enacted pursuant to the provisions of the Act and other applicable provisions of law.

Section 1.03. Findings. It is hereby found, determined and declared as follows:

A. The City now owns and operates a public sewerage system consisting of a sewerage treatment plant or plants and some or all of collecting, intercepting and outlet sewers, lateral sewers, drains, force mains, conduits, pumping stations, and ejector stations and all other appurtenances, extensions, additions and improvements necessary, appropriate, useful, convenient or incidental for the collection, treatment and disposal in a sanitary manner of sewage and industrial wastes.

B. The City derives revenues from the System. At the date of enactment hereof, such revenues are pledged and encumbered as follows:

(1) The Sewer Revenue Bonds of the City dated April 1, 1960 (the "1960 Bonds"), issued in the aggregate original principal amount of \$1,000,000, payable as to principal and interest out of revenues of the System, of which original principal amount the sum of approximately \$590,000 remains outstanding on the date of enactment hereof. The 1986 Bonds, Series A and B, are expressly subordinated and junior to the lien in favor of the 1960 Bonds. Upon final redemption of the said 1960 Bonds, the 1986 Series A Bonds shall succeed to the lien position of the 1960 Bonds and the 1986 Series B Bonds shall be, and remain, subordinate and junior thereto.

C. It is deemed necessary and desirable for the health, welfare and safety of the inhabitants of the City that there be constructed certain extensions, additions, betterments and improvements to the facilities of the City (the "Project") which constitute properties for the collection of liquid or solid wastes, sewage or industrial waste (the existing facilities, the Project, and any additions thereto or extensions thereof is herein called the "System") at an estimated cost of \$12,437,640, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Sanitary Board and the City Recorder.

D. The Sanitary Board of the City has presented a petition to the City for enactment of this Bond, Notes, and Line of Credit Ordinance.

E. It is deemed necessary for the City to issue its Sewer Revenue Bonds in the total aggregate principal amount of not more than \$4,300,000 in two series, being the Series 1986 A Bonds in the aggregate principal of not more than \$2,866,667 and the Series 1986 B Bonds in the aggregate principal amount of not more than \$1,433,333 (collectively, the Bonds) and contemporaneously therewith, or as soon as practicable thereafter, to issue its Sewerage System Grant Anticipation Notes, Series 1986 in the principal amount of not more than \$2,000,000 to finance costs of construction and acquisition of the Project. Additionally, it is deemed necessary to authorize the City to enter into an agreement with a banking institution for the extension of credit to the City in an amount not to exceed \$500,000 at any one time to defray certain costs attendant to the Project. All of said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Notes, Bonds, and Line of Credit prior to and during construction or acquisition and for six months after completion of construction of the Project; engineering, and legal expenses; expenses for estimates of cost and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, discount, initial fees for the service of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bonds and Notes and such other expenses as may be necessary or incident to the financing herein authorized, the construction or acquisition of the Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof, including, with respect to the Notes, any commitment fees to a bank or banks for the issuance of letters of credit, and any costs of obtaining insurance thereon; provided, that reimbursement to the City for any amounts expended by it for allowable costs prior to the issuance of the Bonds or Notes or the repayment of indebtedness incurred by the City for such purposes, shall be deemed Costs of the Project.

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

G. The estimated revenues to be derived in each year after the date hereof from the operation of the System will be sufficient to provide for the costs of the operation and maintenance of said system, the principal of and interest on the 1960 Bonds and the Sinking Fund, Reserve Account, Replacement Fund and all other payments provided for therein, the principal of and interest on the Original Bonds and all

Sinking Fund, Reserve Account, Renewal and Replacement Fund and other payments provided for herein.

H. It is in the best interests of the City that its Original Bonds be sold to the Authority pursuant to the terms and provisions of the Loan Agreement to be entered into between the City and the Authority, in form satisfactory to the City and the Authority.

I. Other than the 1960 Bonds there are not outstanding any other obligations of the City which will rank prior to or on a parity with the Bonds and the Notes as to lien and source of and security for payment.

J. The City 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, the Notes and the Line of Credit, or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired.

Section 1.04. Ordinance Constitutes Contract. In consideration of the acceptance of the GANs and the Bonds authorized to be issued hereunder by those who shall respectively hold the same from time to time, as well as the acceptance of the Line of Credit by the banking institution extending such credit to the City, this Ordinance shall be deemed to be and shall constitute a contract between the City and such Noteholders or Bondholders or banking institution, and the covenants and agreements herein set forth to be performed by the City shall be for the equal benefit, protection and security of the legal Holders of any and all of such Notes or Bonds or banking institution as the case may be.

ARTICLE II AUTHORIZATION OF CONSTRUCTION AND ACQUISITION OF THE PROJECT

Section 2.01. Authorization of Construction and Acquisition of the Project. There is hereby authorized the construction and acquisition of the Project in accordance with plans and specifications therefor prepared by the Consulting Engineers and filed with the Sanitary Board and the City Recorder.

ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purpose of paying Costs of the Project not otherwise provided for and paying certain costs of issuance and related costs, and for such other purposes as may be set forth in Supplemental Resolutions, there shall be issued negotiable Original Bonds of the City, in a total aggregate principal amount of not more than \$4,300,000. Said Bonds shall be issued in two series, to be designated respectively, "Sewer Revenue Bonds, Series 1986 A," in the aggregate principal amount of not more than \$2,866,667 and "Sewer Revenue Bonds, Series 1986 B," in the aggregate amount of \$1,433,333, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. Such Bonds shall be issued contemporaneously with or prior to issuance of the Notes. The proceeds of the Bonds (excluding accrued interest) remaining after capitalization of interest, if any, and payment of the costs of issuance thereof and related costs shall be deposited in the Bond Construction Trust Fund established by Section 5.01(4) hereof.

Section 3.02. Terms of Bonds. The Bonds shall bear interest from the original date of delivery to the payee thereof at such rate or rates, not exceeding 12% per annum, or such other rate as shall then be the legal maximum, payable semi-annually on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, but only with the express written consent of the West Virginia Water Development Authority, all as the City shall prescribe in a Supplemental Resolution. The Bonds shall be payable as to principal at the office of the Commission, through a Paying Agent or Paying Agents selected by the original purchaser or purchasers thereof, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds, shall be paid by check or draft mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar.

Unless otherwise provided by the Supplemental Resolution, the Original Bonds shall be issued in the form of a single bond for each Series, both fully registered to the Authority, with a payment record attached, representing the aggregate principal amount of the Original Bond issue and both shall mature in principal installments, all as provided in the Supplemental Resolution. Said Original Bonds shall be exchangeable at the option and expense of the Bondholder for

other fully registered Bonds in aggregate principal amount equal to the amount of said Bonds then Outstanding, 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 may be issued in fully registered form, in the denomination of \$5,000 or any integral multiple thereof, all as determined by a Supplemental Resolution. The registered Bonds shall be dated as of the date specified in a Supplemental Resolution and shall bear interest from such date.

Section 3.03. Execution of Bonds. The Bonds shall be executed in the name of the City by the Mayor, and the seal of the City shall be affixed thereto or imprinted thereon and attested by the Recorder. The signature of the Mayor and the Recorder may be manual or by facsimile. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the City before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Bonds shall hold the proper office in the City, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until the Certificate of Authentication on such Bond, substantially in the form set forth in Section 3.09, shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication upon any such Bond shall be conclusive evidence that such Bond has been authenticated and registered, and delivered under this Ordinance. The Certificate of Authentication 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 on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer or registration set forth below, the Bonds shall be and have all of the qualities and incidents of negotiable instruments under

the Uniform Commercial Code of the State of West Virginia, and each successive Bondholder, 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 Bondholder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value in the manner provided hereinafter in the form of said Bonds.

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

The 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 is exercised, Bonds shall be delivered in accordance with the provisions of this Ordinance. All Bonds surrendered in any such exchanges or transfers shall forthwith be 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 City. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the fifteen (15) days preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the City may, in the discretion of the Council, issue, and the Registrar shall, if so advised by the City, authenticate, and deliver, a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, or 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 Bondholder's furnishing satisfactory indemnity and

complying with such other reasonable regulations and conditions as the City or the Registrar may prescribe and paying such expenses as the City or the Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the City. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond the City may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen, or destroyed, without surrender thereof.

Section 3.07. Bonds Not to be Indebtedness of the City. The Bonds shall not, in any event, be or constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No holder or holders of any of the Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay the Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Series 1986 B Bonds to be Junior and Subordinate to Series 1986 A Bonds. The payment of the debt service of all the Series 1986 A Bonds shall be secured forthwith equally and ratably with each other by a lien on the Net Revenues derived from the System, subordinated only to the lien in favor of the 1960 Bonds and the holders thereof. The payment of the debt service of all the Series 1986 B Bonds shall also be secured forthwith equally and ratably with each other by a lien on the Net Revenues derived from the System, but junior and subordinate to the lien on such Net Revenues in favor of the Holders of the Series 1986 A Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make the payments into the Sinking Fund, and the Reserve Account therein, hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due.

Section 3.09. Form of Original Bonds. The text of the Series 1986 A Bonds and the Series 1986 B Bonds, respectively, 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 1986 A Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BUCKHANNON
SEWER REVENUE BONDS, SERIES 1986 A

No. R- _____

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That the City of Buckhannon, a municipal corporation of the State of West Virginia in Upshur County of said State, (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority or registered assigns (the "Payee") the sum of _____ (\$ _____), in installments on _____ 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with a final maturity of this Bond on the 1st day of _____, with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest on each installment shall run from the original date of delivery of this Bond to the Payee and payment therefor and until payment of such installment, and such interest shall be payable on the 1st day of _____, and the 1st day of _____ in each year beginning _____ 1, 19____. The principal of this Bond is payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia, through _____ as registrar and paying agent (the "Registrar"). The interest on this Bond is payable by check or draft mailed to the registered owner hereof at the address as it appears on the books of the Registrar on the ____ day of the month preceding an interest payment date.

This Bond is subject to redemption prior to its stated date of maturity as follows:

[REDEMPTION PROVISIONS]

This Bond may be redeemed prior to its stated date of maturity in whole or in part at any time, but only with the express written consent of the West Virginia Water Development Authority.

This Bond is issued (i) to pay costs of acquisition and construction of certain extensions, improvements and additions to the existing public sewerage facilities of the City and the financing of the cost not otherwise provided, thereof (the "Project") (the Project, together with the existing sewerage system of the City and any improvements and extensions thereto, is hereinafter referred to as the "System") 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 Code of West Virginia, 1931, as amended (the "Act"), and the Ordinance duly enacted by the City on the _____ day of _____, 1986, as supplemented on _____, 19____, (collectively the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance.

This Bond is issued contemporaneously with the Sewer Revenue Bonds, Series 1986 B, of the City (the "Series 1986 B Bonds") issued in the aggregate principal amount of \$1,433,333, which Series 1986 B Bonds are junior and subordinate with respect to liens and sources of and security for payment to the Bonds of this series.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System, after there has first been paid from said Net Revenues all payments then due and owing on the 1960 Bonds, moneys in the Reserve Account created under the Ordinance for the Bonds of this Series (the "Series 1986 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 have been issued and remain outstanding, or may be issued pursuant to the Act, both of which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City be obligated to pay the same or the interest thereon except from said special fund provided from the Net

Revenues, the moneys in the Series 1986 A Bonds Reserve Account and unexpended Bond proceeds. Pursuant to the Ordinance, the City has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the proper and reasonable expenses of operation, repair, replacements and maintenance of the System, and to leave a balance of each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations payable from such revenues, provided however, that so long as there exists in the Series 1986 A Bonds Reserve Account sufficient moneys to pay the maximum amount of principal and interest which will become due on the Series 1986 A Bonds in any succeeding fiscal year, such percentage may be reduced to 110%. The City has entered into certain further covenants with the Registered Owners of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided the Registered Owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

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

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 Ordinance or to the appurtenant Sinking Fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the Holder of this Bond.

THIS BOND IS JUNIOR AND SUBORDINATE WITH RESPECT TO SOURCES OF AND SECURITY FOR PAYMENT TO THE OUTSTANDING SEWER REVENUE BONDS, SERIES 1960, OF THE CITY.

This Bond and the interest thereon is exempt from all taxation by the State of West Virginia or any County, Municipality, political subdivision or agency thereof.

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 City, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the City for the prompt payment of the principal of and interest on this Bond.

All provisions of the Ordinance, 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 BUCKHANNON has caused this Bond to be signed by its Mayor and its corporate seal to be hereto affixed or imprinted hereon and attested by its City Recorder, and has caused this Bond to be dated _____, 1986.

[SEAL]

Mayor

ATTEST:

City Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1986 A Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth below:

Dated: _____
as Bond Registrar

By: _____
Its Authorized Officer.

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

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

_____ the Sewer Revenue Bond, Series 1986 A, dated _____ of the City of Buckhannon, West Virginia 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 City with full power of substitution in the premises.

Dated: _____, _____

In the presence of:

[Form of Series 1986 B Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF BUCKHANNON
SEWER REVENUE BONDS, SERIES 1986 B

No. R-_____

\$_____

KNOW ALL MEN BY THESE PRESENTS: That the City of Buckhannon, a municipal corporation of the State of West Virginia in Upshur County of said State, (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority or registered assigns (the "Payee") the sum of _____ (\$ _____), in _____ equal installments of \$ _____ each, on _____ 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference, with a final maturity of this Bond on the 1st day of _____, _____, all with no interest thereon.

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, through _____, as registrar and paying agent (the "Registrar").

This Bond may be redeemed prior to its stated date of maturity in whole or in part of any time, but only with the express written consent of West Virginia Water Development Authority.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, improvements and additions to the existing public sewerage facilities of the City and the financing of the cost not otherwise provided, therein (the "Project") (the Project, together with the existing sewerage system of the City and any improvements and extensions thereto, is hereinafter referred to as the "System") 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 Code of West Virginia, 1931, as amended (the "Act"), and the Ordinance duly enacted by the City on the _____ day of _____, 1986, as supplemented on _____, 19____, (collectively the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Ordinance) to be derived from the operation of the System after there has first been paid from said Net Revenues all payments then due and owing on the Series 1960 Bonds and the Series 1986 A Bonds herein described, moneys in the Reserve Account created under the Ordinance for the Bonds of this Series (the "Series 1986 B 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 have been issued and remain outstanding or may be issued pursuant to the Act both of which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City be obligated to pay the same except from said special fund provided from the Net Revenues, the moneys in the Series 1986 B Bonds Reserve Account and unexpended Bond proceeds. Pursuant to the Ordinance, the City has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the proper and reasonable expenses of operation, repair, replacements and maintenance of the System, and to leave a balance of each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations payable from such revenues, provided however, that so long as there exists in the Series 1986 B Bonds Reserve Account and the reserve account established for the Series A Bonds sufficient moneys to pay the maximum amount of principal and interest which will become due on all obligations payable from such net revenues which may be issued in any succeeding fiscal year, such percentage may be reduced to 110%. The City has entered into certain further covenants with the Registered Owners of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided the Registered Owners of the Bonds are exclusively as provided

in the Ordinance, to which reference is here made for a detailed description thereof.

