$773,237
THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

Closing: December 2, 1993

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TRANSCRIPT OF PROCEEDINGS

I. Authorizing Documents

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1.1	Certified copy of Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended.	1
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1.3	Certified copy of the Section of the Code of City and copy of Ordinance creating the Sanitary Board.	3
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1.5	Oaths of office of Mayor, City Clerk, and Council Members.	5
1.6	Rate Ordinance.	6
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1.12	Minutes of the May 17, 1993, meeting of Council wherein the Resolution putting the Ordinance into effect was adopted.	12
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1.14	Loan Agreement, dated October 12, 1993.	14
*	AMORTIZATION SCHEDULE	
1.15	Resolution No. 741-93, dated November 15, 1993, authorizing sale of the above-referenced Bonds (the "Supplemental Resolution").	15
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1.17	Copy of the Recommended Decision of the Administrative Law Judge in Case No. 93-0531-S-CN dated September 30, 1993, granting the City a Certificate of Convenience and Necessity, which decision became the Final Order of the Public Service Commission of West Virginia on October 6, 1993.	17

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The closing of the sale of $773,237 in aggregate principal amount of The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1993 Series A (the "Bonds"), will take place at the office of the West Virginia Water Development Authority, Dunbar, West Virginia, at 10:00 a.m. prevailing time on December 2, 1993. The pre-closing was held at 11:30 a.m. on December 1, 1993. No transaction shall be deemed to have been completed and no documents shall be deemed to have been delivered unless or until all transactions are complete and all documents delivered.

ABB04885

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WRITER'S DIRECT DIAL NO.

340-1318

December 13, 1993

VIA HAND DELIVERY

R. Witter Hallan, Exec. Director
West Virginia Municipal Bond Commission
Building 3, Suite 337
Capitol Complex
Charleston, WV 25305-0650

Re: $773,237 The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1993 Series A

Dear Witter:

Enclosed is the Bond Commission's transcript for the above-referenced financing. Please call me with comments or questions.

Best wishes!

Very truly yours,

Samme L. Gee

RECEIVED
DEC 13 1993
MBC

SLG/dln

Enclosure

ABB04833

State of West Virginia

CERTIFICATE

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

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13 OF THE WEST VIRGINIA CODE AND CHAPTER 16, ARTICLE 13 OF THE 1993 CUMULATIVE 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 this

TWENTY-NINTH *day of*

NOVEMBER *19* 93

Ken Hechler

Secretary of State.

Textbooks. — Administrative Law in West Virginia (Neely), § 3.07.

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

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

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

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

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

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

Sec.
16-13A-25. Borrowing and bond issuance; procedure.

Editor's notes. — For redesignation of department of health as division of health, within the department of health and human resources, see § 5F-2-1.

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

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

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

Public service districts are "public utilities." 50 Op. Att'y Gen. 447 (1963).

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

Cited in Berkeley County Pub. Serv. Dist. v. Vitro Corp. of Am., 152 W. Va. 252, 162 S.E.2d 189 (1968); State v. Neary, 365 S.E.2d 395 (W. Va. 1987).

§ 16-13A-1. Legislative findings.

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

In addition to the expanded powers which shall be given to the public service commission, the Legislature also concludes that it is in the best interest of the public for each county commission to review current technology available and consider consolidating existing public service districts where it is feasible and will not result in the interference with existing bond instruments. Further, if such consolidation is not feasible, the Legislature finds that it is in the best interest of the public for each county commission to review current technology available and consider consolidating or centralizing the management of public service districts within its county or multi-county area to achieve efficiency of operations. The Legislature also finds that additional guidelines should be imposed on the creation of new public service districts and that county commissions shall dissolve inactive public service districts as hereinafter provided. The Legislature also finds that the public service com-

mission shall promulgate rules and regulations to effectuate the expanded powers given to the commission relating to public service districts. (1953, c. 147; 1980, c. 60; 1986, c. 81.)

Purpose found in order creating district and in hearings. — The purpose for the creation of a public service district may be ascertained by a review of the order establishing the district and the history behind the creation of the district (the notice of hearing and hearings held prior to the creation of the district). Op. Att'y Gen., July 8, 1976.

The county courts (now county commissions) may not supersede the authority delegated by them to public service districts created in accordance with the provisions of this article. Op. Att'y Gen., June 27, 1973.

A public service district, which was created only for the purposes of furnishing water services, has no power to condemn real estate for sewerage facilities. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

Cited in State ex rel. APCO v. Gainer, 149 W. Va. 740, 143 S.E.2d 351 (1965); Shobe v. Latimer, 162 W. Va. 779, 253 S.E.2d 54 (1979).

§ 16-13A-1a. Jurisdiction of the public service commission.

The jurisdiction of the public service commission relating to public service districts shall be expanded to include the following powers, and such powers shall be in addition to all other powers of the public service commission set forth in this code:

(a) To study, modify, approve, deny or amend the plans created under section one-b [§ 16-13A-1b] of this article for consolidation or merger of public service districts and their facilities, personnel or administration;

(b) To petition the appropriate circuit court for the removal of a public service district board member or members; and

(c) To create by general order a separate division within the public service commission to provide assistance to public service districts in technological, operational, financial and regulatory matters. (1986, c. 81.)

§ 16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.

Each county commission shall conduct a study of all public service districts which have their principal offices within its county and shall develop a plan relating to the creation, consolidation, merger, expansion or dissolution of such districts or the consolidation or merger of management and administrative services and personnel and shall present such plan to the public service commission for approval, disapproval, or modification: Provided, That within ninety days of the effective date of this section [June 6, 1986] each county commission in this state shall elect either to perform its own study or request that the public service commission perform such study. Each county commission electing to perform its own study shall have one year from the date of election to present such plan to the public service commission. For each county wherein the county commission elects not to perform its own study, the public service commission shall conduct a study of such county. The public service commission shall establish a schedule for such studies upon a priority

basis, with those counties perceived to have the greatest need of creation or consolidation of public service districts receiving the highest priority. In establishing the priority schedule, and in the performance of each study, the department of health and the department of natural resources shall offer their assistance and cooperation to the public service commission. Upon completion by the public service commission of each study, it shall be submitted to the appropriate county commission for review and comment. Each county commission shall have six months in which to review the study conducted by the public service commission, suggest changes or modifications thereof, and present such plan to the public service commission. All county plans, whether conducted by the county commission itself or submitted as a result of a public service commission study, shall, by order, be approved, disapproved or modified by the public service commission in accordance with rules and regulations promulgated by the public service commission and such order shall be implemented by the county commission. (1986, c. 81.)

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

Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of, properties supplying water or sewerage services or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words "public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with (1) the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (herein sometimes referred to as "water facilities"), (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills") or (3) the distribution or the furnishing of natural gas to the public for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"). (1986, c. 81.)

§ 16-13A-2. Creation of districts by county commission; enlarging, reducing or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the secretary of state.

The county commission of any county may, on its own motion by order duly adopted or upon the recommendation of the public service commission, propose the creation of such public service district within such county, setting forth in such order a description, including metes and bounds, sufficient to

identify the territory to be embraced therein and the name of such proposed district, or twenty-five percent of the registered voters who reside within the limits of such proposed public service district within one or more counties may petition for the creation thereof, which petition shall contain a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district: Provided, That after the effective date of this section [June 6, 1986], no new public service district shall be created under this section without the written consent and approval of the public service commission, which approval and consent shall be in accordance with rules and regulations promulgated by the public service commission and may only be requested after consent is given by the appropriate county commission or commissions pursuant to this section. Any territory may be included regardless of whether or not such territory includes one or more cities, incorporated towns or other municipal corporations which own and operate any public service properties and regardless of whether or not it includes one or more cities, incorporated towns or other municipal corporations being served by privately owned public service properties: Provided, however, That the same territory shall not be included within the boundaries of more than one public service district except where such territory or part thereof is included within the boundaries of a separate public service district organized to supply water, sewerage services or gas facilities not being furnished within such territory or part thereof: Provided further, That no city, incorporated town or other municipal corporation shall be included within the boundaries of such proposed district except upon the adoption of a resolution of the governing body of such city, incorporated town or other municipal corporation consenting.

Such petition shall be filed in the office of the clerk of the county commission of the county in which the territory to constitute the proposed district is situated, and if such territory is situated in more than one county, then such petition shall be filed in the office of the clerk of the county commission of the county in which the major portion of such territory extends, and a copy thereof (omitting signatures) shall be filed with each of the clerks of the county commission of the other county or counties into which the territory extends. The clerk of the county commission receiving such petition shall present it to the county commission of such county at the first regular meeting after such filing or at a special meeting called for the consideration thereof.

When the county commission of any county enters an order on its own motion proposing the creation of a public service district, as aforesaid, or when a petition for such creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in such county on the creation of the proposed public service district, which date so fixed shall be not more than forty days nor less than twenty days from the date of such action. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service

district is located shall cause notice of such hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be by publication in each city, incorporated town or municipal corporation if available in each county in which any territory in the proposed public service district is located. The publication shall be at least ten days prior to such hearing. In all cases where proceedings for the creation of such public service districts are initiated by petition as aforesaid, the person filing the petition shall advance or satisfactorily indemnify the payment of the cost and expenses of publishing the hearing notice, and otherwise the costs and expenses of such notice shall be paid in the first instance by the county commission out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published, there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before the hearing.

All persons residing in or owning or having any interest in property in such proposed public service district shall have an opportunity to be heard for and against its creation. At such hearing the county commission before which the hearing is conducted shall consider and determine the feasibility of the creation of the proposed district. If the county commission determines that the construction or acquisition by purchase or otherwise and maintenance, operation, improvement and extension of public service properties by such public service district will be conducive to the preservation of public health, comfort and convenience of such area, the county commission shall by order create such public service district. If the county commission, after due consideration, determines that the proposed district will not be conducive to the preservation of public health, comfort or convenience of such area or that the creation of the proposed district as set forth and described in the petition or order is not feasible, it may refuse to enter an order creating the district or it may enter an order amending the description of the proposed district and create the district as amended. If the county commission determines that any other public service district or districts can adequately serve the area of the proposed public service district, whether by expansion, merger or other means, it shall refuse to enter an order creating the proposed district and shall enter an order expanding, merging or consolidating the area with an existing public service district, in accordance with rules and regulations adopted by the public service commission for such purpose: Provided, That no expansion of a public service district may occur if the present or proposed physical facilities of the public service district are determined by the appropriate county commission or the public service commission to be inadequate to provide such expanded service. The clerk of the county commission of each county into which any part of such district extends shall retain in his office an authentic copy of the order creating, expanding, merging or consolidating the district:

Provided, however, That within ten days after the entry of an order creating, expanding or merging or consolidating a district, such order must be filed for review and approval by the public service commission. The public service commission shall provide a hearing in the affected county on the matter and may approve, reject or modify the order of the county commission if it finds it is in the best interests of the public to do so. The public service commission shall adopt rules and regulations relating to such filings and the approval, disapproval or modification of county commission orders for creating, expanding, merging or consolidating districts.

The county commission may, if in its discretion it deems it necessary, feasible and proper, enlarge the district to include additional areas, reduce the area of the district, where facilities, equipment, service or materials have not been extended, or dissolve the district if inactive or establish or consolidate two or more such districts. If consolidation of districts is not feasible, the county commission may consolidate and centralize management and administration of districts within its county or multi-county area to achieve efficiency of operations: Provided, That where the county commission determines on its own motion by order entered of record, or there is a petition to enlarge the district, merge and consolidate districts, or the management and administration thereof, reduce the area of the district or dissolve the district if inactive, all of the applicable provisions of this article providing for hearing, notice of hearing and approval by the public service commission shall apply with like effect as if a district were being created. The commission shall at all times attempt to bring about the expansion or merger of existing public service districts in order to provide increased services and to eliminate the need for creation of new public service districts in those areas which are not currently serviced by a public service district: Provided, however, That where two or more public service districts are consolidated pursuant to this section, any rate differentials may continue for the period of bonded indebtedness incurred prior to consolidation. The districts may not enter into any agreement, contract or covenant that infringes upon, impairs, abridges or usurps the duties, rights or powers of the county commission, as set forth in this article, or conflicts with any provision of this article. A list of all districts and their current board members shall be filed by the county commission with the secretary of state and the public service commission by the first day of July of each year. (1953, c. 147; 1965, c. 134; 1967, c. 105; 1975, c. 140; 1980, c. 60; 1981, c. 124; 1986, c. 81.)

There is no unlawful delegation of legislative power to the county courts (now county commissions) of this State under this section in violation of W. Va. Const., art. V, § 1, and art. VI, § 1. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

And there is no unconstitutional delegation of judicial functions to the county court (now county commission) made by this section. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

District need not be created by general law. — A public service district is a public corporation and does not come within the constitutional inhibition requiring all corporations to be created by general law. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Voters may not force referendum as to continuing or abolishing district. — There is no authority for voters, by written protest or otherwise, to force a referendum upon the issue of whether or not a created public service dis-

trict should be continued or abolished. 52 Op. Att'y Gen. 33 (1966).

Certain provisions mandatory, but provisions for setting time of hearing and giving notice directory. — The provisions of this section relating to the filing of the petition or motion of the county court (now county commission), the description of the territory to be embraced and like provisions are mandatory, but the use of the word "shall," in relation to the requirements for the posting and publication of notice and the time of setting the hearing are directory and require only substantial compliance. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

A county court (now county commission) has authority to add sewerage services to the facilities of a public service district which was created for the purpose of furnishing water services, under appropriate proceedings. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

Relative powers of commission and voters in area. — (1) Only the county commission has the affirmative authority to create, enlarge or reduce a public service district; (2) in the absence of any action by a county commission, the requisite number of qualified voters in the affected geographic area may petition a county commission to create, enlarge or reduce a public service district, and, that upon the filing of such petition, a hearing shall be held thereon; (3) the county commission may, in its discretion, refuse to act in an affirmative manner upon such formal petition for creation, enlargement or reduction of such public service district, which action is not subject to protest or public referendum; (4) the county commission may, on its own motion or on the basis of such proper petition, enter an order creating, enlarging or reducing a public service district, which such action and order are subject to a hearing requiring proper notice, and a formal protest and public referendum depending upon the number of qualified voters who protest such action. Op. Att'y Gen., Nov. 13, 1975.

"Shall apply with like effect," etc. — Because a protest against creation triggers a referendum, the language "shall apply with like effect as if a district were being created" can mean only that a protest against enlargement or reduction likewise triggers a referendum. Op. Att'y Gen., Nov. 13, 1975.

Overlapping districts. — Where there is no bond indebtedness outstanding to be paid by a public service district, the county commission creating a public service district may undertake to enlarge or reduce the areas of various overlapping districts or may even consolidate the overlapping districts into one district. Op. Att'y Gen., July 8, 1976.

Merger or consolidation of districts. — This section authorizes either merger or consolidation of public service districts. Op. Att'y Gen., June 12, 1985, No. 9.

A merger or consolidation results in one corporation which, in the case of merger, will be the corporation designated by the commissioners as the surviving corporation, and with respect to a consolidation, will be a new corporate entity. Op. Att'y Gen., June 12, 1985, No. 9.

Cited in State v. Neary, 365 S.E.2d 395 (W. Va. 1987).

§ 16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.

From and after the date of the adoption of the order creating any public service district, it shall thereafter be a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each district may acquire, own and hold property, both real and personal, in its corporate name, and may sue, may be sued, may adopt an official seal and may enter into contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal

corporation included within the district: Provided, That no contract shall extend beyond a maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

The powers of each public service district shall be vested in and exercised by a public service board consisting of not less than three members, who shall be persons residing within the district who possess certain educational, business or work experience which will be conducive to operating a public service district. Each board member shall, within six months of taking office, successfully complete the training program to be established and administered by the public service commission in conjunction with the department of natural resources and the department of health. Board members shall not be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service, or in furnishing any supplies or materials to the district, nor shall a former board member be hired by the district in any capacity within a minimum of twelve months after such board member's term has expired or such board member has resigned from the district board. The members shall be appointed in the following manner:

Each city, incorporated town or other municipal corporation having a population of more than three thousand but not less than eighteen thousand shall be entitled to appoint one member of the board, and each such city, incorporated town or other municipal corporation having a population in excess of eighteen thousand shall be entitled to appoint one additional member of the board for each additional eighteen thousand population. The members of the board representing such cities, incorporated towns or other municipal corporations shall be residents thereof and shall be appointed by a resolution of the governing bodies thereof and upon the filing of a certified copy or copies of the resolution or resolutions in the office of the clerk of the county commission which entered the order creating the district, the persons so appointed shall thereby become members of the board without any further act or proceedings. If the number of members of the board so appointed by the governing bodies of cities, incorporated towns or other municipal corporations included in the district shall equal or exceed three, then no further members shall be appointed to the board and the members shall be and constitute the board of the district.

If no city, incorporated town or other municipal corporation having a population of more than three thousand is included within the district, then the county commission which entered the order creating the district shall appoint three members of the board, who are persons residing within the district, which three members shall become members of and constitute the board of the district without any further act or proceedings.

If the number of members of the board appointed by the governing bodies of cities, incorporated towns or other municipal corporations included within the district is less than three, then the county commission which entered the order creating the district shall appoint such additional member or members of the board, who are persons residing within the district, as is necessary to

make the number of members of the board equal three, and the additional member or members shall thereupon become members of the board; and the member or members appointed by the governing bodies of the cities, incorporated towns or other municipal corporations included within the district and the additional member or members appointed by the county commission as aforesaid, shall be and constitute the board of the district. A person may serve as a member of the board in one or more public service districts.

The population of any city, incorporated town or other municipal corporation, for the purpose of determining the number of members of the board, if any, to be appointed by the governing body or bodies thereof, shall be conclusively considered to be the population stated for such city, incorporated town or other municipal corporation in the last official federal census.

Notwithstanding any provision of this code to the contrary, whenever a district is consolidated or merged pursuant to section two [§ 16-13A-2] of this article, the terms of office of the existing board members shall end on the effective date of the merger or consolidation. The county commission shall appoint a new board according to rules and regulations promulgated by the public service commission.

The respective terms of office of the members of the first board shall be fixed by the county commission and shall be as equally divided as may be, that is approximately one third of the members for a term of two years, a like number for a term of four, and the term of the remaining member or members for six years, from the first day of the month during which the appointments are made. The first members of the board appointed as aforesaid shall meet at the office of the clerk of the county commission which entered the order creating the district as soon as practicable after the appointments and shall qualify by taking an oath of office: Provided, That any member or members of the board may be removed from their respective office as provided in section three-a [§ 16-13A-3a] of this article.

Any vacancy shall be filled for the unexpired term within thirty days, otherwise successor members of the board shall be appointed for terms of six years and the terms of office shall continue until successors have been appointed and qualified. All successor members shall be appointed in the same manner as the member succeeded was appointed.

The board shall organize within thirty days following the first appointments and annually thereafter at its first meeting after the first day of January of each year by selecting one of its members to serve as chairman and by appointing a secretary and a treasurer who need not be members of the board. The secretary shall keep a record of all proceedings of the board which shall be available for inspection as other public records. Duplicate records shall be filed with the county commission and shall include the minutes of all board meetings. The treasurer is lawful custodian of all funds of the public service district and shall pay the same out on orders authorized or approved by the board. The secretary and treasurer shall perform other duties appertaining to the affairs of the district and shall receive salaries as shall be prescribed by the board. The treasurer shall furnish bond in an amount to be fixed by the board for the use and benefit of the district.

The members of the board, and the chairman, secretary and treasurer thereof, shall make available to the county commission, at all times, all of its books and records pertaining to the district's operation, finances and affairs, for inspection and audit. The board shall meet at least monthly. (1953, c. 147; 1965, c. 134; 1971, c. 72; 1981, c. 124; 1983, c. 166; 1986, c. 81.)

Exemptions. — Public service districts of West Virginia are political subdivisions of the State, and as such, they are specifically, by express statute, exempted from the duty of paying registration fees (provided by § 17A-10-8), the privilege tax (imposed by § 17A-3-4), and the certificate of title charge (required by § 17A-3-4). 49 Op. Att'y Gen. 131 (1961).

Furnishing water to municipal corporation in another state. — A public service district may furnish water wholesale in bulk quantities to a municipal corporation in another state. 51 Op. Att'y Gen. 739 (1966).

Authority of districts. — Public service districts are agents of the county commission by which they were created, having no authority other than that expressly set out in this article. Op. Att'y Gen., July 8, 1976.

Furnishing water to border residents in neighboring state. — See Op. Att'y Gen., June 26, 1975.

Cited in State v. Neary, 365 S.E.2d 395 (W. Va. 1987).

§ 16-13A-3a. Removal of members of public service board.

The county commission or the public service commission or any other appointive body creating or establishing a public service district under the provisions of this article, or any group of five percent or more of the customers of a public service district, may petition the circuit court of the county in which the district maintains its principal office for the removal of any member of the governing board thereof for consistent violations of any provisions of this article, for reasonable cause which includes, but is not limited to, a continued failure to attend meetings of the board, failure to diligently pursue the objectives for which the district was created, or failure to perform any other duty either prescribed by law or required by a final order of the public service commission or for any malfeasance in public office. Any board member charged with a violation under this section who offers a successful defense against such charges shall be reimbursed for the reasonable costs of such defense from district revenues. Such costs shall be considered as costs associated with rate determination by the public service district and the public service commission. If the circuit court judge hearing the petition for removal finds that the charges are frivolous in nature, the judge may assess all or part of the court costs, plus the reasonable costs associated with the board member's defense, against the party or parties who petitioned the court for the board member's removal. (1963, c. 75; 1971, c. 72; 1981, c. 124; 1986, c. 81.)

Quoted in State v. Neary, 365 S.E.2d 395 (W. Va. 1987).

§ 16-13A-4. Board chairman; members' compensation; procedure; district name.

The chairman shall preside at all meetings of the board and may vote as any other members of the board but if he should be absent from any meeting, the remaining members may select a temporary chairman and if the member selected as chairman resigns as such or ceases for any reason to be a member of the board, the board shall select one of its members as chairman to serve until the next annual organization meeting. Salaries of each of its board members shall be as follows: For districts with fewer than six hundred customers, each board member shall receive fifty dollars per attendance at regular monthly meetings and thirty dollars per attendance at additional special meetings, total salary not to exceed nine hundred dollars per annum; for districts with six hundred customers or more but fewer than two thousand customers, each board member shall receive one hundred dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed eighteen hundred dollars per annum; and for districts with two thousand customers or more, each board member shall receive one hundred dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed three thousand dollars per annum. The public service district shall certify the number of customers served to the public service commission beginning on the first day of July, one thousand nine hundred eighty-six, and continue each fiscal year thereafter. Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as provided for by the rules and regulations of the board. The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings may be called. Public notice of meetings shall be given in accordance with section three [§ 6-9A-3], article nine-a, chapter six of this code. Emergency meetings may be called as provided by section three [§ 6-9A-3], article nine-a, chapter six of this code. A majority of the members constituting the board also constitute a quorum to do business. The members of the board are not personally liable or responsible for any obligations of the district or the board but are answerable only for willful misconduct in the performance of their duties. At any time prior to the issuance of bonds as hereinafter provided, the board may by resolution change the official or corporate name of the public service district and such change shall be effective from and after filing an authenticated copy of such resolution with the clerk of the county commission of each county in which the territory embraced within such district or any part thereof is located. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

§ 16-13A-5. General manager of board.

The board may employ a general manager to serve a term of not more than five years and until his successor is employed, and his compensation shall be fixed by resolution of the board. Such general manager shall devote all or the required portion of his time to the affairs of the district and may employ, discharge and fix the compensation of all employees of the district, except as in this article otherwise provided, and he shall perform and exercise such other powers and duties as may be conferred upon him by the board.

Such general manager shall be chosen without regard to his political affiliations and upon the sole basis of his administrative and technical qualifications to manage public service properties and affairs of the district and he may be discharged only upon the affirmative vote of two thirds of the board. Such general manager need not be a resident of the district at the time he is chosen. Such general manager may not be a member of the board but shall be an employee of the board.

The board of any public service district which purchases water or sewer service from a municipal water of sewer system or another public service district may, as an alternative to hiring its own general manager, elect to permit the general manager of the municipal water or sewer system or public service district from which such water or sewer service is purchased provide professional management to the district, if the appropriate municipality or public service board agrees to provide such assistance. The general manager shall receive reasonable compensation for such service. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

§ 16-13A-6. Employees of board.

The board may in its discretion from time to time by resolution passed by a majority vote provide for the employment of an attorney, fiscal agent, one or more engineers and such other employees as the board may determine necessary and expedient. The board shall in and by such resolution fix the term of employment and compensation and prescribe the duties to be performed by such employees. (1953, c. 147; 1981, c. 124.)

§ 16-13A-7. Acquisition and operation of district properties.

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same. All contracts involving the expenditure by the district of more than five thousand dollars for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two [§ 16-13A-2] of this article in the

county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American-made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years. (1953, c. 147; 1967, c. 105; 1981, c. 124; 1982, c. 24; 1986, c. 81.)

§ 16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.

The board may acquire any publicly or privately owned public service properties located within the boundaries of the district regardless of whether or not all or any part of such properties are located within the corporate limits of any city, incorporated town or other municipal corporation included within the district and may purchase and acquire all rights and franchises and any and all property within or outside the district necessary or incidental to the purpose of the district.

The board may construct any public service properties within or outside the district necessary or incidental to its purposes and each such district may acquire, construct, maintain and operate any such public service properties within the corporate limits of any city, incorporated town or other municipal corporation included within the district or in any unincorporated territory within ten miles of the territorial boundaries of the district: Provided, That if any incorporated city, town or other municipal corporation included within the district owns and operates either water facilities, sewer facilities or gas facilities or all of these, then the district may not acquire, construct, establish, improve or extend any public service properties of the same kind within such city, incorporated towns or other municipal corporations or the adjacent unincorporated territory served by such cities, incorporated towns or other municipal corporations, except upon the approval of the public service commission, the consent of such cities, incorporated towns or other municipal corporations and in conformity and compliance with the rights of the holders of any revenue bonds or obligations theretofore issued by such cities, incorporated towns or other municipal corporations then outstanding and in accordance with the

ordinance, resolution or other proceedings which authorize the issuance of such revenue bonds or obligations.

Whenever such district has constructed, acquired or established water facilities, sewer facilities or gas facilities for water, sewer or gas services within any city, incorporated town or other municipal corporation included within a district, then such city, incorporated town or other municipal corporation may not thereafter construct, acquire or establish any facilities of the same kind within such city, incorporated town or other municipal corporation without the consent of such district.

For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations: Provided, That such board may not acquire all or any substantial part of a privately owned waterworks system unless and until authorized so to do by the public service commission of West Virginia, and that this section shall not be construed to authorize any district to acquire through condemnation proceedings either in whole or substantial part an existing privately owned waterworks plant or system or gas facilities located in or furnishing water or gas service within such district or extensions made or to be made by it in territory contiguous to such existing plant or system, nor may any such board construct or extend its public service properties to supply its services into areas served by or in competition with existing waterworks or gas facilities or extensions made or to be made in territory contiguous to such existing plant or system by the owner thereof. (1953, c. 147; 1980, c. 60; 1981, c. 124.)

District may exercise control over sewers where ownership is unknown unincorporated areas. 45 Op. Att'y Gen. 506 (1953).

Valid grant of power of eminent domain. — The grant of power of eminent domain to public service districts by this section is valid. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

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

The board may make, enact and enforce all needful rules and regulations 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, and the board shall establish rates 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 such 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 issu-

ance of any bonds hereunder. The schedule of such rates and charges may be based upon either (a) the consumption of water or gas on premises connected with such facilities, taking into consideration domestic, commercial, industrial and public use of water and gas; or (b) the number and kind of fixtures connected with such facilities located on the various premises; or (c) the number of persons served by such facilities; or (d) any combination thereof; or (e) may be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. Where water, sewer and gas services are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate thereof. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he shall state the name and address of the owner or owners of the premises to be served by the district. All new applicants for service shall deposit a minimum of fifty dollars with the district to secure the payment of service rates 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 and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another minimum deposit of fifty dollars has been remitted to the district. Whenever any rates, rentals or charges for services or facilities furnished remain unpaid for a period of thirty days after the same become due and payable, the property and the owner thereof, as well as the user of the services and facilities provided shall be delinquent and the owner, user and property shall be held liable at law until such time as all such rates and charges are fully paid: Provided, That the property owner shall be given notice of any said delinquency by certified mail, return receipt requested. The board may, under reasonable rules and regulations promulgated by the public service commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both: Provided, however, That upon written request of the owner or owners of the premises, the board shall shut off and discontinue water and gas services where any rates, rentals, or charges for services or facilities remain unpaid by the user of the premises for a period of sixty days after the same became due and payable.

In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately either water facilities or sewer facilities, and the district owns and operates the other kind of facilities, either water or sewer, as the case may be, then the district and such publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer service fees and charges: Provided, That any contracts entered into by a public service district pursuant to this section shall be submitted to the public service commission for approval. Any public service district

providing water and sewer service to its customers shall have the right to terminate water service for delinquency in payment of either water or sewer bills. Where one public service district is providing sewer service and another public service district or a municipality included within the boundaries of the sewer district is providing water service, and the district providing sewer service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer district that is providing water service, upon the request of the district providing sewer service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer account: Provided, however, That any termination of water service must comply with all rules, regulations and orders of the public service commission.

Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the department of health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any such sewer facilities, where sewage will flow by gravity or be transported by such other methods approved by the department of health including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine [§ 16-1-9], article one, chapter sixteen of this code, from such houses, dwellings or buildings into such sewer facilities, to connect with and use such sewer facilities, and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such houses, dwellings and buildings where there is such gravity flow or transportation by such other methods approved by the department of health including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine [§ 16-1-9], article one, chapter sixteen of this code, and such houses, dwellings and buildings can be adequately served by the sewer facilities of the district, and it is hereby found, determined and declared that the mandatory use of such sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of such districts and of the state: Provided, That if the public service district determines that the property owner must connect with the sewer facilities even when sewage from such dwellings may not flow to the main line by gravity and the property owner must incur costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for such changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump, or any other method approved by the department of health; maintenance and operation costs for such extra installation should be reflected in the users charge for approval of the public service commission. The circuit court shall adjudicate the merits of such petition by summary hearing to be held not later than thirty days after service of petitition to the appropriate owners, tenants or occupants.

Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near such sewer

facility, and the engineer for the district has certified that such sewer facilities are available to and are adequate to serve such owner, tenant or occupant, and sewage will flow by gravity or be transported by such other methods approved by the department of health from such house, dwelling or building into such sewer facilities, the district may charge, and such owner, tenant or occupant shall pay the rates and charges for services established under this article only after thirty-day notice of the availability of the facilities has been received by the owner.

All delinquent fees, rates and charges of the district for either water facilities, sewer facilities or gas facilities are liens on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes. In addition to the other remedies provided in this section, public service districts are hereby granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the normal filing fee and reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts.

Anything in this section to the contrary notwithstanding, any establishment, as defined in section two [§ 20-5A-2], article five-a, chapter twenty, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the department of natural resources, as prescribed by section seven [§ 20-5A-7], article five-a, chapter twenty of this code, is exempt from the provisions of this section. (1953, c. 147; 1965, c. 134; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1989, c. 174.)

Effect of amendment of 1989. — The amendment in the first paragraph, added the present fourth through seventh sentences, and added the proviso at the end of the last sentence; substituted "shall covenant" for "may covenant" in the first sentence of the second paragraph, and substituted "users" for "user's" near the end of the third paragraph.

Lien not a deprivation of property without due process. — The provision that delinquent fixed rates and charges for services rendered by a public service district shall be a lien on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes, does not deprive the owners of their property without due process of law. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Requiring connections with sewer facilities. — The boards of public service districts have no authority to require potential users who live outside the boundaries of the districts, but within the 10-mile limit, to hook onto the district's sewer facilities. Op. Att'y Gen., July 8, 1976.

Abandonment of private systems. — Where a public service district requires a property owner, tenant, or occupant to connect onto its sewer system and to abandon a private sewer system located on the property, such person cannot recover from the public service district the value of the private system on the ground that such abandonment constitutes a taking of private property without just compensation within the meaning of W. Va. Const., art. III, § 9. Kingmill Valley Pub. Serv. Dist. v. Riverview Estates Mobile Home Park, 386 S.E.2d 483 (W. Va. 1989).

When duty arises. — Owners, tenants, or occupants have a duty under this section to pay rates and charges for the district sewer facilities from and after the date of receipt of notice (now 30 days after receipt) that such facilities are available. Rhodes v. Malden Pub. Serv. Dist., 301 S.E.2d 601 (W. Va. 1983) (construing this section prior to 1980 and 1981 amendments).

§ 16-13A-9a. Limitations with respect to foreclosure.

No public service district shall foreclose upon the premises served by such district for delinquent fees, rates or charges for which a lien is authorized by sections nine or nineteen [§§ 16-13A-9 or 16-13A-19] of this article except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county wherein the district lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the district prior to the bringing of such action had exhausted all other remedies for the collection of debts with respect to such delinquencies. In no event shall foreclosure procedures be instituted by any such district or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought. (1982, c. 74.)

§ 16-13A-10. Budget.

The board shall establish the beginning and ending of its fiscal year, which period shall constitute its budget year, and at least thirty days prior to the beginning of the first full fiscal year after the creation of the district and annually thereafter the general manager shall prepare and submit to the board a tentative budget which shall include all operation and maintenance expenses, payments to a capital replacement account and bond payment schedules for the ensuing fiscal year. Such tentative budget shall be considered by the board, and, subject to any revisions or amendments that may be determined by the board, shall be adopted as the budget for the ensuing fiscal year. Upon adoption of the budget, a copy of the budget shall be forwarded to the county commission. No expenditures for operation and maintenance expenses in excess of the budget shall be made during such fiscal year unless unanimously authorized and directed by the board. (1953, c. 147; 1981, c. 124.)

§ 16-13A-11. Accounts; audit.

The general manager, under direction of the board, shall install and maintain a proper system of accounts, in accordance with all rules, regulations or orders pertaining thereto by the public service commission, showing receipts from operation and application of the same, and the board shall at least once a year cause such accounts to be properly audited: Provided, That such audit may be any audit by an independent public accountant completed within one year of the time required for the submission of the report: Provided, however, That if the district is required to have its books, records and accounts audited annually by an independent certified public accountant as a result of any covenant in any board resolution or bond instrument, a copy of such audit may be submitted in satisfaction of the requirements of this section, and is hereby found, declared and determined to be sufficient to satisfy the requirements of article nine [§ 6-9-1 et seq.], chapter six of this code pertaining to the annual audit report by the state tax commission. A copy of the audit shall be

forwarded within thirty days of submission to the county commission and to the public service commission.

The treasurer of each public service district shall keep and preserve all financial records of the public service district for ten years, and shall at all times have such records readily available for public inspection. At the end of his term of office, the treasurer of each public service district shall promptly deliver all financial records of the public service district to his successor in office. Any treasurer of a public service district who knowingly or willfully violates any provision of this section is guilty of a misdemeanor, and shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in the county jail not more than ten days, or both. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

§ 16-13A-12. Disbursement of district funds.

No money may be paid out by a district except upon an order signed by the chairman and secretary of such board, or such other person or persons authorized by the chairman or secretary, as the case may be, to sign such orders on their behalf. Each order for the payment of money shall specify the purposes for which the amount thereof is to be paid, with sufficient clearness to indicate the purpose for which the order is issued, and there shall be endorsed thereon the name of the particular fund out of which it is payable and it shall be payable from the fund constituted for such purpose, and no other. All such orders shall be reflected in the minutes of the next meeting of the board. (1953, c. 147; 1981, c. 124.)

§ 16-13A-13. Revenue bonds.

For constructing or acquiring any public service properties for the authorized purposes of the district, or necessary or incidental thereto, and for constructing improvements and extensions thereto, and also for reimbursing or paying the costs and expenses of creating the district, the board of any such district is hereby authorized to borrow money from time to time and in evidence thereof issue the bonds of such district, payable solely from the revenues derived from the operation of the public service properties under control of the district. Such bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their respective dates, may bear interest at such rate or rates not exceeding eighteen percent per annum payable at such times, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or places, may be subject to such terms of redemption with or without premium, may be declared or become due before maturity date thereof, may be authenticated in any manner, and upon compliance with such conditions, and may contain such terms and covenants as may be provided by resolution or resolutions of the board. Notwithstanding the form or tenor thereof, and in the absence of any express recital on the face thereof, that the bond is nonnegotiable, all such bonds shall be, and shall be treated

as, negotiable instruments for all purposes. Bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding for all purposes notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be such officers. Notwithstanding the requirements or provisions of any other law, any such bonds may be negotiated or sold in such manner and at such time or times as is found by the board to be most advantageous, and all such bonds may be sold at such price that the interest cost of the proceeds therefrom does not exceed nineteen percent per annum, based on the average maturity of such bonds and computed according to standard tables of bond values. Any resolution or resolutions providing for the issuance of such bonds may contain such covenants and restrictions upon the issuance of additional bonds thereafter as may be deemed necessary or advisable for the assurance of the payment of the bonds thereby authorized. (1953, c. 147; 1970, cc. 11, 12; 1970, 1st Ex. Sess., c. 2; 1980, c. 33; 1981, 1st Ex. Sess., c. 2; 1989, c. 174.)

Cross references. — Procedure for borrowing and issuing bonds, § 16-13A-25.

Effect of amendment of 1989. — The amendment substituted "eighteen percent" for "twelve percent" in the second sentence and "nineteen percent" for "thirteen percent" in the fifth sentence; and made a minor punctuation change.

§ 16-13A-14. Items included in cost of properties.

The cost of any public service properties acquired under the provisions of this article shall be deemed to include the cost of the acquisition or construction thereof, the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of cost and of revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the construction or acquisition of the properties and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof. (1953, c. 147.)

§ 16-13A-15. Bonds may be secured by trust indenture.

In the discretion and at the option of the board such bonds may be secured by a trust indenture by and between the district and a corporate trustee, which may be a trust company or bank having powers of a trust company within or without the State of West Virginia, but no such trust indenture shall convey, mortgage or create any lien upon the public service properties or any part thereof. The resolution authorizing the 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 bondholders as may be reasonable and proper, not in violation of law, including covenants setting

forth the duties of the district and the members of its board and officers in relation to the construction or acquisition of public service properties and the improvement, extension, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that all or any part of the construction work 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, their successors, assignees 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 public service properties or other money pertaining thereto be satisfactory to such purchasers, their successors, assignees or nominees. Such indenture may set forth the rights and remedies of the bondholders and such trustee. (1953, c. 147.)

§ 16-13A-16. Sinking fund for revenue bonds.

At or before the time of the issuance of any bonds under this article the board shall by resolution or in the trust indenture provide for the creation of a sinking fund and for monthly payments into such fund from the revenues of the public service properties operated by the district such sums in excess of the cost of maintenance and operation of such properties as will be sufficient to pay the accruing interest and retire the bonds at or before the time each will respectively become due and to establish and maintain reserves therefor. All sums which are or should be, in accordance with such provisions, paid into such sinking fund shall be used solely for payment of interest and for the retirement of such bonds at or prior to maturity as may be provided or required by such resolutions. (1953, c. 147.)

§ 16-13A-17. Collection, etc., of revenues and enforcement of covenants; default; suit, etc., by bondholder or trustee to compel performance of duties; appointment and powers of receiver.

The board of any such district shall have power to insert enforceable provisions in any resolution authorizing the issuance of bonds relating to the collection, custody and application of revenues of the district from the operation of the public service properties under its control and to the enforcement of the covenants and undertakings of the district. In the event there shall be default in the sinking fund provisions aforesaid or in the payment of the principal or interest on any of such bonds or, in the event the district or its board or any of its officers, agents or employees, shall fail or refuse to comply with the provisions of this article, or shall default in any covenant or agreement made with respect to the issuance of such bonds or offered as security therefor, then any holder or holders of such bonds and any such trustee under the trust indenture, if there be one, shall have the right by suit, action, mandamus or other proceeding instituted in the circuit court for the county or any of the counties wherein the district extends, or in any other court of competent jurisdiction, to

enforce and compel performance of all duties required by this article or undertaken by the district in connection with the issuance of such bonds, and upon application of any such holder or holders, or such trustee, such court shall, upon proof of such defaults, appoint a receiver for the affairs of the district and its properties, which receiver so appointed shall forthwith directly, or by his agents and attorneys, enter into and upon and take possession of the affairs of the district and each and every part thereof, and hold, use, operate, manage and control the same, and in the name of the district exercise all of the rights and powers of such district as shall be deemed expedient, and such receiver shall have power and authority to collect and receive all revenues and apply same in such manner as the court shall direct. Whenever the default causing the appointment of such receiver shall have been cleared and fully discharged and all other defaults shall have been cured, the court may in its discretion and after such notice and hearing as it deems reasonable and proper direct the receiver to surrender possession of the affairs of the district to its board. Such receiver so appointed shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of the district except as hereinbefore provided. (1953, c. 147.)

Rules of Civil Procedure. — Abolition of the procedural distinctions between law and equity, Rule 2.

Receivers, Rule 66.

Application of rules to writ of mandamus, Rule 81(a)(5).

Effect of rules on jurisdiction and venue, Rule 82.

Mandamus. — Mandamus is a proper remedy to be pursued by the holder of a municipal revenue bond to require a municipal corporation to comply with rate covenants in its revenue bonds. State ex rel. Allstate Ins. Co. v. Union Pub. Serv. Dist., 151 W. Va. 207, 151 S.E.2d 102 (1966).

Under this section, any holder of the bonds of the Union public service district shall have the right by mandamus to enforce and compel the performance of all the duties required by statute or undertaken by the district in connection with the issuance of bonds by such district. State ex rel. Allstate Ins. Co. v. Union Pub. Serv. Dist., 151 W. Va. 207, 151 S.E.2d 102 (1966).

§ 16-13A-18. Operating contracts.

The board may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the public service properties within the district, or any part thereof, for such period of time and under such terms and conditions as shall be agreed upon between the board and such persons, firms or corporations. The board shall have power to provide in the resolution authorizing the issuance of bonds, or in any trust indenture securing such bonds, that such contracts or agreements shall be valid and binding upon the district as long as any of said bonds, or interest thereon, are outstanding and unpaid. (1953, c. 147.)

§ 16-13A-18a. Sale, lease or rental of water, sewer or gas system by district; distribution of proceeds.

In any case where a public service district owns a water, sewer or gas system, and all the members of the public service board thereof deem it for the best interests of the district to sell, lease or rent such water, sewer or gas system to any municipality or privately owned water, sewer or gas system, or to any water, sewer or gas system owned by an adjacent public service district, the board may so sell, lease or rent such water, sewer or gas system upon such terms and conditions as said board, in its discretion, considers in the best interests of the district: Provided, That such sale, leasing or rental may be made only upon approval by the public service commission of West Virginia.

In the event of any such sale, the proceeds thereof, if any, remaining after payment of all outstanding bonds and other obligations of the district, shall be ratably distributed to any persons who have made contributions in aid of construction of such water, sewer or gas system, such distribution not to exceed the actual amount of any such contribution, without interest, and any balance of funds thereafter remaining shall be paid to the county commission of the county in which the major portion of such water, sewer or gas system is located to be placed in the general funds of such county commission. (1963, c. 75; 1981, c. 124; 1986, c. 81.)

§ 16-13A-19. Statutory mortgage lien created; foreclosure thereof.

There shall be and is hereby created a statutory mortgage lien upon such public service properties of the district, which shall exist in favor of the holders of bonds hereby authorized to be issued, and each of them, and the coupons attached to said bonds, and such public service properties shall remain subject to such statutory mortgage lien until payment in full of all principal of and interest on such bonds. Any holder of such bonds, of any coupons attached thereto, may, either at law or in equity, enforce said statutory mortgage lien conferred hereby and upon default in the payment of the principal of or interest on said bonds, may foreclose such statutory mortgage lien in the manner now provided by the laws of the State of West Virginia for the foreclosure of mortgages on real property. (1953, c. 147.)

Rules of Civil Procedure. — Abolition of the procedural distinctions between law and equity, Rule 2.

The provision granting to bondholders a statutory mortgage lien is valid. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

§ 16-13A-20. Refunding revenue bonds.

The board of any district having issued bonds under the provisions of this article is hereby empowered thereafter by resolution to issue refunding bonds of such district for the purpose of retiring or refinancing such outstanding bonds, together with any unpaid interest thereon and redemption premium thereunto appertaining and all of the provisions of this article relating to the issuance, security and payment of bonds shall be applicable to such refunding bonds, subject, however, to the provisions of the proceedings which authorized the issuance of the bonds to be so refunded. (1953, c. 147.)

The only purpose for refunding bonds is the retirement or refinancing of outstanding bond issues of a particular district. Op. Att'y Gen., July 8, 1976.

Combination of two outstanding bond issues into one refunding bond issue may well be restricted by the use of the singular language in this section. Op. Att'y Gen., July 8, 1976.

Previous issuance of bonds required. — This section is clearly written in language which speaks only of refunding bonds issued by any district which has previously issued bonds. Op. Att'y Gen., July 8, 1976.

§ 16-13A-21. Complete authority of article; liberal construction; district to be public instrumentality; tax exemption.

This article shall constitute full and complete authority for the creation of public service districts and for carrying out the powers and duties of same as herein provided. The provisions of this article shall be liberally construed to accomplish its purpose and no procedure or proceedings, notices, consents or approvals, shall be required in connection therewith except as may be prescribed by this article: Provided, That all functions, powers and duties of the public service commission of West Virginia, the state department of health and the state water resources board shall remain unaffected by this article. Every district organized, consolidated, merged or expanded under this article is declared to be a public instrumentality created and functioning in the interest and for the benefit of the public, and its property and income and any bonds issued by it shall be exempt from taxation by the state of West Virginia, and the other taxing bodies of the state: Provided, however, That the board of any such district may use and apply any of its available revenues and income for the payment of what such board determines to be tax or license fee equivalents to any local taxing body and in any proceedings for the issuance of bonds of such district may reserve the right to annually pay a fixed or computable sum to such taxing bodies as such tax or license fee equivalent. (1953, c. 147; 1986, c. 81.)

Tax exemption constitutional. — The tax exemption granted to the property, income, and bonds of the district does not violate W. Va. Const., art. X, § 1. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Applied in Rhodes v. Malden Pub. Serv. Dist., 301 S.E.2d 601 (W. Va. 1983).

§ 16-13A-22. Validation of prior acts and proceedings of county courts for creation of districts, inclusion of additional territory, and appointment of members of district boards.

All acts and proceedings taken by any county court of this State purporting to have been carried out under the provisions of this article which have been taken, prior to the date this section takes effect [January 29, 1960], for the purpose of creating public service districts or for the purpose of subsequent inclusion of additional territory to existing public service districts, after notice published by any such county court having territorial jurisdiction thereof of its intention to include such additional territory after hearing thereon, are hereby validated, ratified, approved and confirmed notwithstanding any other lack of power (other than constitutional) of any such county court to create such public service districts or to include additional territory to existing public service districts or irregularities (other than constitutional) in such proceedings, relating to the appointment and qualification of more than three members to the board of any such public service district or the subsequent appointment of successors of any or all of such members, notwithstanding that no city, incorporated town or other municipal corporation having a population in excess of three thousand is included within the district, and the appointment and qualification of such members, and further including any irregularities in the petition for the creation of any public service district, irregularities in the description of the area embraced by such district, and irregularities in the notice and publication of notice for the hearing creating such district, prior to the date this section takes effect, is hereby validated, ratified, approved and confirmed; and, further, in such cases where more than three members of the board of such districts have been so appointed prior to the date this section takes effect then such county court shall appoint, and they are hereby authorized and empowered to appoint, successors to such members in the manner as otherwise provided by this article. (1958, c. 14; 1960, c. 19.)

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

§ 16-13A-23. Validation of acts and proceedings of public service boards.

All acts and proceedings taken by any public service board the members of which were appointed, prior to the date this section takes effect [March 13, 1965], by any county court of this State having territorial jurisdiction thereof, are hereby validated, ratified, approved and confirmed, as to defects and irregularities which may otherwise exist on account of their appointment and qualification: Provided, however, That nothing herein contained shall be construed to excuse a criminal act. (1958, c. 14; 1960, c. 19; 1965, c. 134.)

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

§ 16-13A-24. Acceptance of loans, grants or temporary advances.

Any public service district created pursuant to the provisions of this article is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of construction or acquisition of water systems, sewage systems or gas facilities, or all of these, and the other purposes herein authorized, from any authorized agency or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of the bonds authorized to be issued under the provisions of this article, the revenues of the said water system, sewage system or gas facilities or grants to the public service district from any authorized agency or from the United States of America or any federal or public agency or department of the United States or from any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument. (1958, c. 14; 1980, c. 60; 1981, c. 124; 1986, c. 118.)

§ 16-13A-25. Borrowing and bond issuance; procedure.

Notwithstanding any other provisions of this article to the contrary, a public service district shall not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of sections thirteen, twenty or twenty-four [§§ 16-13A-13, 16-13A-20 or 16-13A-24] of this article, without the prior consent and approval of the public service commission. Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the public service commission in accordance with the provisions of chapter twenty-four [§ 24-1-1 et seq.] of this code, when a public service district is seeking to acquire or construct public service property.

Sixty days prior to making formal application for said certificate, the public service district shall prefile with the public service commission its plans and supporting information for said project and shall publish a Class II legal advertisement in a newspaper or newspapers of general circulation in each city, incorporated town or municipal corporation if available in the district, which legal advertisement shall state:

(a) The amount of money to be borrowed, or the amount of revenue bonds to be issued: Provided, That if the amount is an estimate, the notice may be stated in terms of an amount "not to exceed" a specific amount;

(b) The interest rate and terms of the loan or bonds: Provided, That if the interest rate is an estimate, the notice may be stated in terms of a rate "not to exceed" a specific rate;

(c) The public service properties to be acquired or constructed, and the cost of same;

(d) The anticipated rates which will be charged by the district: Provided, That if the rates are an estimate, the notice may be stated in terms of rates "not to exceed" a specific rate; and

(e) The date that the formal application for a certificate of public convenience and necessity is to be filed with the public service commission. The public service commission may grant its consent and approval for the certificate, or any other request for approval under this section, subject to such terms and conditions as may be necessary for the protection of the public interest, pursuant to the provisions of chapter twenty-four [§ 24-1-1 et seq.] of this code, or may withhold such consent and approval for the protection of the public interest.

In the event of disapproval, the reasons therefor shall be assigned in writing by the commission. (1969, 1st Ex. Sess., c. 6; 1981, c. 124; 1986, c. 81.)

Cross references. — Class II legal advertisement defined, § 59-3-2.

ARTICLE 14.

BARBERS AND BEAUTICIANS.

Sec.
16-14-1. Jurisdiction over barbers and beauticians; powers and duties of director of health.
16-14-2. Barbering, beauty culture and manicuring defined.
16-14-3. Regulations to be promulgated by board of health; enforcement.
16-14-4 to 16-14-17. [Repealed.]

Editor's notes. — For redesignation of department of health as division of health, within the department of health and human resources, see § 5F-2-1.

Michie's Jurisprudence. — For a general treatment of barbering and beauty culture, see 3A M.J., Barbers and Beauticians.

WEST VIRGINIA CODE

ANNOTATED

VOLUME 5

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led by Acts 1992, c. 7.

9A.

ESTRICTIONS.

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first day of January, one thousand
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13.

CIPAL CORPORATIONS
DISTRICTS.

qualifications, terms and compensation of members.

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qualifications, terms and
embers.

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board shall be composed of either
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in the event of an acquisition or
governing body may increase the
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he board. During the construction

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

Effect of amendment of 1992. — The amendment inserted "the organization of the board and" in the first sentence, and substituted "Provided, That, in the event ... one of the members" for "one of whom, during the construction period" in the second and third sentences.

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

§ 16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.

Compensation of board members for performing additional duties prohibited. — Board members of a public service district could not be compensated for performing the duties of treasurer and/or secretary, or for reading meters for the public service district. Op. Att'y Gen., July 14, 1988, No. 2.

§ 16-13A-4. Board chairman; members' compensation; procedure; district name.

Compensation of board members for performing additional duties prohibited. — Board members of a public service district could not be compensated for performing the duties of treasurer and/or or secretary, or for reading meters for the public service district. Op. Att'y Gen., July 14, 1988, No. 2.

§ 16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.

Nuisance is element of just compensation. — If a facility creates a nuisance this harm is simply an element of just compensation in an eminent domain proceeding. Sexton v. Public Serv. Comm'n, 423 S.E.2d 914 (W. Va. 1992).

Procedure for affixing compensable interests. — Public service commission, in the absence of specific statutory authority, is not empowered to determine whether particular property interests acquired or to be acquired by a utility are compensable in an eminent domain action, or to render any type of monetary judgment for such property interests. Affixing the value of the property taken is the function of the trier of fact in an eminent domain proceeding. Sexton v. Public Serv. Comm'n, 423 S.E.2d 914 (W. Va. 1992).

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

Sewage lagoons buffer-zone requirements. — Public Service Commission did not err in finding that the proposed sewage lagoons site satisfied the buffer-zone requirements. Sexton v. Public Serv. Comm'n, 423 S.E.2d 914 (W. Va. 1992).

§ 16-13A-24. Acceptance of loans, grants or temporary advances.

Permissible borrowing by public service districts. — The borrowing by public service districts of money from counties and/or municipalities, as evidenced by a note, is permissible borrowing under this section. Op. Att'y Gen., May 6, 1988, No. 27.

§ 16-13A-25. Borrowing and bond issuance; procedure.

Certificate of necessity and convenience. — Under this section, a public service district must first obtain a certificate of public convenience and necessity before it can acquire or construct public service property. Sexton v. Public Serv. Comm'n, 423 S.E.2d 914 (W. Va. 1992).

Eminent domain not subject to public service commission review. — Although construction of a new facility proposed by a utility will often require the taking of private property through eminent domain, in the absence of express statutory language, the public service commission has no duty to review and decide issues that are inherent in the eminent domain proceeding. Sexton v. Public Serv. Comm'n, 423 S.E.2d 914 (W. Va. 1992).

C E R T I F I C A T E

Certified to be a true and correct copy of that certain Charter of the City of Charleston, West Virginia, duly filed and of record in the Office of the City Clerk of the City of Charleston, West Virginia.

Given under my hand and the official seal of the City of Charleston, West Virginia, this 1st day of December, 1993.

(seal)

James C. Stucky

James C. Stucky, City Clerk

PART I.

THE CHARTER.

Editor's note.--According to the West Virginia Blue Book, 1973, page 820, the community which is now Charleston was "originally chartered in 1794, as Charles Town-----, [so] named by George Clendenin, one of the earliest settlers, for his father, Charles Clendenin." It became "Charleston" by Acts of Assembly 1817-18, ch. CXV, p. 160 et seq., passed January 19, 1818, which provided, in pertinent part, that "the town of Charles Town in the county of Kanawha, as the same has been heretofore laid off under the several acts of Assembly for that purpose--- shall be, and the same is hereby erected into a town corporate, to be known and distinguished by the name of 'Charleston'-----." These Acts were, of course, those of the general assembly of the Commonwealth of Virginia. The first Act of the West Virginia legislature amending the town Charter was that of 1867, ch. 127, p. 155; and Charleston became a city by Acts 1875, ch. 39, p. 47, which provided, inter alia, for a common council consisting of a mayor, recorder and nine councilmen, a body politic by name "The City of Charleston."

The present charter, herein set out, is a legislative charter, Acts 1929 (Muni. Ch.), ch. 4 as amended; the historical citations following each section indicating the derivation thereof and amendments, if any. The 1929 charter act was approved by the governor on March 6, 1929, and became effective upon passage. Many section catchlines have been changed by the editors to more clearly and more fully indicate the contents of the sections, and are not to be regarded as official; years have been changed from words to numerals; a uniform system of capitalization has been adopted; in some sections italicized words are printed in Roman; and words and figures in brackets have been supplied by the editors for the purpose of clarity.

For a list of home rule ordinances amendatory of the Charter, see table 3, in part III of this Code.

The legislature, in its 1969 revision and con-

solidation of chapters 8 and 8A of the Code of West Virginia into a new chapter 8, recognized, in section 8-1-6, "that when the provisions of existing special legislative charters are compared with and are considered in the light of the provisions of this chapter, [i.e., the new chapter 8], there are five basic possibilities as to the relationship between such charter provisions and the provisions of this chapter, namely: (1) As to any particular charter provisions, such charter provisions may be inconsistent or in conflict with the pertinent provisions of this chapter; (2) although relating to the same subject matter and although not inconsistent or in conflict with any provisions of this chapter, certain charter provisions may be sufficiently different from pertinent provisions of this chapter as to indicate, as a matter of practical construction, that either the charter provisions or the provisions of this chapter, but not both, should be applicable; (3) although varying in certain respects, certain charter provisions may be similar to and in essential harmony with corresponding provisions of this chapter; (4) as to any particular charter provisions, there may be no counterpart of such provisions in this chapter; and (5) as to any provisions of this chapter, there may be no counterpart charter provisions."

Section 8-1-6, therefore, sets forth certain rules to be applied, in addition to the usual and ordinary rules of statutory construction, with respect to construction and applicability of legislative charters, and it is suggested that users of this city Code refer to W. Va. Code, § 8-1-6, in determining the present construction and applicability of any portion of the Charleston Charter to any given situation.

For state law as to revising or amending a city Charter, see W. Va. Code, §§ 8-4-7, 8-4-8.

§ 1. Charleston made a city corporate and body politic.
§ 2. Corporate limits.
§ 3. Twenty wards established.
§ 4. Municipal authorities; elective officers and qualifications for holding office.
§ 5. Officers in addition to elective officers; salaries.