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

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 Ordinance or to the appurtenant Sinking Fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the Holder of this Bond.

This Bond and the interest thereon is exempt from all taxation by the State of West Virginia or any County, Municipality, political subdivision or agency thereof.

THIS BOND IS JUNIOR AND SUBORDINATE WITH RESPECT TO SOURCES OF AND SECURITY FOR PAYMENT TO THE OUTSTANDING SEWER REVENUE BONDS, SERIES 1960 AND SERIES 1986 A, OF THE CITY, THE LATTER BEING ISSUED CONCURRENTLY HERewith AND DESCRIBED IN THE ORDINANCE (THE "SERIES 1986 A BONDS").

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

All provisions of the Ordinance, resolutions and statues 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 BUCKHANNON has caused this Bond to be signed by its Mayor and its corporate seal to be hereto affixed or imprinted hereon and attested by its City Recorder, and has caused this Bond to be dated _____, 1986.

[SEAL]

Mayor

ATTEST:

City Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1986 B Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth below:

Dated: _____ as Bond Registrar

By: _____
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

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

_____ the Sewer Revenue Bond, Series 1986 B, dated _____ of the City of Buckhannon, West Virginia 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 City with full power of substitution in the premises.

Dated: _____, _____

In the presence of:

Section 3.10. Sale of Original Bonds; Execution of Loan Agreement with Authority. The Original Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement and the Program. The Mayor is specifically authorized and directed to execute the Loan Agreement in such form as may be approved by Supplemental Resolution, and the City Recorder is directed to affix the seal of the City, attest the same and deliver the Loan Agreement to the Authority.

ARTICLE IV

NOTES AND LINE OF CREDIT

Section 4.01. Authorization and General Terms. In order to pay certain Costs of the Project pending receipt of the Grant Receipts, the City shall issue and sell its Notes in the aggregate principal amount of not to exceed \$2,000,000. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the Indenture and the Supplemental Resolution.

Section 4.02. Terms of and Security for Notes; Trust Indenture. The Notes shall be issued in fully registered form, in the denomination of \$5,000 or any integral multiple thereof, with such terms and secured in the manner set forth in the Indenture (which Indenture in substantially the form to be executed and delivered by the City is attached hereto as "Exhibit A" and made a part hereof).

Section 4.03. Notes are Special Obligations. The Notes shall be special obligations of the City payable as to principal and interest solely from the respective sources described in the Granting Clauses and Article III of the Indenture. The Notes do not and shall not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations. The general funds of the City are not liable, and neither the full faith and credit nor the taxing power of the City is pledged for the payment of the Notes. The Noteholders shall never have the right to compel the forfeiture of any property of the City. The Notes shall not be a debt of the City, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the City or upon any of its income, receipts or revenues except as set forth in the Indenture.

Section 4.04. Letters of Credit. As additional security for the Notes, the City may obtain a letter or letters of credit from a bank or banks, pursuant to which such bank or

banks would agree to pay to the Trustee, upon presentation by the Trustee of certain certificates, the sum or sums set forth therein but not to exceed \$500,000 in the aggregate. In the event of a draw under any such letter of credit, the City shall issue its refunding notes to the bank issuing such letter of credit. Any such letter of credit shall be authorized and shall have such terms as shall be set forth in a resolution supplemental hereto.

Section 4.05. Authorization and General Terms of the Line of Credit. In order to pay certain Costs of the Project pending receipt of the Grant Receipts the City may enter into an agreement with a banking institution for the extension of credit not to exceed \$500,000 in principal amount outstanding at any one time during the period of construction of the Project. The Line of Credit shall bear interest from the date, at such rate, payable on such date, shall mature on such date and be subject to such repayment as shall be provided for in the Supplemental Resolution. Provided, however, the rate of interest on the Line of Credit shall not exceed 12% per annum.

Section 4.06. Line of Credit as Special Obligation. The Line of Credit provided for and authorized in Section 4.05 above shall be a special obligation of the City payable as to principal and interest solely from the respective sources described in the Granting Clauses and Article III of the Indenture. Borrowing under the Line of Credit does not and shall not constitute corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations. The general funds of the City are not liable and neither the full faith and credit nor taxing power of the City is pledged for the payment of the Line of Credit. The banking institution extending credit under the Line of Credit shall never have the right to compel the forfeiture of any property of the City. The Line of Credit shall not be a debt of the City, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the City or upon any of its income, receipts or revenues other than as herein provided.

ARTICLE V

SECURITY OF BONDS

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with and shall be held by, the Depository Bank.:

- (1) Revenue Fund;
- (2) Operation and Maintenance Fund;

- (3) Renewal and Replacement Fund; and
- (4) Bond Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established with the Commission:

- (1) Series 1986 A Bonds Sinking Fund;
 - (a) Within the Series 1986 A Bonds Sinking Fund, the Series 1986 A Bonds Reserve Account.
- (2) Series 1986 B Bonds Sinking Fund;
 - (a) Within the Series 1986 A Bonds Sinking Fund, the Series 1986 A Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds.

A. From the Gross Revenues derived from the operation of the System there shall be subtracted the sum necessary to pay the debt service on the Series 1960 Bonds. After the payment of the foregoing, the then remaining Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund hereunder. The Revenue Fund shall constitute a trust fund for the purposes provided in this Ordinance and shall be kept separate and distinct from all other funds of the City and the Depository Bank and used only for the purposes and in the manner herein provided.

(1) The City shall first, each month, transfer from the Revenue Fund and deposit in the Operation and Maintenance Fund an amount sufficient to pay current Operating Expenses of the System.

(2) Thereafter, from the moneys remaining in the Revenue Fund, the City shall next, on the first day of each month, commencing seven (7) months prior to the first day of payment of interest on the Series 1986 A Bonds from Net Revenues, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1986 A Bonds Sinking Fund, a sum equal to one-sixth (1/6) of the amount of interest which will become due on said Series 1986 A Bonds on the next ensuing semi-annual interest payment date, less any investment earnings on sums previously deposited in the Series 1986 A Bonds Sinking Fund for the purpose of making interest

payments on the Series 1986 A Bonds; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1986 A Sinking Fund and the next semi-annual interest payment date is less than seven (7) 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.

(3) The City shall also, on the first date of each month, commencing thirteen (13) months prior to the first date of payment of principal on the Series 1986 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1986 A Bonds Sinking Fund, a sum equal to one-twelfth (1/12) of the amount of principal which will mature and become due on said Series 1986 A Bonds on the next ensuing principal payment date, less any investment earnings on sums previously deposited in the Series 1986 A Bonds Sinking Fund for the purpose of making principal payments on the Series 1986 A Bonds.

(4) The City shall also, on the first day of each month, commencing thirteen (13) months prior to the first day of payment of principal of the Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1986 A Bonds Reserve Account, an amount equal to one one-hundred and twentieth (1/120) of the Series 1986 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1986 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 1986 A Bonds Reserve Requirement.

Moneys in the Series 1986 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 1986 A Bonds as the same shall become due. Moneys in the Series 1986 A Bonds Reserve Account in the Series 1986 A Bonds Sinking Fund shall be used only for the purpose of paying principal of or interest on the Series 1986 A Bonds, as the same shall come due, when other moneys in the Series 1986 A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 1986 A Bonds Reserve Account shall be transferred, not less than once each year, to the Series 1986 A Bonds Sinking Fund and applied in full to the next ensuing principal payment due on the Series 1986 A Bonds.

Any withdrawals from the Series 1986 A Bonds Reserve Account which result in a reduction in the balance of the Series 1986 A Bonds Reserve Account to below the Series 1986 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Series 1986 A Bonds Sinking Fund for payment of debt service on the Series 1986 A Bonds have been made in full.

(5) The City shall not be required to make any further payments into the Series 1986 A Bonds Sinking Fund or into the Series 1986 B Sinking Fund or into the Reserve Accounts in said Sinking Funds when the aggregate amount of funds in both said Sinking Funds and said Reserve Accounts are at least equal to the aggregate principal amount of Bonds issued pursuant to this Ordinance then Outstanding; plus the amount of interest due or thereafter to become due as of the next annual payment date on said Bonds then Outstanding.

As and when additional Bonds ranking on a parity with the Series 1986 A Bonds are issued, provision shall be made for additional payments in said Series 1986 A Bonds 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 Series 1986 A Bonds Reserve Account in said Series 1986 A Bonds Sinking Fund in an amount equal to the maximum provided and required to be paid into the Series 1986 A Bonds Sinking Fund in any Fiscal Year for account of all the Series 1986 A Bonds, including such additional Bonds which by their terms are payable from said Series 1986 A Bonds Sinking Fund.

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

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

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

The respective Sinking Funds, including the respective Reserve Accounts therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 1986 A and Series 1986 B Bonds and any additional Bonds ranking on a parity therewith that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

(6) Thereafter, from the moneys remaining in the Revenue Fund, the City shall next, on the first day of each month, commencing with the month next succeeding the first full calendar month after commencement of operation of the System, transfer to the Renewal and Replacement Fund a sum equal to two and one-half percent (2 1/2%) of the Gross Revenues each month, exclusive of any payments for account of the Series 1960 Bonds and the accounts thereunder and the Reserve Accounts in the Sinking Funds hereunder. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the City or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiency in either Reserve Account [except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required by Subsection 5.01(A)(4)] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

(7) The City shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1986 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1986 B Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1986 B Bonds on the next ensuing principal payment date, less any moneys transferred from the Series 1986 B Bonds Reserve Account for the purpose of making principal payments and investment earnings on sums previously deposited in the Series 1986 B Bonds Sinking Fund for the purpose of making principal payments on the Series 1986 B Bonds.

(8) The City shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1986 B Bonds Reserve Account, an amount equal to 1/120 of the Series 1986 B Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1986 B Bonds Reserve Account when there shall have been deposited therein,

and as long as there shall remain on deposit therein, an amount equal to the Series 1986 B Bonds Reserve Requirement.

Moneys in the Series 1986 B Bonds Sinking Fund shall be used only for the purposes of paying principal of the Series 1986 B Bonds as the same shall become due. Moneys in the Series 1986 B Bonds Reserve Account in the Series 1986 B Bonds Sinking Fund shall be used only for the purpose of paying principal of the Series 1986 B Bonds, as the same shall come due, when other moneys in the Series 1986 B Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 1986 B Bonds Reserve Account shall be transferred, not less than once each year, to the Series 1986 B Bonds Sinking Fund and applied in full to the next ensuing principal payment due on the Series 1986 B Bonds.

Any withdrawals from the Series 1986 B Bonds Reserve Account which result in a reduction in the balance of the Series 1986 B Bonds Reserve Account to below the Series 1986 B Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Series 1986 A and Series 1986 B Bonds Sinking Funds for payment of debt service on the Bonds have been made in full.

As and when additional Bonds ranking on a parity with the Series 1986 B Bonds are issued, provision shall be made for additional payments into the Series 1986 B 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 Series 1986 B Reserve Account in an amount equal to the maximum provided and required to be paid into the Series 1986 B Sinking Fund in any Fiscal Year for account of all the Series 1986 B Bonds, including such additional Series 1986 B Bonds which by their terms are payable from such Sinking Fund.

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

8. Whenever all of the required and provided transfers and payments from the respective Revenue Funds into the several special funds, as hereinbefore provided, are current as well as the payments required for the Series 1960 Bonds, and there remains in said Revenue Funds a balance in excess of the estimated amounts required to be so transferred

and paid into the respective Sinking Funds, including the Reserve Accounts therein, and the Renewal and Replacement Fund during the following month, such excess shall be considered as surplus revenues (the "Surplus Revenues"). Surplus Revenues may be used for any lawful purpose of the City, including a pledge to and payment of GANS.

C. The City shall remit from the Revenue Fund to the Commission or the Depository Bank, on such dates as the Commission or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay the Depository Bank's charges and the Paying Agent fees then due.

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

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

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

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

ARTICLE VI

BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 6.01. Application of Bond Proceeds. From the moneys received from the sale of any or all of the Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. Any accrued interest received from the sale shall be deposited in the Sinking Fund and applied to the first interest payment due on the Bonds.

B. The amount of the proceeds which together with the proceeds deposited pursuant to Subsection (A) of this

section and together with the earnings thereon, shall be at least sufficient to pay interest on the Bonds for the period specified in the Supplemental Resolution shall be deposited in the Sinking Fund; provided, that such period may not extend beyond the date which is six (6) months after the estimated date of completion of construction of the Project.

C. The remaining moneys derived from the sale of the Bonds shall be deposited with the Depository Bank in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project.

D. The Depository Bank shall act as a trustee and fiduciary for the Holder or Holders of the Bonds 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 Indenture. 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 Bonds and are subject to a lien in favor of the Holder or Holders until such proceeds are applied to the construction of the Project, which shall include the repayment of any incidental interim financing for non-construction costs.

ARTICLE VII

ADDITIONAL COVENANTS OF THE CITY

Section 7.01. General Covenants of the City. All the covenants, agreements and provisions of this Ordinance shall be and constitute valid and legally binding covenants of the City and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Bonds. In addition to the covenants, agreements and provisions of this Ordinance, the City hereby covenants and agrees with the Holders of the Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Bonds or the interest thereon is Outstanding and unpaid.

Until the payment in full of the principal of and interest on the Notes when due, the covenants, agreements and provisions contained in this Ordinance shall, where applicable, also inure to the benefit of the Holders of the Notes and the Trustee therefor and constitute valid and legally binding covenants of the City, enforceable in any court of competent jurisdiction by the Trustee or any Holder or Holders of said Notes as prescribed in the Indenture; provided, that Section 7.04 and Section 7.09 shall not be applied to the Notes.

Section 7.02 Bonds, Notes and Line of Credit Not To Be Indebtedness of the City. Neither the Bonds, the Notes nor the Line of Credit shall be or constitute a corporate indebtedness of the City within the meaning of any constitutional, statutory or charter provision or limitation of indebtedness, but shall be payable solely from the special funds pledged for such payment by this Ordinance. No Holder or Holders of any Bonds or Notes or any banking institution extending credit under the Line of Credit herein provided, shall ever have the right to compel the exercise of the taxing power of the City to pay said Bonds, Notes, or Line of Credit or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 1986 A Bonds issued hereunder shall be secured forthwith equally and ratably by a second lien subordinate to Series 1960 Bonds on the Net Revenues derived from the operation of the System, and payment of the debt service of the Series 1986 B Bonds issued hereunder shall be secured forthwith equally and ratably by a lien on said Net Revenues, but such lien shall be junior and subordinate to the lien on said Net Revenues in favor of the Series 1986 A Bonds, to the extent necessary to make the payments required under Section 5.03 of this Ordinance. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Series 1986 A Bonds and Series 1986 B Bonds and to make the payments into the respective Sinking Funds, including the respective Reserve Accounts therein, and all other payments provided for in this Ordinance are hereby irrevocably pledged, in the manner provided in therein, to the payment of the principal of and interest on the Series 1986 A Bonds and the Series 1986 B Bonds as the same become due, and for the purposes provided in this Ordinance.