§ 6. Corporate power vested in council.
§ 7. Enumeration of numerous miscellaneous powers of council; jurisdiction beyond corporate limits.
§ 7-a. Authority of council, municipal judge, circuit and common pleas courts and judges relating to city licenses.
§ 7-b. Regulation of operation of motor vehicles.
§ 8. Persons entitled to vote.
§ 9. Boundaries of voting precincts; registration books; registering voters; transfer from one precinct to another; duties of county court.
§ 9-a. Special registrars; compensation of county court and clerk; delivery of registration books to city clerk; return to clerk of county court.
§ 10. Nomination of candidates.
§ 11. When county and city voting precincts to be the same; how elections to be held.
§ 12. Law governing preparation of ballot and method of voting.
§ 13. The council--Title; how constituted.
§ 14. Same--Qualifications; vacancies.
§ 15. Same--Mayor; clerk; president pro tempore.
§ 16. Same--Representation of new ward.
§ 17. Same--Exercise of legislative functions; information, etc., from officers and employees.
§ 18. Audit of books and accounts.
§ 19. Removal of officers by council or by circuit court of Kanawha County, or by officers having appointment authority.
§ 20. Rules and regulations for government of council; record of meetings.
§ 21. Regular meetings of council.
§ 22. Special meetings of council.
§ 23. Council procedure for contested elections, and right of appeal to circuit court.
§ 24. Oath of officers; how and within what time officers must qualify; failure to qualify vacates office.
§ 25. Bonds of officers and employees; record of bonds.
§ 26. Quorum of council; compelling attendance of absent members.
§ 27. Voting in council and recording of votes.
§ 28. City clerk is ex officio clerk of the council; council minutes and admissibility thereof in evidence.
§ 29. Holding two offices.
§ 30. Failure of mayor or other officer to make appointments.
§ 31. Vacancy in office of mayor or treasurer; vacancy in office of appointive officer; officers hold office until successors qualified, unless previously removed.
§ 32. Corruption in office.
§ 33. Power of council to compel attendance of witnesses and production of records, administer oaths and punish for contempt.
§ 34. Absence or inability of certain officers to perform duties.

§ 35. Election and term of office of elective officers; salary of mayor; appointments by mayor; appointment of city clerk; appointments by manager; term of appointive officers; duties of mayor and city solicitor; salary of solicitor; fees.
§ 36. Appointment, compensation, powers and duties of the manager.
§ 37. Franchises--Granting; requirements and limitations governing; vote of council required.
§ 38. Same--Advertisement of application; submission to voters.
§ 39. Committees of council; adjournment of council meetings; postponement of announcement of vote.
§ 40. Style of ordinances.
§ 41. Passage of ordinances; revision, reenactment or amendment; effective date; publication of caption or title; resolutions and orders.
§ 42. Ordinances to be spread on records of council; "ordinance record"; code of ordinances.
§ 43. Officers conservators of the peace.
§ 44. Powers and duties of municipal judge; maximum imprisonment for violation of ordinance; appeal; expense of maintaining persons committed to county jail.
§ 45. Qualifications of municipal judge; not to appear as counsel in criminal cases; absence or inability to perform duties; bond.
§ 46. Bail.
§ 47. Authority of council, manager and police officers relating to nuisances; duties and responsibilities of owners and occupants of property; enforcement.
§ 48. Connection with sewer system.
§ 49. Construction of sidewalks, curbs and gutters; duty of county clerk to record assessments.
§ 50. Annual estimate for tax levy.
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§ 52. Collection of taxes.
§ 53. Powers of collector.
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§ 55. Lien on real estate for taxes--Established; enforcement by suit in court of record; priority of lien.
§ 56. Same--Enforcement by tax sale.
§ 57. Limitation on authority of county to tax persons and property within city for streets, education or poor outside city limits; control of streets and schools within city; joint ownership of bridges.
§ 58. Depositories.
§ 59. Bonds--Authority to issue; purposes; interest; limit; taxation to pay interest and principal.
§ 59-a. Same--For improvement of streets.
§ 60. Same--In anticipation of special assessments for street improvements or sewer construction; limitation on indebtedness.
§ 61. Contracts for improvement of streets; assessment of cost.
§ 62. Sewerage assessments against owners of abutting property; requiring connection with sewer; including cost of drains in cost of street improvement.

§ 62-a. Construction of sewer systems or common, lateral, branch, trunk or combined sewers.
§ 63. Resolution declaring necessity for street improvement--Required; procedure for adoption.
§ 64. Same--Service on property owners of notice of passage.
§ 65. City executive committees of political parties.
§ 66. Bonds to pay city's cost of improvement of streets, etc.
§ 67. Hearing of property owners affected by improvements; ordinance concerning improvement.
§ 68. Special assessments when several kinds of materials have been named in ordinance providing for improvement.
§ 69. Vote of council required for public improvement; petition by property owners.
§ 70. Assessment when public improvement passes through or by public property or property of institution.
§ 71. What cost of improvement shall include.
§ 72. Filing statement as prerequisite to action for damages arising out of improvement.
§ 73. Liberal construction of proceedings with respect to improvements.
§ 74. Election and three-fifths vote required for issuance of bonds; regulations governing.
§ 75. Authority of council to lay special levies in years 1929 and 1930 for special purposes.
§ 76. Power of council as to public buildings, hospitals, libraries, etc.
§§ 77, 78 and 79. Fire department civil service.
§ 80. Political activities by members of fire or police departments.
§ 81. Service of notice, summons, warrant, etc.
§ 82. Contested elections for council.
§ 83. Duties of city clerk as to municipal elections.
§ 84. Valid ordinances and regulations passed on or before May 1, 1915, not inconsistent with this Charter, to remain in effect until repealed.
§ 85. Powers and duties of policemen.
§ 86. Compensation of members of council; absence from meetings.
§ 87. Reports by manager to council; reports by officers and employees under supervision of manager.
§ 88. Additional method for paving streets; assessment certificates.
§ 88-a. Void, irregular or omitted assessments.
§ 88-b. Assessment certificates to pay for cost of construction of sewers and sewer systems.
§ 88-c. Subdividing abutting land for purpose of making assessments.
§ 89. Initiation of ordinances by voters.
§ 90. Reconsideration of ordinance protested by petition; submission of ordinances to voters.
§ 91. Recall of officers.
§ 92. Signatures and affidavits to petitions filed under three preceding sections; form of submission of ordinance; all city elections to conform to state law.
§ 93. Additional method for construction of sidewalks; assessment certificates.

§ 93-a. Transcript of property to be furnished by county assessor.
§ 94. Authority to issue warrants; vacancy in office of municipal judge.
§ 95. Statement of claim before action against city for damages for personal injury.
§ 96. Health commissioner.
§ 97. Police matron.
§ 98. Codification of ordinances.
§ 99. Cemeteries and burials.
§ 100. Building inspector.
§ 101. Power to buy, sell or exchange real estate.
§ 102. Zoning--Power of city.
§ 102-a. Same--Division of city into zoning districts.
§ 102-b. Same--Design of zoning regulations; considerations in making.
§ 102-c. Same--Establishment, enforcement and change of zoning regulations and boundaries of zoning districts; hearing.
§ 102-d. Same--Change or repeal of zoning regulations and boundaries; protests.
§ 102-e.¶1. Same--Zoning commission.
§ 102-e.¶2. Repeal of inconsistent laws.

Sec. 1. Charleston made a city corporate and body politic.

The inhabitants of all that part of the County of Kanawha included and centered within the limits hereafter prescribed in section two are hereby made a city corporate and body politic by the name of "The City of Charleston," and as such city it shall have perpetual succession and a common seal, and by that name it may sue and be sued, plead and be impleaded, and may purchase, hold, lease or sell real estate and personal property necessary to the discharge of its corporate duties, or needful or convenient for the good order, government and welfare of said corporation. (Acts 1929 (Munl. ch.), ch. 4, § 1.)

Sec. 2. Corporate limits.

The corporate territorial limits of the City of Charleston shall comprise all that part of the magisterial district of Charleston and all that part of the territory of the magisterial district of Loudon in the County of Kanawha and State of West Virginia, which is bounded and described as follows, to-wit:

Editor's note.--The remainder of this section, which describes by metes and bounds the city boundary as it existed on March 6, 1929, is omitted as obsolete due to annexation of territory and minor boundary adjustments since that date. For complete text of this section, see Acts 1929 (Munl. ch.), ch. 4, § 2. For current city boundary, see the official map of the city which, when completed and approved by the city council, will be placed on file in the office of the city clerk.

For state law as to change of municipal boun-

Description - [illegible] after reapportionment § 3

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daries by annexation of territory, see W. Va. Code, §§ 8-6-1 through 8-6-5. As to decrease of corporate limits of municipalities, see W. Va. Code, §§ 8-7-1 through 8-7-4.

Sec. 3. Twenty wards established.

Editor's note.--This section, as initially enacted by the legislature by Acts 1929, (Muni. ch.), ch. 4, § 3, divided the city into seventeen wards. By Ordinance No. 308, amendatory of this section, enacted Nov. 10, 1958, and ratified at a special election held Dec. 13, 1958, the city was redivided into nineteen wards. Due to subsequent changes in population and the resulting necessity for more proportionate representation in the city council, the council on Sept. 19, 1966, by affirmative vote of more than two-thirds of the members, enacted Ord. No. 870, amendatory of this section, by redividing the city into eighteen wards, described by metes and bounds, subject to a referendum as provided in W. Va. Code, § 8-4-7; and at a special election on Nov. 8, 1966, held pursuant to prior notice duly published, a majority of the legal votes cast were in favor of the amendment, which thereupon became effective with the declaration by the council of the results of that election, all in conformity with the provisions of W. Va. Code, § 8-4-7. The text of this section, as so amended, is omitted as obsolete in some respects due to subsequent addition of territory, but it has been saved from repeal and is on file in the office of the city clerk. Another reason for omission of the text of this section was that Ordinance No. 1570, 7-1-74, directed the mayor to appoint two special committees, one to take a census of the city and the other, upon completion of such census, to prepare and submit to the council a report, with recommendations for the division of the city into wards and the number and boundaries thereof, the number of councilmen to represent each ward, and the number of councilmen at large, together with a proposed ordinance to effect such recommendations. Ordinance No. 3040, adopted on

Dec. 20, 1982, redivided the city into twenty wards, described by metes and bounds.

For current division of the city into wards and the boundaries thereof, see the official map of the city which, when completed and approved by the city council, will be placed on file in the office of the city clerk.

Sec. 4. Municipal authorities; elective officers and qualifications for holding office.

The municipal authorities of the City of Charleston shall consist of a mayor, city treasurer, municipal judge, and a member of the city council from each ward of the city, and six councilmen at large, who shall be elected by the qualified voters of such city, and such officers shall for the assessment year preceding their respective elections as hereinafter provided, has been assessed with and paid taxes in the City of Charleston upon a valuation of at least one hundred dollars worth of real estate or personal property therein, and any person elected to any one of such offices who has not been assessed with and paid taxes on such amount of property shall not qualify or enter upon the performance of the duties thereof, but such office shall thereby become vacant and shall be filled by a qualified person as provided herein for other vacancies. (Acts 1929 (Muni. ch.), ch. 4, § 4; Ord. No. 870, § 2; 9-19-66; Ord. No. 1620, § 2; Ord. No. 3040, § 2.)

Editor's note.--The ordinance amendatory of this section of the Charter was enacted Sept. 19, 1966, by affirmative vote of more than two-thirds of the members of the city council; and it was ratified by a majority of the legal votes cast at a special election on Nov. 8, 1966, which was held pursuant to prior notice duly published, all in conformity with the provisions of W. Va. Code, § 8-4-7.

Sec. 5. Officers in addition to elective officers; salaries.

In addition to the municipal authorities mentioned in section four of this act [this Charter], the city shall have a manager, city clerk, municipal court clerk, city auditor, collector, chief of police, city solicitor, assistant city solicitor, chief of fire department, engineer, health commissioner, building inspector, lockup keeper, humane officer or officers and such member of policemen as council by ordinance may direct. All the officers named in this and the

preceding sections shall be paid proper salaries which shall be fixed by the council, except as herein otherwise provided, and such salaries shall be within the limits provided for by this act. (Acts 1929 (Munl. ch.), ch. 4, § 5.)

For state law providing that, "notwithstanding any Charter provision to the contrary," the governing body of every municipality shall by ordinance fix the compensation of every munici-

pal officer and employee; provided, that the salary of an officer shall not be increased or diminished during his term of office, see W. Va. Code, § 8-5-12.

Sec. 6. Corporate power vested in council.

All the corporate power of said city shall be vested in and exercised by council or under its authority, except as otherwise provided in this act [this Charter]. (Acts 1929 (Munl. ch.), ch. 5, § 6.)

Sec. 7. Enumeration of numerous miscellaneous powers of council; jurisdiction beyond corporate limits.

The council of said city shall have, and is hereby granted power to have said city surveyed, to lay out, open, vacate, straighten, broaden, change grade of, grade, regrade, curb, widen, narrow, repair, pave and re-pave streets, alleys, roads, squares, plots, sidewalks and gutters for public use, and to alter, improve, embellish and ornament and light the same, and to construct and maintain public sewers and laterals, and shall, in all cases, have power and authority to assess upon and collect from the property benefited thereby, such part of the expense thereof as shall be fixed by ordinance, except as hereinafter provided, to have control of all streets, avenues, roads, alleys and grounds for public use in said city, and to regulate the use thereof and driving thereon, and to have the same kept free from obstruction, pollution or litter on or over them; to have the right to control all bridges within said city, and the traffic thereover; to change the name of any street, avenue or road within said city, and regulate and cause the numbering and re-numbering of houses on any street, avenue or road therein; to regulate the naming of streets, avenues and public places; to regulate and determine the width of streets, sidewalks, roads and alleys; to order and direct the curbing, re-curbing, paving, re-paving, and repairing of sidewalks and footways for public use in said city to be done and kept clean and in good order by the owners of adjacent property; to enter into a contract with the County of Kanawha, or any internal improvement company for the joint ownership of any bridge by the city and such county or company, upon such terms as may be prescribed in the contract, but any such bridge shall be a public highway and the interest of the company, county and city shall be only such proportionate part thereof as it may pay for or that may be named in the contract; to prohibit and punish the abuse of animals; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes, fortunetellers, palmists, drunken or disorderly persons within the city, and to provide for their arrest and manner of punishment; to prohibit and punish by fine the bringing into the city by steamboats, railroads or other carriers of persons known to be paupers, dangerous or objectionable characters or afflicted with contagious diseases; to control and suppress disorderly houses of prostitution or ill-fame, houses of assignation and gaming houses or any part thereof; to punish those guilty of possessing, transporting or selling intoxicating liquors and to confiscate all automobiles, cars, wagons, boats, water and aircraft,

beasts of burden and vehicles of any kind in connection with which intoxicating liquors are had, kept or possessed for the purpose of transportation or carrying in any way within the city; to punish those engaged in gaming and to suppress all gaming or gambling houses, and all places where gambling or betting is in any way carried on or permitted, and to punish all persons in any way connected therewith; to prohibit within the city or within two miles thereof, slaughter houses, soap or glue factories and houses and places of like kind, and any other thing or business dangerous, unwholesome, unhealthy, offensive, indecent or dangerous to life, health, peace or property; to provide for the entry into and the examination of all dwellings, lots, yards, enclosures, buildings and structures, cars, boats and vehicles of every description, and to ascertain their condition for health, cleanliness or safety; to regulate the building and maintenance of party walls, partition fences or lines, fire-walls, fire places, chimneys, boilers, smoke stacks and stove pipes; to provide for and regulate the safe construction, inspection and repairs of all public and private buildings, bridges, basements, culverts, sewers, or other buildings or structures of any description; to take down and remove, or make safe and secure, any and all buildings, walls, structures or superstructures at the expense of the owners thereof, that are or may become dangerous, or to require the owners or their agents to take down and remove them or put them in a safe and sound condition at their own expense; to regulate, restrain or prohibit the erection of wooden or other buildings within the city; to regulate the height, construction and inspection of all new buildings hereafter erected, and the alteration and repair of any buildings already erected or hereafter erected in said city, and to require permits to be obtained for such buildings and structures, and plans and specifications thereof to be submitted to the building inspector; to regulate the limit within which it shall be lawful to erect any steps, porticos, bay windows, bow windows, show windows, awnings, signs, columns, piers or other projection or structural ornaments of any kind for the houses or buildings fronting on any street of said city; to establish fire limits and to provide the kind of buildings and structures that may be erected therein, and to enforce all needful rules and regulations to guard against fire and danger therefrom; to require, regulate and control the construction of fire escapes for any building or other structures in said city, to control the opening and construction of ditches, drains, sewers, cesspools and gutters, and to deepen, widen and clear the same of stagnant water or filth, and to prevent obstruction therein, and to fill, close or abolish the same and to determine at whose expense the same shall be done; and to build and maintain fire station houses, crematories, jails, lockups, and other buildings, police stations and police courts, and to regulate the management thereof; to acquire, establish, lay off, appropriate, regulate, maintain and control public grounds, squares and parks, hospitals, market houses, city buildings, airports, libraries and other educational or charitable institutions, either within or without the city limits, and when the council determines that any real estate rights, or materials in or out of the city is necessary to be acquired by said city for any such city purpose, or for any public purpose, or is necessary in the exercise of its powers herein granted, the power of eminent domain is hereby conferred upon said city, and it shall have the right to institute condemnation proceedings against the owner thereof,

whether said property be in or out of said city, in the same manner, to the same extent, and upon the same conditions as such power is conferred upon public service corporations by chapter forty-two of the Code of West Virginia of the edition of 1923, and is now or may be hereafter amended [see W.Va. Code, 1931, ch. 54, as amended]; to purchase, sell, lease or contract for and take care of all public buildings and structures and real estate deemed proper for the use of such city; and for the protection of the public to cause the removal of unsafe walls, structures or buildings, and the filling of excavations; to acquire or assist in acquiring land to be donated, dedicated or conveyed to, or otherwise vested in, the State of West Virginia as a site for a state capital or other public buildings, and to donate, dedicate and convey the same to said state or otherwise procure the title to the same to be vested in said state; to prevent injury or annoyance to the business of individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated all nuisances and to that end and thereabout to summon witnesses and hear testimony; to regulate or prohibit the keeping of gunpowder and other combustible or dangerous articles, and to regulate the transportation of same through the streets, alleys and public places; to regulate, restrain or prohibit the use of fire-crackers or other explosives or fireworks, and all noises or performances which may be dangerous, indecent or annoying to persons or tend to frighten horses or other animals; to provide and maintain proper places for the burial of the dead, in or out of the city, and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined; to provide for shade and ornamental trees, shrubbery, grass, flowers and other ornamentation, and the protection of the same; to provide for the poor of the city; to make suitable and proper regulations in regard to the use of the streets, public places, sidewalks and alleys by street cars, foot passengers, animals, vehicles, motors, automobiles, traction engines, railroad engines and cars, and to regulate the running and operation of the same so as to prevent obstruction thereon, encroachment thereto, injury, inconvenience or annoyance to the public; and to regulate fares and operation of motor vehicles operating on a fixed route used in the public transportation of passengers or property; to purchase or otherwise secure life, health or accident policies on the group or other convenient plan upon the members of the city police force and fire department, and as an element of compensation of such members may appropriate the money necessary to defray the cost thereof; whenever in its opinion the safety of the public so requires to authorize or require by ordinance any railroad company operating railroad tracks upon or across any public street or streets of the city, to construct and maintain overhead or undergrade crossings wherever the tracks of said company are laid upon or across the public streets of such city, and to apportion according to general law between any such railroad company and city the cost of such construction and maintenance and the cost of the acquisition of the necessary property and rights of way and the damages to abutting properties between any such railroad company and city; to prohibit prize fighting and cock and dog fighting; to license, tax, regulate or prohibit theaters, moving pictures, circuses, and exhibition of showmen and shows of any kind, and the exhibtion of natural or artificial curiosities, carnivals, menageries and music exhibitions and performances, and other things or business on which the state does or may exact a

license tax; to organize and maintain fire companies and departments, and to provide necessary apparatus, engines and implements for the same and to regulate all matters pertaining to the prevention and extinguishing of fires; to make proper regulations for guarding against danger and damage from fires, water or other elements; to regulate and control the kind and manner of plumbing and electric wiring, the operation and height of flying of aeroplanes, airships and balloons; to regulate wireless stations, radio stations and other appliances for the protection of the health and safety of said city; to levy taxes on property, property and licenses, to license and tax dogs and other animals and regulate, restrain and prohibit them and all other animals and fowls running at large; to provide revenue for the city and appropriate the same to its expenses; to adopt rules for the transaction of business of its own regulation and government; to promote the general welfare of the city, and to protect the persons and property of citizens therein; to regulate and provide for the weighing of produce and other articles sold in said city and to regulate the transportation thereof and other things, through the streets, alleys and public places; to have the right to grant, refuse or revoke any and all licenses for the carrying on of any business within said city on which the state exacts a license tax; to establish and regulate markets and to prescribe the time for holding the same, and what shall be sold in such market, and to let stalls or apartments and regulate the same; to acquire and hold property for market purposes; to regulate the placing of signs, billboards, posters and advertising on or over the streets, alleys, sidewalks and public grounds of said city; to preserve and protect the peace, order and safety and health of the city and its inhabitants, including the right to regulate the sale and use of cocaine, morphine, opium and poisonous or dangerous drugs; to appoint and fix the place of holding city elections; to erect, own, lease, authorize or prohibit the erection of gas works, electric light works or water works, ferry boats, in or near the city, and to operate the same, and to sell the product of services therefrom and to do any and all things necessary and incidental to the conduct of such business; to build, hold, purchase, own and operate toll bridges; to enter into an agreement with the County of Kanawha, whereby the council and the county court of Kanawha County shall have the power and authority to provide for a full time health officer in charge of all the general health and sanitation activities and of the enforcement of all laws and regulations relating to public health, in the City of Charleston, the County of Kanawha, and to provide for necessary assistants, nurses, clerks and other employees, and the expenses of the administration thereof, and to provide for a proper division of all such expenses between the city and county, and make all needful rules and regulations to fully carry into effect the said joint undertaking between the City of Charleston and the County of Kanawha; to provide for the purity of water, milk, meats and provisions offered for sale in said city, and to that end provide for a system of inspecting the same and making and enforcing rules for the regulation of their sale; and to prohibit the sale of any unwholesome or tainted milk, meats, fish, fruit, vegetables, or the sale of milk, containing water or other things not constituting a part of pure milk; to provide for inspecting dairies and slaughter houses, whether in or outside of the city, where the milk and meat therefrom are offered for sale within said city, and to prohibit the sale of any articles deemed unwholesome, and to condemn

the same or destroy or abate it as a nuisance; to provide for the regulation of public processions so as to prevent interference with public traffic, and to promote the good order of the city; to prescribe and enforce ordinances and rules for the purpose of protecting the health, property, lives, decency, morality, cleanliness and good order of the city and its inhabitants and to protect places of divine worship in and about the premises where held, and to punish violations of all ordinances, although the offense under and against the same shall also constitute an offense under the laws of the State of West Virginia or the common law; to provide for the employment and safe keeping of persons who may be committed in default of payment of fines, penalties or costs under this act [this Charter], who are otherwise unable to discharge the same, by putting them to work for the benefit of the city upon the streets or other places in or out of the city provided by said city, and to use such means to prevent their escape while at work as the council may deem expedient; and the council may fix a reasonable rate per day as wages to be allowed such persons until the fine and costs against him [them] are thereby discharged; to compel the attendance at public meetings of the members of the council; to have and exercise such additional rights, privileges and powers as are granted to municipalities by chapter forty-seven [now chapter 8, the Municipal Code of West Virginia] of the Code of West Virginia as amended.

For all such purposes, except that of taxation and for purposes otherwise limited by this act [this Charter], the council shall have jurisdiction for one mile beyond the corporate limits.

And the council shall have the right to establish, construct and maintain public markets, landing ferries, wharves, parking places and docks on any ground which does or shall belong to said city, or which it shall acquire, by purchase or otherwise, and to sell, release, repair, alter or remove any public markets, landings, ferries, wharves, dikes, buildings or docks which have been or shall be so constructed, and to levy and collect reasonable duty on vessels and other craft coming to or using said landings, ferries, wharves, dikes, docks, parking places and buildings, and to preserve and protect the peace and good order at the same, and regulate the manner in which they shall be used; and to have the sole right, under state laws and in the same manner as now control county courts, to establish, construct, maintain, regulate and control all such wharves, docks, ferries and landings within the corporate limits of said city.

To carry into effect these enumerated powers and all other powers conferred upon said city expressly or by implication in this and other acts of the legislature, the council of said city shall have the power in the manner herein prescribed, to adopt and enforce all needful orders, rules and ordinances not contrary to the laws and constitution of this state; and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment in the city lock-up, jail or stationhouse, and to work prisoners found guilty, as the coun-

cil may prescribe, and market the products of such labor, and with the consent of the county court of Kanawha County, entered of record, shall have the right to use the jail of said county for any purpose necessary to the administration of its affairs. (Acts 1929 (Munl. ch.), ch. 4, § 7.)

For constitutional provisions as to taking of private property for public use, see Const. W. Va., art. III, § 9. As to municipal home rule, see Const. W. Va., art. VI, § 39. For state law relating to municipalities, being the Municipal Code of West Virginia, see W.Va. Code, ch. 8. As to general powers of municipalities and their governing bodies, see W. Va. Code, §§ 8-11-1 et seq., and 8-12-5.

For a case citing this section and holding that where a statute confers power upon a municipal corporation to be exercised for the public good, the exercise of the power is not merely discretionary, but imperative, and the words "the council shall have power to" mean duty and obligation, see Broun v. Charleston, 116 W. Va. 51, 178 S.E. 597 (1935), approving Cavender v. City of Charleston, 62 W.Va. 654, 59 S.E. 732.

*For a case holding that the words of this section "***to provide for and regulate the safe construction, inspection and repairs of all public and private buildings, *** to regulate the height, construction and inspection of all new buildings hereafter erected, and the alteration and repair of any buildings already erected or hereafter erected in said city, and to require permits to be obtained for such buildings and structures, and plans and specifications thereof to be first submitted to the building inspector;" did not confer authority upon the city to enact a building code or a zoning ordinance which could be applicable to a building constructed by the state office building commission, created by chapter 43, Acts of the legislature, 1939, on property purchased under the general appropriation act, contained in chapter 9, Acts of the legislature, 1949, see Charleston v. Southeastern Con. Co., 134 W. Va. 666, 64 S.E. 2d 743 (1950).*

For a case holding that where the city council had enacted an ordinance vacating certain streets in a subdivision, pursuant to authority set out in W. Va. Code, § 8-12-5, subsec. (1), and the words of Char., § 7, ".... to lay off, vacate,

close....for the use of the public....", to entitle a property owner to certiorari to review the action of the city council in vacating and closing a street, the petitioner must allege that his property abuts on that part of the street vacated, or that he will suffer special or peculiar damage or inconvenience not common to all, see Barker v. City of Charleston, 134 W. Va. 754, 61 S.E. 2d 743 (1950).

*For a case holding that the provisions: "The council of said city shall have, and is hereby granted power*** to establish fire limits and to provide the kind of buildings and structures that may be erected therein, and to enforce all needful rules and regulations to guard against fire and danger therefrom; *** to prevent injury or annoyance to the business of individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated all nuisances; *** to regulate or prohibit the keeping of gunpowder and other combustible or dangerous articles; *** to organize and maintain fire companies and departments and to provide necessary apparatus, engines and implements for the same, and to regulate all matters pertaining to the prevention and extinguishment of fires; to make proper regulations for guarding against danger and damage from fires, water or other elements; *** to promote the general welfare of the city, and to protect the persons and property of citizens therein; ***," and other provisions similar to provisions of this section, but contained in a prior city charter, were sufficient authority for the city council to enact an ordinance regulating the keeping, storage or transportation of gasoline or other explosives, including dangerous oils, see State ex rel Oil Service Co. v. Stark, 96 W. Va. 176, 122 S.E. 533 (1924).*

For a case holding that certain language of section 7 of prior city Charter, i. e.: "The council of said city shall have, and is hereby granted power ....to punish violations of all ordinances, if the offenses under and against the same shall also constitute offenses under the laws of the State of West Virginia or the common law; ....to carry into effect these enumerated powers and all other powers conferred upon said city expressly or by implication in this and other acts of the

Legislature, the council of said city shall have the power, in the manner herein prescribed, to adopt and enforce all needful orders, rules and ordinances not contrary to the laws and Constitution of this state; and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment in the city lock-up, jail or station house," [compare with section 7 of present city Charter] granted authority to the city council to enact an ordinance which prescribed penalties in excess of those prescribed by state law for a similar offense, see State v. Wertz, 91 W. Va. 622, 117 S.E. 242, 29 A.L.R. 391 (1922).

For a case construing certain language of section 7 of prior city Charter [identical to language contained in section 7 of present city Charter]: "The council of said city shall have, and is hereby granted power....to pass ordinances to protect and preserve the health, property, lives, decency, morality, cleanliness, and good order of the city...." to include within its terms authority to pass an ordinance prohibiting work or labor on the Sabbath Day, see State v. Wertz, supra, cited with approval in McGowan v. State of Maryland, 366 U.S. 420 (at page 497), 66 L. Ed. 393, 81 S.Ct. 1153(1961).

For a case construing a section of a prior city Charter which, in language differing from that contained in this section, also granted authority to the city council to establish building lines, and holding that an ordinance establishing a building line on a certain street and inhibiting owners of abutting land from encroaching thereon, based on merely aesthetic considerations, is not within the police power and is unenforceable as a police regulation, see Fruth v. Board of Affairs, 75 W. Va. 456, 84 S.E. 105 (1915).

Sec. 7-a. Authority of council, municipal judge, circuit and common pleas courts and judges relating to city licenses.

The council of the City of Charleston shall have full discretion in the matter of granting, refusing and revoking licenses for keeping hotels, eating houses and restaurants, garages, taxi-cab stands, bowling alleys, pool and billiard tables and like tables, and for selling soft drinks, as in the case of other licenses, and shall supervise, regulate and control all places licensed for said purposes, and the municipal judge shall have jurisdiction when such city license and regu-

lation is sought to be evaded and may prevent such evasion, provided, that no such license, regulation or control shall apply to any fraternal beneficiary society permitted under the state laws. The council shall make no provision for the licensing of automobiles or other motor vehicles, except that in the case of motor vehicles used in the transportation of passengers or property for hire the council may require from the owner or operator of any such vehicle a bond, with sureties, and in such penalty, and with such conditions as it may deem proper. The council shall have power to enact and enforce proper ordinances for the purpose of carrying into effect the powers hereby granted.

If any person fails or refuses to secure a license or to pay any license tax due the city, or fails to obtain a permit to do anything for which a permit is required by ordinance, in addition to all other penalties and remedies provided by the ordinances of the city, the circuit court of Kanawha County and the court of common pleas of Kanawha County, or the respective judge thereof, in vacation, upon application in the name of the city or of any officer of the city, shall grant an injunction, inhibiting such person from continuing the business until the full amount of the license tax and penalty prescribed by the ordinance and due the city is paid, or until the person has obtained the license or permit as required by any ordinance. (Acts 1929 (Munl. ch.), ch. 4, § 7-a.)

For state law as to authority of city to require a city license for anything for which a state license is required, unless prohibited by general law, and to impose a reasonable tax thereon not in excess of state tax, see W.Va. Code, § 8-13-4, as modified by W. Va. Code, § 11-12-4.

Sec. 7-b. Regulation of operation of motor vehicles.

The council of the City of Charleston is hereby granted power, in addition to the powers heretofore granted it, to regulate by ordinance the operation of motor vehicles and other vehicles in said city, and the speed at which the same may be driven, and to provide for the punishment of violations of such ordinances; and said council is given specific authority to punish the violation of ordinances relating to the speed of such vehicles, or the operation thereof, by impounding or taking possession of such vehicles and retaining the same for such time as may be prescribed by ordinance not to exceed thirty days. (Acts 1929 (Munl. ch.), ch. 4, § 7-b.)

For state law as to powers of local authorities, see W.Va. Code, § 17C-2-8.

Sec. 8. Persons entitled to vote.

Every person qualified by law to vote for members of the legislature of this state (and who shall have been a resident of said city for sixty days preceding the day of election, of the ward in which he offers to vote at least ten

days preceding such day and a bona fide resident of the election precinct in which he offer to vote) shall be entitled to vote at all elections held in said city by or under the authority and control thereof. (Acts 1929 (Munl. ch.), ch. 4, § 8.)

Editor's note.--Acts 1972, Ex. Sess., ch. 1, amended W.Va. Code, § 3-1-3, as to persons entitled to vote at state elections, by deleting the requirement for sixty days residence in the county or municipality in which he offers to vote; and such requirement is no longer applicable to city elections under this section of the Charter.

Sec. 9. Boundaries of voting precincts; registration books; registering voters; transfer from one precinct to another; duties of county court.

Voting precincts in the several wards for the city election shall be the same as to boundaries as those fixed by the county court for all state and county elections. The county clerk of Kanawha County shall carefully preserve in his office, registration books of each general state and county election for all of the precincts of the City of Charleston, and the original of said books shall be used as the registration for all regular and special city elections, with such corrections as are herein provided for. Said registration books shall never be out of the possession and control of the county court of Kanawha County, or the clerk thereof, except as hereinafter provided:

The county court of Kanawha County shall sit on the three last Saturdays and the last Monday next preceding any regular election or primary in said City of Charleston for the purpose of registering voters who have not been already registered in the various precincts, and for transferring voters from one precinct to another which shall be done, upon a proper showing, by striking the name of the voter from the registration book in which it appears, and placing the same upon the registration book of the precinct in which the voter is entitled to vote, and no other way, and for striking off the name of any voter from the registration books when it shall be shown to the satisfaction of said court that such person is no longer a voter in said city, and said court shall also strike from such registration books the name of any person known or proved to them to be dead. It shall be the duty of the clerk of said city to give notice of the time and place of the sitting of said court by publication in two newspapers of opposite politics printed and circulated in said city, once a week for four successive weeks before any such municipal election or primary. The clerk of the county court of Kanawha County shall transfer on the registration books the names of such voters as present themselves to him, in person, during such days preceding any municipal election after the first Saturday on which the county court sits, as above provided. The two major political parties, through the chairman of their respective municipal executive committees, may appoint challengers to

be present at the office of the clerk of said county court on the days when the said clerk is herein authorized to make transfers, but said clerk's decision in the matter shall control. (Acts 1929 (Munl. ch.), ch. 4, § 9; 1933, Reg. Sess., ch. 117.)

For state law as to integration of municipal elections with system of permanent registration, see W. Va. Code, § 8-5-13. As to arrangement and filing in county clerk's office of registration records to be used in municipal elections, see W. Va. Code, § 3-2-15.

Sec. 9-a. Special registrars; compensation of county court and clerk; delivery of registration books to city clerk; return to clerk of county court.

No special registrars shall be appointed for any municipal election or primary and the county court of Kanawha County and the clerk thereof shall receive nothing for their services as required by this and the last preceding section.

On the day prior to any municipal election or primary the clerk of said county court shall deliver to the city clerk of said City of Charleston all original registration books used in the last general county and state election, as corrected by the county court of said county, and the clerk of said city shall send the same to the various precincts of said city, as provided by law. After said registration books are delivered to said clerk of said city, no person shall add to the same any name, nor erase therefrom any name, and any person found guilty of either adding or erasing one or more names shall be guilty of a felony and confined in the penitentiary not less than one, nor more than five years. As soon as may be possible after the holding of any such municipal election or primary said original registration books shall be returned by the clerk of said city to the clerk of the county court of Kanawha County, West Virginia, who shall carefully preserve all of said registration books for such use as is required by law. (Acts 1929 (Munl. ch.), ch. 4, § 9-a; 1933, Reg. Sess., ch. 117.)

For state law as to integration of municipal elections with system of permanent registration, see W. Va. Code, § 8-5-13. As to arrangement and filing in county clerk's office of registration records to be used in municipal elections, see W. Va. Code, § 3-2-15.

Sec. 10. Nomination of candidates.

Candidates to be voted for at municipal elections may be nominated by convention, or primary election, as may be decided by the executive committees of any of the parties recognized by law in said city, and candidates may be nominated by petition in the manner provided by chapter three of the Code of

West Virginia. Each of the political parties having the right to make a nomination under the election laws of West Virginia shall give notice of the manner of such nomination by publication thereof in some daily newspaper printed in the City of Charleston for ten days prior to the date of such convention or primary election. (Acts 1929 (Munl. ch.), ch. 4, § 10.)

For state law as to municipal political party executive committees and municipal primary elections, see W. Va. Code, § 8-5-14.

For a case holding that a political committee within the purview of this section had the power and authority to rescind, abrogate or alter, at a subsequent meeting, what it did at a previous one, before "consumption" [consummation?], in the absence of a statutory provision inhibiting such action; and that where relator announced his candidacy for the nomination for mayor in reliance upon the executive committee of his party having by resolution set a primary election date and the city council had then enacted an ordinance providing for a primary election to be held on that date and had thereupon appointed election officials for such primary, he did not attain a vested interest in such primary, and that a subsequent resolution of the party executive committee annulling its prior resolution and provided instead for a convention to be held, relator's petition for mandamus to compel the holding of a primary election would be denied, see Reynolds v. Fielder, 110 W. Va. 240, 157 S.E. 597 (1931).

Sec. 11. When county and city voting precincts to be the same; how elections to be held.

Whenever the county court of Kanawha County shall arrange the voting precincts in the City of Charleston for state and county elections, according to the lines of the city wards, then such precincts with the same boundaries and the same voting places as provided for such state and county elections shall be the precincts for all city elections. Except as may be otherwise provided, by this act [this Charter], all city elections shall be held by the council and the officers therefor appointed in the way and manner prescribed in chapter 3 of the Code of West Virginia, but no double election boards shall be appointed for any city election. (Acts 1929 (Munl. ch.), ch. 4, § 11.)

Sec. 12. Law governing preparation of ballot and method of voting.

The preparation of the ballot and the method of voting and all other requirements of chapter 3 of the Code of West Virginia, except as changed or modified

by this act [this Charter], shall govern all city elections held under the provisions hereof. (Acts 1929 (Munl. ch.), ch. 4, § 12.)

Sec. 13. The council--Title; how constituted.

The City of Charleston shall have a council, which shall be known and styled as the "Council of the City of Charleston" and shall consist of one resident of each of the wards of the city, and five councilmen to be voted for by all the voters of said city, all of whom shall be nominated, voted for and elected in the manner herein provided. (Acts 1929 (Munl. ch.), ch. 4, § 13.)

Editor's note.--Since enactment of this section by the legislature in 1929, section 4 of the Charter was amended in 1966 so as to provide for one councilman from each ward and six councilmen at large.

For state law as to election of mayor and councilmen, see W. Va. Code, § 8-5-7.

Sec. 14. Same--Qualifications; vacancies.

Only citizens entitled to vote and residents and voters of their respective wards and having the proper qualifications hereinbefore provided shall be eligible to be elected to the office of councilmen [councilman] from their respective wards and at large, and each councilman so elected from a ward shall continue to be a resident of the ward from which he is elected during his entire term of office.

At the election to be held on the third Monday in April, 1931, there shall be elected one member of the council from each ward and five members of the council from the city at large. If any person elected to council fails to qualify within twenty days after he is declared elected, or resigns as a member of the council, or ceases to be a resident of the ward from which he is elected, then his office shall thereby be vacated and the council shall fill such vacancy by the election of some qualified person for such unexpired term. No person shall be declared elected by the council unless he receives the votes of at least a majority of the members elected thereto and the minutes of such meeting shall show that fact. (Acts 1929 (Munl. ch.), ch. 4, § 14.)

Editor's note.--There are now six councilmen elected at large instead of five, see Char., § 4. As to election and term of elective officers after the year 1931, see Char., § 35.

Sec. 15. Same--Mayor; clerk; president pro tempore.

The mayor shall be the presiding officer of the council and be a member thereof, with the right to vote on all questions the same as any other member of

said council, and the city clerk shall be ex officio clerk of the council, and the mayor and city clerk shall each perform such other duties as the council may require of them. The council shall, at its first meeting after each election, select one of its body as president pro tempore, who shall in the absence of the mayor, preside as chairman of the meeting of the council, and in the absence of both the mayor and president pro tempore at any meeting of the council, some member of the council shall be elected to preside over such meeting. (Acts 1929 (Munl. ch.), ch. 4, § 15.)

For state law as to presiding officer of municipal council, see W. Va. Code, §§ 8-9-1, 8-9-2.

Sec. 16. Same--Representation of new ward.

Whenever by the extension of the corporate boundaries of the city a new ward is created as part of the city, such new ward shall have representation in the city council and within thirty days after the act creating such new ward takes effect, the council shall proceed to elect one qualified resident thereof, as a member of said council, to hold office until the next general city election. (Acts 1929 (Munl. ch.), ch. 4, § 16.)

For state law as to annexation of territory by municipalities, see W. Va. Code, § 8-6-1 et seq.

Sec. 17. Same--Exercise of legislative functions; information, etc., from officers and employees.

The council shall exercise all of the legislative functions of the city government and shall have the right to demand of any city official, or employee, information, explanations, facts, details, correspondence, or other papers affecting the city's interest; and it shall be malfeasance and neglect of duty for any such official or employee to fail or refuse to comply with such demands. (Acts 1929 (Munl. ch.), ch. 4, § 17.)

For state law as to powers of municipal governing bodies generally, see W. Va. Code, §§ 8-11-1 et seq., and 8-12-5.

Sec. 18. Audit of books and accounts.

The council shall by proper ordinance provide for the auditing of all the books and accounts of the city at least once in each year, and shall employ a reputable certified public accountant for such purpose, and such audit shall show the complete financial condition of the city at the time thereof and the receipts and disbursements of all moneys during such year. The council may also provide by ordinance for the publication of the report of the accountant on the financial condition of the city at least once in each year, and such report of

the accountant shall be spread upon the records of the council and be a public record for all purposes. (Acts 1929 (Munl. ch.), ch. 4, § 18.)

Sec. 19. Removal of officers by council or by circuit court of Kanawha County, or by officers having appointment authority.

Any member of the council, and any city official, either elected or appointed, may be removed from his office by the council for any of the following causes: Official misconduct, incompetence, habitual drunkenness, neglect of duty, or gross immorality. The charges against any such officer shall be reduced to writing and entered of record by the council, and a summons shall thereupon be issued by the city clerk containing a copy of the charges and requiring the officer named therein to appear and answer the same on a day to be named therein, which summons may be served in the same manner as a summons commencing an action may be served, and the service must be made at least five days before the return day thereof, and it shall require the affirmative vote of two-thirds of all the members elected to council to remove any such official. The circuit court of Kanawha County shall have concurrent jurisdiction with the council to try, hear and determine any proceedings for the removal of any city official for any of the causes herein mentioned.

The mayor, or any other city official having the power of appointment, shall have the absolute right in his discretion to remove any of his appointees and appoint another qualified person in his place, but such removal shall be in writing and served upon said official so removed, and all the rights and powers of such official shall cease and end from the time of such service. (Acts 1929 (Munl. ch.), ch. 4, § 19.)

Sec. 20. Rules and regulations for government of council; record of meetings.

The council shall make proper rules and regulations for its own government and the conduct of its business, which rules shall not be contrary to, or inconsistent with, any of the provisions of this act [this Charter], and such rules shall be duly entered of record and shall be published by the council in any municipal code or other publication made by the council of this act and the ordinances of said city. The council shall cause a record of its meetings to be kept and recorded by the city clerk in a well bound book provided by the council for that purpose, which book shall remain in the custody and at the office of the city clerk, and all the books containing the proceedings of former councils or other governing bodies of the City of Charleston, shall likewise remain in the custody and be kept at the office of the city clerk, and all such books and all city records shall at reasonable hours and in a reasonable manner be open to the inspection of the public. (Acts 1929 (Munl. ch.), ch. 4, § 20.)

• *For state law as to proceedings of municipal governing bodies, see W. Va. Code, § 8-9-1 et seq. As to powers and duties of recorders, see W. Va. Code, § 8-10-3. As to authority of municipal*

governing bodies to adopt rules for the transaction of business, etc., and to conduct investigations, see W. Va. Code, § 8-12-5, subsecs. (45) and (48).

Sec. 21. Regular meetings of council.

The council shall hold regular meetings on the first and third Mondays of each month, and the hour and place of such meetings shall be fixed by the council in the rules adopted by it. (Acts 1929 (Munl. ch.), ch. 4, § 21.)

Sec. 22. Special meetings of council.

Special meetings of the council shall be held when called by the mayor or ten members thereof. In either case, the call therefor shall be in writing and signed by the mayor or members issuing it, and shall state the time, place and business to be considered thereat, and a copy thereof shall be served upon each member of the council then in the city, and also be published on two successive days in two daily newspapers printed and circulated therein. No business, other than that stated in such call, shall be considered at such meeting. (Acts 1929 (Munl. ch.), ch. 4, § 22.)

Sec. 23. Council procedure for contested elections, and right of appeal to circuit court.

All contested elections shall be heard and determined by the council and such contests shall be made and conducted in the same manner as provided for in the case of contests for county and district officers; and the council shall conduct its proceedings in such cases as nearly as practicable in conformity with the proceedings of the county court in such cases, and there shall be the same right of appeal, in the same way, to the circuit court of Kanawha County. (Acts 1929 (Munl. ch.), ch. 4, § 23.)

For state law as to contested municipal county and district elections, see W. Va. Code, §§ 3-7-6 through 3-7-9; and, see also, as to contested municipal elections, W. Va. Code, § 8-5-17.

Sec. 24. Oath of officers; how and within what time officers must qualify; failure to qualify vacates office.

All officers elected and appointed shall take an oath, before some one authorized to administer oaths, that they will support the Constitution of the United States, the Constitution of this state, and will faithfully and impartially discharge the duties of their respective offices to the best of their skill and judgment; that they are not and will not during their term of office, in any way or manner become pecuniarily interested directly or indirectly in any contract with the city, in any franchise granted by it, or in the purchase of supplies

therefor. When the officer shall have made such oath in writing and filed the same with the city clerk and shall have given the bond required of him, he shall be considered as having qualified for the office to which he was elected or appointed; provided, that if any person so elected or appointed shall not qualify for said office as herein prescribed, within twenty days after he shall have been officially declared elected or appointed thereto, said office shall ipso facto become vacant, and said vacancy shall be filled in the same manner as other vacancies therein are provided for in this act [this Charter]. (Acts 1929 (Munl. ch.), ch. 4, § 24.)

For state law as to oath of municipal officers, see W. Va. Code, § 8-5-8.

Sec. 25. Bonds of officers and employees; record of bonds.

The mayor, manager, city clerk, municipal court clerk, treasurer, city solicitor, city collector, municipal judge, health commissioner, chief of police and chief of fire department, each shall, before entering upon the discharge of their respective duties, give an official bond, conditioned for the faithful performance of such duties as are prescribed in this act [this Charter] or any ordinance now or hereafter passed, in amounts as follows: The mayor, one thousand dollars; manager, ten thousand dollars; city collector, ten thousand dollars; the treasurer, sixty thousand dollars; the city clerk, municipal court clerk, municipal judge and city solicitor, three thousand dollars, respectively; health commissioner, chief of police and chief of the fire department, one thousand dollars, respectively.

The council may require additional bond from any of said appointive officers, and may likewise require bond, in whatever sum they may fix, of any other appointive officer or employee. All bonds of officers or employees shall, before their acceptance, be approved by the council. The minutes of the meeting of council shall show all matters touching the consideration or approval of all bonds, and when said bonds are approved and accepted, they shall be recorded by the city clerk in a well bound book kept by him at his office for that purpose, which book shall be open to public inspection; and the recordation of such bonds as aforesaid shall be prima facie proof of their correctness, and they, as so recorded, as well as copies thereof duly attested by the city clerk under the seal of the city, shall be admitted as evidence in all courts of this state. The city clerk shall be the custodian of all bonds, except that given by him, and as to it, the city treasurer shall be custodian. All bonds, obligations or other writings taken in pursuance of any provisions of this act [this Charter], shall be made payable to "the City of Charleston," and the respective persons, and their heirs, executors, administrators and assigns bound thereby shall be subject to the same proceedings on said bonds, obligations and other writings, for the purpose of enforcing the conditions of the terms thereof, by motion or otherwise, before any court of record held in and for the County of Kanawha, that collectors of county levies and their sureties are or shall be subject to on their bonds for enforcing the payment of the county levies. (Acts 1929 (Munl. ch.), ch. 4, § 25.)

Sec. 26. Quorum of council; compelling attendance of absent members.

A majority of the whole number of members elected to the council shall be necessary for the transaction of business, but a smaller number may adjourn from time to time and may compel the attendance of absent members, in such manner and under such penalties as it may by rules provide. (Acts 1929 (Munl. ch.), ch. 4, § 26.)

For state law as to quorum of a municipal governing body, see W. Va. Code, § 8-9-1.

Sec. 27. Voting in council and recording of votes.

Unless otherwise herein provided, the vote upon any question or motion before the council may be viva voce when unanimous; but if the question or motion does not receive the unanimous vote of the members present, the vote shall be taken by roll call of the members and made a part of the minutes of the meeting, and when the vote is unanimous the minutes shall so state. (Acts 1929 (Munl. ch.), ch. 4, § 27.)

For state law as to voting in council and minutes of proceedings, see W. Va. Code, § 8-9-3.

Sec. 28. City clerk is ex officio clerk of the council; council minutes and admissibility thereof in evidence.

The city clerk shall be ex officio clerk of the council and shall keep detailed minutes of its meetings and proceedings in a well bound book for that purpose, which shall remain in the custody of the city clerk at his office and open to public inspection. The minutes of every meeting after being corrected, shall be signed by the mayor and city clerk, and, if thus recorded and signed, they shall be admitted as evidence in any court of record in this state. (Acts 1929 (Munl. ch.), ch. 4, § 28.)

For state law as to council records and minutes of proceedings, see W. Va. Code, § 8-9-3. As to duty of municipal recorders to keep the journal of proceedings of governing body, see W. Va. Code, § 8-10-3.

Sec. 29. Holding two offices.

No officer of the city shall hold two offices with the city at the same time, or be employed by the city in any other capacity, without first having the consent of the council. (Acts 1929 (Munl. ch.), ch. 4, § 29.)

Sec. 30. Failure of mayor or other officer to make appointments.

Whenever the mayor or other officer shall fail to make any and all appointments under him, or required to be made by him, for a period of thirty days from the time such appointment should have been made, his office may be declared vacant by the council, and his successor appointed, in the manner herein provided. (Acts 1929 (Munl. ch.), ch. 4, § 30.)

Sec. 31. Vacancy in office of mayor or treasurer; vacancy in office of appointive officer; officers hold office until successors qualified, unless previously removed.

Whenever a vacancy for any cause whatever shall occur in the office of mayor or treasurer, the council shall elect some qualified person to fill said vacancy until the next city election, and until his successor shall have been elected and qualified; and when such vacancy shall occur in the office of any appointive officer, his successor shall be appointed by the person making the original appointment, or his successor in office, as hereinbefore provided, and all elective and appointive officers of said city shall hold their respective offices until their successors are elected, or appointed, and qualified, unless sooner removed. (Acts 1929 (Munl. ch.), ch. 4, § 31.)

As to filling vacancy in office of municipal judge, see Char., § 94.
For state law as to filling vacancies in elective municipal offices, see W. Va. Code, § 8-5-10. As to holding office until successor elected or appointed and has qualified, see W. Va. Code, § 8-5-9.

Sec. 32. Corruption in office.

Any member of council or any officer of, or connected with, the city government pursuant to any law of this state or ordinance of the city now or hereafter passed, who shall, in his official capacity or under color of his office, knowingly or willfully, or corruptly vote for, assent to or report in favor of, or allow, or certify for allowance, any claim or demand against the city, which claim or demand shall be on account or under color of any contract or agreement not authorized by or in pursuance of the provisions of this act [this Charter], or the ordinances of the city, or any claim or demand against the city and which claim or demand or any part thereof shall be for work not performed for and by authority of said city, or for supplies or materials not actually furnished thereto pursuant to law or ordinance, and every such member or officer as aforesaid who shall knowingly vote for, assent to, assist or otherwise permit, or aid in the disbursement or disposition of any money or property belonging to the city to any other than the specific use or purpose for which such money or property shall be or shall have been received or appropriated or collected or authorized by law to be received, appropriated or collected, shall, upon conviction

thereof, be punished by imprisonment in the county jail for a period of not less than sixty days nor more than one year or by fine of not less than five hundred dollars, nor more than two thousand dollars, or by both. But the council shall pay any just obligations made by the city and keep and perform all contracts, agreements and obligations made under the law as it was the day before this act goes into effect [this Charter became effective on 6 March, 1929], and for which and on which the city is liable or obligated. (Acts 1929 (Munl. ch.), ch. 4, § 32.)

Sec. 33. Power of council to compel attendance of witnesses and production of records, administer oaths and punish for contempt.

The council in the exercise of its powers and the performance of its duties, as prescribed by this act [this Charter], and by the laws of the state, shall have the power to enforce the attendance of witnesses, the production of books and papers, and the power to administer oaths in the same manner and with like effect, and under the same penalties, as notaries public, justices of the peace, and other officers of the state authorized to administer oaths under state laws; and said council shall have the power to punish for contempt as is conferred on county courts by section 13 of chapter 39 of the Code. [The provisions of Barnes' W. Va. Code Annotated, 1923, ch. 39, § 13, are now contained in W. Va. Code, § 7-1-6.] All process necessary to enforce the powers conferred by this act on the council shall be signed by the mayor (or acting mayor), and may be executed by any member of the police force. (Acts 1929 (Munl. ch.), ch. 4, § 33.)

Sec. 34. Absence or inability of certain officers to perform duties.

Whenever for any reason the mayor shall be absent from the city, or unable to attend to the duties of his office temporarily, the president pro tempore of the council shall perform them during such absence or inability, and in the absence or inability of the manager to attend to the duties of his office temporarily, the mayor shall designate someone to perform such duties, provided, that such temporary absence or inability shall not exceed thirty days, but if such absence or inability shall exceed thirty days, then such appointment or designation shall be submitted to the council, for confirmation or rejection. In the absence or inability of any other appointive city official to perform the duties of his office, the person or body making the original appointment, or his successor in office, shall designate someone to fill such office temporarily, or if such absence or inability extends over a period of sixty days, he may appoint someone to fill such office permanently. (Acts 1929 (Munl. ch.), ch. 4, § 34.)

Sec. 35. Election and term of office of elective officers; salary of mayor; appointments by mayor; appointment of city clerk; appointments by manager; term of appointive officers; duties of mayor and city solicitor; salary of solicitor; fees.

The mayor, members of council, municipal judge and treasurer elected

on the third Monday in April, 1927 shall hold office until the first Monday in May, 1931, and their successors shall be elected on the third Monday of April, 1931, and at intervals of four years thereafter, and their terms of office shall begin on the first Monday of May after their election. The mayor's salary shall not be less than three thousand nor more than five thousand dollars per annum. The municipal judge elected on the third Monday in April, 1927 shall continue to hold office as the municipal judge until the first Monday in May, 1931.

For state law providing that, "notwithstanding any charter provision to the contrary," the governing body of every municipality shall by ordinance fix the compensation of every municipal officer and employer; provided, that the salary of an officer shall not be increased or diminished during his term of office, see W. Va. Code, § 8-5-12.

The mayor shall appoint the city solicitor, an assistant city solicitor, the chief of police, humane officer or officers, building inspector, collector, city auditor, engineer, health commissioner, lockup keeper, municipal court clerk, and the chief of the fire department, and these appointments shall not require any confirmation by the council but shall be made at the discretion of the mayor, who shall, with like discretion, have the full and complete power of removal thereof. The mayor shall appoint the manager, by and with the advice and consent of the council. The council shall, either at a regular or special meeting called for that purpose, pass upon such nomination and either confirm or reject the same, and if such nomination is rejected, then the mayor shall submit to the council a further nomination of some other person or persons until the nomination is confirmed by council, for said office of manager, but it shall be the duty of the council to pass upon all nominations without unreasonable delay; and in any event within two weeks after the submission of the same, and the failure of members of the council to pass thereon within such time shall be cause for the removal from office of such members of the council as shall have refused to act thereon.

The council shall appoint a city clerk. The manager shall appoint or employ such persons as the ordinances of the city may require or the council may authorize by proper resolution. All such officers shall be appointed for the term of four years and until their successors are appointed and qualified, unless they are removed in the way and manner in this act [this Charter] provided.

It shall be the duty of the mayor to attend all meetings of the council and preside over that body.

It shall be the duty of the mayor to see that all of the laws and ordinances of the city are enforced and he shall have a general oversight over the peace, health and good order of the city.

The duties of the city solicitor or assistant city solicitor shall be to attend the sessions of council [and] to prosecute all suits in behalf of the city and defend all suits against the city, to advise the council and all of the departments of the city and in general to look after the interests of the city when it shall need legal services. The salary of the solicitor shall be not less than three thousand nor more than five thousand dollars per annum.

All fees of every kind collected by any officer or employee, including the municipal judge when acting as a justice, shall be paid to the city treasurer. (Acts 1929 (Munl. ch.), ch. 4, § 35.)

Sec. 36. Appointment, compensation, powers and duties of the manager.

The manager shall be appointed in the way and manner hereinbefore provided and shall receive such salary as council may by ordinance prescribe, provided such amount shall not be less than three thousand nor more than five thousand dollars per annum, and he shall have the right to employ one clerk at such salary as council may fix, and such other help as he may require and as council may from time to time allow.