Section 7.04. Initial Schedule of Rates and Charges; Rules. The initial schedule of rates and charges for the services and facilities of the System shall be set forth in the ordinance of the City dated _____, 1986.

Section 7.05. Sale of the System. The System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Series 1960 Bonds, the Bonds and Notes, if any, Outstanding or any remaining balance of the Line of Credit, or to effectively defease this Ordinance in accordance with Section 10.01 hereof and, if not previously defeased, the Indenture in accordance with Section 8.01 thereof. The proceeds from any

such sale, mortgage, lease or other disposition of the System shall, with respect to the Bonds, immediately be remitted to the Commission for deposit in the Sinking Fund, and, in the event the Authority is no longer a Bondholder, the City shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Bonds about to mature. Any balance remaining after the payment of the Series 1960 Bonds, the Series 1986 A and B Bonds and all interest thereon shall be remitted to the City by the Commission unless necessary for the payment of other obligations of the City payable out of the revenues of the System. With respect to the Notes, such proceeds in an amount sufficient to pay in full the Notes shall be remitted to the Trustee for deposit in the Notes Debt Service Fund, to apply to the payment of the Notes, prior to maturity if allowable under the Supplemental Resolution. With respect to the Line of Credit, such proceeds in an amount sufficient to pay in full the Line of Credit then Outstanding shall be remitted to the banking institution extending credit to the City thereunder.

The foregoing provision notwithstanding, and as may otherwise be provided in respect to the Series 1960 Bonds, the City shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions for such properties, is not in excess of \$10,000, the City shall, by resolution, determine that such property comprising a part of the System is longer necessary, useful or profitable in the operation thereof and may then provide for the same 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 all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the City shall first determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$10,000 and not in excess of \$50,000 shall be remitted by the City to the Commission for deposit in the Sinking Fund and

shall be applied only to the purchase of Bonds of these last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value. Such payment of such proceeds in the Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Ordinance. No sale, lease, or other disposition of the properties of the System shall be made by the City if the proceeds to be derived therefrom, 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 the 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 City shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. The City shall not issue any obligations whatsoever with a lien on or otherwise payable from any source of payment pledged originally to the Notes issued under the Indenture prior to or on a parity with the lien on behalf of such Notes until such Notes have been defeased in accordance with the provisions of the Indenture and this Ordinance; and, so long as any of the Bonds are Outstanding, the City shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that additional Bonds on a parity with the Series 1986 B Bonds only may be issued as provided for in Section 7.07 hereof. All obligations issued by the City after the issuance of the Series 1986 A Bonds and the Series 1986 B 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 1986 A Bonds and the Series 1986 B Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the Reserve Accounts and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current. Provided, however, the foregoing shall not preclude the City from entering into the Line of Credit Agreement for the purpose of providing funds for the acquisition and construction of the Project. In this respect, the City may provide for a lien equal in rank to the

foregoing lien during the period of construction. Provided, further, however, such lien in favor of the banking institution extending credit under the Line of Credit shall, be subordinated to the lien in favor of the Holders of the Bonds, unless the Authority shall otherwise direct.

Except as provided above, the City shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrances 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 Ordinance, or upon the System or any part thereof.

Section 7.07. Additional Parity Bonds. No additional parity Bonds, as in this section defined, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Ordinance, except under the conditions and in the manner herein provided.

No Parity Bonds shall be issued which shall be payable out of revenues of the System prior to or on a parity with the Series 1986 A Bonds. All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 1986 B Bonds.

No such additional 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 such additional parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Recorder a written statement by the Independent Certified Public Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any twelve (12) consecutive months, within the eighteen (18) months immediately preceding the date of the actual issuance of such additional parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the three (3) succeeding years after the completion of the improvements to be financed by such additional parity Bonds, shall not be less than one hundred and fifteen percent (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:

- (A) The Series 1960 Bonds then Outstanding;
- (B) The 1986 Series A and B Bonds then Outstanding;
- (C) Any additional parity Bonds theretofore issued pursuant to the provisions contained in this Ordinance then Outstanding; and
- (D) The additional parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of three (3) succeeding year", as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such additional parity Bonds and (b) any increase in rates enacted by the City, the period for appeal of which has expired prior to the date of delivery of such additional parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Recorder prior to the issuance of such additional parity Bonds.

The Net Revenues actually derived from the system during the twelve (12) consecutive month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of 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 enacted by the City, the period for appeal of which has expired prior to issuance of such additional parity Bonds.

Not later than simultaneously with the delivery of such additional parity Bonds, the City shall have entered into written contracts for the immediately construction or acquisition of such additions, betterments or improvements, if any, to the system that are to be financed by such additional parity Bonds.

The term "Additional Parity Bonds", as used in this section, shall be deemed to mean additional Bonds issued under the provisions and within the limitations of this section, payable from the revenues of the System on a parity with the Series 1986 B Bonds, and all the covenants and other provisions of this Ordinance (except as to details of such Additional Parity Bonds inconsistent herewith) shall be for the equal

benefit, protection and security of the Holders of the Bonds and the Holders of any Additional Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. All the Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond over any other. The City shall comply fully with all the increased payments into the various funds and accounts created in this Ordinance required for and on account of such Additional Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Ordinance.

All Additional Parity Bonds shall mature on the day of the years of maturities, and the semiannual interest thereon shall be payable on the days of each year, specified in a Supplemental Resolution.

Additional Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued the lien of which on the revenues of the System is subject to the prior and superior lien of the Series 1960 Bonds and both the Series 1986 A Bonds and the Series 1986 B Bonds on such revenues. The City shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, 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 either the Series 1960 Bonds or the Series 1986 A Bonds or the Series 1986 B Bonds.

No Additional Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for as to the Series 1960 Bonds and in this Ordinance with respect to the Bonds then Outstanding, and any other payments provided for in this Ordinance, shall have been made in full as required to the date of delivery of the Additional Parity Bonds and the City shall then be in full compliance with all the covenants, agreements and terms of this Ordinance.

Notwithstanding the foregoing, Additional Parity Bonds may be issued solely for the purpose of completing the Project without regard to the restrictions set forth in this Section 7.07, if there is first obtained by the City the written consent of the holders of the Series 1960 Bonds and the Authority to the issuance of such Additional Parity Bonds.

Section 7.08. Books and Records. The City will keep books and records of the System, which shall be separate and apart from and other books, records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds or of a Note or Notes issued pursuant to this Ordinance or the Trustee shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the City 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 City. 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 Council. The Council 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 Council shall be reported to such agent of the City as the Council shall direct.

The City shall file with the Consulting Engineers, the Trustee and the Authority, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds or Notes, as the case may be, requesting the same, an annual report containing the following:

A. A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

B. A balance sheet statement showing all deposits in all the funds and accounts provided for in this Ordinance and the Indenture with respect to said Bonds or Notes, as the case may be, and the status of all said funds and accounts.

C. The amount of any Bonds, Notes or other obligations outstanding.

The City 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 made available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds or Notes, as the case may be, and shall file said report with the Trustee and the Authority, or the then Holder of the Bonds.

Section 7.09. Rates. Prior to the issuance of the Bonds, equitable rates or charges for the use of and service rendered by the System will be established all in the manner and form required by law, and copies of such rates and charges so established will be 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. The City shall take the necessary actions with respect to the imposition of rates at such times and with such provisions with respect to interest rate and maturity of the Bonds to finance the issuance of the Bonds as the purchasers thereof shall require. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the City hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient (i) to provide for all proper and reasonable expenses of operation, repair, replacement and maintenance of the System and (ii) to leave a balance each Fiscal Year equal to at least one hundred and fifteen percent (115%) of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Bonds and all other obligations secured by or payable from such revenues; provided that, in the event that an amount equal to or in excess of the Reserve Requirement is on deposit in the Reserve Account, such balance each Fiscal Year need only equal at least one hundred and ten percent (110%) of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Bonds and all other obligations secured by or payable from such revenues.

Section 7.10. Operating Budget and Audit. The City shall annually, at least forty-five (45) days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, budget of the estimated expenditures for operation and maintenance of the System during the succeeding Fiscal Year. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the City shall have approved such findings and recommendation by a resolution duly adopted. No increase expenditures in excess of ten percent (10%) of the

amount of such budget shall be made except upon further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The City shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Trustee and the Authority and to any Holder of any Bonds or Notes, as the case may be, who shall request in writing that copies of all such budgets and resolutions be furnished him or her and shall made available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Trustee and to any Holder of any Bonds or Notes, as the case may be, or anyone acting for and on behalf of such Holder of any Bonds or Notes, as the case may be.

In addition, the City shall annually cause the records of the System to be audited by an Independent Certified Public Accountant, the report of which audit shall be submitted to the Authority and which audit report shall include a statement that the City is in compliance with the terms and provisions of this Ordinance and the Loan Agreement.

Section 7.11. No Competing Franchise. To the extent legally allowable, the City will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.12. Enforcement of Collections. The City 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 City, 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 thirty (30) days after the same shall become due and payable, the property and 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 and to the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, all delinquent rates, rentals and other charges, if not paid, shall become a lien on the premises served by the System. The City further covenants and agrees that, it will,

to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services and facilities of the System and any services and facilities of the water system, if then owned by the City, to all delinquent users of services and facilities of the System and will not restore such services of either system until all billing for charges for the services and facilities of the System, plus reasonable interest and penalty charges for the restoration of services, has been fully paid.

Section 7.13. No Free Services. The City 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; in the event the City, or any department, agency, instrumentality officer or employee or the City 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 City and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.14. Insurance and Construction Bonds. The City hereby covenants and agrees that so long as any of the Bonds or the Notes remain Outstanding, the City will, to the extent the same is available, 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:

A. 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 City 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 City 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 City during construction of the Project in the full insurable value thereof.

B. PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the City 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 rise from the operation of the System, and insurance with the same limits to protect the City from claims arising out of operation or ownership of motor vehicles of or for the System.

C. 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 one hundred percent (100%) of the construction contract and to be required of each contractor contracting directly with the City, 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 Chapter 38, Article 2, Section 39 of the West Virginia Code of, 1931, as amended.

Section 7.15. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the City and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a thirty (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 City and a public nuisance which shall be

abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 7.16. Completion of Project. The City will complete the Project and operate and maintain the System in good condition.

Section 7.17. Rebate to the United States. In the event that H. R. 3838 (The Tax Reform Act of 1985) or similar legislation becomes law and is applicable to the Bonds or Notes or both, the City agrees to pay to the United States an amount equal to the sum of the excess of (a) the aggregate amount earned on all nonpurpose investments (other than investments attributable to such excess) over (b) the amount which would have been earned if all nonpurpose investments was invested at a rate equal to the yield on such Bonds or Notes, plus any income attributable to such excess. The amount to be paid to the United States by the City shall be paid at such time and place as required by the Act or similar legislation in installments at least once every five years commencing on the fifth anniversary date of the issuance of the Bonds. The last installment shall be paid not later than 30 days after the day on which the last Bond of Note is redeemed or paid.

Section 7.18. Compliance with Tax Laws. On December 17, 1985 The House of Representative passed the Tax Reform Act of 1985 (H. R. 3838). The Senate has yet to act on this legislation. However, the City agrees that if H. R. 3838 or similar legislation becomes law and such law is applicable to the Bonds or Notes, this Ordinance shall be amended in order to comply with such legislation and in order to maintain the tax exempt status of the Bonds or Notes. In particular, without excluding reference to any other portion of H. R. 3838 that may become law, the City hereby covenants that it will expend 5% of the bond proceeds within thirty (30) days of closing on the Bonds.

Section 7.19 Restrictions as to Arbitrage Bonds. The City hereby covenants, and hereby so instructs the Bond Commission and the Trustee that they shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the City to be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause any Bond to be an "arbitrage bond" as defined in Section 103(c)(2) of the Internal Revenue Code, and an Authorized Officer of the City shall deliver his certificate, based upon this covenant, with regard thereto to the purchaser of the Original Bonds. Further, prior to the time that the City receives an opinion from Bond Counsel that the provisions of H. R. 3838 or any similar legislation is not applicable to the

Bonds or Notes, the City covenants that other than for a temporary period, the yield on the Bond proceeds shall not exceed the yield on the Bonds by more than .125 on and after such date, which is the date that the Consulting Engineer certifies to the City, Bond Counsel and the Authority that the project is 90% complete.

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investments. Any monies held as a part of the funds and accounts created by this Ordinance or the Indenture, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Trustee, or the Depository Bank holding such fund or account, as the case may be, at the direction of the City in any Qualified Investments to the fullest extent possible under the applicable laws, this Ordinance, and the Indenture, the need for such moneys for the purposes set forth herein and in the Indenture and the specific restrictions and provisions set forth in this Section 8.01 and in the Indenture.

Except as provided in the Indenture, any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount.

The Commission, the Trustee, or the Depository Bank, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Trustee or the Depository Bank, as the case may be, may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Bonds or Notes, as the case may be.

(A) If default occurs in the due and punctual payment of the principal of or interest on either the Series 1960 Bonds or any Bonds or Notes, as the case may be, issued hereunder;

(B) If default occurs in the City's observance of any of the covenants, agreements or conditions on its part relating to the Bonds or Notes set forth in this Ordinance, and Supplemental Resolution, the Indenture or in the Bonds or Notes, and such default shall have continued for a period of 30 days after the City shall have been given written notice of such default by the Trustee, the Depository Bank holding any fund or account hereunder or a Holder of the Bond or Note or the banking institution extending credit to the City under the Line of Credit;

(C) If the City files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

An "Event of Default" with respect to the Bonds shall not constitute an Event of Default with respect to the Notes and vice versa.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Note or Bond, as the case may be, may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the City to perform its duties under the Act and this Ordinance relating thereto, including but not limited to the making and collection of sufficient rates of charges for services rendered by the System (iii) bring suit upon the Notes or Bonds, as the case may be, (iv) by action at law or bill in equity require the City to account as if it were the trustee of an express trust for the Registered Owners of the Notes or Bonds, as the case may be, and (v) by action or bill in equity enjoin any acts in violation of the Ordinance with respect to the Notes or Bonds, or the rights of such Registered Owners.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the City under this Ordinance 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 shall, in addition to all other remedies or rights, have the right to appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the City with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Ordinance and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the City exercise all the rights and powers of the City respect to said facilities as the City itself might do.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Ordinance for Reserve Account, Sinking Fund or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Ordinance shall have been cured and made good, possession of the System shall be surrendered to the City upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the City and for the joint protection and benefit of the City and Registered Owners. Such receiver shall have no power to sell, assign,

mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the City and Registered Owners and the curing and making good of any Event of Default with respect thereto under the provisions of this Ordinance, and the title to and ownership of said System shall remain in the City, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, or otherwise dispose of any assets of the Systems.