The manager shall devote his entire time and attention to the duties of his office, and shall have supervision and control of the executive work and management of the heads of all departments under his control as directed by the mayor. He shall make all contracts for labor and supplies, and generally perform all of the administrative work of the city, and such other duties as council may require of him, and shall possess such other powers and perform such other duties as council shall prescribe. (Acts 1929 (Munl. ch.), ch. 4, § 36.)

For state law providing that, "notwithstanding any charter provision to the contrary," the governing body of every municipality shall by ordinance fix the compensation of every municipal officer and employee; provided, that the salary of an officer shall not be increased or diminished during his term of office, see W. Va. Code, § 8-5-12.

Sec. 37. Franchises--Granting; requirements and limitations governing; vote of council required.

Franchises or permits granting the right of occupancy of any portion of the streets or alleys for works of public utility or other use, or granting any right or privilege, which the city has the power to grant to individuals, firms or corporations, in order that the latter may serve the public, may be made only upon the following restrictions and conditions: Such franchises, rights and privileges shall be granted only by ordinance duly passed by the council.

No grant of any such franchise shall be made without, at the time of making it, providing that the grantee shall indemnify the city against all damages caused by construction, maintenance or operation of such works. Additional provisions and conditions shall be made for the protection of the public against damage or inconvenience by reason of the construction, maintenance or operation thereof.

No grant of a franchise for the extension of or an addition to any line or work of public service through, over or under any additional street or territory of the city, shall be made for a period extending beyond the time limit for the expiration of franchise of the principal work of which it is an extension and if the franchise of the principal work is one granted before this act [this Charter] goes into effect and not limited as to time, any franchise granted for an extension or addition thereto shall nevertheless be made subject to the conditions thereof, including a time limit for a period not exceeding twenty-five years. All franchises hereafter granted shall embody therein a plainly expressed condition, where the franchise is for work to be useful chiefly to the citizens of the city, that at the expiration of such franchise or certain periods therein mentioned, the grantee shall, if required by the governing body of the city, sell to the city the plant at its actual value, exclusive of any value for the franchise granted by the city or its earning capacity or productive worth, and no exclusive franchise shall be granted.

If the city and the owner of the plant cannot agree upon its worth, then the value shall be ascertained by an impartial arbitration, one arbitrator to be selected by the city, one by such owner of the plant, these two to select a third and the decision of any two to be binding upon both parties, and if they shall fail for a period of thirty days to select such third arbitrator, then either party may apply to the judge of the circuit court of Kanawha County who shall then appoint such third arbitrator.

No franchise shall be granted without the affirmative vote of two-thirds of all the members elected to said council. (Acts 1929 (Muni. ch.), ch. 4, § 37.)

For state law relating to the granting of franchises by municipalities, see W. Va. Code, §§ 8-31-1, 8-31-2. As to requirement that granting of franchise be by ordinance, see W. Va. Code, § 8-11-3.

Sec. 38. Same--Advertisement of application; submission to voters.

When any franchise, permit or license granting the right to use the streets, alleys, or public grounds, shall be applied for, the application or petition shall be advertised in two newspapers, published in said city, thirty days before the same shall be heard and determined by the council; and any ordinance granting such rights and franchises shall, on the petition of ten per cent of the votes cast

for all candidates for the office of mayor at the last preceding election, be submitted to the voters at a special election, for adoption or rejection, which shall be by a majority of the votes cast; said election to be held and conducted as other municipal elections are held; except that all of the expenses of said election shall be borne by the party or corporation desiring said rights and franchise.

All such ordinances shall protect the interests of the city, as provided in section thirty-seven, as well as such additional conditions, compensations or limitations as council may prescribe. (Acts 1929 (Munl. ch.), ch. 4, § 38.)

Sec. 39. Committees of council; adjournment of council meetings; postponement of announcement of vote.

Council shall have the right to appoint such committees of its own body as it may deem proper, and may give such committees power and authority to perform any duties and make any reports to council concerning the duties of council, and council may adjourn its meetings from time to time, pending the consideration of any matter, franchise or ordinance, and may postpone the announcement of any vote to an adjourned meeting or to a future meeting. (Acts 1929 (Munl. ch.), ch. 4, § 39.)

Sec. 40. Style of ordinances.

The style of all ordinances enacted by the council shall be "Be it Ordained by the Council of the City of Charleston." (Acts 1929 (Munl. ch.), ch. 4, § 40.)

Sec. 41. Passage of ordinances; revision, reenactment or amendment; effective date; publication of caption or title; resolutions and orders.

No ordinance shall be passed, except by bill, and no bill shall be so amended in its passage as to change its original purpose. All bills must be in writing and read in full when presented at a regular or special meeting of council, and except in case of emergency and when so authorized by a vote of four-fifths of the members elected, taken by yeas and nays, no bill shall be considered for final passage at the meeting at which it is introduced; but at any subsequent regular or special meeting bills may be taken up for consideration and final action. No bill except in case of emergency evidenced by vote of four-fifths of the members of council elected shall be considered for final passage unless the same have been referred to a committee for report. All amendments made by a committee to a bill shall be reported to council and incorporated in said bill, and before final action on said bill, the bill with any amendments shall be fully and distinctly read, after which reading, whether at the meeting at which the bill is reported or a subsequent meeting, the bill may be considered for final action. No bill shall become an ordinance unless on its final passage the vote be taken, the names of the members voting for and against the same be entered of record in the minutes of council, and a majority of all members elec-

ted recorded thereon as voting in its favor. Bills referred to a committee may be withdrawn therefrom at any subsequent meeting for present consideration by an affirmative vote of a majority of the members of council present. No bill except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated, and bills fixing the annual salaries of officers and employees of the city, and bills, providing for the paving or improving of streets, or construction of sewers, shall contain more than one object and that shall be expressed in the title, but if any object shall be embraced in an ordinance which is not so expressed the ordinance shall be void only as to so much thereof as shall not be so expressed. No ordinance shall be revised or re-enacted by mere reference to the title thereof, but the same shall be set forth at length as if it were an original ordinance, nor shall any ordinance be amended by providing that, designated words thereof be stricken out and others inserted in lieu thereof, but the ordinance or sections amended shall be set forth in full as amended. All ordinances in force at the time [March 6, 1929] this act [this Charter] goes into effect, not inconsistent herewith, shall remain in full force until altered or repealed as herein provided, and all rights, actions, prescriptions and contracts of the city not inconsistent therewith shall continue to be valid as if this act had not been passed.

For state law as to powers and duties of municipal governing bodies with respect to ordinances and ordinance procedures, see W. Va. Code, § 8-11-1 et seq.

Any ordinance heretofore passed which may be void on account of failure of council properly to observe any provisions of the Charter of the City of Charleston or ordinances in force at the time said ordinance was passed shall so far as it may affect the validity of any paving or sewer assessments heretofore laid, be in full force and effect until repealed or amended, the same as if legally passed. No ordinance of the council shall take effect until the expiration of five days after its final passage, unless the council shall by a vote of three-fifths of its members elected, taken by yeas and nays, otherwise direct. It shall be the duty of the city clerk to make publication of the caption or title of every ordinance in a newspaper of general circulation in the City of Charleston within five days after its passage, but failure so to do shall not affect the validity of any such ordinance.

For state law providing that, "notwithstanding any charter provision to the contrary," it shall not be necessary, except as provided in the W. Va. Code, to publish a proposed or enacted ordinance in a newspaper, see W. Va. Code, § 8-11-4, subsec. (a).

Resolutions and orders of council other than ordinances may be considered for final passage at the meeting at which they are proposed, and shall, unless otherwise provided therein, be in force and effect from and after their passage. (Acts 1929 (Munl. ch.), ch. 4, § 41.)

Sec. 42. Ordinances to be spread on records of council; "ordinance record"; code of ordinances.

All ordinances passed, shall be spread in extenso upon the records of the council when adopted. The council shall also provide a well-bound book designated as "Ordinance Record," in which shall be copied by the city clerk all ordinances, in the order in which they are passed, which ordinances, when so copied, shall be compared with the originals by the mayor and shall be signed by him when found correct. Such books shall be indexed so as to show in brief form the substance of the ordinance, and shall be received by all courts and justices in this state as evidence, but the council may adopt by ordinance properly designating and describing it, a code of laws and ordinances, which when adopted shall be printed in book form, or said council may designate any committee, or attorney, or the city solicitor to prepare a code of ordinances for the government of the City of Charleston, and said council may by ordinance adopt the code so prepared as a whole, and when said ordinance adopting said code shall have been passed by the council, the said code shall be and become the law and ordinances of said city, and may be printed by order of the council, and the same shall be so received as evidence of what is printed therein, until errors or omissions be affirmatively shown therein. (Acts 1929 (Munl. ch.), ch. 4, § 42.)

For state law requirement that ordinances adopting technical codes by reference be certified by mayor and made a permanent record in office of the recorder (city clerk), see W. Va. Code, § 8-11-4, subsec. (b).

Sec. 43. Officers conservators of the peace.

All persons elected or appointed to the offices named in this act [this Charter] shall be conservators of the peace within said city, and they, and any other officer provided for under this act, may be given authority of police officers by the council. (Acts 1929 (Munl. ch.), ch. 4, § 43.)

Sec. 44. Powers and duties of municipal judge; maximum imprisonment for violation of ordinance; appeal; expense of maintaining persons committed to county jail.

The municipal judge shall be ex officio a justice and a conservator of the peace, and with authority to issue processes for all offenses committed within the police jurisdiction of the City of Charleston, of which a justice of the peace has jurisdiction under state statutes, and for all violations of any city ordinances, and shall have charge of and preside over the municipal court of such city; and may commit persons charged with felony or misdemeanor to jail or take bond for their appearance before the grand jury of the circuit, intermediate or other courts of Kanawha County; he shall keep an accurate record of all his judicial proceedings in said court, showing the style of each case, which

record shall be indexed and numbered. It shall be his duty to hold daily sessions of his said court, Sunday excepted. Before trying any person charged with any violation of any state law or ordinance a warrant specifying the offense or violation charged shall be issued as herein provided and the municipal judge shall render judgment in any case as the law of the state or the ordinance of the city applying thereto may require; he shall also have the power to issue executions for all fines, penalties and costs imposed by him and he may require immediate payment thereof, and in default of such payment, may commit the party so in default to the jail of the City of Charleston or of the County of Kanawha, or other place of imprisonment in said city, until the fine and penalty and costs shall be paid or satisfied, to be employed during the term of imprisonment as hereafter provided, but for violation of any city ordinance the term of imprisonment in any such case shall not exceed thirty days, and in all cases where a person is sentenced to imprisonment or to the payment of a fine of ten dollars or more, such person shall be allowed an appeal from such decision to the intermediate court of said Kanawha County upon the execution of an appeal bond, with surety deemed approved by the said municipal judge or municipal court clerk in a penalty double the amount of the fine and costs imposed by said judge, conditioned that the person proposing to appeal will appear before the intermediate court of Kanawha County on the first day of the next term thereof to answer for the offense wherewith he is charged and not depart thence without leave of the court and to satisfy all costs and fines imposed against him; and in no case shall judgment for a fine of less than ten dollars be given by the municipal judge if the defendant, his agent or attorney object thereto. When the judgment on appeal is against the appellant for any sum of money, judgment shall be rendered by the intermediate court against the appellant and those who signed the appeal bond as surety thereon. Before said municipal judge or clerk shall accept any natural person as surety upon any bond or recognizance under the provisions of this section, such surety shall furnish a certified statement of the clerk of the county court of any county in this state in which such surety owns real estate, and shall also file an affidavit, the form of which may be prescribed by the municipal judge, showing the bonds and recognizances upon which he is then surety and the amount of each bond or recognizance. If the amount of such bond or recognizance, together with other bonds and recognizances as shown by the affidavit aforesaid, exceeds in amount the assessed value of the surety's property as shown by the certificate of the clerk of the county court, of if any such bond or recognizance theretofore given, by such surety be forfeited and unsatisfied, then such surety shall be disqualified; and if any bond or recognizance be accepted and it subsequently appears that the surety thereon is disqualified then such bond shall be declared void by the municipal judge and the person whose appearance in the intermediate court of Kanawha County and whose payment of fine and costs are thereby secured may be forthwith apprehended and held in the city jail until a proper bond or recognizance is given; provided, however, that whenever any surety is offered less than one hour before the county clerk's office is closed or after it is closed, surety shall make an affidavit that he owns real estate in Kanawha County to an assessed value above encumbrances thereon, of at least double the amount of bond required. Any person making or procuring to be made a false statement in any such affidavit, with intent to deceive said municipal judge, shall be guilty of perjury. If such appeal be taken, the warrant of arrest, the transcript of the judgment, the appeal bond and other papers of the case shall be forthwith delivered by

the said judge to the clerk of the intermediate court and the court shall proceed to try the case as upon indictment or presentment and render such judgment, including that of costs, as the law and the evidence may require.

On appeals from said municipal court the intermediate court of Kanawha County shall be governed by the same principles with respect to the forfeiture of bonds and recognizances, and the issuance and execution of capiases and writs of fieri facias as prevail in cases in which the state is a party.

The expense of maintaining persons committed to the jail of the county by such municipal judge shall be paid by the city. The municipal judge shall account for and pay over the amount of all fines collected by him weekly to the treasurer of the city and shall make monthly reports thereof, and of all other matters, pertaining to his office to the council of said city. (Acts 1929 (Munl. ch.), ch. 4, § 44.)

For state law as to justices of the peace, see W. Va. Code, ch. 50. As to criminal procedure, see W. Va. Code, ch. 62.

Sec. 45. Qualifications of municipal judge; not to appear as counsel in criminal cases; absence or inability to perform duties; bond.

The municipal judge shall be an attorney-at-law and shall have attained the age of twenty-eight years at the date of the beginning of his term of service and shall have been a resident of this state for the period of five years and of the City of Charleston previous to the beginning of his term of service for the period of five years. He shall not appear as counsel in any criminal case in any court during his term of service. In the absence of, or in case of the inability of the municipal judge to perform his duties, the municipal court clerk shall act as municipal judge in his stead, and in the event that neither the municipal judge nor the municipal court clerk can for any cause perform such duties, then the mayor shall act as municipal judge. The official bond of a justice of the peace shall not be required of the municipal judge. (Acts 1929 (Munl. ch.), ch. 4, § 45.)

Sec. 46. Bail.

In all cases of arrest by the police of the city, except in cases of murder and rape, the person arrested shall have the absolute right to give a reasonable and proper bond for his appearance at police court [municipal court] for a trial of his case, and the municipal judge, city clerk, municipal court clerk, mayor, chief of police and the desk sergeant or person in charge of police headquarters shall have the power, and it shall be their duty, to accept such bond from such person so arrested, and upon the giving of such bond he shall be released, and it shall be their further duty to permit such person arrested to communicate in any reasonable way with any person or persons with whom he may desire to

have communication in reference to his giving bail in order to obtain his release, and each of said officers and all policemen shall render reasonable aid in assisting such person arrested to communicate with any person that he may desire for the purpose of securing such bail. In case one so arrested fail to give bond as aforesaid, the municipal judge, or if said judge be not then sitting, either of the officers named above may order such person committed to the city jail for safe keeping until the trial of his case. (Acts 1929 (Muni. ch.), ch. 4, § 46.)

For constitutional provision as to excessive bail, see W. Va. Const., art. III, § 5.

Sec. 47. Authority of council, manager and police officers relating to nuisances; duties and responsibilities of owners and occupants of property; enforcement.

The manager of said city shall have authority to abate and remove all nuisances in said city. He may compel the owners, agents, assignees, occupants or tenants of any lot, premises, property, building or structure, upon or in which any nuisance may be, to abate and remove the same by orders therefor, and the council shall by ordinance provide a penalty for the violation of such orders. Council may by ordinance regulate the location, construction, repair, use, emptying and cleaning of all water closets, privies, cesspools, sinks, plumbing drains, yards, lots, areaways, pens, stables and other places, where offensive, unsightly, unwholesome, objectionable or dangerous substances or liquids are, or may accumulate, and provide suitable penalties for the violation of such regulations, which may be enforced against the owner, agent, assignee, occupant or tenant of any premises, or structure where such violation may occur. It shall be the duty of all police officers to report to the manager the facts as to the existence of any nuisance known to them.

If the owner, agent, tenant, assignee or occupant of any such premises, lot, property, building or structure, as is mentioned herein, shall fail or refuse to abate or remove any such nuisance, as mentioned herein, or to comply with the provisions of any such ordinance and the regulations herein contained, the manager may have said nuisance abated or the provisions of said ordinances carried out, after reasonable notice to said owner, occupant, tenant, agent or assignee of his intention so to do, and collect the expenses thereof, with one per centum per month interest added from the date of said notice, from the said owner, occupant, tenant, agent or assignee, by distress or sale, in the same manner in which taxes levied upon real estate for the benefit of said city are herein authorized to be collected, and the expense shall remain a lien upon said lot, or part of lot, the same as taxes levied upon real estate in said city; which lien may be enforced by a suit in equity before any court having jurisdiction, as other liens against real estate are enforced. In case of non-resident owners of real estate such notice may be served upon any tenant, occupant, assignee or rental agent, or by publication thereof once a week for not less than two consecutive weeks in two newspapers of opposite politics, published in said city.

And in all cases where any tenant, occupant or agent is required to abate and remove any nuisance under the provisions of this section, or comply with

the provisions of any such ordinance as is mentioned herein, the expense thereof may be deducted out of the accruing or accrued rent of said property or amount due said owner from said agent, and such tenant, occupant or agent may recover the amount so paid from the owner, unless otherwise especially agreed upon.

Any expense incurred by the manager as herein provided, in the manner aforesaid, may be collected in the manner herein provided, notwithstanding the imposition of any other penalty or penalties upon any of the persons named herein, under any of the provisions of this act [this Charter]. The abatement or removal of any such nuisance by the city at the expense of said city, as herein provided, shall be prima facie proof that the said notice to the owner, occupant, agent or assignee was given as herein prescribed. (Acts 1929 (Munl. ch.), ch. 4, § 47.)

Sec. 48. Connection with sewer system.

The manager may require all owners, tenants or occupants of improved property which may be located upon or near any street or alley along which may be extended any sewer or system of sewerage, which the said city may construct, own or control, to connect with such sewer, or system of sewerage, all privies, ponds, water closets, cesspools, drains or sinks, located upon their respective properties or premises, so that their contents may be made to empty into such sewer or system of sewerage. (Acts 1929 (Munl. ch.), ch. 4, § 48.)

For state law as to authority of municipalities to require sewer connections, see W. Va. Code, § 8-18-22.

Sec. 49. Construction of sidewalks, curbs and gutters; duty of county clerk to record assessments.

The council shall have the right and authority to establish the width of any sidewalk on any street, alley or public square, or any portion thereof in said city, to cause to be put down a suitable curb of brick, stone or other material alone for the footways and sidewalks of the streets, alleys or public squares or portion thereof, and to order the construction, relaying and repair of sidewalks and gutters of such material and width, and in such manner, as the council may reasonably prescribe by the owners or occupiers of the lots or parts of lots facing upon said streets, alleys and public squares; and in case of a failure or refusal of any such owners or occupiers of the lots or parts of lots to construct, re-lay or repair such sidewalks and gutters, when required, it shall be lawful for the council to have such sidewalks and gutters constructed, re-laid or repaired, and levy and collect the expense thereof, with one per centum per month interest added after a demand of thirty days has been made by the treasurer of the city from the said owner, owners, occupier, occupiers or any of them; and in all cases of such assessment, whether for the construction, re-laying or repairing of sidewalks or gutters, payment thereof shall be made to the treasurer

within thirty days after the completion of the work and demand made, and if not so paid the city is hereby authorized to collect or cause to be collected the expense thereof, with one per centum per month interest added after work has been completed and a demand of thirty days, and they shall have the power to collect, or cause to be collected, the same from said owner, owners, occupier or occupiers or any of them, by distress and sale, in same manner in which taxes levied upon real estate for the benefit of the said city are herein authorized to be collected, and in addition there shall be a lien upon the real estate against which such assessment has been levied for the construction, re-laying and repairing of sidewalks and gutters as herein provided, which lien may be enforced by a suit in equity before any court having jurisdiction, as other liens against real estate are enforced, and it shall be the duty of the city clerk to cause to be certified to the clerk of the county court of Kanawha County the order laying an assessment authorized by this section. The clerk of the county court of Kanawha County is hereby required to record and index such assessments in the proper trust deed book in the name of persons against whose property assessments appear therein; provided, however, that a reasonable notice shall first be given to said owner or occupier or their agent, that they are required to construct, re-lay or repair such sidewalks or gutters. In case of non-residents who have no known agent in said city, such notice may be given by publication for a period not less than once a week for two consecutive weeks in any newspaper printed in said city; and in all cases where a tenant shall be required to construct, re-lay or repair sidewalks or gutters in front of the property of his or her occupancy, the expense of such construction or re-laying or repairing may be deducted out of the accruing rent of said property, and he may recover the amounts paid from the owner; unless otherwise especially agreed upon. The laying or construction of any such sidewalks by said city shall be prima facie proof that the said notice to the owner (resident or non-resident) or occupier, or their agent, was given as herein required. (Acts 1929 (Munl. ch.), ch. 4, § 49.)

Sec. 50. Annual estimate for tax levy.

The council shall ascertain the total expense of the city to be provided for by levy for the fiscal year in which said levy is made, and it shall make a detailed itemized estimate of the sum of money necessary to pay interest accruing on the bonded indebtedness of said city, the amount required for the several sinking funds for the reduction of the principal thereof, the amounts necessary for the support of the various departments of the city and for the improvements of its streets, alleys, avenues and public grounds, real and personal property, contingent expenses and other expenses, together with an itemized statement of the estimated receipts other than that to be derived by the annual levy, and after receiving such estimates, and before making the levy, it shall apportion the rate thereof, including the estimated receipts from licenses and all other sources among the several funds so ascertained and provided for, which apportionment shall be spread upon the records of this city, and in making said estimate, providing for the revenue for the fiscal years, etc., it shall be the duty of the council strictly to observe all the provisions of chapter 9 of the Acts

of the Legislature, 1908, entitled, "An act to regulate the rate and manner of laying levies for taxation in counties, magisterial and school and independent school districts, and municipal corporations, and to provide penalties for the illegal expenditure of public moneys, incurring of illegal obligations and the laying of illegal levies by any tax levying body, and for the distribution of a portion of the school fund," [now codified as art. 8, ch. 11 of the Code of West Virginia] and all amendments thereto, except where said last named act shall be inconsistent with this act [this Charter] as to limit of taxation. (Acts 1929 (Munl. ch.), ch. 4, § 50.)

For state law as to municipal general property and benefit taxes, see W. Va. Code, § 8-13-1. As to levy estimates by municipalities, see W. Va. Code, § 11-8-14.

Sec. 51. Authority to levy and collect taxes; limit of taxation.

The council shall have authority to levy and collect an annual tax on real estate and personal property in said city and to impose a license and assess a tax on all dogs kept within the city and to impose a tax upon all other subjects of taxation under the several laws of the state, which shall be uniform with respect to persons and property within the jurisdiction of said city, and shall only be levied on such property, real, personal and mixed, on which the state imposes a tax; provided, that with the exception of the special levies authorized by law, no greater levy shall be laid by said council on the taxable property of said city than fifty cents upon each hundred dollars of the assessed valuation of the property of the municipality; and, provided, further, that the council shall, in making such levy, be subject to all provisions of chapter 9 of the Acts of the Legislature of 1908 [now codified as art. 8, ch. 11 of the Code of West Virginia] and any and all amendments thereto, except as herein provided. There shall be a tax of two dollars annually assessed on each and every male inhabitant of said city over the age of twenty-one years who is subject to a capitation tax under the laws of the State of West Virginia. The same shall be set out and included in the personal property book against every such inhabitant, and shall be collected under the authority of the city at the time of collecting other levies and taxes. (Acts 1929 (Munl. ch.), ch. 4, § 51.)

Editor's note.--Sec. 2 of art. 10 of the W. Va. Const., and sec. 8-13-3 of the W. Va. Code, relating to capitation taxes, have been repealed; the city no longer imposes a capitation tax. For additional limitations on taxation of property, see W. Va. Const., art. 10, § 1.

Sec. 52. Collection of taxes.

The city taxes annually levied by the council shall be collected as follows: Immediately after the annual levy for city taxes is laid the council shall direct

the proper officer of the city to extend the same on the property books made out by him, including therein the proper capitation tax; he shall make out therefrom proper tax tickets in the following manner: That is to say, instead of a single ticket for the whole amount charged to any person, firm or corporation there shall be two tickets, each for one-half of said amount; these half tickets shall be severally numbered or designated "first" and "second" and the same, after being examined and compared by the council and found to be correct, shall be turned over to the treasurer of the city on the first day of October following the levy and the treasurer's receipt for the gross amount thereof shall be returned, entered upon its record and the treasurer charged therewith. The treasurer shall give notice by publication for twenty days in two newspapers of opposite politics published in said city, that said tickets are in his hands for collection stating the penalty for nonpayment thereof and the time and place when the same may be paid; provided, however, that the taxpayers shall have the right to anticipate the payment of the whole or any part of the taxes assessed against them.

The one-half ticket designated "first" may be paid to the treasurer of the city any time before the first day of November next succeeding said levy; the one-half ticket designated "second" may be paid to the treasurer of the city at any time before the first day of May next succeeding said levy. To all the half tickets designated "first" remaining unpaid in the treasurer's hands on the said first day of November succeeding said levy, a penalty of ten per cent shall be added and collected from the taxpayers. To all half tickets designated "second" remaining unpaid in the treasurer's hands on the first day of May succeeding said levy a penalty of ten per cent shall be added as a penalty and shall be collectible from the taxpayers. On said first day of November succeeding said levy all such half tickets designated "first" and on said first day of May succeeding such levy all such half tickets designated "second" remaining unpaid in the treasurer's hands shall be taken up by the council and settlement had with said treasurer on said days respectively, or on the next succeeding days, respectively, if said days shall fall upon Sunday, and thereupon the council shall place said tickets in the hands of the city collector for collection and shall take his receipt therefor; provided, however, that the council shall have the power any year, by resolution, to extend the time within which the tickets may remain in the treasurer's hands and be paid to him without adding the penalty, for a period named therein not exceeding, however, a total of fifteen days.

The city collector shall have the power to collect said tickets so placed in his hands, together with the penalties thereon herein provided to be added thereto, and the compensation of such city collector for making such collection of the taxes aforesaid shall be fixed by the council.

The city collector shall be charged with the gross amount of said tax tickets so delivered to him for collection, including the penalties accrued thereon so delivered, and no deduction therefrom shall be allowed, unless on or before the first day of August of each year he makes out and returns to the council a delinquent list of taxes uncollected for such year, with his oath at-

tached hereto, stating that such list is correct and just and that he has received no part of the taxes mentioned therein, and that he has used due diligence to find property liable to distress for taxes, has found none, and that he could not collect the same.

Neither the treasurer nor the city collector shall take or collect anything but money for payment of taxes. (Acts 1929 (Munl. ch.), ch. 4, § 52.)

Editor's note.--Most of the provisions of §§ 52, 53 and 54 of the Charter have become obsolete due to changes in the Constitution and the Code of West Virginia. Const. art. 10, § 2 and W. Va. Code, § 8-13-3, authorizing a capitation tax, have been repealed. W. Va. Code, § 11A-1-4, provides that the sheriff of the county shall collect all taxes levied in his county, and § 11A-1-15 requires him to pay into the municipal treasury each month all taxes collected for the municipality. Other provisions of Charter §§ 52 through 54 have also been superseded by W. Va. Code, ch. 11A, which relates to the collection and enforcement of property taxes.

Sec. 53. Powers of collector.

The city collector shall have the power to collect the city taxes placed in his hands except as otherwise provided in this act [this Charter], and he shall also have power to collect the city claims which may be placed in his hands by the council for collection, except that fines imposed by the municipal judge shall not be collected by him. (Acts 1929 (Munl. ch.), ch. 4, § 53.)

Editor's note.--See editor's note following text of sec. 52, insofar as it relates to collection of taxes as distinguished from city claims and fines.

Sec. 54. Distress for collection of taxes.

All goods and chattels belonging to a person, firm, corporation or estate, assessed with any city taxes, whether the same be a capitation tax or a tax upon real estate or personal property or an assessment for paving or other improvements, shall be liable for said tax, and may be distrained therefor in whosoever's possession they may be found, and the city collector shall have the same power to collect said tax or assessment from any person owing a debt to or having in his possession any estate belonging to a person assessed with any tax or assessment of any kind that the sheriff has to collect state taxes in such cases. The city collector may distrain and sell for all city taxes and assess-

ments and in all respects have the same power to enforce the collection thereof as the sheriff has to enforce the collection of state taxes. (Acts 1929 (Munl. ch.), ch. 4, § 54.)

Editor's note.--See editor's note following text of sec. 52, insofar as it relates to collection of taxes, as distinguished from assessments for paving or other improvements not turned over by the city to the sheriff for collection as taxes.

Sec. 55. Lien on real estate for taxes--Established; enforcement by suit in court of record; priority of lien.

There shall be a lien upon all real estate within said city for the city taxes assessed thereon, including such penalties added thereto for non-payment thereof as are prescribed by this act [this Charter], from the first day of January of the year in which said taxes are assessed. Said liens may be enforced by appropriate suit in any court of record in Kanawha County; provided, such suit be instituted within five years from the time the said liens attached as herein provided, and such suit may either be instituted by and in the name of the City of Charleston as plaintiff, or said city may intervene by petition in any suit pending to sell or enforce liens against any real estate which is subject to such lien for said taxes. The liens herein created shall have priority over all other liens except those for taxes due the state. (Acts 1929 (Munl. ch.), ch. 4, § 55.)

For state law as to attachment of lien on real property for taxes assessed thereon, see W. Va. Code, § 11A-1-2. As to collection of taxes by appropriate court action, see W. Va. Code, § 11A-2-2.

For a case construing language of a prior city Charter somewhat similar to the language of sections 55 and 56 of the present city Charter, see Horn v. City of Charleston, 91 W. Va. 73, 112 S.E. 239 (1922).

Sec. 56. Same--Enforcement by tax sale.

Said liens for city taxes and attendant penalties may also be enforced by certifying the same to the clerk of the county court of Kanawha County for certification to the state auditor, and the same may be certified down by said auditor, and sold for taxes, interest, penalties and commissions thereon, in the same manner, at the same time, and by the same officer as real estate is sold for taxes, interest, damages, cost and commission due the state thereon, which

officer shall account therefor on settlement with the city and pay over the same to the treasurer of the city. (Acts 1929 (Munl. ch.), ch. 4, § 56.)

Editor's note.--Due to changes in state law since 1929, when the provisions of Barnes' West Virginia Code Annotated, 1923, ch. 31, was in effect, and on which this section is based, this section is obsolete. Real estate tax sales are now conducted by the sheriff of Kanawha County pursuant to the provisions of W. Va. Code, ch. 11A, art. 3.

Sec. 57. Limitation on authority of county to tax persons and property within city for streets, education or poor outside city limits; control of streets and schools within city; joint ownership of bridges.

No taxes or levies shall be assessed upon or collected from the taxable persons or property within the corporate limits of said city, for the construction, improvement or keeping in repair of roads, or the building, leasing or repairing of school houses, or the purchase of lands for the same, or for the support of schools, or for the support of the poor of Kanawha County, outside of said corporate limits, for any year in which it shall appear that said city shall at its own expense provide for its own poor and keep its own roads, streets, sewers and bridges in good order. And neither the county court of Kanawha County nor the authorities of the district in which said city is situated, shall have or exercise jurisdiction within the corporate limits with relation to the roads, streets, alleys, bridges, wharves, docks, ferries, schools or school houses, but the same shall be and remain under the exclusive jurisdiction and control of the municipal authorities of said city, except that the board of education in the independent school district of the City of Charleston shall have jurisdiction, supervision and control of the schools and school houses in said district; and said city shall be liable only for the construction, improvement, repair and good order of the roads, streets, sewers, alleys, wharves and bridges in its corporate limits, except that the County of Kanawha may become a joint owner and controller with the City of Charleston in a bridge or bridges across Kanawha River. (Acts 1929 (Munl. ch.), ch. 4, § 57.)

Sec. 58. Depositories.

It shall be the duty of the treasurer of the city to keep all funds of the city in some bank or banks within said city, which shall pay interest on such deposits and which shall pay interest on the average daily balance of such funds in all accounts of the per cent equal to that paid by state depositors on all funds of the State of West Virginia and in the same manner and at the same time. If no bank within the city is willing at any time to receive deposits of the treasurer and to pay such interest thereon, the treasurer shall report this fact to the

council, who shall thereupon designate a bank or banks in which he shall deposit said funds for the time being and until some bank in said city will receive such deposits on such terms. Before receiving any such deposits such bank or banks shall give bond in such penalty as the council shall prescribe, and with securities to be approved by said council, conditioned for the prompt payment, whenever lawfully required, of all the city moneys or parts thereof which may be deposited with them, which bond shall be renewed at such times as the council may require. (Acts 1929 (Munl. ch.), ch. 4, § 58.)

For state law as to state depositories, see W. Va. Code, ch. 12, art. 1.

Sec. 59. Bonds--Authority to issue; purposes; interest; limit; taxation to pay interest and principal.

The City of Charleston is hereby authorized to issue and sell bonds of said city, for the purposes of buying and building bridges, electric light plants, water works, gas lines and fields, and other public utilities; and for the purpose of acquiring and providing land for public parks, public streets, avenues and alleys, airports and other public grounds, and acquiring or assisting in acquiring property to be donated, dedicated or conveyed to, or otherwise vested in, the State of West Virginia, as a site for a state capitol and other public buildings, which donation, dedication and conveyance are hereby authorized to be made, and also to provide ground for and erect an incinerator plant or garbage crematory, or other plant or means for the disposal of garbage and refuse; and such bonds shall be sold for not less than par, and shall be payable in a period not to exceed thirty-four years, and shall bear interest, not to exceed six percentum per annum; and in the issuance and sale of said bonds the city shall be governed by all the restrictions of the Constitution of this state and the statutes of this state, with respect to the issuance and sale of other bonds; provided, that said city shall not, by the sale or issue of bonds for the purposes above mentioned, cause the aggregate of its indebtedness, of every kind whatever, to exceed five per centum of the value of the taxable property therein, but may for the above purposes issue bonds to the maximum limit of said five per cent; nor shall said city make such issue and sale of bonds without, at the same time, providing for the collection of a direct annual tax sufficient to pay annually the interest on the same, and a sinking fund to pay the principal within the time for which said bonds shall be issued. (Acts 1929 (Munl. ch.), ch. 4, § 59.)

For state law as to municipal public works and revenue bond financing, see W. Va. Code, ch. 8, art. 16. As to public bonded indebtedness generally, see W. Va. Code, ch. 13.

Sec. 59-a. Same--For improvement of streets.

The City of Charleston is hereby authorized to issue and sell bonds of said city, for the purpose of paying the city's part of the cost of grading, curbing, paving, sewering or otherwise improving the avenues, streets, roads and alleys of said city, and for the purpose of providing funds to cover all or any part of the cost of grading, curbing, paving or sewering that may be assessed against abutting property owners in the manner provided for by law; and said city is hereby given full power to employ the proceeds of such bonds in the purchase of paving certificates or other permanent improvement certificates issued under the provisions of the Charter and made liens or assessments against real estate in said city, at not to exceed their par value, and may hold and collect or otherwise dispose of the same; provided, that said city shall not by the sale or issuance of bonds for the purposes above mentioned, cause the aggregate of its indebtedness, of every kind whatever, to exceed five per centum of the value of the taxable property therein.

The proceeds of any bond issue, authorized under this section, shall be set aside as a separate fund, and all special assessments covering improvements, the cost whereof has been advanced out of this fund, shall be paid into and become a part of said special fund and be used for the same purpose and in the same manner as the proceeds of said original fund.

This fund shall continue to be used for the purposes mentioned herein, until such time as the city's part of the cost of grading, curbing, paving, sewering or otherwise improving the avenues, streets, roads or alleys of the city equals the original proceeds of the bond issues authorized for the purposes mentioned herein. The issuance and sale of bonds, authorized by this section, shall be governed by all of the restrictions of the Constitution of this state and statutes of this state with respect to the issuance and sale of other bonds of said city. No issuance and sale of bonds, under this section, shall be made, unless at the same time provision is made for the collection of a direct annual tax, sufficient to pay the annual interest on the same and create a sinking fund to pay the principal within the time for which said bonds shall be issued. The direct annual tax, provided for in this section, shall be set aside as a separate fund, to be known as an interest and sinking fund. All interest collected on special assessments authorized or referred to in this section shall be placed in and become a part of said special interest and sinking fund, until the principal and interest of said bonds are paid.

Whenever, in the opinion of the council, the special improvement fund created by this section, or any part thereof, is no longer needed the council may order direct that said special assessments, when collected, be applied to retiring such of the bonds provided for herein, as may be outstanding at that time. (Acts 1929 (Munl. ch.), ch. 4, § 59-a.)

For state law as to municipal public works and revenue bond financing, see W. Va. Code, ch. 8, art. 16. As to public bonded indebtedness generally, see W. Va. Code, ch. 13.

Sec. 60. Same--In anticipation of special assessments for street improvements or sewer construction; limitation on indebtedness.

The City of Charleston is hereby authorized to issue and sell the bonds of the said city for the purpose of providing for grading, paving and otherwise improving the streets and alleys of said city or constructing sewers for the proper drainage of same in anticipation of special assessments to be made upon the property abutting upon the streets and alleys so improved, or property so sewered or drained, and such bonds may be in such an amount as shall be sufficient to pay the entire estimated cost and expense of said improvements, for which such special assessments are levied; provided, that the price for which said bonds are sold shall not be below par value thereof; said bonds may be payable in groups of one-fifth of the whole issue payable in two, four, six, eight and ten years respectively, and all payable in not to exceed ten years from the date of issue thereof, and shall bear interest at a rate not exceeding six per centum per annum, payable annually; and in the issuance and sale of said bonds, the city shall be governed by all the restrictions and limitations of the Constitution of this state and the restrictions and limitations of the statutes of this state with respect to the issuance and sale of other bonds, and the assessments as paid and provided for in this act [this Charter] shall be applied to the liquidation of said bonds and the interest thereon; and if by reason of the penalties collected with the delinquent assessments, there be any balance after the payment of said bonds and all accrued interest and costs, the said balance shall be turned into the city treasury to the credit of the interest and sinking fund of the city.

Provided, that said city shall not by the sale or issue of such bonds cause the aggregate of its debt of every kind whatsoever to exceed five per centum of the value of the taxable property therein; and provided, further, that nothing herein contained shall be construed as authorizing said city to become indebted in any other manner or for any other purpose, to an amount including the existing indebtedness in the aggregate exceeding two and one-half per centum on the value of the taxable property therein (as provided in chapter 51 of the Acts of 1905)* except for the purpose of grading, paving, sewering and otherwise improving the streets and alleys of said city and as provided for in this act [this Charter], and except for the purpose of buying or building bridges, electric light plants, water works, gas lines and fields and other public utilities; nor shall they make such issue and sale of bonds for grading, paving, sewering and improving the streets and alleys of said city without, at the same time, providing for the collection of a direct annual tax sufficient to pay annually the interest on such debt and principal thereof within a period not exceeding ten years.

**Editor's note.--Acts 1905, ch. 51, § 1, reads as follows: "No county, city, school district or municipal corporation, except in cases where such corporations have already authorized their bonds to be issued, shall hereafter be allowed*

to become indebted, in any manner or for any purpose, to an amount, including existing indebtedness, in the aggregate exceeding two and one-half per centum on the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes, previous to the incurring of such indebtedness; nor without, at the same time, providing for the collection of a direct annual tax sufficient to pay annually the interest on such debt, and the principal thereof within and not exceeding thirty-four years; provided, that no debt shall be contracted under this section, unless all questions connected with the same shall have been first submitted to a vote of the people, and have received three-fifths of all the votes cast for and against the same." Section 2 provides that the act shall not take effect until Jan. 1, 1906.

All assessments, interest and penalties thereon, collected from the abutting property owners, on account of grading, paving, sewering or otherwise improving the streets and alleys of such city under the provisions of this act [this Charter], shall annually be applied to the annual tax required to pay the interest on such debt and such principal within and not exceeding said period of ten years and in the event that the assessments, interest and penalties so called do not amount to a sum sufficient to pay annually the interest on such debt, said city shall collect so much of said levy as will pay annually the interest on such debt, and the principal thereof within and not exceeding ten years. (Acts 1929 (Munl. ch.), ch. 4, § 60.)

Editor's note.--This section is substantially in the language of Barnes' West Virginia Code Annotated, 1923, ch. 47, § 49c (1), including the reference to Acts 1905, ch. 51. That section of the 1923 Code, as subsequently amended, is now W. Va. Code, § 8-18-14.

For state law as to municipal public works and revenue bond financing, see W. Va. Code, ch. 8, art. 16. As to public bonded indebtedness generally, see W. Va. Code, ch. 13.

Sec. 61. Contracts for improvement of streets; assessment of cost.

Whenever the council of said city shall deem it expedient to cause any street or alley in said city or portion thereof to be paved, curbed or macadamized, or otherwise improved in a permanent manner; it shall order the work done in the following manner and upon the following terms: The contract for such paving or other improvements shall, after due advertisment in which the coun-

cil shall reserve the right to reject any and all bids, be let to the lowest reasonsible bidder. The contractor shall look only to the city for the payment of the work, and in no sense to the abutting land owners, except as hereinafter provided. The total cost of grading and paving or otherwise improving any such street or alley (with the exception that where a street is occupied by the street car tracks or other railways, such cost of opening or otherwise improving the distance between the rails and two additional feet outside of each rail, shall be borne and paid entirely by the street car or other railway company operating such street or other railway unless otherwise provided by the franchise of such street car or other railway company granted previous to the passage of this act [this Charter]), shall be borne by the owners of the land abutting upon said street, alley or portion thereof, according to the following plan, that is to say: Payment is to be made by all land owners on either side of such portion of a street or block so paved or improved in such portion of the total cost, less the portion, if any, chargeable to such street or other railway company, as the frontage in feet of his land so abutting bears to the total frontage of all lands so abutting on such street, alley or portion thereof so paved or improved as aforesaid.

When the paving of any street, or alley, or portion thereof shall have been let to contract and the work done as hereinbefore provided, it shall be the duty of the engineer of said city to cause the several frontages abutting thereon to be measured, and to calculate the assessment upon each and every land owner so abutting and to certify the same to the council, showing the proper amount to be determined, as provided in the foregoing plan. It shall be the duty of the council to examine and compare such assessment, amounts and names so certified to it, and thereupon give notice by publication once a week for two successive weeks in a newspaper of general circulation published in said city, that an assessment under this act [this Charter] is about to be laid against the abutting property for paving or improvements done on said streets, or alleys, describing the location of such paving or improvements, and any owner or owners thereof shall have the right to appear before said council, within two weeks from the first publication thereof, and move to correct an apportionment or assessment excessive or improperly made as charged, which correction said council shall have the power to make according to the intent of this act, and if found to be correct or when corrected by the council aforesaid, it shall enter the same, together with a description of the lots of land as to location, frontage, depth and ownership, so far as the same may be ascertained, upon its records and to enter in its records that such owners and lots be assessed and chargeable with the amount so ascertained to be borne by them respectively; and when so approved, certified and entered on record, the same shall be and constitute an assessment against said owners and lots for such respective amounts. And it shall be the duty of the council to immediately certify such assessment to the treasurer for collection as herein provided, and a copy of said order shall be certified by the city clerk to the clerk of the county court of Kanawha County, who shall record and index the same in the proper trust deed book in the name of each person against whose property assessments appear therein. The amount so assessed against said abutting land owners shall be paid in ten payments, as follows: That is to say, one-tenth of said amount, together with

interest on the whole assessment, shall be paid into the city treasury, before the first day of May next after said work is completed and said assessments have been certified to the county clerk. And a like one-tenth, together with interest for one year upon the whole amount remaining unpaid on or before the first day of May in each succeeding year thereafter until all has been paid, and each of said installments of one-tenth beginning with the first, shall bear interest on the amount of said installments as six per centum per annum from the date of record of same in the county clerk's office until paid; provided, however, that any abutting owner so liable for any portion of the cost of such paving shall have the right at any time after the same is certified as aforesaid to the treasurer for collection to anticipate the payment of any or all of said assessments and shall be allowed to pay the face of said assessments with interest at six per cent per annum only from the time of recordation to the time of payment. To each of such installments of assessments remaining unpaid in the treasurer's hands on the day herein specified for the payment thereof, a penalty of ten per centum on the principal sum shall be added and any assessment so remaining unpaid in the treasurer's hands on such date, shall be taken up on such settlements had with the treasurer on such dates, and thereupon place such assessments with the penalty added thereto, in the hands of the city collector to be treated and considered, and payment thereof enforced in all respects as hereinbefore provided for the collection of taxes due the city, and they shall be a lien upon the property liable therefor the same as for taxes, which lien may be enforced in the same manner as provided for taxes. The lien hereinbefore provided for shall have priority over all other liens except those for taxes due the state and shall be on a parity with taxes and assessments due the city, and shall be effective as of the date that the assessment is laid by the council. Whenever all such assessments, for paving, sewerage, macadamizing or other improvements shall be paid in full to the treasurer, he shall deliver to the party paying the same a release of the lien therefor which may be recorded in the office of the clerk of the county court of Kanawha County as other releases of liens, and whenever any such assessments shall not be in the hands of the treasurer for collection, but the same shall be shown to the satisfaction of the city auditor or other official performing the duties of auditor, to have been paid in full or any officer entitled to receive the same, such auditor or the mayor may in like manner execute such release. (Acts 1929 (Muni. ch.), ch. 4, § 61.)

For state law as to collection of assessments, see W. Va. Code, § 8-13-15.

For a case holding that, because of the requirement of this section that each owner of land abutting upon a street to be improved shall be charged with such portion of the total cost of the improvement as the frontage in feet of his land abutting the street bears to the total frontage of all lands so abutting, for the city to assess the cost charged to one such land owner to the other land owners would unbalance this statutory equation, see United States v. City of Charleston, 93 F. Supp. 748

(1950). This Charter section was construed therein as in pari materia with Char., §§ 88, 88b.

Sec. 62. Sewerage assessments against owners of abutting property; requiring connection with sewer; including cost of drains in cost of street improvement.

Whenever the council shall order the construction of any public sewer in said city, the owners of the property abutting upon any street in which such sewer shall be constructed, shall be charged with and liable for sewerage assessments as follows: When said sewer is completed the engineer of said city shall report to the council in writing the total cost of such sewer, and a description of the lots and lands as to the location, frontage, depth and ownership liable for such sewer assessment, so far as the same may be ascertained, together with the amount chargeable against each lot and owner, calculated in the following manner: The total cost of constructing and laying the sewer shall be borne by the owners of the land abutting upon the streets, alleys, right of ways or easements or portions thereof, in which the sewer is laid, according to the following plan: Payment is to be made by each land owner on either side of such portion of a street, alley, right of way or easement in which such sewer is laid, in such proportion as such frontage of his land upon said street, alley, right of way or easement bears to the total frontage of all lands so abutting on such street, alley, right of way or easement; provided, that the charge laid against any owner of property shall not exceed three dollars per linear foot of frontage on each side of the portion of such street, alley, right of way or easement in which any such sewer is laid. In case of a corner lot, frontage is to be measured along the longest dimension thereof abutting on such street, alley, right of way or easement in which such sewer is laid. Any lot having a depth of two hundred feet or more and fronting on two streets, alleys, right of ways or easements, one in the front and one in the rear of said lot shall be assessed on both of said streets, alleys, right of ways or easements, if a sewer is constructed in both such streets, alleys, right of ways or easements. Where a corner lot has been assessed on the end it shall not be assessed on the side, and where it has been assessed on the side, it shall not be assessed on the end. Thereupon said council shall give like notice by publication as is required in case of street paving assessments, and the same rights shall exist as to the persons and property affected and the same duty as to corrections by said council as are prescribed with reference to paving, which report shall in like manner be examined by the council, and if found to be correct, or corrected as aforesaid, and such estimated assessments to be a fair and equitable apportionment of the cost of such sewer upon the basis hereinbefore described, it shall enter an order upon its records, setting forth such location, depth, ownership and said amount of such sewer assessments, against each, respectively, calculated as aforesaid, and the entry of such order shall constitute and be an assessment for such proportion and amount so fixed therein against such respective owners and lots, and if after such advertisements, notice and hearing, said council shall find that such apportionment at

such rate is unjust or inequitable, and contrary to the intent of this act [this Charter], it shall ascertain, fix and assess the cost thereof among and upon the abutting owners respectively, justly and equitably and according to the intent hereof, and in like manner, assess and enter the amount so fixed respectively upon its records, and the council shall, in either event, thereupon certify the same to the treasurer for collection, and certify a copy of such order to the clerk of the county court of Kanawha County, who shall record the same in the proper trust deed book, and index the same in the name of each owner of any such lot so charged with such assessment, and such assessment so made shall constitute and be a lien upon said lots respectively, which shall have priority over all other liens, except those for taxes due the state, and shall be on a parity with other taxes and assessments due the city. Said amounts so assessed against the said several land owners shall be paid by the parties liable therefor to the said treasurer at all times, in the manner and with the attendant penalties for failure to pay promptly at the time prescribed in all respects as hereinbefore provided in the case of assessments for paving streets and alleys in a permanent manner, and the parties liable therefor shall, in the same manner, and to the same extent, have the right and be entitled to anticipate any or all of such installments thereon as in such case provided. The owners of, or the tenants, occupants or agents in control of any lot abutting on or near or adjacent to any street, avenue, alley, right of way or easement in said city, in which a public sewer is or may hereafter be laid and constructed, upon which lot any business or residence building is or may hereafter be erected, or upon which any water stands not connected with a public sewer, may be required and compelled to connect any such building or lot with such sewer. Notice to so connect may be given to the owner, lessee, or occupant of such building. Each day's failure to comply with such notice and connect with such sewer by such owner or owners, ten days after such notice is given, shall be a misdemeanor and a separate and new offense under this section, and every such offense shall be punishable by fine of not less than five nor more than twenty-five dollars. The expense incurred by any tenant, occupant, or agent in complying with the order of said council to make such sewer connection may be deducted out of the accruing rents as provided for in section forty-seven relating to the abatement of nuisances. Jurisdiction to hear, try, determine and sentence for violation of this section is vested in the municipal court of such city.

In the paving, curbing, macadamizing or otherwise improving streets and alleys and providing for the assessment of the cost thereof under section 61 or section 88 of the Charter of the City of Charleston there may be included in any such assessment the cost of constructing the necessary drains for the disposal of surface water. (Acts 1929 (Munl. ch.), ch. 4, § 62.)

For state law as to low cost improvements, see W. Va. Code, ch. 8, art. 17.

Sec. 62-a. Construction of sewer systems or common, lateral, branch, trunk or combined sewers.

The council is authorized and empowered to order and cause to be constructed, in said city, or part within and part outside of the limits of said city, public, common, lateral, branch, trunk and combined sewers or public sewer systems, or both, by contract or directly by the city, for the benfit of said city or any part thereof, and to purchase lands or easements therein or to condemn lands or easements therein in the manner provided by law, for such sewers or sewer systems, and when the council shall order and complete the construction of any such sewer or sewer system or any part thereof in said city, the owners of the property abutting on such sewer or abutting upon an avenue, street, alley, right of way or easement in which such sewer shall be constructed, or abutting on any avenue, street, alley, right of way, easement in which any common sewer, part of a sewer system, is constructed and laid, may be charged with all or any part of the cost thereof, including the cost of such sewer or sewer system at and across intersections at avenues, streets, roads and alleys adjacent thereto. If said work is let to contract, the provisions of the Charter of the City of Charleston relating to street paving contracts shall apply.

A sewer system shall be deemed to include all the common sewers, whether they be lateral, branch, trunk or combined sewers, which serve to drain a definite drainage area as specified in the order of the council directing the work to be done.

A common sewer shall be deemed to be a sewer in which all abutters have equal rights of entrance and use.

A lateral sewer shall be deemed to be a sewer which does not receive the sewage from any other common sewer.

A branch sewer shall be deemed to be a sewer into which the sewage from two or more lateral sewers is discharged, including storm and surface water sewers.

A trunk sewer shall be deemed to be a sewer into which the sewage from two or more branch sewers is discharged.

A combined sewer shall be deemed to be a sewer intended to receive domestic sewage and industrial wastes.

When said sewer or sewer system is completed the engineer of said city shall report to the council in writing the total cost of such sewer or sewer system, and a description of the lots and lands as to the location, frontage, depth and ownership liable for such sewer assessment, so far as the same may be ascertained, together with the amount chargeable against each lot and owner, calculated in the following manner: The total cost of constructing and

laying the sewer or sewer system, including the portions thereof laid in the intersections of streets and alleys, shall be borne by the owners of the land abutting upon the streets, avenues, alleys, rights of way or easements or portions thereof in which the sewer or some part of the sewer system, is constructed and laid; payment is to be made by each land owner on either side of such portion of a street, alley, right of way or easement in which a common sewer is laid, in the proportion that the frontage of his land upon such portion of said street, alley, right of way or easement in which such sewer or sewer system is laid bears to the total frontage of all lands so abutting on such street, alley, right of way or easement; in which the sewer or some part of the sewer system is laid; provided, that the charge laid against any owner of property shall not exceed three dollars per linear foot of frontage on each side of such street, alley, right of way or easement in which any such sewer or part of a sewer system is laid. In case of a corner lot, frontage is to be measured along the longest dimension thereof abutting on such street, alley, right of way or easement in which such sewer is laid, but if sewered on both sides then such a corner lot is to be charged only with the side first sewered. Any lot having a depth of two hundred feet or more and fronting on two streets, alleys, right of ways or easements, one in the front and one in the rear of said lot shall be assessed on both of said streets, alleys, right of ways or easements, if a sewer is constructed on both such streets, alleys, right of ways, or easements. When a corner lot has been assessed on either or both ends, it shall not be assessed on the side, and where it has been assessed on the side, it shall not be assessed on the end.

In the case of corner lots where the cost of sewering along one dimension is not assessed against the owner thereof, and in case of lots less than two hundred feet deep abutting at both ends on a street, alley, right of way or easement in which a sewer is laid, the cost of sewering along the dimension or end not assessed against the property owner shall in every case be borne by the City of Charleston.

Thereupon said council shall give like notice by publication as is required in case of street paving assessments, and the same rights shall exist as to the persons and property affected and the same duty as to corrections by said council as are prescribed with reference to paving. The report of the city engineer shall in like manner be examined by the council, and if found to be correct or corrected as aforesaid, and such estimated assessments to be a fair and equitable apportionment of the cost of such sewer or sewer system upon the basis hereinbefore described, it shall enter an order upon its records, setting forth such location, depth, ownership and said amount of such sewer assessments, against each respectively, calculated as aforesaid, and the entry of such order shall constitute and be an assessment for such proportion and amount so fixed therein against such respective owners and lots; and, if after such advertisement, notice and hearing, said council shall find that such apportionment at such rate is unjust or inequitable, and contrary to the intent of this act [this Charter], it shall ascertain, fix and assess the cost thereof among and upon the abutting owners respectively, justly and equitably and according

to the intent hereof, and in like manner assess and enter the amount so fixed respectively upon its records; and, the council shall, in either event, thereupon certify the same to the treasurer for collection and certify a copy of such order to the clerk of the county court of Kanawha County, who shall record the same in the proper trust deed book, and index the same in the name of each owner of any such lot so charged with such assessment, and such assessment so made shall constitute and be a lien upon said lots respectively, which shall have priority over all other liens, except those for taxes due the state, and shall be on a parity with other taxes and assessments due the city. Said amounts so assessed against the said several land owners shall be paid by the parties liable therefor to the said treasurer at all times, in the manner and with the attendant penalties for failure to pay promptly at the time prescribed in all respects as hereinbefore provided in the case of assessments for paving streets and alleys in a permanent manner, and the parties liable therefor shall, in the same manner, and to the same extent, have the right and be entitled to anticipate any or all of such installments thereon as in such case provided. The owners of, or the tenants, occupants or agents in control of any lot abutting on or near or adjacent to any street, avenue, alley, right of way or easement in said city, in which a public sewer is or may hereafter be laid and constructed, upon which lot any business or resident building is or may hereafter be erected, or upon which any water stands not connected with any public sewer, may be required and compelled to connect any such building or lot with such sewer. Notice to so connect may be given to the owner, lessee, or occupant of such building. Each day's failure to comply with such notice and connect with such sewer by such owner or owners, ten days after such notice is given, shall be a misdemeanor and a separate and new offense under this section, and every such offense shall be punishable by fine of not less than five nor more than twenty-five dollars. The expense incurred by any tenant, occupant, or agent in complying with the order of said council to make such sewer connection may be deducted out of the accruing rents as provided for in section 47 relating to the abatement of nuisances. (Acts 1929 (Muni. ch.), ch. 4, § 62-a.)

Sec. 63. Resolution declaring necessity for street improvement--Required; procedure for adoption.