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Series 1986 A Bonds. If the City pay or cause to be paid, or there shall be otherwise be paid, to the respective Holders of all Series 1986 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manners respectively stipulated therein and in this Ordinance, then with respect to the Series 1986 A Bonds only the respective pledge of Net Revenues, and other moneys and securities pledged under this Ordinance, and all covenants, agreements and other obligations of the City to the Registered Owners of the Series 1986 A Bonds, shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1986 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 the respective principal of and interest on such Series 1986 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 1986 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, 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, its agent, at the same time, shall be sufficient, to pay when due the respective principal of and interest due and to become due on said Series 1986 A Bonds, on and prior to 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 respective principal of and interest on said Series 1986 A Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission, 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 respective principal of and interest to become due on said Bonds, on and prior to such maturity dates thereof, and interest earned from such investments shall be paid over to the City as received by the Commission, its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

Section 10.02. Defeasance of Series 1986 B Bonds. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1986 B Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Ordinance, then with respect to the Series 1986 B Bonds only, the pledge of Net Revenues and other moneys and securities pledged under this Ordinance and all covenants, agreements and other obligations of the City to the Registered Owners of the Series 1986 B Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1986 B Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agents at the same or earlier time, shall be sufficient, to pay as and when due the principal installments of and interest on such Series 1986 B Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1986 B Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Series 1986 B Bonds on and prior to 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 1986 B Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Series 1986 B Bonds on and prior to the maturity dates thereon, and interest earned from such reinvestments shall be paid over the City as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

Section 10.03. Defeasance of Notes. If the City shall pay or cause to be paid, or these shall otherwise be paid, to the respective Holders of all Notes, the principal of and interest due or to become due thereon, at the times and in the manner set forth in the Indenture, then with respect to the Notes only, this Ordinance, the Indenture and the pledges of Grant Receipts and other moneys and securities pledged thereby, and all covenants, agreements and other obligations of the City to the Holders of the Notes shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Modification or Amendment. No material modification or amendment of this Ordinance, or of any resolution amendatory or supplemental hereto that would materially and adversely affect the respective rights of Registered Owners of the Notes or Bonds shall be made without the consent in writing of the Registered Owners of 66-2/3% or more in principal amount of the Notes or Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or any Note or Notes or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the City to pay such principal and interest out of the funds herein respectively pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds or Notes respectively, required for consent to the above-permitted amendments or modifications.

Section 11.02. Ordinance Constitutes Contract. The provisions of this Ordinance shall constitute a contract between the City and the Registered Owners of the Bonds and Notes, and no change, variation or alteration of any kind of the provisions of this Ordinance shall be made in any manner, except as in this Ordinance provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not effect any of the remaining provisions of this Ordinance.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Amendments to Maintain Tax Exemption. The City hereby covenants to make any amendment or supplements to this Ordinance and to the Indenture authorized hereby to enable the Notes or Bonds to be issued in such form as to render the interest thereon exempt from federal income taxation.

Section 11.06. Conflicting Provisions Repealed. Other than as is provided in the Ordinance authorizing the issuance of the Series 1960 Bonds, adopted March 26, 1960, all ordinances, orders or resolutions and/or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 11.07. Covenant of Due Procedure, Etc. The City covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the 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 City Council were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 11.08. Effective Time. This Ordinance shall take effect after notice and public hearing hereon in accordance with the Act.

Section 11.09. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance, determined

by the City to contain sufficient information as to give notice of the contents hereof, shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in a newspaper of general circulation in the City together with a notice stating that this Ordinance has been adopted and that the City contemplates the issuance of the Notes and Bonds, and the entering into the Line of Credit, and that any person interested may appear before the Council upon a date certain, not less than 10 days subsequent to the date of the first publication of the said abstract and notice, and present protests, and that a certified copy of the Ordinance is on file in the office of the City for review by interested parties during the office hours of the City.

At such hearing, all objections and suggestions shall be heard and the City Council shall take such action as it shall deem proper in the premises.

Passed on First Reading	<u>May 16</u>	, 1985
Passed on Second Reading	<u>February 6</u>	, 1986
Passed on Third Reading	<u>February 20</u>	, 1986
Effective following public hearing held on	<u>March 6</u>	, 1986

[SEAL]

James C. Cooper
Mayor

ATTEST:

Elybeth G. Fournelle
City Recorder

Certified a true copy of an Ordinance duly enacted and adopted by the Council of the City of Buckhannon this 16 day of March, 1986.

[SEAL]

Elybeth G. Fournelle
City Recorder

TRUST INDENTURE

THIS TRUST INDENTURE, dated as of _____ 1, 1986, by and between the CITY OF BUCKHANNON, a municipal corporation organized and existing under the laws of the State of West Virginia, herein called the "City" and _____, a _____ banking corporation authorized to accept and execute trusts and covenants of the character herein set forth, herein called the "Trustee".

WHEREAS, capitalized words and phrases used in these Preambles and the Granting Clauses below and not otherwise defined in these Preambles or said Granting Clauses shall have the respective meanings given them in Section 1.01 of this Indenture and Section 1.01 of the Ordinance as hereinafter defined;

WHEREAS, by the Ordinance, the Council of the City duly authorized construction and acquisition of the Project at an estimated cost of \$_____, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed in the office of the City Recorder and with the Sanitary Board;

WHEREAS, all necessary licenses, permits and/or approvals of governmental agencies and departments have been obtained for the construction and acquisition of the Project and operation of the System to the extent obtainable, and, to the extent not yet obtainable, no difficulty is expected by the City or the Consulting Engineers in obtaining such licenses, permits and/or approvals;

WHEREAS, the City has received or contemplates receiving certain Grant Receipts for the construction and acquisition of the Project, including the proceeds of the EPA Grant expected to be received prior to maturity of the Notes in the approximate amount of \$_____, and the City has entered into an assistance agreement with the EPA, pursuant to which the EPA will reimburse the City for approximately ____% of the Eligible Costs of the Project incurred by the City and eligible for such ____% reimbursement;

WHEREAS, it is deemed necessary for the City to issue its Original Bonds, in the total aggregate principal amount of up to \$4,300,000.00, to finance a portion of the Ineligible Costs;

WHEREAS, it is deemed necessary for the City to issue its Notes, in the aggregate principal amount not to exceed \$2,000,000.00, to finance Eligible Costs pending receipt of the Grant Receipts;

WHEREAS, the City has determined, as set forth in the Ordinance, that the City shall issue the Notes and shall enter into this Indenture to secure the Notes in the manner set forth herein;

WHEREAS, the Notes originally authorized hereby and the Registrar's certificate of authentication and registration to be endorsed thereon are all to be in substantially the form set forth in Exhibit A attached hereto and incorporated herein by reference, with necessary and appropriate variations, omissions and insertions as permitted or required by this Indenture or the Ordinance or deemed necessary by the Trustee and the City; and

WHEREAS, all things necessary to make the Notes, when authenticated and registered by the Registrar and issued as in this Indenture provided, the valid, binding and legal special obligations of the City according to the import thereof, and to constitute this Indenture a valid pledge and assignment of those funds pledged to the payment of the principal of and interest on the Notes and a valid pledge and assignment of the rights of the City in the Grant Receipts and other moneys, including investment income and unexpended proceeds, held in the funds and accounts established by this Indenture, the net proceeds of any refunding notes or other obligations issued to pay all or a portion of the principal of or interest on the Notes and the Surplus Revenues have been done and performed; and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of the Notes, subject to the terms thereof, have in all respects been duly authorized and will not result in any breach of, or constitute a default under, any instrument to which the City is a party or by which it may be bound or affected;

NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:

GRANTING CLAUSES

The City, in consideration of the premises and the acceptance by the Trustee of the Trust Estate hereby created, of the purchase and acceptance of the Notes by the Original Notes Purchaser and the Registered Owners thereof and of other good and lawful consideration, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of and interest on the Notes according to their tenure and effect and to secure the performance and observance by the City of all the covenants expressed or implied herein and in the Notes, has executed this Indenture and does hereby grant, bargain, sell, convey, pledge and assign the following to, and

does hereby confirm and grant a security interest in the following in _____, as Trustee, and its successors in trust and assigns forever, all and singular the property hereinafter described, to wit:

FIRST GRANTING CLAUSE

All right, title and interest of the City in and to the Grant Receipts and other moneys, including investment income and unexpended Notes proceeds, held in the Notes Capitalized Interest Account, the Notes Construction Trust Fund and the Notes Debt Service Fund established by this Indenture.

SECOND GRANTING CLAUSE

The Surplus Revenues, if any.

THIRD GRANTING CLAUSE

All right, title and interest of the City in and to the net proceeds of any refunding notes or other obligations issued for the purpose of paying all or a portion of the principal of or interest on the Notes.

FOURTH GRANTING CLAUSE

All moneys and securities and all other rights of every kind and nature from time to time hereafter by delivery or by writing or any kind pledged, assigned or transferred as and for additional security for the Notes hereunder to the Trustee by the City or by anyone in its behalf, or with its written consent.

SUBJECT TO THE TERMS HEREOF, TO HAVE AND TO HOLD all and singular the Trust Estate, whether now owned or hereafter acquired, and the rights and privileges hereby conveyed, pledged and assigned by the City, or intended so to be, unto the Trustee and its successors and assigns forever, in trust, nevertheless, for the equal and proportionate benefit, security and protection of each and every Holder of the Notes issued under and secured by this Indenture, without preference, priority or distinction as to the lien, benefit and protection hereby of one of such Notes over or from the others for any reason whatsoever except as herein otherwise expressly provided, so that each and all of such Notes shall have the same right, lien and privilege under this Indenture and shall be equally secured hereby;

PROVIDED, HOWEVER, and these presents are upon the express condition, that, if the City or its successors or

assigns shall well and truly pay or cause to be paid the principal of and interest on the Notes, according to the provisions set forth in the Notes and each of them, or shall provide for the payment or redemption of such Notes by depositing or causing to be deposited with the Trustee the entire amount of funds or securities requisite for payment thereof when and as authorized by the provisions hereof, including Section 8.01, and shall also pay or cause to be paid all other sums payable with respect to the Notes hereunder by the City, then these presents and the Trust Estate and rights hereby granted shall cease, determine and become void; otherwise, this Indenture shall be and remain in full force and effect.

IT IS HEREBY COVENANTED, DECLARED AND AGREED by and between the parties hereto that the Notes issued hereunder are to be issued, authenticated, registered and delivered, and that the Trust Estate is to be held and applied, subject to the further covenants, conditions, uses and trusts hereinafter set forth, and the City, for itself and its successors and assigns, does hereby covenant and agree to and with the Trustee and its respective successors and assigns in said trust, for the benefit of the Holders of the Notes, or any of them, as set forth in this Indenture:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. All capitalized terms used herein and not defined below shall have the meanings respectively set forth in Section 1.01 of the Ordinance, as hereinafter defined. In addition, the following terms shall have the following meanings in this Indenture, unless the context expressly requires otherwise.

"Bond Construction Trust Fund" means the Bond Construction Trust Fund established by Section 5.01 of the Ordinance.

"City" means the City of Buckhannon, a municipal corporation of the State of West Virginia, and, where appropriate, the Council thereof.

"City Recorder" or "Recorder" means the Recorder of the City.

"Consulting Engineers" means Kelley, Gidley, Blair & Wolfe, Consulting Engineers, Charleston, West Virginia, or any engineer or firm of engineers of reputation for skill and experience with respect to the design and construction of

sewerage systems or facilities that shall at any time hereafter be retained by the City as consulting engineers for the System, as hereinafter defined.

"Costs" or "Costs of the Project" means those costs described in Subsection 1.03(E) of the Ordinance to be a part of the costs of construction and acquisition of the Project, as hereinafter defined.

"Eligible Costs" means Costs of the Project which are reimbursable in full on a dollar-for-dollar basis from EPA Grant Receipts, the total of which are equal in amount to the EPA Grant.

"EPA" means the United States Environmental Protection Agency or any successor to the functions of the EPA.

"EPA Grant" or "Grant" means the grant from the EPA pursuant to the commitment therefor.

"Event of Default" means any occurrence or event specified in Section 6.01.

"FDIC" means the Federal Deposit Insurance Corporation or any successor to the functions thereof.

"Fiduciaries" means the Trustee, the Registrar and the Paying Agent all as hereinafter defined, as required by the context.

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

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

"Grant Agreement" means a written commitment for the payment of the EPA Grant specifying the amount of such grant, the terms and conditions upon which such grant is made and the date or dates or event or events upon which grant is to be paid to the City.

"Grant Receipts" means all moneys received by the City on account of the Grant after the date of issuance of the Notes.

"Indenture" or "Trust Indenture" means the Trust Indenture between the City and the Trustee relating to the Notes, as hereinafter defined, and all supplements or amendments thereto.

"Ineligible Costs" means the Costs of the Project which are not reimbursable in full on a dollar for dollar basis from EPA Grant Receipts, the total of which are equal to the aggregate Costs of the Project, less the amount of the EPA Grant.

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

"Noteholder", "Holder of the Notes", or "Holder of the GANs" or any similar term means any person who shall be the registered owner of any outstanding Note or Notes.

"Notes" or "GAN" means the not more than \$2,000,000.00 in aggregate principal amount of Sewerage System Grant Anticipation Notes, Series 1986, originally authorized hereby, and unless the context clearly indicates otherwise, the terms "Notes" or "GAN" includes any refunding Notes or GAN of the City.

"Notes Construction Trust Fund" means the Notes Construction Trust Fund established by Section 4.01(1).

"Notes Debt Service Fund" means the Notes Debt Service Fund established by Subsection 4.01(2).

"Ordinance" means collectively the Note, Bond and Line of Credit Ordinance enacted by the City authorizing the issue and sale of the Notes, Bonds and Line of Credit, as supplemented and amended.

"Original Notes Purchaser" means Young, Moore & Company, of Charleston, West Virginia and Russell, Rea & Zappala, Inc. of Pittsburgh, Pennsylvania.

"Paying Agent" means the bank or banks designated as such for the Notes in the Supplemental Resolution.

"Project" means the extensions, additions, betterments and improvements to the existing sewerage system of the City, to be designed by the Consulting Engineers and to be constructed in accordance with the plans and specifications so designed, subject to the provisions of Section 2.01 of the Ordinance.

"PSC" means the Public Service Commission of West Virginia or any other agency of the State that succeeds to the functions of the PSC.

"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; Federal Farm Credit Bank; Export-Import Bank of the United States; Federal Land Banks; Tennessee Valley Authority; Washington Metropolitan Area Transit Authority; or the Government national Mortgage Association;

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

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

(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 paid 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; and

(h) The Investment Agreement by and between the Trustee and the bank designated as "Investment Bank" in the Supplemental Resolution.

"Registrar" means the bank to be designated in the Supplemental Resolution as Registrar for the Notes and its successors and assigns.

"Sanitary Board" means the Sanitary Board of the City established by ordinance duly enacted by the City and successors to the function thereof.

"State" means the State of West Virginia.

"System" means the complete properties of the City for the collection, transportation and treatment of liquid or solid wastes, sewerage or industrial wastes, in its entirety or any integral part thereof, and shall include the existing facilities, the Project, and any further additions, betterments and improvements thereto hereafter constructed or acquired for said system from any sources whatsoever.

"Trustee" means the banking institution designated as trustee under the Indenture in the Supplemental Resolution and its successors and assigns.