Whenever it is deemed expedient by the council of said city to provide for the grading, paving, sewering, macadamizing or otherwise improving any street or alley therein to be paid for in whole or in part by special assessment said council shall declare by resolution, by aye and no vote, the necessity of such improvement. At the time of the passage of said resolution the said council shall have on file in the office of the city engineer, plans, specifications, estimates and profiles of the proposed improvements, showing the proposed grade of the street and improvement, after completion, with reference to the property abutting thereon, which plans, specifications, estimates and profiles shall be open for the inspection of all persons interested. Said resolution shall determine the general nature of the improvement, what shall be the grade

of the street, alley or other public place to be improved, as well as the grade or elevation of the curb, and said council shall approve the plans, specifications, estimates and profiles for the proposed improvement. The council shall also determine in said resolution the method of paying for the work contemplated in said plans and specifications whether by an appropriation from funds in the treasury unappropriated, or whether or not bonds shall be issued in anticipation of the collection of special assessments, to be made against the abutting property owners as provided for in section 61 of this act [this Charter]. Said resolution shall further show the approximate estimated cost of said proposed improvement per front foot of the property abutting thereon, and shall fix a date, at some regular or special meeting of the council, on which the owners of property to be assessed for such improvement may appear before council and protest against the same or be otherwise heard in reference thereto. Assessments shall be payable in ten installments as provided for in said section 61. The resolution herein provided for, declaring the necessity for said improvement, shall be published at least once a week for two successive weeks after its adoption, in a newspaper of general circulation published in the city, and an affidavit of the publisher showing publication for such time, together with a copy of said notice attached, shall be filed with the city clerk of the said city and spread upon the record of the minutes of the next meeting of the council. Said resolution shall be in effect from and after the first publication thereof as herein provided for. (Acts 1929 (Munl. ch.), ch. 4, § 63.)

Sec. 64. Same--Service on property owners of notice of passage.

A notice of the passage of the resolution required in the last preceding section, embodying a copy of said resolution, shall be served upon the owner of each piece of property to be assessed, said service to be made in the manner provided by this act [this Charter] for serving notices herein required or in other lawful manner; provided, that if any of the owners or persons be not residents of the City of Charleston, or if it appears by the return in any case, that the owner cannot be found, then a notice of the passage of said resolution shall be published in some newspaper of general circulation in said city once a week for two successive weeks, which notice shall be deemed completed on the day of the second publication thereof, and such notice whether by service or publication, shall be completed at least three days before the date fixed for hearing thereon, as aforesaid, and before the introduction of any ordinance providing for said improvement, as hereinafter provided for; and the return of the officer, or sworn return of any other person, serving such notice or a certified copy of said return, or when published, the certificate of the publisher of said newspaper, shall be prima facie evidence of the service of the notice as herein required. Notice upon infants may be served on their guardian, and upon insane persons by service upon their committee. It shall be the duty of the city manager to cause such notice to be served upon said property owners as aforesaid. (Acts 1929 (Munl. ch.), ch. 4, § 64.)

Sec. 65. City executive committees of political parties.

The city executive committees of the two political parties casting the highest vote at the last preceding general election, shall each consist of one person from each of the wards of the city to be selected in the same manner and at the same time that candidates for municipal offices are selected. Vacancies in a committee shall be filled and members to represent newly created wards shall be elected by the committee to serve until the next general city election. (Acts 1929 (Munl. ch.), ch. 4, § 65.)

For state law as to municipal executive committees, see W. Va. Code, § 8-5-14.

Sec. 66. Bonds to pay city's cost of improvement of streets, etc.

It shall be lawful for said City of Charleston to issue and sell its bonds as provided in this act [this Charter] for the sale of other bonds, to pay the city's part of the cost of said improvements as required by this act, and it may levy taxes in addition to all other taxes authorized by law, to pay such bonds and interest thereon, provided that the total indebtedness of the city for all purposes shall not exceed five per centum of the total value of all taxable property therein. (Acts 1929 (Munl. ch.), ch. 4, § 66.)

For state law as to municipal public works and revenue bond financing, see W. Va. Code, ch. 8, art. 16. As to public bonded indebtedness generally, see W. Va. Code, ch. 13.

Sec. 67. Hearing of property owners affected by improvements; ordinance concerning improvement.

After the expiration of not less than ten days from the time of the giving and publication of the notices as provided for in section 64, the council shall sit at the time and place fixed for the purpose of hearing all property owners to be affected, with reference to such proposed improvements, and shall hear and consider any protests or objections thereto; and the council shall thereupon, or as soon as may be, determine whether it will proceed with the proposed improvement or not, and if it decides to proceed therewith an ordinance for the purpose shall be passed. Said ordinance shall set forth the streets and alleys upon which the abutting property is to be assessed for the improvement, and shall contain a statement of the general nature of the improvement, and the character of the materials which may be bid upon therefor, of the mode of payments therefor; a reference to the resolution therefor passed for said improvement, giving the date of its passage and a statement of the intention of the council to proceed therewith in accordance with said resolution and in accordance with the plans, specifications, estimates and profiles provided for said improvement. In setting forth the lots and lands abutting upon the improvement it

shall be sufficient to describe them as the lots and lands *abutting upon the improvement it shall be sufficient to describe them as the lots and lands* [italics supplied by the editors, to indicate probably unintended repetition] bounding and abutting upon said improvements between and including the termini of said improvements, or by the description by which they are described on the land books of the County of Kanawha, and this rule of description shall apply in all proceedings in which lots or lands are to be charged with a special assessment. (Acts 1929 (Munl. ch.), ch. 4, § 67.)

For state law as to municipal public works and revenue bond financing, see W. Va. Code, ch. 8, art. 16. As to public bonded indebtedness generally, see W. Va. Code, ch. 13.

Sec. 68. Special assessments when several kinds of materials have been named in ordinance providing for improvement.

In any case in which special assessments have been made, or shall hereafter be made, upon property for the construction of any improvement authorized by this act [this Charter] or previous statutes and several kinds of materials have been named in the ordinance or ordinances providing for the same, and on which bids have been received for the construction of said improvements with any, either or all of said material, said assessments shall be valid and binding assessments on the property so assessed. In the case of the construction of sewers required under the provisions of this act [this Charter], notice of the passage of said resolution therefor, as provided for in section 64 of this act, shall be given in the manner provided for in said section of this act. (Acts 1929 (Munl. ch.), ch. 4, § 68.)

Sec. 69. Vote of council required for public improvement; petition by property owners.

No pavement, sewer or sewer system, or other public improvement the cost of all or a part of which is to be especially assessed against abutting property, or against the owners thereof, shall be made without the concurrence of two-thirds of all the members elected to council, unless the owners of a majority of the foot frontage of property to be so assessed, petition in writing therefor, in which event the said council shall have power upon the affirmative vote of a majority of all the members elected thereto to proceed with such improvement in the manner provided by law. (Acts 1929 (Munl. ch.), ch. 4, § 69.)

For state law as to low cost municipal improvements, see W. Va. Code, ch. 8, art. 17.

Sec. 70. Assessment when public improvement passes through or by public property or property of institution.

When the whole or any portion of the improvement authorized by this act [this Charter] passes through or by a public wharf, market space, park, ceme-

tery, structure for the fire department, water works, school building, infirmary, market house, work house, hospital, house of refuge, bridge, gas works, public prisons, court house, church or any other public structure or public grounds within said corporation, and belonging to said corporation, or to the county, state, or any church, association or eleemosynary institution, the council may authorize the proper proportion of the estimated cost and expense of the improvement to be certified to the clerk of the county court of Kanawha, and it shall be the duty of those persons having charge of the fiscal affairs of any such property or institution to make proper arrangements for the payment of such assessments when due and payable. (Acts 1929 (Munl. ch.), ch. 4, § 70.)

Sec. 71. What cost of improvement shall include.

The cost of any improvement contemplated in this act [this Charter] and for which assessments may be made, shall include the cost and expense of the preliminary and other surveys, and of printing and publishing all notices required to be published, and serving the notices upon the property owners and the cost of construction and inspection. (Acts 1929 (Munl. ch.), ch. 4, § 71.)

Sec. 72. Filing statement as prerequisite to action for damages arising out of improvement.

No person shall bring any action whatever in any court in this state for damages arising out of improvements or change of grade unless he shall have filed with the council at some time after the publication of the notice provided for in section 64, and before the time of the introduction of the ordinance providing for said improvement a statement of the damage which, in his opinion, he will sustain by reason of said improvement or the change of grade therefor, which statement shall be duly sworn to and be spread upon the minutes of said council. (Acts 1929 (Munl. ch.), ch. 4, § 72.)

For a case which, in construing identical language of a predecessor of the Charter section here codified, held that it is within the legislative power to require a notice and claim for damages to property caused by municipal action to be given and filed prior to bringing suit thereon, and that such legislative act is not a violation of the constitutional rights of the injured party, provided always that such requirement be not unreasonable, see Whit v. City of Charleston, 98 W. Va. 143, 126 S.E. 705 (1925).

Sec. 73. Liberal construction of proceedings with respect to improvements.

Proceedings with respect to improvements shall be liberally construed by the courts to secure a speedy completion of the work at reasonable cost, and

a speedy collection of the assessments after the time has elapsed for their payments and merely formal objection in such cases shall be disregarded. (Acts 1929 (Munl. ch.), ch. 4, § 73.)

Sec. 74. Election and three-fifths vote required for issuance of bonds; regulations governing.

It is especially provided that no bonds shall be issued under the provisions of this act [this Charter] unless and until the question of issuing said bonds shall have first been submitted to a vote of the people of the city and shall have received three-fifths of all votes cast at said election for or against the same.

The council may provide by ordinance for an election every year, at which the question shall be submitted to the people, as to whether the city shall be authorized to issue bonds for the purpose and under the provisions of this act, to an amount not to exceed in the ensuing year the amount recommended by said ordinance for said ensuing year; but the ordinance providing for said election need not specify in detail the location of the improvements contemplated to be paid for during the ensuing year out of said aggregate issue authorized for said year, but before issuing any bonds the council shall pass separate ordinances for such street or alley to be improved, dealing with all the requirements set forth in section 67 of this act [this Charter], and notwithstanding the provisions of sections 2, 3 and 6 of chapter 47 of the Code,* it shall be sufficient description for the purpose for which said election is held if the ordinance providing for said election shall recite that it authorized the council of said city to issue bonds for the purpose of grading, paving, sewering or otherwise improving the streets and alleys of said city, at such time as to the council shall seem fit during the ensuing year ending on the.....day of ....., 19....., to an amount not exceeding in the aggregate during the said year the sum of.....; and when the council shall have been once authorized by a vote of the people to issue bonds for the purpose and in a sum not to exceed the amount set forth in the ordinance providing for the said election, no further election shall be necessary for the issuing of bonds during said ensuing year up to the amount stipulated in said ordinance providing for said election, but the council shall from time to time during said ensuing year, by ordinance authorize the issue of said bonds, in such sums and for the improvement of such streets or alleys as to it may seem best, providing the requirements of this act are complied with. The aggregate amount of bonds authorized by said annual election shall not be exceeded during said ensuing year, unless and except the same be authorized by special election held at a subsequent time in said year and duly called as provided for the calling of the annual bond election.

**Editor's note.--Secs. 2, 3 and 6 of ch. 47 of "the Code," here mentioned, apparently are §§ 2, 3 and 6 of ch. 47A of the W. Va. Code, Annotated, 1906. For present state law as to financing of municipal public works by revenue bonds, see*

W. Va. Code, §§ 8-16-9 through 8-16-17, and, see also, W. Va. Code, ch. 13, relating to public bond issues and indebtedness generally.

The provisions of chapter 47 of the Code [see editor's note, supra] concerning bond elections shall, so far as they are not in conflict with the provisions of this act [this Charter], apply to the annual bond elections and special bond elections herein provided for. (Acts 1929 (Munl. ch.), ch. 4, § 74.)

Sec. 75. Authority of council to lay special levies in years 1929 and 1930 for special purposes.

Editor's note.--The text of this section, being Acts 1929 (Munl. ch.), ch. 4, § 75, is omitted as executed and obsolete. It authorized special levies in the years 1929 and 1930 for the purposes of (1) construction of trunk and branch line sewers; (2) the acquisition of a ramp at the C. & O. Ry. passenger station on the south side of the Kanawha River; and (3) maintenance and care of a municipal cemetery within the city.

Sec. 76. Power of council as to public buildings, hospitals, libraries, etc.

The council shall have the authority to erect, buy, sell and lease all buildings necessary for the use of the city government and to provide for and regulate the same, and to establish and maintain public hospitals, libraries and reading rooms, and to purchase books, papers and manuscripts therefor, and to receive donations, gifts or bequests for same in trust or otherwise. (Acts 1929 (Munl. ch.), ch. 4, § 76.)

Secs. 77, 78 and 79. Fire department civil service.

Editor's note.--The text of these sections, being Acts 1929 (Munl. ch.), ch. 4, §§ 77, 78 and 79, is omitted as obsolete, having been superseded by the provisions of West Virginia Code, chapter 8, article 15, part IV (§ 8-15-11 et seq.), captioned "Civil Service for Paid Fire Departments."

Sec. 80. Political activities by members of fire or police departments.

No member of the fire department or police department shall actively engage in any primary election, convention or election in which any officer in the city, county or state is to be nominated or elected, nor shall such member, directly or indirectly, give or offer to give, contribute or offer to contribute any money or thing of value or profit to any political committee or party orga-

nization to be expended in behalf of any political party, nor to any candidate or candidates for nomination for or election to any office in the city, county or state. The violation of any of the provisions of this section by any member of the fire department or police department shall be deemed misconduct in office. Any member of the fire department or police department guilty of misconduct, shall be dismissed from the service of the city by the head of his department or by council, upon charges preferred and proven by any citizen of said city. (Acts 1929 (Munl. ch.), ch. 4, § 80.)

For state law as to political activity of members of paid fire department, see W. Va. Code, § 8-15-24. As to political activity of members of paid police departments in class I cities, see W. Va. Code, § 8-14-19.

Sec. 81. Service of notice, summons, warrant, etc.

When any notice is required to be given, or any summons, warrant or other process is required to be served or otherwise executed, under the provisions of this act [this Charter], it shall be sufficient if such notice, summons, warrant, or other process be executed by an officer of the police department or other employee of said city in the same way or manner in which the laws of the state prescribe for executing summonses and subpoenas by state officers, unless otherwise provided by this act [this Charter]. (Acts 1929 (Munl. ch.), ch. 4, § 81.)

Sec. 82. Contested elections for council.

Whenever one or more members of the council shall be a candidate for re-election, it shall be the duty of the council to meet and appoint some person or persons, qualified to act in hearing contested election matters and cases. The place and stead of such disqualified member or members shall be filled in each case by a member or members of the same political party as the person or persons respectively, in whose place or places he or they are so appointed. Every person so appointed shall take an oath of office to faithfully and impartially perform the duties of said office. In all matters concerning such contests, such person or persons so appointed shall act in the place and stead of such member or members, so being candidates, and it shall be unlawful for any member of the council to act as such in hearing any contest in relation thereto, when such member is a candidate at such election; and anyone violating this section shall be deemed ineligible to the office for which he is a candidate. (Acts 1929 (Munl. ch.), ch. 4, § 82.)

Editor's note.--There is no prior reference in the Charter to any "such disqualified member or members" as mentioned in this section. See, however, Char., § 23, which provides, in pertinent part, that "all contested elections shall be

heard and determined by the council," and a logical assumption may be that, in enacting this section, the legislature intended that incumbent council members whose reelection is contested shall be disqualified to hear and participate in the determination of any such contest, and to provide for qualified persons, not members of the council, to act in the place and stead of those members whose election is contested.

Sec. 83. Duties of city clerk as to municipal elections.

The city clerk, acting under the state laws insofar as they are not in conflict with this act [this Charter], shall perform such duties relating to all municipal elections held under the municipal authorities of said city as the clerks of the county and circuit courts of Kanawha County perform under state laws in relation to state, county and district elections in said county; and he shall likewise be the custodian of all ballots, tally sheets, etc., pertaining to all municipal elections. (Acts 1929 (Munl. ch.), ch. 4, § 83.)

Sec. 84. Valid ordinances and regulations passed on or before May 1, 1915, not inconsistent with this Charter, to remain in effect until repealed.

All valid ordinances and regulations passed and adopted by the council, or by the board of affairs and council on or before the first day of May, 1915, and not inconsistent with this act [this Charter], shall be and remain in force unless and until repealed, and the council now [March 6, 1929] in office shall continue to exercise its powers as such until the officers elected in 1931 shall have been qualified. (Acts 1929 (Munl. ch.), ch. 4, § 84.)

Editor's note.--The "board of affairs" herein referred to was the governing body of the city under a Charter enacted in 1907, which was superseded by a new Charter enacted in 1915 providing for a mayor council form of government.

Sec. 85. Powers and duties of policemen.

The mayor shall appoint such number of policemen as are or may be hereafter prescribed by the city council by ordinance, and the mayor shall have at his discretion, the absolute right and power to dismiss any policeman and appoint another in his stead. The policemen shall be under command of the mayor and the chief of police, to be appointed as in this act [this Charter] provided for, and shall perform any and all duties incident to the office of policeman under the instructions and command of the mayor and the chief of police,

and, in addition to the usual and customary duties prescribed by the laws of this state and under the provisions of this Charter required of them, it shall specially be the duty of each police officer to report to the chief of police, or some one designated by said chief of police to receive such report, daily and oftener if occasion demands, the condition of all streets, sidewalks, alleys, basements, backyards, buildings, unimproved lots and all other things and matters within the limits of said city that may come under the notice of such policemen which may relate to the health of the citizens thereof, the sanitary conditions, the necessity of the removal of any obstructions upon any of the streets, alleys or sidewalks, and it shall be the duty of the policemen under their instructions to perform all the duties and exercise all the powers ordinarily imposed upon or given to the officers now known as health officers. It shall also be the duty of each police officer to perform all the duties of humane officer and to exercise all the functions, power and authority relating thereto which are or may be prescribed by any law of this state or ordinance of the city. A police officer in making arrests shall have all of the power and authority of a constable under the laws of the State of West Virginia. (Acts 1929 (Muni. ch.), ch. 4, § 85.)

Editor's note.--The appointment, promotion and dismissal of police officers in paid police departments of class I cities is now governed by the civil service provisions of W. Va. Code, § 8-14-7 et seq.

Sec. 86. Compensation of members of council; absence from meetings.

Each member of the city council shall be paid during his term of office the sum of two dollars and fifty cents for each meeting of the council that he shall attend; provided, that the aggregate amount to be paid to each member of the council shall not exceed the sum of one hundred dollars per annum. The roll of the members of the council shall be called at the beginning and at the end of each meeting thereof, and those members only who answer in person at each roll call shall be entitled to receive their pay for such meeting. The names of those members present at each roll call shall be entered upon the record. If there should not be a quorum present at the first roll call and the meeting be adjourned for that reason, then it shall not be a meeting that will entitle those present to the payment of the sum of two dollars and fifty cents as provided in this section. It shall be the duty of all councilmen to attend all of its meetings, and if any councilman shall be absent from the meetings of council as shown by its records for three consecutive meetings, then his office shall ipso facto become vacant, unless the council shall authorize or excuse such absence. If the office of any councilman shall become vacant under

the provisions of this section, then the council shall proceed to fill the same as it is authorized to do in the case of vacancies. (Acts 1929 (Munl. ch.), ch. 4, § 86.)

For state law providing that, "notwithstanding any charter provision to the contrary," the governing body of every municipality shall by ordinance fix the compensation of every municipal officer and employee; provided, that the salary of an officer shall not be increased or diminished during his term of office, see W. Va. Code, § 8-5-12.

Sec. 87. Reports by manager to council; reports by officers and employees under supervision of manager.

It shall be the duty of the manager, not later than the tenth day of any month after his appointment, to make a detailed report to the council for the preceding month. Such report shall show under distinct heads, first, the names and salaries of all employees under the control and supervision of manager; second, all expenditures or disbursements in the several departments under the supervision of the manager; third, an itemized statement of all purchases, together with the cost thereof, for each and every such department; fourth, all such other matters and things as the council may by proper ordinance or resolution require of said manager. Such report shall be entered of record in the minutes of the council and be a public record, open to the inspection of all persons. All officers or employees in any of the departments under the supervision of the manager shall, whenever required by said manager, make full and complete reports of all things done by them as such officers or employees in connection with the business of the city. (Acts 1929 (Munl. ch.), ch. 4, § 87.)

Sec. 88. Additional method for paving streets; assessment certificates.

In addition to the method provided for paving streets, by section 61 of the Charter of the City of Charleston, the council may order any street, avenue, public alley, or portion thereof, to be graded and paved, re-paved, or otherwise permanently improved, and the council may order the mayor and city clerk to issue a certificate for each installment of the amount of the assessment to be paid by the owner of any lot or fractional part thereof fronting on such street, avenue, or alley. The amount specified in said assessment certificate shall be a lien as aforesaid [in Char., § 61] in the hands of the holder thereof upon the lot or part of a lot fronting on such street, avenue, or alley, and such certificate shall draw interest from the date of said assessment and the payment may be enforced in the name of the holder of said certificate by proper suit in equity in any court having proper jurisdiction to enforce such lien; the council shall fix the amount of such assessment, advertise for bids and do all other things in connection therewith as is provided for paving or permanently im-

proving any street or alley or any portion thereof in section 61, except that such assessment laid under this section shall include the whole cost of such improvement, including the cost of grading and paving squares at intersections of streets and curbing, the costs of which intersections shall be apportioned against the several properties fronting upon the street or portion thereof so improved; and such certificates shall be issued in the same number of installments and payable at the same time as other paving or permanent improvements are provided to be paid for, and shall be a lien in the hands of the holder thereof upon the particular lot against which they are assessed in the same way and manner that assessments are liens under section 61 of said Charter. And nothing contained in this act [this Charter], or in the Charter of the City of Charleston, shall be construed as imposing a time limit upon the enforcement by appropriate suit of any lien for public improvements, heretofore or hereafter created.

Certificates authorized by this section may be issued, sold or negotiated to the contractor doing the work, or to any other person if the council deem it expedient; provided, [that] the city in issuing such certificates shall not be held as guarantor or in any way liable for payment thereof.

Certificates so issued shall contain a provision to the effect that in the event of default in the payment of any one of said certificates, when due, and said default continuing for a period of sixty days, then all unpaid certificates shall become due and payable and the holder of said certificates may proceed to collect all of such unpaid certificates in the manner hereinbefore provided. Certificates issued in pursuance of this section shall be negotiable at any bank in the City of Charleston.

The owner of the land or lot of land assessed under this section may at any time anticipate and pay such assessment or certificate with accrued interest thereon.

Provided, that no street, avenue or alley shall be paved or otherwise permanently improved pursuant to this section except and unless two-thirds of all the members elected to the council shall concur in the passage of the ordinance providing therefor, and the vote thereon shall be taken by ayes and noes, and duly entered upon the record. (Acts 1929 (Munl. ch.), ch. 4, § 88.)

For a case holding that the provisions of this section that an assessment under the certificate plan "shall include the whole cost of such improvement" precluded the city from paying to the paving contractor from general revenues or from monies derived from bonds, since if this were done "the whole cost of such improvement" would not be included in the assessment made under the certificate plan, see United States v. City of Charleston, 93 F. Supp. 748 (1950). This Charter section was construed therein as in pari materia with Char., §§ 61 and 88-b.

Sec. 88-a. Void, irregular or omitted assessments.

In the case of the construction of any pavement, sewer, sidewalk or other permanent improvement under the provisions of this Charter where an assessment has heretofore been laid, or may hereafter be laid for the cost thereof, which said assessment is or shall be void or voidable by reason of errors, irregularities or defects in the proceedings under which such improvement was made, or in case such assessment shall have been made against the wrong person or shall have been omitted to be made in a case where the same was proper, it shall be the duty of the council within two years after the completion of such permanent improvement, or after any court shall have declared such assessment invalid, to cause notice to be given to any person against whom the cost of said improvement might properly be or have been assessed under said Charter, of its intention to lay such assessment against him and fixing a time and place at which he may appear and show cause against the same. Said notice shall be served as provided in the said Charter for the giving of notices in assessment proceedings, or in any other manner provided by law, including by publication where the person is a non-resident of the city or cannot be found. At the time and place fixed for hearing under the notice aforesaid, or at any time thereafter, the council shall proceed to lay and levy an assessment for the cost of such permanent improvement in such manner as would have been lawful under proper proceedings at the time said improvement was made, unless the person so notified shall show good cause against the same, and no further notice of such assessment shall be necessary. The assessment so laid shall be a lien upon the property liable therefor and may be recorded and enforced in the same manner as provided for other liens for permanent improvements. This section shall apply to assessments made and certificates issued under section 88 of this Charter, as well as to other assessments and liens for public improvements. (Acts 1929 (Munl. ch.), ch. 4, § 88-a.)

Sec. 88-b. Assessment certificates to pay for cost of construction of sewers and sewer systems.

In addition to the method for the payment of the cost of construction of sewers and sewer systems provided by sections 62 and 62-a of the Charter of the City of Charleston, the council may order any sewer or sewer system constructed and laid, in any block, street, avenue, alley or in any right of way or easement, or portion thereof, and the council may order the mayor and city clerk to issue a certificate for each installment of the amount of the assessment to be paid by the owner of any lot or fractional part thereof fronting on such street, avenue, alley, right of way or easement in which such sewer system is constructed and laid, and the amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof upon the lot or part of lot fronting on such street, avenue or alley, right of way or easement, and such certificate shall draw interest from the date of said assessment and the payment may be enforced in the name of the holder of said certificate by proper suit in equity in any court having proper jurisdiction to enforce such lien; the council shall fix the amount of such assessment, advertise for bids

and do all other things in connection therewith as is provided in section 61 of said Charter for paving or permanently improving any street or alley or any portion thereof, the costs of which shall be apportioned against the several properties fronting upon the street, avenue, alley, right of way or easement or portion thereof in which the sewer or sewer system is laid according to the provisions of section 62 or section 62-a, as the case may be. Such certificates shall be issued in the following number of installments.

Where the assessment shall not exceed fifty dollars, the assessment and certificate issued thereon shall be in one amount, due and payable in ninety days from the completion and acceptance of the work; if over fifty dollars and not more than one hundred dollars, then such amount shall be covered by only two certificates of equal amounts, payable in ninety days and one year, respectively; if over one hundred dollars and not more than one hundred and fifty dollars, then such amount shall be covered by only three certificates of equal amounts payable in ninety days, one year and two years, respectively; if over one hundred and fifty dollars and not more than two hundred dollars, then such amount shall be covered by only four certificates of equal amounts, payable in ninety days, one year, two years and three years, respectively; and if more than two hundred dollars, then in five certificates of equal amounts, payable in ninety days, one year, two years, three years and four years, respectively; and the term "equal amounts" herein shall mean as nearly equal as practicable, that is, four certificates being expressed in terms of blank dollars each, and, when practical, in multiples of five, the cents and odd amounts being covered by the first certificate.

Every such certificate shall be a lien in the hands of the holder thereof upon the particular lot against which it is assessed in the same way and manner that assessments are liens under sections 62 and 62-a of this act [this Charter]. And nothing in this act, or in the Charter of the City of Charleston shall be construed as imposing a time limit upon the enforcement by appropriate suit of any lien for public improvements heretofore or hereafter created.

Certificates authorized by this section may be issued, sold or negotiated to the contractor doing the work, or to any other person if the council deem it expedient; and shall be negotiable at any bank in the City of Charleston; provided, [that] the city in issuing such certificates shall not be held as guarantor or in any way liable for the payment thereof. Certificates so issued shall contain a provision to the effect that in the event of default in the payment of any one of said certificates when due, said default continuing for a period of sixty days, unpaid certificates shall become due and payable and the holder of said certificates may proceed to collect all of such unpaid certificates in the manner hereinbefore provided.

Provided, that no sewer or sewer system shall be constructed or laid pursuant to this section except and unless two-thirds of the members elected to the council shall concur in the passage of the ordinance providing therefor,

and the vote thereon shall be taken by ayes and noes, and duly entered upon the record. (Acts 1929 (Munl. ch.), ch. 4, § 88-b.)

For a case holding that an assessment levied pursuant to this section against the United States for paving a portion of Summers Street which abutted upon federally owned property was void in the absence of an act of congress allowing lands of the United States to be subjected to special assessments for local improvements, and that both the lien filed by the city against the federal building and the certificate issued to the paving contractor were also void, see United States v. City of Charleston, 93 F. Supp. 748 (1950). This Charter section was construed therein as in pari materia with Char., §§ 61 and 88.

Sec. 88-c. Subdividing abutting land for purpose of making assessments.

If the abutting land on any avenue, street, road or alley sought to be graded, paved, repaved or otherwise improved, or on any avenue, street, road, alley, right of way or easement in which a sewer or sewer system is ordered laid, under any of the provisions of the Charter of the City of Charleston, is not subdivided or laid off in lots by a map or deed of record, the council may, for the purpose of making the assessments provided for in this section and other sections herein, subdivide said land into lots of such size as the council deems advisable for the purpose of laying the proper assessment against such land. (Acts 1929 (Munl. ch.), ch. 4, § 88-c.)

Sec. 89. Initiation of ordinances by voters.