"Trust Estate" means the property, rights, moneys, securities and other amounts pledged and assigned to the Trustee pursuant to the Granting Clauses hereof.

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

Words importing singular number include the plural number in each case and vice versa; words importing the masculine or neuter gender include every other gender; and words importing persons include firms, partnerships, associations and corporations.

The terms "herein", "hereunder", "hereby", "hereto", "hereof" and any similar terms refer to this Indenture; and the

term "hereafter" means after the date of enactment of this Indenture.

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

ARTICLE II

THE NOTES

Section 2.01. Authorization and Terms of Notes. The Notes originally issued hereunder shall be designated "Sewerage System Grant Anticipation Notes, Series 1986". Such Notes shall be in the aggregate principal amount of \$2,000,000.00; shall be dated _____, 1986; shall bear interest from the interest payment date preceding the date of authentication and registration of each Note or, if such Note is authenticated and registered on an interest payment date, from the date of authentication and registration or, if such Note is authenticated and registered prior to _____, from _____, 19____, at the rate of _____ percent (____%) per annum, payable from the funds provided therefor in accordance with Article IV, semiannually on _____ and _____ of each year, commencing _____, 19____ upon original issuance; shall mature on _____, 19____; and shall be subject to redemption or prepayment prior to maturity in whole but not in part, at any time on or after _____, 19____, at a redemption price equal to the principal amount thereto plus accrued interest to the date of redemption, without premium.

Notice of any redemption of the Notes shall be given by the Registrar by certified or registered mail to all Noteholders to be redeemed at the addresses shown on registry books maintained by the Registrar, not less than 30 days prior to the date fixed for redemption, stating the redemption price and the place or places where payment of the redemption price will be made.

Interest on the Notes shall be payable by check or draft to be mailed by the Paying Agent to the Holder thereof at the address shown on the registry books maintained by the Registrar as of the 15th day of the month next preceding such interest payment date. Principal of the Notes shall be payable upon surrender of such Notes at the principal office of the Paying Agent in any coin or currency which, on the date of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America.

numbered
integral

The Notes shall be issued in fully registered form, from R-1 upward in denominations of \$5,000 or any multiples thereof.

Section 2.02. Execution of Notes. The Notes shall be executed in the name of the City by the facsimile signatures of the Mayor and the City Recorder, and a facsimile of the seal of the City shall be imprinted thereon; provided, that the authentication signature of the Registrar must be manual. In case any one or more of the officers who shall have signed or sealed any of the Notes shall cease to be such officer before the Notes so signed and sealed shall have been actually sold and delivered, such Notes may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Notes had not ceased to hold such office. Any Notes may be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Notes shall hold the proper office, although at the date of such Notes such person may not have held such office or may not have been so authorized.

Section 2.03. Authentication. No Note shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until a certificate of authentication and registration on such Note, substantially in the form set forth in Exhibit A attached hereto and incorporated herein by reference, shall have been duly and manually executed by the Registrar. Any such executed certificate of the Registrar upon any such Note shall be conclusive evidence that such Note has been authenticated, registered and delivered under this Indenture. The certificate of authentication on any Note shall be deemed to have been executed by it if signed by the Registrar, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Notes issued hereunder.

Section 2.04. Form of Notes. The Notes originally issued under this Indenture shall be substantially in the form set forth in Exhibit A attached hereto and incorporated herein by reference, with such appropriate variations, omissions and insertions as are permitted or required by this Indenture or the Ordinance or deemed necessary by the Registrar and the City.

Section 2.05. Delivery of Notes. Upon the execution and delivery of this Indenture, the City shall execute and deliver the Notes to the Registrar, and the Registrar shall authenticate the Notes to be issued in the aggregate principal amount of up to \$2,000,000.00 and, upon receipt of the documents set forth below by the Trustee and instructions from the Trustee, shall authenticate and deliver them to the

Original Notes Purchaser as directed by the City and as hereinafter in this Section 2.05 provided.

Prior to the delivery by the Registrar of any of the Notes, there shall be filed with the Trustee and the Trustee shall certify to the Registrar as to the receipt:

(A) A copy, duly certified by the City Recorder, of the Ordinance authorizing the execution and delivery of this Indenture and the issuance and sale of the Notes;

(B) An original executed counterpart of this Indenture.

(C) A signed opinion of nationally recognized bond counsel to the effect that the City has the right and power to authorize, execute, deliver and perform its obligations under this Indenture and the Notes, that the City has taken all steps necessary to authorize the execution, delivery and performance of its obligations under this Indenture, that the issuance of the Notes has been duly authorized and that all conditions precedent to the issuance thereof contained in this Indenture have been fulfilled, that the Indenture creates the valid pledge of the Trust Estate which it purports to create, and, upon the execution, authentication and delivery thereof, the Notes will be duly and validly issued and will constitute valid and binding special obligations of the City entitled to the benefits of this Indenture; and

(D) A request and authorization to the Registrar on behalf of the City, signed by the Mayor, to authenticate and deliver the Notes to the Original Notes Purchaser upon payment to the Trustee, but for the account of the City, of a sum specified in such request, plus interest accrued thereon to the date of delivery, the proceeds of which payment shall be paid over to the Trustee and deposited to the credit of the funds and accounts specified in Article IV hereof.

Section 2.06. Negotiability, Transfer and Registration. The Notes shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, but each of such Notes may only be transferred by transfer of the registration thereof as hereinafter provided. Each Note shall be transferable without service charge, except to the City, upon the books required to be kept pursuant to Section 2.08 hereof, by the Holder thereof, in person or by his attorney duly authorized in writing, upon surrender of such Note for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Registrar. The Notes shall be

exchangeable for a Note or Notes of authorized denominations also at the principal office of the Registrar.

For every exchange or transfer of Notes, the Registrar may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or transfer, but the City shall pay any service charge in connection with transfer. No transfer or exchange may be made of Notes which have been called for redemption or during the period beginning the 15th day of the month next preceding an interest payment date and ending on the day next preceding such interest payment date.

Section 2.07. Notes Mutilated, Destroyed, Stolen or Lost. In case any Note shall become mutilated or be destroyed, stolen or lost, the City may, in the discretion of the Council, authenticate and deliver a new Note of like tenor as the Note so mutilated, destroyed, stolen or lost in exchange and substitution for such mutilated Note upon surrender and cancellation of such mutilated Note or in lieu of and substitution for the Note destroyed, stolen or lost and upon the Holder's furnishing the Council proof of his ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Trustee may prescribe and paying such expenses as the Trustee may incur. The Notes so surrendered shall be cancelled by the Registrar. If such Note shall have matured or be about to mature, instead of issuing a substitute Note, the City may pay the same, upon being indemnified as aforesaid, and, if such Note be lost, stolen or destroyed, without surrender therefor.

Any such duplicate Note issued pursuant to this section shall constitute an original, additional contractual obligation on the part of the City, whether or not the lost, stolen or destroyed Note be at any time found by any one, and such Note believed to have been, or which had been, lost, stolen or destroyed shall be cancelled. Such duplicate Notes shall be entitled to equal and proportionate benefits and rights as to lien on and source of security for payment from the obligations originally authorized for the purpose of refunding the Notes and the revenues pledged herein with all other Notes issued hereunder.

Section 2.08. Registrar. The City will keep or cause to be kept at the principal office of the Registrar, sufficient books for the registration and transfer of the Notes, which shall at all times be open to inspection by the City; and, upon presentation for such purpose, the Registrar shall, under such reasonable regulations as it may prescribe, register all Notes initially issued pursuant hereto and register or cause to be

registered, on such books, the transfer or exchange of Notes as hereinbefore provided.

The Registrar shall accept a Note for transfer of registration only if ownership thereof is to be registered in the name of an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust, and the federal employer identification number and date of each trust and the name of the trustee of each trust.

ARTICLE III

SECURITY FOR AND COVENANTS REGARDING THE NOTES

Section 3.01. Payment of the Notes. Subject to the restrictions and limitations on the sources of payment herein-after set forth, the City covenants that it will promptly pay, or cause to be paid, the principal of and interest on every Note issued under the Indenture at the place, on the dates and in the manner provided herein and in the Notes according to the true intent and meaning thereof. The principal of and interest on the Notes shall be payable solely from the sources set forth in the granting clauses hereof. The Notes are special obligations of the City, payable solely from said sources described above, and do not and shall not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations. The general funds of the City are not liable, and neither the full faith and credit nor the taxing power of the City is pledged, for the payment of the Notes. Neither the Trustee nor the Holders of the Notes shall ever have the right to compel the forfeiture of any property of the City. The Notes shall not be a debt of the City, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the City or upon any of its income, receipts or revenues except the Grant Receipts, and other funds pledged therefor by this Indenture.

Notwithstanding anything in this Indenture to the contrary, the City shall not be required to advance any money derived from any source of income other than the Grant Receipts, and other funds pledged by this Indenture for the payment of the principal of or interest on the Notes or for the performance of any of its duties under this Indenture. The City may, however, advance funds for any such purpose, provided that such funds are derived from a source legally available for such purpose and may be used by the City for such purpose without incurring indebtedness.

Section 3.02. Restrictions on Other Debt. The City hereby covenants that, so long as any of the Notes originally issued hereunder are Outstanding, it will not issue any bonds, notes or other evidences of indebtedness with a lien on or otherwise payable from any source of payment pledged for such Notes prior to or on a parity with the lien on behalf of such Notes, except that, additional Parity Bonds may be issued solely for the purpose of completing the Project pursuant to, and subject to the conditions set forth in Section 7.07 of the Ordinance.

Section 3.03. Particular Covenants. In order to secure the payment of the Notes, the City hereby particularly covenants and agrees that the City, if and so long as any of the Notes are Outstanding:

(A) Will proceed to complete with all practicable dispatch the construction and acquisition of the Project and will maintain, or require all contractors for the Project to maintain, as appropriate, all indemnity bonds and insurance required by the contract documents and by law;

(B) Will not make or cause or permit to be made any application of the proceeds of the Notes or of any moneys held in the Notes Debt Service Fund or the Notes Construction Trust Fund except in accordance with the provisions of Article IV hereof;

(C) Will prepare and submit to the Trustee, on or prior to the 15th day of each month during construction of the Project, a budget setting forth anticipated expenditures for Costs of the Project by category during the next succeeding month and to the conclusion of construction, and the corresponding anticipated source of reimbursement for such Costs as well as an accounting of all moneys disbursed as of the 10th day of the previous month for Costs of the Project, both cumulatively and during the previous 30-day period, and the corresponding source or anticipated source of reimbursement for such Costs;

(D) Will comply in all respects with the terms, conditions and provisions of the Grant Agreement and with all applicable State and federal laws and regulations governing the implementation of any Grant Agreement;

(E) Will impose and collect rates and charges for the use and services of the System in accordance with the requirements of any Grant Agreement and the Ordinance;

(F) Will take all actions necessary to enforce any Grant Agreement and to preserve its right to receive payments or reimbursements under the Grant Agreement;

(G) Will continue promptly to request any payment or reimbursement to which it has become entitled under the Grant Agreement;

(H) Will promptly pay over to the Trustee all Grant Receipts, Tap Fees, if any, and Surplus Revenues, if any, for deposit in the appropriate accounts;

(I) Will not unilaterally terminate, or enter into any agreement to terminate, any Grant agreement; and

(J) Will not create, assume or suffer to be created any judgment, mortgage or deed of trust, pledge or other lien, encumbrance or charge on the Surplus Revenues, if any, or on any property or assets, real or personal, of the System prior to or on a parity with liens created on behalf of the Notes originally issued hereunder (except as permitted by Section 3.02 hereof).

Section 3.04. Required Notices to Trustee. The City will give to the Trustee prompt written notice, appropriately documented, of any change in the status of the Grant and of any authorization of additional indebtedness, including the issuance of Parity Bonds or refunding notes and particularly of any of the following event:

(A) Any modification of a Grant;

(B) The suspension of any Grant, or the issuance of any stop-work order;

(C) The lifting or cancellation of the suspension of any Grant or of the issuance of any stop-work order;

(D) The termination of any Grant; and

(E) The annulment of any Grant.

Section 3.05. Refunding Notes. In the event that there are not funds in the Notes Debt Service Fund, including the Notes Capitalized Interest Account therein, 30 days prior to the maturity date of the Notes originally issued hereunder, sufficient to pay, at maturity, the entire principal of and interest on the Notes, the City covenants to use its best efforts to sell its refunding notes or other obligations in an amount which will provide net proceeds sufficient for such purpose.

Except for details thereof inconsistent herewith and as otherwise provided by an indenture supplemental hereto, such refunding notes or other obligations shall be subject to the terms and restrictions and secured, on a subordinate basis, by the covenants and in the manner set forth herein for the Notes originally issued hereunder. Except as otherwise provided herein, such refunding notes or other obligations shall be offered for sale upon reasonable and customary terms and conditions.

The proceeds of the refunding Notes or other obligations, after making provision for the payment of the expenses of issuance thereof, shall be deposited in the Notes Debt Service Fund and used solely for the payment of the principal of and interest accrued on the Notes.

ARTICLE IV

NOTES PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. Establishment of Funds and Accounts.

Pursuant to this Article IV, the following special funds or accounts are created with, and shall be held by, the Trustee:

- (1) Notes Construction Trust Funds, and therein:
 - (a) Notes Cost of Issuance Account;
- (2) Notes Debt Service Fund, and therein:
 - (a) Notes Capitalized Interest Account.

In addition, the Trustee shall hold, as a trustee for the Bondholder, the Bond Construction Trust Fund created pursuant to Section 5.01 of the Ordinance, and shall apply the moneys therein in accordance with this Article IV.

Section 4.02. Notes Construction Trust Fund. The Notes Construction Trust Fund shall be segregated from all other funds and accounts of the Trustee or the City and used solely for the purposes provided herein. The Notes Construction Trust Fund and the Notes Cost of Issuance Account herein, shall each be segregated, one from the other.

The Notes Cost of Issuance Account shall be used solely for the payment of the expenses of issuing the Notes. After payment of all such expenses, as certified to the Trustee by an Authorized Officer, the Trustee shall close such account, and any balance remaining in the Notes Cost of Issuance Account shall be transferred to the Notes Construction Trust Fund.

The Trustee shall disburse no moneys from either the Bond Construction Trust Fund or the Notes Construction Trust Fund except to pay Costs of the Project as provided below, or to pay the principal of or interest on the Bonds or the Notes respectively, when due, provided however, that principal of and interest on the Bonds shall not be paid from moneys in the Notes Construction Trust Fund and principal of and interest on the Notes shall not be paid from the Bond Construction Trust Fund.

Section 4.03. Disbursements from the Bond Construction Trust Fund and Notes Construction Trust Fund. Payments for Costs of the Project shall be made monthly. All Costs of the Project (except for costs of issuance of the Notes) shall first be paid from the Bond Construction Trust Fund and, upon depletion thereof, from the Notes Construction Trust Fund.

Disbursements from either the Bond or Notes Construction Trust Funds, except from the Notes Cost of Issuance Account, shall be made only after submission to the Trustee of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:

(A) The Fund (either the Bond or Notes Construction Fund) from which such disbursement is requested;

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

(C) 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;

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

(E) That payment for each of the items proposed is then due and owing.

In case any contract provides for the retention of a portion of the contract price, the Trustee shall disburse from the applicable Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Bond or Notes Construction Trust Fund shall be presumed by the Trustee to be made for the purposes set forth in said certificate, and the Trustee shall not be required to monitor the application of disbursements from the Bond or Notes Construction Trust Fund. The Consulting Engineers shall from

time to time file with the Trustee written statements advising the Trustee of its then authorized representative.

Pending such application, moneys in the Bond Construction Trust Fund and Notes Construction Trust Fund, including any accounts therein, shall be invested and reinvested in accordance with Article V hereof.

Whenever the Trustee shall have received notice pursuant to Section 3.04 hereof that any Grant has been suspended or a stop-work order has been issued, the Trustee shall not make further disbursements from the Bond Construction Trust Fund or the Notes Construction Trust Fund until it shall have received notice of the lifting of such suspension or stop-work order in accordance with such section. If the Trustee shall have received notice pursuant to said Section 3.04 that any Grant has been terminated or annulled, the Trustee shall not make any further disbursements from the Bond Construction Trust Fund or the Notes Construction Trust Fund, and it shall immediately transfer all moneys remaining in the Bond Construction Trust Fund to the Sinking Fund and all moneys remaining in the Notes Construction Trust Fund to the Notes Debt Service Fund. Notwithstanding the foregoing provisions of this paragraph, if the Grant which has been suspended, terminated or withdrawn is a Grant other than the EPA Grant, and the City files with the Trustee a certificate of the Consulting Engineers reciting the conclusion and demonstrating that the Project can be completed and the Notes paid in full without such other Grant, the Trustee shall continue to make disbursements from the Bond Construction Trust Fund and the Notes Construction Trust Fund.

Five (5) days prior to the maturity of the Notes or five (5) days prior to any interest payment thereon, to the extent that sufficient moneys are not anticipated to be available in the Notes Debt Service Fund, including the Notes Capitalized Interest Account therein, to pay the principal of or interest on the Notes, or both, as the same shall become due, the Trustee shall transfer moneys in the Notes Construction Trust Fund to the Notes Debt Service Fund and apply such transferred moneys to such payment.

After completion of the Project, as certified by the Consulting Engineers, the Trustee shall transfer any moneys remaining in the Bond Construction Fund to the Sinking Fund and shall transfer any moneys remaining in the Notes Construction Trust Fund to the Notes Debt Service Fund and hold such transferred moneys for the retirement of the Notes. If no Notes are then Outstanding, moneys remaining in the Notes Construction Trust Fund may be withdrawn by the City to be used for any lawful purpose of the System.

Section 4.04. Notes Debt Service Fund. The Trustee shall segregate all funds and securities in the Notes Debt Service Fund from other deposits and funds of the Trustee and other deposits and funds of the City, including the Notes Construction Trust Fund. The Notes Debt Service Fund and Notes Capitalized Interest Account therein shall each be segregated, one from the other. All moneys in the Notes Debt Service Fund, until payment in full of all principal and interest owing on the Notes at their maturity, shall be held in trust for the Holders of the Notes and the City shall have no rights with respect thereto except with respect to the transfers and deposits specified below and to receive the balance therein after payment of the Notes and the interest thereon and the charges, if any, of the Trustee, the Registrar and the Paying Agent.

Section 4.05. Application of Notes Proceeds. From the moneys received from the sale of the Notes originally issued hereunder, the Trustee shall make the following deposits:

A. The sum of \$ _____ (which includes all interest accrued on the Notes from the date thereof to the date of delivery to the Original Notes Purchaser) and which, together with the earnings thereon and any Grant Receipts which may be available therefor, as hereinabove provided, is estimated to be at least sufficient to pay interest on the Notes until the scheduled maturity thereof, shall be deposited in the Notes Capitalized Interest Account; provided, that interest shall not be paid from the proceeds of the Notes after six (6) months after completion of construction of the Project. Any amount received on account of interest accrued on the Notes from the date thereof to the date of delivery to the Original Notes Purchaser shall be deemed a part of said sum deposited in the Notes Capitalized Interest Account.

B. The sum necessary to pay costs of issuance of the Notes and related costs, shall be deposited in the Notes Cost of Issuance Account.

C. The remaining moneys derived from the sale of the Notes shall be deposited in the Notes Construction Trust Fund.

The Trustee shall deposit the amount of Notes proceeds (including any interest accrued on the Notes from the date thereof to the date of delivery to the Original Notes Purchaser) required as provided above for the purpose of paying interest on the Notes until the maturity thereof in the Notes Capitalized Interest Account, segregated from all other deposits and funds of the Trustee of the City, and shall

promptly invest the moneys in such account in accordance with Article V hereof. At or prior to any interest payment date on the Notes, as shall be reasonably requested by the Paying Agent, the Trustee shall transfer from the Notes Capitalized Interest Account to the Paying Agent in immediately available funds the amount of interest on the Notes then owing. In the event the funds on deposit in the Notes Capitalized Interest Account are insufficient to pay any interest on the Notes coming due, the trustee shall transfer funds, first, from the remainder of the Notes Debt Service Fund, and then from the Notes Construction Trust Fund to make up such deficiency. After payment of all interest owing on the Notes, any excess in the Notes Capitalized Interest Account shall be transferred to the Notes Debt Service Fund and used to pay the principal of the Notes.

Section 4.06. Grant Receipts. All Grant Receipts received by the City prior to the maturity of the Notes shall be promptly paid to the Trustee. The Trustee shall deposit the Grant Receipts as follows:

When the moneys on deposit in the Notes Debt Service Fund are sufficient to pay the entire principal of and interest to maturity on the Notes, all subsequent Grant Receipts shall be deposited by the Trustee in the Notes Construction Trust Fund.

Any Grant Receipts remaining or received after the payment of the Notes in full shall be applied to Costs of the Project, or, if the Project is then complete, as certified by the Consulting Engineers, such Grant Receipts may be withdrawn by the City and used for any lawful purpose of the System.

Section 4.07. Tap Fees. All Tap Fees, if any, shall be deposited by the City, as received, in the Notes Construction Trust Fund.

ARTICLE V

INVESTMENTS; NON-ARBITRAGE

Section 5.01. Investments. The Trustee shall invest and reinvest any moneys held as a part of the funds and accounts created by this Indenture at the direction of the City in any Qualified Investments to the fullest extent possible. Under applicable laws, this Indenture, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Article V.

Except as provided below, 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 therein and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount. The Trustee shall sell and reduce the cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Trustee may make any and all investments permitted by this section through its own bond department, unless otherwise directed by the City, and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

Qualified Investments acquired for the Notes Capitalized Interest Account shall have maturities or be subject to redemption at the option of the holder at least one day prior to the need for the funds by the Trustee for transfer to the Paying Agent.

Section 5.02. Restrictions as to Arbitrage Bonds.

The City hereby covenants, and hereby so instructs the Trustee, that it shall not permit at any time or times any of the proceeds of the Notes or any other funds of the City to be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause any Note to be an "arbitrage bond" as defined in Section 103(c)(2) of the Internal Revenue Code, and the Mayor shall deliver his certificate, based upon this covenant, with regard thereto to the Original Notes Purchaser.

ARTICLE VI

DEFAULTS AND REMEDIES

Section 6.01. Event of Default. Each of the following event shall constitute an "Event of Default" with respect to the Notes:

(i) If default occurs in the due and punctual payment of the principal of or interest on any Note; or

(ii) If default occurs in the City's observance of any of the covenants, agreements or conditions on its part relating to the Notes or in this Indenture or any agreement supplemental hereto or in the Notes contained, and such default shall have

continued for a period of 30 days after written notice specifying such default and requiring the same to be remedied shall have been given to the City by the Trustee; the Trustee may give such notice in its discretion and, subject to the provisions of Section 7.03 hereof, shall give such notice at the written request of the Holders of not less than 10% in aggregate principal amount of the Notes then Outstanding; or

(iii) If the City files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

The Trustee shall, within 60 days of giving written notice of default as provided by Subsection B (ii) of this section or within 60 days of such Event of Default, mail by first class United States mail, postage prepaid, a copy of such written notice of default or notice of such Event of Default to each Noteholder, as indicated by the books maintained by the Registrar.

An "Event of Default" with respect to the Bonds (as described in the Ordinance) shall not constitute an Event of Default with respect to the Notes and vice versa.

Section 6.02. Enforcement by Trustee. Upon the happening and continuance of any Event of Default the Trustee may, and upon the written request of the Holders of not less than twenty-five percent (25%) in aggregate principal amount of the Notes at such time Outstanding shall, upon being satisfactorily indemnified as provided in Section 7.03 hereof, exercise in its own name any or all of the powers of the Noteholders under Section 6.04 and, in particular:

(A) Bring suit for any unpaid principal or interest then due;

(B) By mandamus or other appropriate proceeding enforce all rights of the Noteholders, including the right to require the City to perform its duties under the Act and this Indenture.

(C) Bring suit upon the Notes;

(D) By action at law or bill in equity require the City to account as if it were the trustee of an express trust for the Noteholders; and

(E) By action or bill in equity enjoin any acts in violation of this Indenture of the rights of the Noteholders.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Noteholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Noteholders of hereunder or now or hereafter existing at law or by statute.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 6.03. Appointment of Receivers. Upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and the Noteholders under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate pending such proceedings, with such powers as the court making such appointment shall confer. Notwithstanding the provisions of this section any such receivership shall conform to the terms of Section 9.03 of the Ordinance.

Section 6.04. Enforcement by Holders. Any Holder of an Outstanding Note may exercise any available remedy and bring any appropriate action, suit or proceedings to enforce his rights, including those specified in Section 6.02 hereof, provided that, prior to resorting to any court of law or to any other legal process, either (i) such Noteholder must have given written notice to the City and the Trustee specifying the Event of Default to be complained of and requesting the Trustee to take appropriate action and have offered to indemnify the Trustee for its expenses in taking such action, and the Trustee must have failed to act within a reasonable time, or (ii) such Noteholder must have obtained the written consent of the Trustee to the institution of the action, suit or proceeding proposed, and such action, suit or proceeding is brought for the ratable benefit of all Noteholders.

Anything in this Indenture to the contrary notwithstanding, the Noteholders of a majority in aggregate principal amount of the Notes then Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided, that such direction shall not

be otherwise than in accordance with the provisions of law and of this Indenture.

Section 6.05. Possession of Notes by Trustee Not Required. All rights of action (including the right to file proof of claims) under this Indenture or under any of the Notes may be enforced by the Trustee without the possession of any of the Notes or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Notes, and any recovery of judgment shall be for the equal benefit of all the Holders of the Outstanding Notes.

Section 6.06. Restoration of City and Trustee. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the City and the Trustee shall be restored to their former position and rights hereunder, and all rights and remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 6.07. Waiver of Event of Default. The Trustee shall waive any Event of Default hereunder and its consequences upon the written request of the Holders of a majority in aggregate principal amount of the Notes then Outstanding; provided, however, that there shall not be waived any default in the payment of (i) the principal of any Outstanding Note at the stated maturity or (ii) any interest when due on any Note.

No waiver of any default or Event of Default hereunder, whether by the Trustee or by the Noteholder, shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereto.

Section 6.08. Right To Enforce Payment of Notes Unimpaired. Nothing in this article shall affect or impair the right of any Noteholder to enforce the payment of the principal of or interest on his Note or the obligation of the City to pay the principal of and interest on each Note to its Holder when due.

ARTICLE VII

FIDUCIARIES

Section 7.01. Appointment of Trustee; Acceptance of Trustee. The Trustee accepts and agrees to execute the trust and duties imposed upon it by this Indenture, but only upon the terms and conditions set forth herein.

Section 7.02. Paying Agent and Registrar. _____, is hereby initially appointed as Paying Agent and Registrar for the Notes, and said bank shall evidence acceptance of such appointment by entering into an agreement setting forth the rights and obligations of the Registrar and Paying Agent, in form satisfactory to the City, provided that, the City may, from time to time, appoint another bank as Registrar or Paying Agent, subject to the requirements of Section 7.12.

Section 7.03. Responsibilities of Fiduciaries. The recitals of facts in this Indenture and the Notes shall be taken as statements of the City, and the Fiduciaries shall not be responsible for their accuracy. The Trustee shall not be deemed to make any representation as to, and shall not incur any liability on account of, the validity of the execution of this Indenture by the City or of any Notes. Notwithstanding the foregoing, the Registrar shall be responsible for any representation in its certificate of authentication and registration of the Notes. The Noteholders shall indemnify any Fiduciary for any acts taken which may involve it in expense or liability or the institution or defense of any action or suit in respect to this Indenture or the Notes or an advance of any of its own moneys. Notwithstanding the foregoing, the Registrar shall be responsible for any representations in its certificate of authentication and registration on the Notes.

The Trustee, prior to the occurrence of an Event of Default and after the remedy of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred and has not been remedied, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and shall use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs. Any provision in this Indenture relating to action taken or to be taken by the Trustee or to evidence upon which the Trustee may rely shall be subject to the provisions of this section.

Any provision of this Indenture relating to action taken or to be taken by any Fiduciary or to evidence upon which such Fiduciary may rely shall be subject to the provisions of this section.

Section 7.04. Evidence on Which Fiduciary May Act. Except as otherwise provided by Section 10.01 hereof, a Fiduciary shall be protected in acting upon any notice, resolution, request, consent, order, certificate, opinion or other document believed by it to be genuine and to have been signed or presented by the proper party or parties. Whenever a Fiduciary shall deem it necessary or desirable that a fact or matter be proved or established prior to taking or suffering any action, such fact or matter, unless other evidence is specifically prescribed, may be deemed to be conclusively proved and established by a certificate of an Authorized Officer, but in its discretion such Fiduciary may instead accept other evidence of such fact or matter.

Section 7.05. Compensation and Expenses. The City shall pay to any Fiduciary from time to time reasonable compensation for all services, and also reimburse its reasonable expenses, charges, legal fees and other disbursements and those of its attorneys, agents and employees, incurred in the performance of its duties hereunder. The City shall indemnify and save harmless the Fiduciary against any liabilities which it may incur in the exercise and performance of its powers and duties and which are not due to its own negligence, default or willful misconduct.

Section 7.06. Certain Permitted Acts. A Fiduciary may become the owner of or may deal in Notes as fully and with the same rights it would have if it were not a Fiduciary. To the extent permitted by law, such Fiduciary may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Noteholders or effect or aid in any reorganization growing out of the enforcement of the Notes or this Indenture, whether or not any such committee shall represent the Holders of a majority in principal amount of the Notes Outstanding.

Section 7.07. Resignation of Trustee. The Trustee may at any time resign and be discharged of its duties and obligations under this Indenture by giving not less than a sixty (60) days' written notice to the City, specifying the date when such resignation shall take effect, and, within twenty (20) days after the giving of such written notice, sending copies of such notice to each Holder of a Note at his address as it appears on the books of the Registrar. Such

resignation shall take effect upon the day specified in such notice unless a successor shall have been previously appointed by the City or the Noteholders, in which event such resignation shall take effect immediately.

Section 7.08. Removal. The Trustee may be removed at any time by the Holders of a majority in principal amount of the Notes then Outstanding by an instrument or concurrent instruments in writing signed and duly acknowledged by such Noteholders or by their attorneys duly authorized in writing and delivered to the City. Copies of such instrument shall be delivered by the City to the Trustee.

Section 7.09. Appointment of Successor. In case at any time the Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee or of its property shall be appointed, or if any public officer or court shall take charge or control of the Trustee or of its property or affairs, a successor may be appointed by the Holders of a majority in principal amount of the Notes then Outstanding, by an instrument or concurrent instruments in writing signed by such Noteholders or their attorneys duly authorized in writing and delivered to such successor Trustee, notification thereof being given to the City and the predecessor Trustee. Pending such appointment, the City shall forthwith appoint a Trustee to fill such vacancy until a successor Trustee shall be appointed by such Noteholders. The City shall mail notice of any such appointment to each Holder of a Note, at his address as it appears on the books of the Registrar, by first class United States mail, certified or registered, within twenty (20) days after such appointment. Any successor Trustee appointed by the City shall, immediately and without further act, be superseded by a Trustee appointed by such Noteholders. If in a proper case no appointment of a successor Trustee shall be made within forty-five (45) days after the Trustee shall have given to the City written notice of resignation or after the occurrence of any other event requiring such appointment, the Trustee or any Noteholder may apply to any court of competent jurisdiction to appoint a successor. Any Trustee appointed under the provisions of this section shall be a bank, trust company or national banking association doing business and having its principal office in the State, having trust powers and authorized to perform the duties imposed upon it by this Indenture and insured by FDIC.

Section 7.10. Transfer of Rights and Property to Successor. Any predecessor Trustee shall pay over, assign and deliver any moneys and Qualified Investments or assets of the trust estate held by it to its successor.

Section 7.11. Merger or Consolidation. Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party, or any company to which the Trustee or any public officer or court may sell or transfer all or substantially all of its corporate trust business, shall be the successor to such Trustee without the execution or filing of any paper or the performance of any further act; provided, however, that such company shall be a bank, trust company or national banking association meeting the requirements set forth in Section 7.09.

Section 7.12. Additional and Successor Paying Agents and Registrars. A. The City may at any time, with the approval of the Original Notes Purchaser and pursuant to Section 9.01 hereof, appoint one or more other Paying Agents having the qualifications hereinafter set forth as an additional or successor Paying Agent and appoint another Registrar, having the qualifications hereinafter set forth, as a successor Registrar.

B. Any Paying Agent or the Registrar may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 60 days written notice to the City, the Trustee and the other Paying Agents, if any. Any Paying Agent or the Registrar may be removed at any time by an instrument filed with such Paying Agent or the Registrar, as the case may be, and the Trustee and signed by the City.

Any successor or additional Paying Agent and any successor Registrar must be a bank, trust company or national banking association authorized by law to perform all the duties imposed upon it by the Indenture. Such successor or additional Paying Agent or successor Registrar shall signify its acceptance of the duties and obligations imposed upon it pursuant hereto by executing and delivering to the City a written acceptance thereof.

C. In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys held by it as Paying Agent to its successor, or, if there be no successor, to the Trustee. In the event of the resignation or removal of the Registrar, such registrar shall deliver the registration books of the City to its successor or, if there be no successor, to the Trustee. If the position of Paying Agent or Registrar shall become vacant for any reason, the City shall, within 30 days thereafter, appoint a bank, trust company or national banking association located in the same city as such Paying Agent or the Registrar to fill

such vacancy; provided, however, that, if the City shall fail to appoint such Paying Agent or Registrar within said period, the Trustee shall, in its discretion, make such appointment or serve as such.

D. Any bank, trust company or national banking association with or into which any Paying Agent or the Registrar may be merged or consolidated, or to which the assets and business of such Paying Agent or Registrar may be sold, shall be deemed the successor of such Paying Agent or Registrar, as the case may be, for the purposes of this Indenture.

E. Notice of the appointment of successor or additional Paying Agents or fiscal agents or of a successor Registrar shall be given in the same manner as provided by Section 7.09 hereof with respect to the appointment of a successor Trustee.

F. All moneys received by the Registrar or Paying Agents shall, until used or applied as provided in this Indenture, be held in trust for the purposes for which they were received.

Section 7.13. Adoption of Authentication. In case any of the Notes shall have been authenticated but not delivered, any successor Registrar may adopt a certificate of authentication and registration executed by any predecessor Registrar and deliver such Notes so authenticated and registered, and, in case any Notes shall have been prepared but not authenticated and registered, any successor Registrar may authenticate and register such Notes in the name of the predecessor Registrar or in its own name.

ARTICLE VIII

DEFEASANCE: DISCHARGE OF INDENTURE

Section 8.01. Defeasance; Discharge of Indenture. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Notes the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Indenture, then this Indenture and the pledges of Grant Receipts, the Surplus Revenues and other moneys and securities pledged hereunder, and all covenants, agreements and other obligations of the City on behalf of the Holders of the Notes made hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied.

Notes for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due the respective principal of and interest on such Notes shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Notes 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 Trustee either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same or earlier time, shall be sufficient, to pay when due the principal of and interest due and to become due on said Notes on and prior to the maturity date thereof. Neither securities nor moneys deposited with the Trustee pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on said Notes; provided, any cash received from such principal or interest payments on such securities deposited with the Trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and interest to become due on said Notes on and prior to such maturity date thereof, and interest earned from such reinvestments shall be paid over to the City as received by the Trustee, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

ARTICLE IX

SUPPLEMENTAL INDENTURE

Section 9.01. Supplemental Indentures Not Requiring Consent of Holders. The City and the Trustee may without the consent of, or notice to, any of the Noteholders enter into an indenture or indentures supplemental to this Indenture, as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

(A) To specify, determine or authorize any matters and things concerning the Notes or the proceeds thereof which are not contrary to or inconsistent with this Indenture;

(B) To authorize a series of refunding notes or other obligations, and to specify, determine or authorize any matters and things concerning any such refunding notes or other obligations or the proceeds thereof which are not contrary to or inconsistent with this Indenture;

(C) To impose additional covenants or agreements to be observed by the City which are not contrary to or inconsistent with this Indenture.

(D) To impose other limitations or restrictions upon the City;

(E) To surrender any right, power or privilege reserved to or conferred upon the City by this Indenture;

(F) To confirm, as further assurance, any pledge of or lien upon the Grant Receipts or any other moneys, securities or funds;

(G) To cure any ambiguity, omission or defect in this Indenture;

(H) To modify or amend any of the terms or provisions of this Indenture if no Notes are Outstanding at the time of such modification or amendment; and

(I) To modify or amend any of the terms or provisions of this Indenture, provided that such modification by its terms shall not take effect until all Notes Outstanding on the date of adoption of such modification or amendment shall have ceased to be Outstanding.

Section 9.02. Amendment by Consent of Registered Owners. Except for the supplemental indentures allowed under Section 9.01 hereof, this Indenture or any indenture supplemental hereto and the rights and obligations of the City, the Trustee and the Noteholders may be modified or amended only with the written consent of the Holders of sixty percent (60%) in aggregate principal amount of the Notes then Outstanding, which must be filed with the Trustee before any such modification or amendment may become effective. No such modification or amendment shall extend the maturity of or reduce the interest rate on, or otherwise alter the terms of payment of the principal of or interest on, any Note without the express written consent of the Holder or such Note, nor reduce the percentage of Notes required for consent to any such modification or amendment.

ARTICLE X

MISCELLANEOUS

Section 10.01. Evidence of Signatures of Holders and Ownership of Notes. Any request, consent, revocation of consent or other instrument which this Indenture may require or permit to be signed and executed by Noteholders may be in one or more instrument of similar tenor, and shall be signed or executed by such Noteholders in person or by their attorneys duly authorized in writing. Proof of the execution of any such instrument, or of an instrument appointing or authorizing any such attorney shall be sufficient for any purpose of this Indenture if made in the following manner, or in any manner satisfactory to the Trustee, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable:

A. The fact and date of the execution by any Noteholder or his attorney of any such instrument may be proved (i) by the certificate of a notary public or other officer authorized to take acknowledgments of deeds to be recorded in the jurisdiction in which he purports to act that the person signing such instrument acknowledged to him the execution thereof, or by the affidavit of a witness of such execution, duly sworn to before such a notary public or other officer or (ii) by the certificate, which need not be acknowledged or verified, of an officer of a bank, trust company or financial firm or corporation satisfactory to the Trustee that the person signing such instrument acknowledged to such bank, trust company, firm or corporation the execution thereof.

B. The authority of a person or persons to execute any such instrument on behalf of a corporate Noteholder may be established without further proof if such instrument is signed by a person purporting to be the president or treasurer or a vice-president or an assistant treasurer of such corporation with a corporate seal affixed, and is attested by a person purporting to be its secretary or assistant secretary.

C. The amount of Notes held by any person executing any such instrument as a Holder, the numbers and other identification thereof, and the date of his holding such Note shall be determined by the books of the Registrar.

Any request, consent or other instrument executed by the Noteholder shall bind all future Noteholders in respect of anything done or suffered to be done hereunder by the City or the Trustee in accordance therewith.

Section 10.02. Preservation and Inspection of Documents. All reports, certificates, statements and other documents received by the Trustee under the provisions of this Indenture shall be retained in its possession and shall be available at all reasonable times for the inspection of the City or any Noteholder, and their agents and their representatives, any of whom may make copies thereof, but any such reports, certificates, statements or other documents may, at the election of the Trustee, be destroyed or otherwise disposed of at any time after such date as the pledge created by this Indenture shall be discharged as provided in Section 8.01 hereof.

Section 10.03. Cancellation of Notes. All Notes purchased or paid shall, if surrendered to the City, be cancelled and delivered to the Registrar, or, if surrendered to the Registrar, be cancelled by it. No such Notes shall be deemed Outstanding under this Indenture, and no Notes shall be issued in lieu thereof. All such Notes shall be cancelled and upon order of the City shall be destroyed, and a certificate evidencing such destruction shall be delivered to the City.

Section 10.04. Failure to Present Notes. Anything in this Indenture to the contrary notwithstanding, any moneys held by the Trustee or a Paying Agent in trust for the payment and discharge of any of the Notes which remain unclaimed for one (1) year after the date on which such Notes have become due and payable, shall at the written request of the City be paid by the Paying Agent to the City as its absolute property and free from trust, and said Paying Agent shall thereupon be released and discharged with respect thereto, and the Holders of such Notes shall look only to the City for the payment of such Notes; provided, however, that, before making any such payment to the City, the Paying Agent shall at the expense of the City cause to be published at least once in an authorized newspaper designated in a resolution supplemental hereto a notice that such moneys remain unclaimed and that, after a date named in said notice, which date shall be not less than thirty (30) days after the date of the first publication of such notice, the balance of such moneys then unclaimed will be returned to the City.

Section 10.05. Notices, Demands and Requests. Unless otherwise expressly provided, all notices, demands and requests to be given or made hereunder to or by the City, the Trustee, the Consulting Engineers or the Original Notes Purchaser shall be in writing and shall be properly made if sent by United States mail, postage prepaid, and addressed as follows or if hand-delivered to the individual to whom such notice, demand or request is required to be directed as indicated below:

A. City

City of Buckhannon
City Hall
Main and Florida Streets
Buckhannon, West Virginia 26201
Attention: Mayor

B. Trustee

Attention: Corporate Trust Department

C. Consulting Engineers

Kelley, Gidley, Blair & Wolfe
P. O. Box 2986
Charleston, West Virginia 25330
Attention:

D. Original Notes Purchaser

Young, Moore & Company, Inc.
1500 Kanawha Valley Building
Charleston, West Virginia 25301
Attention: Harry S. Moore

and

Russell, Rea & Zappala, Inc.
Two Northshore Center
Pittsburgh, PA 15212
Attention: Chuck Gomulka

Any party listed above may change such address listed for it at any time upon written notice of change sent by United States mail, postage prepaid, to the other parties.

Section 10.06. No Personal Liability. No officer or employee of the City shall be individually or personally liable for the payment of the principal of or the interest on any Note, but nothing herein contained shall relieve any such official or employee from the performance of any official duty provided by law or this Indenture.

Section 10.07. Law Applicable. The laws of the State shall govern the construction of this Indenture and of all Notes issued hereunder.

Section 10.08. Parties Interested Herein. Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or give to, any person or corporation, other than the City, the Trustee, the Paying Agent, the Noteholders and the Original Notes Purchaser, any right, remedy or claim under or by reason of this Indenture. All the covenants, stipulations, promises and agreements contained in this Indenture by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Trustee, the Paying Agent, the Noteholders and the Original Notes Purchaser.

Section 10.09. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Indenture shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Indenture.

Section 10.10. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control or affect in any way the meaning or construction of any of the provisions hereof.

Section 10.11. Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the CITY OF BUCKHANNON has caused this Indenture to be executed on its behalf by the Mayor and has caused the seal of the City to be hereunto affixed and duly attested by the City Recorder; and _____ as Trustee, to evidence its acceptance of the trusts created hereunder, has caused this Indenture to be executed in its name by its duly authorized officer and its corporate seal to be hereunto affixed and duly attested, all as of the date and year first above written.

CITY OF BUCKHANNON

[SEAL]

By _____
Mayor

ATTEST:

By _____
City Recorder

STATE OF WEST VIRGINIA,

COUNTY OF _____, to-wit:

I, _____, a Notary Public of
said County, do certify that _____
as Mayor and _____, as City Recorder, who
signed the foregoing Trust Indenture, bearing date as of the
_____, for the City of Buckhannon, a municipal
corporation in Upshur County, West Virginia, have this day in
my said county, before me, acknowledged the said writing to be
the act and deed of said municipal corporation.

Given under my hand and seal this _____ day
of _____, 1986.

My commission expires: _____.

Notary Public

[SEAL]

_____ as Trustee

By _____
Its _____

[SEAL]

ATTEST:

By _____
Its _____

STATE OF WEST VIRGINIA,

COUNTY OF _____, to-wit:

I, _____, a Notary Public of
said County, do certify that _____,
as Vice President, and _____, Authorized
Representative, who signed the foregoing Trust Indenture,
bearing date as of the _____, for and on
behalf of _____, a banking corporation,
have this day in my said county, before me, acknowledged the
said writing to be the act and deed of said banking corporation.

Given under my hand and seal this _____ day
of _____, 1986.

My commission expires: _____

Notary Public

[SEAL]

EXHIBIT A

[FORM OF FRONT OF NOTE]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF UPSHUR
CITY OF BUCKHANNON
SEWERAGE SYSTEM GRANT ANTICIPATION NOTE,
SERIES 1986

INTEREST RATE: _____

MATURITY DATE: _____

CUSIP NO.: _____

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: \$ _____

KNOW ALL MEN BY THESE PRESENTS: That the City of Buckhannon, a municipal corporation organized and existing under the laws of and a political subdivision of, the State of West Virginia (the "City"), for value received, hereby promises to pay (but only from the sources pledged therefor as hereinafter mentioned) to the Registered Owner identified above, or registered assigns, on the Maturity Date identified above, unless redeemed prior thereto, as hereinafter provided, the Principal Amount identified above, and to pay interest at the annual Interest Rate identified above semiannually on _____ 1 and _____ 1 of each year, from the interest payment date next preceding the date of registration of this Note (unless this Note is registered as of an interest payment date, in which event it shall bear interest from the date of registration hereof, or unless this Note is registered prior to _____ 1, 19____, in which event it shall bear interest from _____ 1, 19____) until payment of such principal sum is made in full. The principal (or redemption price) hereof is payable in any coin or currency which, on the date of payment of principal, is legal tender for the payment of public and private debts in the United States of America upon surrender of this Note at the office of _____ (the "Registrar"). Interest hereon is payable by check or draft mailed to the Registered Owner hereof at the address shown on the registry books maintained by the Registrar as of the 15th day of the month next preceding such interest payment date.

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS NOTE SET FORTH ON THE REVERSE HEREOF, WHICH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF SET FORTH HERE.

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 Note exist, have happened and have been performed in due time, form and manner as required by the laws and Constitution of the State of West Virginia applicable thereto, and that the issuance of this Note and the Notes of the issue of which this Note is one is not in violation of any constitutional, statutory or charter provision or limitation of indebtedness.

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

This Note is under the Act, exempt from taxes imposed by the State of West Virginia and any county, municipality, political subdivision or agency thereof and the interest thereon is exempt from personal income taxation by the State of West Virginia.

This Note shall not be entitled to any benefit under the Ordinance or the Indenture, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon shall have been manually signed by the Registrar.

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

IN WITNESS WHEREOF, the CITY OF BUCKHANNON has caused this Note to be signed by its Mayor and its corporate seal or a facsimile thereof to be imprinted hereon and attested by the signature of its City Recorder in the manner provided in the Indenture, as of this _____ day of _____, 1986.

CITY OF BUCKHANNON

[SEAL]

(Facsimile Signature
Mayor

ATTEST:

(Facsimile Signature
City Recorder

(FORM OF REGISTRAR'S CERTIFICATE OF
AUTHENTICATION AND REGISTRATION)

This Note is one of the fully registered Grant Anticipation Notes described in the within-mentioned Ordinance and Indenture.

Date of Registration: _____

Registrar

By _____
Authorized Officer

(FORM OF REVERSE OF GAN)

This Note is one of an issue of Grant Anticipation Notes (the "Notes") in the aggregate principal amount of \$ _____, of like tenor and effect, except as to number and denomination, issued (i) to finance a portion of the costs of the construction and acquisition of certain improvements, extensions and additions to the existing sewerage facilities of the City (the "Project") (the Project, together with the existing sewerage system of the City and any improvements and extensions thereto, is hereinafter referred to as the "System") pending receipt by the City of certain grant proceeds from the United States Environmental Protection Agency (the "EPA") and other federal, state and local agencies (collectively, as received after the date of issuance of the Notes, the "Grant Receipts"); (ii) to pay interest on the Notes when due; and (iii) to pay certain costs of issuance thereof and related costs, and is issued in anticipation of such Grant Receipts. This Note 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 Code of West Virginia, 1931, as amended (the "Act"), and an Ordinance and Supplemental Resolutions duly adopted by the City (collectively, the "Ordinance"), and is issued and secured pursuant to the terms of a Trust Indenture (the "Indenture") dated as of _____ 1, 1986, between the City and _____, as trustee (the "Trustee"), and is subject to all the terms and conditions of said Indenture.

The Notes are subject to redemption at the option of the City prior to maturity, in whole, but not in part, at any time on or after _____ 1, 19____, at a redemption price equal to the principal amount thereof, plus accrued interest to the date of redemption, without premium. Notice of any such redemption shall be given by the Registrar by certified or registered mail to the Registered Owner of the Notes to be redeemed at the address on registry books maintained by the Registrar, not less than 30 days prior to the date fixed for redemption price and the place or places where payment of the redemption price will be made. Failure to send such notice or error therein shall not invalidate the call for redemption.

This Note is a special obligation of the City, secured by the Indenture and payable solely from (i) the Grant Receipts; (ii) other moneys, including investment income and unexpended Note proceeds, held in the funds and accounts established with respect to the Notes by the Indenture; (iii) the Surplus Revenues, if any, of the System, as such term is defined in the

Indenture; and (iv) the net proceeds of any refunding notes or other obligations issued for the purpose of paying the principal of or interest on the Notes.

If, 30 days prior to the maturity hereof, the funds deposited for payment are insufficient to pay the entire principal of an interest to be accrued on the Notes to the date of maturity, the City has covenanted to use its best efforts to sell refunding notes or other obligations in an amount which will provide next proceeds sufficient to replenish such deficiency, but only upon the conditions and as described in the Indenture, to which reference is made for a further description of the security for the Notes.

Interest on this Note is payable from certain proceeds of the sale hereof, to be held for such purpose by the Trustee, together with the earnings thereon and certain other moneys available therefor. All moneys received from the sale of the Notes shall be applied solely to the payment of certain costs of the Project, as defined in the Indenture, including payment of any indebtedness incurred by the City for such purposes which is required to be paid from the moneys received from the sale of such Notes, to the appurtenant capitalized interest account and to the payment of certain costs of issuance and related costs, and the Indenture creates a lien upon such moneys, until so applied, in favor of the Registered Owners of the Notes.

This Note does not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City be obligated to pay the same or the interest hereon except from the sources specified above. The general funds of the City are not liable, and neither the full faith and credit nor the taxing power of the City is pledged for the payment of the principal or interest on this Note.

Under the Indenture, the City has entered into certain covenants on behalf of the Registered Owners of the Notes, for the terms of which reference is made to said Indenture. The City has covenanted not to issue any obligations with a lien on or otherwise payable from any source of payment pledged for the Notes prior to or on a party with the lien on behalf of the Notes so long as any of the Notes are outstanding. Remedies provided the Trustee on behalf of the Registered Owner of this Note, and to said Registered Owner, are exclusively as provided in the Indenture, to which reference is here made for a detailed description thereof.

The Notes of the issue of which this Note is one are issuable only as fully registered Notes in denominations of \$5,000 and any integral multiple thereof. Registration of this Note may be transferred, or this Note may be exchanged, at the office of the Registrar by the Registered Owner hereof in person or by his, her or its attorney duly authorized in writing, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the Indenture, and upon surrender and cancellation of this Note. Upon such transfer or exchange a new Note or Notes, of authorized denomination or denominations, for the like aggregate principal amount, shall be issued, to the transferee in the case of transfer, in exchange therefor.

[FORM OF ASSIGNMENT]

For value received, the undersigned Registered Owner do(es) hereby sell, assign and transfer unto _____

_____ (name, address and social security number or other identifying number of assignee) the within-mentioned Note and irrevocably constitute(s) and appoint(s) _____ to transfer the same on the books kept for registration of the within Note, with full power of substitution in the premises.

Dated: _____

Registered Owner

(NOTE: The signature must correspond with the name of the Registered Owner as it appears upon the front of this Note in every particular, without alteration or enlargement or any change whatever.)

CLOSING MEMORANDUM

To: Mayor Kenny Davidson
Sara Boardman
Russell R. Akers, II

From: David Kirby, Denny Vaughan and Taunja Willis-Miller

Date: April 23, 2009

Re: The City of Buckhannon Sewerage System Refunding Revenue Bonds,
Series 2009 A

1. DISBURSEMENTS TO COSTS OF ISSUANCE ACCOUNT WITH DEPOSITORY BANK (BB&T)

Payor: Branch Banking and Trust Company (BB&T)
Source: Series 2009 A Bond proceeds
Amount: \$90,500.22
Date: April 23, 2009
Form: Credit to Costs of Issuance Account
Payee: Pursuant to Attached List and Invoice

Purpose: Pay costs of issuance of Series 2009 A Bonds; see Attachment for authorized costs of issuance.

2. DISBURSEMENTS TO MUNICIPAL BOND COMMISSION

Payor: BB&T
Source: Series 2009 A Bonds proceeds
Amount: \$1,914,107.78
Date: April 23, 2009
Form: Wire
Payee: The City of Buckhannon (Escrow Fund)

City of Buckhannon, West Virginia
Sewerage System Refunding Revenue Bonds, Series 2009A

Final Costs of Issuance

Financial Advisor (Scott & Stringfellow, LLC)	\$30,000
Bond Counsel (Vaughan Law Firm)	30,000
Co-bond Counsel (Jackson Kelly PLLC)	20,000
Verification Agent (The Arbitrage Group)	3,500
Lender's Counsel (Bowles Rice McDavid Graff & Love)	4,250
Independent CPA certificate (Richard Trent, CPA)	864
Miscellaneous	<u>1,386</u>
Total costs of issuance	<u>\$90,000</u>

Scott & Stringfellow, LLC
300 Summers Street, Suite 500
Charleston, West Virginia 25301

INVOICE

To: The City of Buckhannon, West Virginia

Re: Invoice for services rendered as financial advisor to the City related to
the issuance of its \$2,004,608 Refunding Revenue Bonds, Series 2009A

Date: April 23, 2009

Invoice for fees and expenses related to the above referenced transaction, payable by wire
transfer on the date of closing, Thursday, April 23, 2009.

Financial Advisory fee

\$30,000.00

Please wire to:

**Bank of New York
One Wall Street
New York, NY 10286
ABA# 021000018**

Credit: Clearview CS LLC

**8006 Discovery Drive
Richmond, VA 23229
Account #8900449039**

FBO: GL#23307100 SUB007

THE VAUGHAN LAW FIRM

Attorneys and Counsellors at Law

WEST VIRGINIA MUNICIPAL LEAGUE CENTER
2020 KANAWHA BOULEVARD, EAST
CHARLESTON, WV 25311

April 23, 2009

Mr. Kenneth T. Davidson, Mayor
c/o BB&T, Depository Bank
70 East Main Street
Buckhannon, WV 26201

PROFESSIONAL SERVICES

For Services rendered as Bond Counsel re: \$2,900,000.00 in aggregate principal amount of City of Buckhannon Sewerage System Refunding Revenue Bonds, Series 2009 A	\$30,000.00
TOTAL:	\$30,000.00

Please forward payment to City National Bank using the following wire transfer instructions:

Name on account:	The Vaughan Law Firm
City National Bank's ABA#:	051904524
City National Bank Account #:	8004938786
City National Bank's address:	25 Gatewater Road Cross Lanes, WV 25313

Should you have any questions or concerns regarding the transfer of funds, you may contact Katha Morris at City National Bank at (304)347-2432.

TO: David Kirby

INVOICE NO.
TAX ID NUMBER:

95222
76-0604182

FR: The Arbitrage Group, Inc.

INVOICE DATE April 23, 2009
RECORD DATE April 23, 2009

ADDRESS

David Kirby
Scott & Stringfellow, Inc.
300 Summers Street, Suite 500
Charleston, WV 25301

DESCRIPTION

Professional services rendered in connection with the preparation of the verification report for the \$2,004,608 City of Buckhannon, West Virginia Sewerage System Refunding Revenue Bonds, Series 2009 dated April 23, 2009

\$3,500

CONTRACT NUMBER

1
2
3
4
5
6
7
8

\$3,500.00

\$3,500.00

NUMBER OF CONTRACTS

PARTNER

Russell E. Moore



150 CLAY STREET • SUITE 500 • P.O. BOX 619 • MORGANTOWN, WEST VIRGINIA 26507 • TELEPHONE: 304-284-4100 • TELECOPIER: 304-284-4140
www.jacksonkelly.com

INVOICE

EMPLOYER I.D. NO. 550394215

April 21, 2009

The City of Buckhannon
Attn: Nancy C. Shohe, Recorder
70 East Main Street
Buckhannon, West Virginia 26201

Re: \$The City of Buckhannon Sewerage System Refunding Revenue Bonds,
Series 2009 A

For services rendered for the above-referenced matter.

TOTAL STATEMENT

\$20,000.00

Wiring Instructions:

Jackson Kelly PLLC
1600 Laidley Tower
500 Lee Street
PO Box 553
Charleston, WV 25301

Bank Name	Branch Banking & Trust
ABA Number	051503394
Account Number	5172879588
Reference Information:	21321/302

The Arbitrage Group, Inc.

3401 Louisiana Street, Suite 238
Houston, Texas 77002
(713) 522-8527

April 23, 2009

David Kirby
Scott & Stringfellow, Inc.
300 Summers Street, Suite 500
Charleston, WV 25301

INVOICE NUMBER
95222

Tax ID No. 76-0604182

Professional services rendered in connection with the preparation of the verification report for the \$2,004,608 City of Buckhannon, West Virginia Sewerage System Refunding Revenue Bonds, Series 2009 dated April 23, 2009

\$ 3,500

To wire transfer your payment to The Arbitrage Group, Inc., please use the information below.
Please include our INVOICE NUMBER on your wire transfer.

UBS AG

ABA: 026007993

UBS Financial Services Inc. Retail Incoming

A/C # 101-WA-258641-000

FFC: The Arbitrage Group

A/C: WB03569

Original Invoice

Due and Payable Upon Receipt

TO: David Kirby

INVOICE NO.
TAX ID NUMBER:

95222
76-0604182

FR: The Arbitrage Group, Inc.

INVOICE DATE April 23, 2009
RECORD DATE April 23, 2009

ADDRESS

David Kirby
Scott & Stringfellow, Inc.
300 Summers Street, Suite 500
Charleston, WV 25301

DESCRIPTION

Professional services rendered in connection with the preparation of the verification report for the \$2,004,608 City of Buckhannon, West Virginia Sewerage System Refunding Revenue Bonds, Series 2009 dated April 23, 2009

\$3,500

CONTRACT NUMBER

- 1 _____
- 2 _____
- 3 _____
- 4 _____
- 5 _____
- 6 _____
- 7 _____
- 8 _____

\$3,500.00

\$3,500.00

NUMBER OF CONTRACTS

1

PARTNER

Russell E. Moore

Bank: BB&T for benefit of Municipal Bond Commission
ABA: 051503394
Account #: 5270517317
Contact: Sara Boardman, 304.558.3971
Purpose: Redeem Series 1996 A Bonds on May 6, 2009

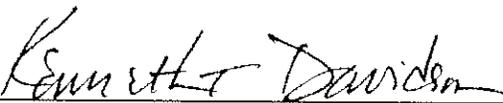
3. TRANSFERS BY MUNICIPAL BOND COMMISSION

Source: Series 1996 Series A Sinking Fund
Amount: \$91,000
Date: April 23, 2009
Transfer: To Escrow Fund

Source: Series 1996 Series A Reserve Account
Amount: \$201,135
Date: April 23, 2009
Transfer: To Escrow Fund

[The remainder of this page is intentionally blank.]

AUTHORIZED AND APPROVED BY THE CITY OF BUCKHANNON:



Mayor