Any proposed ordinance, or amendment to any ordinance already in effect, may be submitted to the city council by the petition of qualified voters in said city, but such petition must be signed by such number of voters as shall amount to at least ten per cent of the number of votes cast for the office of mayor at the last preceding municipal election. Such proposed ordinance, or amendment to an ordinance, shall be passed without alteration or change by the city council within thirty days after such petition is filed, or the city council shall, in lieu of passing such ordinance or amendment to an ordinance, submit such proposed ordinance, or amendment to an ordinance, in the manner hereinafter prescribed for ratification or rejection to the qualified voters of the city at the next regular municipal election which is to be held not less than sixty days after such petition is filed. If such petition contains a request for a special election and is signed by sufficient qualified voters to equal in number at least fifteen per cent of the votes so cast for the office of mayor at the last preceding regular municipal election, the ordinance or amendment thereby proposed shall be passed by

the city council without amendment or change, within thirty days after such petition is filed, or the city council shall submit such proposed ordinance or amendment for ratification or rejection to the qualified votes at a special election which shall be called within thirty days and held not less than sixty nor more than ninety days after such petition is filed, unless a general or special election is fixed by law to be held within said period of time. In the latter event, said proposed ordinance or amendment shall be submitted for ratification or rejection at such election. The city council shall cause such proposed ordinance or amendment to be printed and published in some newspaper of general circulation in the city once each week from the time the council decides to submit the same to the voters until such election is held. No ordinance or amendment to an ordinance adopted by the voters at any such election shall be repealed or amended by the city council.

The ballot used for any such election shall have printed on it the title of each ordinance, or amendment to an ordinance, submitted for ratification or rejection and on separate lines under said title the words "for said ordinance" and "against said ordinance" (or the amended part thereof, as the case may be). If a majority of the qualified voters of the city voting on any proposed ordinance, shall vote in favor thereof, the same shall thereupon become a valid ordinance and be in full force and effect at the expiration of the period of ten days from and after said election. If two or more ordinances, or amendments to ordinances, adopted at the same election are inconsistent, then the respective ordinance, or amendment to an ordinance, receiving the largest affirmative vote at such election shall prevail, and the form of submission of inconsistent ordinances, or parts thereof, or amendments to ordinances, shall be in such form that the voters may clearly express their choice. (Acts 1929 (Munl. ch.), ch. 4, § 89.)

Sec. 90. Reconsideration of ordinance protested by petition; submission of ordinances to voters.

If within the period of five days after the passage of any ordinance a petition signed by sufficient qualified voters of said city, being in number at least fifteen per cent of the votes cast for all the candidates for the office of mayor at the last preceding regular municipal election, shall be filed protesting against such ordinance, or any part thereof, taking effect, such ordinance, or such part thereof so protested against, shall thereupon and thereby be suspended from taking effect, and the city council shall immediately again consider the same, and if it be not repealed or so amended as to meet the requirements of the said protest, the city council shall submit the same for ratification or rejection to the qualified voters of the city at the next regular municipal election which shall be held not more than thirty days after such petition is filed, or at a special election to be called thereafter by the city council for that purpose to be held in not less than sixty days nor more than ninety days after such petition is filed, and such ordinance, or part thereof so protested, shall not take effect unless a majority of the votes cast at such election thereon shall be

for the ratification thereof. If such petition shall only be signed by sufficient qualified voters to equal in number at least five per cent but not sufficient to equal in number at least fifteen per cent of the votes cast for the candidate for said office of mayor at the last preceding municipal election, the city council shall submit such ordinance, or such part thereof so protested, for ratification or rejection at the next ensuing regular municipal election which is to be held more than thirty days after such petition is filed. The city council may, on its own motion, without any petition being required therefor, submit at a regular or special municipal election any ordinance passed by it in the same manner and with the same force and effect as hereinbefore provided. No ordinance, or part of an ordinance, rejected at any election shall be enacted or passed by the city council within the period of twelve months thereafter. (Acts 1929 (Muni. ch.), ch. 4, § 90.)

For a case holding that a referendum held pursuant to this section of the city Charter cannot affect the validity of an ordinance when questioned for other reasons, see State v. City of Charleston, 130 W. Va. 490, 45 S.E.2d 7 (1967).

Sec. 91. Recall of officers.

Any officer of the City of Charleston elected by the voters under the provisions of this act [this Charter], may be recalled and the office declared vacant as provided in this act. Such officer may be removed from office by a recall election held thereunder, but no such officer shall be removed from office within the period of four months after he enters upon the discharge of his duties as such. Before any such recall election shall be held a petition, stating the name or names and the office or the officer or officers sought to be recalled, and signed by sufficient qualified voters of the said city as shall equal in number the quantity of twenty-five per cent of the votes in the whole city or in the ward, as the case may be, for all the candidates for the office of mayor at the last preceding regular municipal election, and containing a sworn statement of the grounds upon which it is sought to remove the said officer or officers, shall be filed with the city clerk. No such petition shall be filed within the period of six months before the end of the term of such officer. The city council shall immediately, upon the filing of said petition, call a special election in the manner in this act [this Charter] provided for calling special elections and submit to the voters the question of recalling such officer or officers. The ballot at such election, with respect to each person whose recall is sought, shall be substantially as follows: "Shall (name of person) be removed from the office (name of office) by recall?" Immediately following such question there shall be on the printed ballot the two propositions in the order set forth:

"For the recall of (name of person)."

"Against the recall of (name of person)."

Immediately to the left of said proposition shall be printed a square in which the voters, by marking a cross mark (X), or in some other way declaring their intention, may vote for either of such propositions. If sixty per cent of the voters registered voting on said propositions vote in favor of the recall of such officer or officers, then he or they shall thereby be forthwith removed from such office and such vacancy or vacancies shall be filled as provided in this act; provided, however, that within fifteen days after the returns of such recall election shall have been canvassed by the city council, a petition signed by sufficient qualfied voters to equal in number at least thirty per cent of the votes cast in the city, or ward, as the case may be, for the candidates for the office of mayor at the last preceding regular municipal election, and praying that such vacancy or vacancies be filled by a special election to be held not less than thirty days nor more than forty-five days thereafter, the city council shall order a special election to be held in the same manner as other special elections are provided for in this act for the purpose of filling such vacancy or vacancies. (Acts 1929 (Munl. ch.), ch. 4, § 91.)

Sec. 92. Signatures and affidavits to petitions filed under three preceding sections; form of submission of ordinance; all city elections to conform to state law.

The signatures to petitions filed under the provisions of the last three sections need not be all on one paper or one sheet of paper, but separate petitions may be circulated and signed and the aggregate number of names on all of such petitions, if equal to the number required in this act, shall be sufficient. The circulator of each paper shall make and append thereto an affidavit that each signature thereon is the signature of the person whose name it purports to be. The residence address of each signer shall accompany the signature. All such petitions shall be filed with the city clerk and shall be deemed and held to be sufficient if they appear to be signed by the requisite number of signers and such signers shall be deemed and held to be qualified voters, unless a protest in writing, under oath, shall be filed with the city clerk by some qualified voter within fifteen days after such petitions are filed, which protest shall set forth the name of each signer protested against and the ground therefor. It shall be the duty of the city clerk as soon as possible and within twenty-four hours after the filing of such protest to mail a notice to each signer so protested against at his address as given in the petition, requiring him to be and appear before the city registrars at a time fixed in said notice, not less than twenty-four hours nor more than forty-eight hours after the mailing of such notice, for the purpose of defending his right to sign said petition. If it shall be proven by satisfactory evidence that such person is not a qualified signer of such petition, then his name shall be stricken therefrom. All evidence taken shall be under oath, and any signer present at the hearing may be called as a witness by the protestant or testify in his own behalf. All hearings shall be summary and shall be concluded within fifteen days after such petition is filed. The city registrars [see Char., § 9] shall forthwith certify the result of their examination to the city clerk and such city clerk shall serve a copy of such certificate upon the person or persons named in the petition as represent-

ing the signers thereof. When the petition contains a sufficient number of qualified signatures the city registrars shall forthwith file the same with the city clerk, and he shall transmit the same to the city council, which shall call an election as provided for in the three preceding sections of this act [this Charter]. All petitions filed in the city clerk's office shall be public records. When any petition contains a form of submission of the ordinance petitioned for and such form is a reasonably fair description thereof, the same shall be placed on the ballot and no petition filed subsequently shall be permitted to use any form of submission that is so similar to the one previously filed as to tend to confuse the voter, and, in case of such conflict, the person presenting the subsequent petition may file a form of submission which shall be placed upon the ballot, provided, the same shall fairly describe the ordinance, or amendment to an ordinance, petitioned for and shall not be in conflict with any prior forms of submission or tend to confuse the voter.

The city council shall so frame all forms of submission that the voter can, by making a cross in a square in front of some appropriate words, vote either for the ratification or the rejection of the proposed measure, but no ballot shall be rejected from which the reasonable intention of the voter however he shall have marked the same, can be ascertained. All city elections, regular or special, shall conform as nearly as possible to the election statutes contained in chapter 3 of the Code of West Virginia. (Acts 1929 (Munl. ch.), ch. 4, § 92.)

Sec. 93. Additional method for construction of sidewalks; assessment certificates.

In addition to the method of securing the laying of sidewalks set out in section 49 of this chapter [this Charter], the council of said city may cause any sidewalk to be constructed, laid, relaid, or otherwise permanently improved in the City of Charleston in the following manner and upon the following terms: Plans and specifications shall be prepared and filed, resolutions and ordinances shall be adopted and notices shall be prepared and served in the same way and manner as near as may be, as in the case of the paving and improvement of streets and alleys. The contract for same shall, after due advertisement in which council shall reserve the right to reject any and all bids, be let to the lowest responsible bidder and upon completion and acceptance of the work, council shall order the mayor and city clerk to issue to the contractor doing the work a certificate for the amount of the assessment to be paid by the owner of any lot or fractional part thereof fronting on such sidewalk, and the amount specified in said assessment certificate shall be a lien in the hands of the holder thereof upon the lot or part of a lot fronting on such sidewalk as well as a debt against the owner of said lot, and such certificate shall draw interest from the date of said assessment, and the payment may be enforced in the name of the holder of such certificate by a proper suit in equity in any court having proper jurisdiction to enforce such liens, and council shall fix the amount of such assessments and do all things in connection therewith necessary to make them valid and do all other things in connection therewith as is provided for paving or

improving streets and alleys and such certificates shall be issued one for each abutting lot or portion thereof payable six months from the date of the completion and acceptance of the work and shall be a lien in the hands of the holder thereof upon the particular lot against which they are assessed in the same way and manner that assessments for street paving are liens under the other provisions of the aforesaid act creating and amending the Charter of the City of Charleston; providing, however, that council shall not order any but concrete sidewalks; and, provided, further, that council shall not advertise for bids for any one letting of less than five thousand square feet; and, further, provided, that council shall not receive any bids or let any sidewalk contract between the first day of October and the first day of March of any year. Nothing in this section shall be so construed as to prevent any abutting lot owner from having his own sidewalk put in if done before the advertising hereinbefore mentioned and provided same is done according to the lines, grades and specifications of the city engineer, for which no charge shall be made. The total cost of constructing, laying, relaying, or otherwise permanently improving any sidewalk or walks shall be borne by the owners of the land abutting upon said sidewalk or sidewalks according to the following plan, that is to say, payment is to be made according to the proportion of square feet in front of any lot or portion thereof bears to the whole letting. The contract for sidewalks referred to in this section does not necessarily have to be one continuous sidewalk, but the five thousand square feet required for a letting as aforesaid may be made up of or composed of any number of sidewalks in any parts of the city. (Acts 1929 (Munl. ch.), ch. 4, § 93.)

Sec. 93-a. Transcript of property to be furnished by county assessor.

The county assessor shall furnish transcript of real and personal property on or about the tenth day of September of each year and his fee for same shall be not less than four hundred nor more than one thousand dollars for such work. (Acts 1929 (Munl. ch.), ch. 4, § 93-a.)

Editor's note.--See W. Va. Code, § 11-3-6, which provides that county assessors furnish to the clerk of every municipality in their respective counties a certified statement of the aggregate value of real and personal property not later than March 7th of each year.

Sec. 94. Authority to issue warrants; vacancy in office of municipal judge.

The municipal judge, mayor, city clerk, municipal court clerk, chief of police, or in the absence of the chief of police, the captains of police and lieutenants of police shall each have authority to issue warrants for all offenses committed within the police jurisdiction of the City of Charleston. Any vacancy in the office of municipal judge shall be filled by appointment by the mayor until the next election. (Acts 1929 (Munl. ch.), ch. 4, § 94.)

Sec. 95. Statement of claim before action against city for damages for personal injury.

No action shall be maintained against the City of Charleston for damages for a personal injury alleged to have been sustained by reason of the negligence of the city or of any officer, agent or employee thereof, unless a written verified statement of the nature of the claim and of the time and place at which such injury is alleged to have been received shall have been filed with the city clerk within thirty days after the cause of action shall have accrued. The cause of action shall be deemed to have accrued at the date of the sustaining of the injury, except that where death results therefrom the time for the personal representative to give notice shall run from the date of death. An action at law for damages for personal injuries or death shall not be commenced until the expiration of thirty days after the filing of the notice as provided in this section. (Acts 1929 (Munl. ch.), ch. 4, § 95.)

For a case holding that this section imposes a condition precedent to the right of the claimant to sue the city, and in the absence of allegation and proof that its provisions have been complied with, the omission may be taken advantage of after the verdict, see Thompson v. Charleston, 118 W. Va. 391, 191 S.E. 547 (1937).

Sec. 96. Health commissioner.

The health commissioner shall be a physician of good standing in his profession and may devote his time to city work alone. It shall be his duty to administer to all charity cases that he may, in his discretion, deem deserving. He shall, in conjunction with the city manager, have charge of the general health and sanitation of the city and it shall be his duty to carefully investigate all complaints and make a careful detailed report of all his official acts as health commissioner to the city manager and council at least once every month. He shall be appointed in the way and manner provided in the Charter of the City of Charleston and shall receive such salary as council may by ordinance prescribe. Nothing herein, however, shall be construed as in any way affecting the police officers of the city relative to their powers and duties in regard to city sanitation contained and set forth elsewhere [see Char., § 85] in said Charter. (Acts 1929 (Munl. ch.), ch. 4, § 96.)

Editor's note.--In lieu of a city health commissioner and health department, the Kanawha-Charleston combined board of health now exercises their functions within the city, pursuant to an agreement between the city and the county court dated Oct. 18, 1956, a copy of which is on file in the office of the city clerk. For state law as to combined city-county boards

of health, see W. Va. Code, § 16-2-3. As to local health officers generally, see W. Va. Code, §§ 16-2-1 through 16-2-5.

Sec. 97. Police matron.

It shall be the duty of the mayor to appoint a reputable woman who shall be known as police matron, and such police matron shall have all the qualifications and be subject to all the provisions of chapter 18 of the Acts of the Legislature of 1911 [now codified in W. Va. Code, § 8-14-4]. The council of the City of Charleston shall provide a reasonable salary not to exceed twelve hundred dollars therefor and do all of the things required by the council under the provisions of said chapter 18 of the Acts of the Legislature of 1911 and any amendments thereto. (Acts 1929 (Munl. ch.), ch. 4, § 97.)

Editor's note.--As of Sept. 30, 1974, the city was not operating a jail, and city prisoners were confined in the county jail, pursuant to an agreement with the county court. For that reason, the city does not have a police matron.

For state law providing that, "notwithstanding any Charter provision to the contrary," the governing body of every municipality shall by ordinance fix the compensation of every municipal officer and employee; provided, that the salary of an officer shall not be increased or diminished during his term of office, see W. Va. Code, § 8-5-12.

Sec. 98. Codification of ordinances.

The city council shall cause any contract for the codifying and indexing of all the ordinances of the city to be fully completed, and such ordinances shall include all in force and effect up to the last day possible. Before such work is accepted by the council, it shall be completed in every respect and the council shall then cause it to be properly printed and securely bound in a permanent book. The council may by ordinance adopt the code to be prepared as a whole and when said ordinance adopting said code shall have been passed by the council, the said code shall be and become the law and ordinances of said city up to such time according to the tenor and effect thereof, and when printed in a book, the same shall be received as evidence as the ordinances of said city, unless errors or omissions be affirmatively shown therein, and no other publication thereof shall be made or required under the Charter, and the council shall cause all the ordinances of said city, either by printing a supplement thereof, to be brought up to date within a reasonable time after the printing of such ordinances, and in any event such supplement shall be printed, or, if necessary, a new copy of the ordinances shall be printed with-

in every four years, and the council shall cause a sufficient number of said books of the ordinances to be printed and to sell such number thereof as it may do so at such price as may be reasonable, and the number of books printed shall be fixed by the council. (Acts 1929 (Munl. ch.), ch. 4, § 98.)

For state law as to authority of city council to adopt a comprehensive code of ordinances, see W. Va. Code, § 8-11-4, subsec. (b).

Sec. 99. Cemeteries and burials.

It shall be the duty of the City of Charleston to provide suitable and proper places for the burial of the dead, which places may be in or out of the corporate limits of the said city. The city shall cause such places to be laid off into cemetery lots in a reasonable and proper way and shall sell said lots for a reasonable price, but it may take into consideration the location of each of such lots in fixing the prices thereof. The city council shall have all the powers and rights of condemnation of any real estate that it may wish for such purpose in the manner provided by law, and it may acquire by means of condemnation any real estate which has already been laid out as a cemetery by any person, association or corporation.

No burials of the bodies of deceased persons shall hereafter be permitted within the incorporated limits of the City of Charleston or within the space of one mile of such incorporated limits without the permission of said city shall be first had and obtained, and the City of Charleston, through its proper authorities, shall have power to pass all proper ordinances providing suitable penalties to carry out the powers here given said city.

No moneys received from the sale of lots in any cemetery so owned, or hereafter owned, by said city shall be used for any other purpose than the proper care and preparation of the ground, upkeep and expenses of said cemetery, the roads and ways to and through the same and for the purchase of additional property for cemetery purposes. (Acts 1929 (Munl. ch.), ch. 4, § 99.)

For state law as to authority of city council to acquire and maintain cemeteries and to regulate interments therein, see W. Va. Code, § 8-12-5, subsec. (42).

Sec. 100. Building inspector.

The building inspector shall be a competent person for the duties of his office and shall devote all his time to city work. He shall not be engaged or interested in the building business in any way or manner. The council shall by ordinance fix a proper salary for him. He shall see that the ordinances of

the city and laws of the state concerning buildings are enforced and perform such other duties as the manager or council may direct. (Acts 1929 (Munl. ch.), ch. 4, § 100.)

Sec. 101. Power to buy, sell or exchange real estate.

The council shall have power to buy, sell, or exchange any real estate found necessary or convenient, in the opening, construction, straightening, widening or otherwise altering of any street, alley or public way within the city, and by resolution and proper deed to convey to any person, firm or corporation any land used, or heretofore or hereafter used, for street or other public purpose, when in the judgment of the council such land shall no longer be needed for such public use. (Acts 1929 (Munl. ch.), ch. 4, § 101.)

Sec. 102. Zoning--Power of city.

For the purpose of promoting health, safety, morals, or the general welfare of the city and community, the council is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residents or other purposes; provided, however, that any ordinance or by-laws enacted under the authority of this act [this Charter] shall exempt from the operation thereof any building or structure used or to be used by a public service corporation (not otherwise exempted) as to which proof shall be presented to the council of the City of Charleston provided for in this act, that the exemption of such building or structure is reasonably necessary to the convenience or welfare of the public. (Acts 1929 (Munl. ch.), ch. 4, § 102.)

For state law as to urban and rural planning and zoning generally, see W. Va. Code, ch. 8, art. 24. As to regional planning, see W. Va. Code, ch. 8, art. 25. For state law as to zoning authority of municipalities generally, see W. Va. Code, § 8-24-39.

For a case holding that the provisions of this section did not confer authority on the city to enact a building code or zoning ordinance which would be applicable to a building constructed by the state office building commission, created by chapter 43, Acts of the Legislature, 1939, on property purchased under the general appropriation act, contained in chapter 9, Acts of the Legislature, 1949, see Charleston v. Southeastern Con. Co., 134 W. Va. 666, 64 S.E.2d 676 (1950).

Sec. 102-a. Same--Division of city into zoning districts.

For any or all of said purposes the council may divide the city into districts of such number, shape and area as may be deemed best suited to carry out the purpose of this and the four succeeding sections, and within such districts it may regulate and restrict the erection, construction, alteration, repair or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts. (Acts 1929 (Munl. ch.), ch. 4, § 102-a.)

For state law as to zoning districts generally, see W. Va. Code, § 8-24-40.

For a case holding that the provisions of this section did not confer authority on the city to enact a building code or zoning ordinance which would be applicable to a building constructed by the state office building commission, created by chapter 43, Acts of the Legislature, 1939, on property purchased under the general appropriation act, contained in chapter 9, Acts of the Legislature, 1949. see Charleston v. Southeastern Con. Co., 134 W. Va. 666, 64 S.E.2d 676 (1950).

Sec. 102-b. Same--Design of zoning regulations; considerations in making.

Such regulations shall be made in accordance with a comprehensive plan, and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; or to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city. (Acts 1929 (Munl. ch.), ch. 4, § 102-b.)

For state law as to municipal comprehensive plan, see W. Va. Code, § 8-24-16 et seq.

For a case holding that the provisions of this section did not confer authority on the city to enact a building code or zoning ordinance which would be applicable to a building constructed by the state office building commission, created by chapter 43, Acts of the Legislature, 1939, on property purchased under the general appropriation act, contained in chapter 9, Acts of the Legislature, see Charleston v. Southeastern Con. Co., 134 W. Va. 666, 64 S.E.2d 676 (1950).

Sec. 102-c. Same--Establishment, enforcement and change of zoning regulations and boundaries of zoning districts; hearing.

The council shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established and enforced, and from time to time amended, supplemented or changed. However, when demanded by any party in interest, no such regulation, restriction or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days' notice of the time and place of such hearing shall be published in at least two newspapers of general circulation, published in the City of Charleston. (Acts 1929 (Munl. ch.), ch. 4, § 102-c.)

For state law as to action by municipal governing bodies on zoning ordinances, notice and hearing thereon, etc., see W. Va. Code, § 8-24-44.

Sec. 102-d. Same--Change or repeal of zoning regulations and boundaries; protests.

Such regulations, restrictions and boundaries may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such change signed by the owners of twenty per cent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof, extending one hundred feet therefrom, or of those directly opposite thereto, extending one hundred feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of council. The provisions of the previous section relative to public hearings and official notice shall apply to all changes or amendments. (Acts 1929 (Munl. ch.), ch. 4, § 102-d.)

For state law as to amending, supplementing or changing zoning ordinance rules and regulations, see W. Va. Code, § 8-24-45 et seq.

Sec. 102-e, ¶ 1. Same--Zoning commission.

In order to avail itself of the powers conferred by this act [this Charter], the council shall appoint a commission to be known as the zoning commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and such council shall not hold its public hearings or take action until it has received the final report of such commission. (Acts 1929 (Munl. ch.), ch. 4, § 102-e, ¶ 1.)

For state law as to municipal planning commissions, see W. Va. Code, § 8-24-1 et seq. As

to certain powers and duties of municipal planning commissions relating to zoning, see W. Va. Code, §§ 8-24-42 through 8-24-47.

Sec. 102-e, ¶ 2. Repeal of inconsistent laws.

All acts heretofore passed relating to or amendatory of the Charter of the City of Charleston, and all other acts or parts of acts, coming within the purview of this act and inconsistent herewith, are hereby repealed. (Acts 1929 (Muni. ch.), ch. 4, § 102-e, ¶ 2.)

C E R T I F I C A T E

Certified to be a true and correct copy of that certain Section 25-25, and Ordinance No. 1486, duly filed and of record in the Office of the City Clerk of the City of Charleston, West Virginia, passed by Council on November 19, 1973.

Given under my hand and the official seal of the City of Charleston, West Virginia, this 1st day of December, 1993.

(seal)

James C. Stucky, City Clerk

no city sewer is under construction a registered professional engineer need not be a member of the board. The two appointed members of the board shall each serve for a term of three years and until his successor is duly appointed and has qualified, and vacancies shall be filled for the unexpired term only. (Code 1957, pt. 9, art. 23, §§ 1, 2; Ord. No. 1486, 11-19-73, § 1.)

Editor's note.--Original appointments were made pursuant to the ordinance here codified at such time and for such terms that one vacancy for an appointed member occurs March 16, 1975 and every three years thereafter, and one such vacancy occurs March 16, 1976 and every three years thereafter.

For state law basis of this section, see W. Va. Code, § 16-13-18.

Sec. 25-26. Officers; salaries; bond of treasurer.

The sanitary board shall elect a vice chairman from its members and shall designate a secretary and treasurer (who may be one and the same person) who need not be members of the board and who shall hold office at the will of the board.

Each member of the board, other than the mayor, shall receive such salary as may be provided from time to time by the city council and shall be entitled to payment for his reasonable expenses incurred in the performance of his duties.

The secretary and treasurer shall be paid such reasonable compensation for services as from time to time may be fixed by the city council, and the treasurer shall give bond, with qualified corporate surety, in the amount of five thousand dollars or such other amount as the council may require, conditioned for the proper application of all moneys received by him as such and for the faithful performance of the duties of his office.

All compensation, and all expense, incurred by the sanitary board, its officers and employees, shall be paid solely from funds authorized to be collected and received by the board as provided by article 13, chapter 16 of the Code of West Virginia. (Code 1957, pt. 9, art. 23, § 3.)

For state law basis of this section, see W. Va. Code, § 16-13-18.

Sec. 25-27. Powers and duties.

(a) The construction, acquisition, improvement, equipment, custody, operation, maintenance and administration of all works for the collection, treatment or disposal of sewage within the city and in such other areas as may be

By Mr. Crawford:

Bill No. 1486--A Bill to amend and reenact section one, article twenty-three, Streets and Public Services Law, Code of the City of Charleston, West Virginia, one thousand nine hundred fifty-seven, as amended, appointing two members to the Sanitary Board as provided by chapter sixteen, article thirteen, section eighteen, Code of West Virginia, one thousand nine hundred thirty-one, as amended.

Be it Ordained by the Council of the City of Charleston, West Virginia:

1. Section one, article twenty-three, Streets and Public Services Law, Code of the City of Charleston, West Virginia, one thousand nine hundred fifty-seven, as amended, be amended and reenacted to read as follows:

Section 1. Sanitary Board created; membership; terms.

There is hereby created and appointed the Sanitary Board of the City of Charleston consisting of the Mayor and two persons appointed by the governing body of the municipality. Said appointments shall be made by ordinance and members shall serve for a term of three years. The Mayor shall act as chairman of the board.

2. L. M. Milstead, Jr. is hereby appointed as a member of the Sanitary Board for the term expiring the sixteenth day of March, one thousand nine hundred seventy-five.

John D. Smallridge is hereby appointed as a member of the Sanitary Board for the term expiring the sixteenth day of March, one thousand nine hundred seventy-six.

3. The City Council hereby finds that it is a matter of urgent concern and a pressing public emergency requiring immediate action to update the Code of the City of Charleston to be in compliance with the Code of West Virginia.

The question being on the passage of the bill, a roll call was taken and there were--yeas 24, nays none and absent one, as follows:

YEAS: Barnett, Bennett, Bird, Brawley, Carp, Copenhaver, Crawford, Cummings, Duncan, Flint, Hall, Hunt, Kennedy, Layne, Matthews, Nuzum, O'Connor, Preston, Quick, Sheets, Silverstein, Smith, Vanderwilt and Mayor Hutchinson.

NAYS: None.

ABSENT: Mullins.

So, all members present and voting having voted in the affirmative, the Mayor declared the bill (No. 1486) unanimously passed.

(The provisions of section eleven, article four (d), chapter eight of the Code of West Virginia, one thousand nine hundred thirty-one, as amended, requiring the affirmative vote of two-thirds of the members elected to the Council to pass a bill in the case of a pressing public emergency is satisfied.)

PETITION OF THE SANITARY BOARD
OF
THE CITY OF CHARLESTON, WEST VIRGINIA

TO THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA:

Pursuant to the provisions of Chapter 16, Article 13, Section 5, of the Code of West Virginia, 1931, as amended, the Sanitary Board (the "Sanitary Board") of The City of Charleston, West Virginia (the "City"), which was established pursuant to an ordinance passed by the Council of the City (the "Council") on June 16, 1952, hereby petitions the Council to enact a supplemental ordinance supplementing the Ordinance enacted on April 20, 1992 (the "Ordinance") which shall:

(a) set forth a brief and general description of extensions, improvements and betterments to the sewerage system of the City, more fully set forth in Exhibit A hereto (the "Project"), in accordance with plans and specifications prepared and filed by Dunn Engineers, Inc., and Kelly, Gidley, Blair & Wolfe, Inc., the engineers chosen by the Sanitary Board (the "Consulting Engineers");

(b) set forth the Cost of the Project estimated by the Consulting Engineers, being approximately $2,500,000;

(c) order the construction and acquisition of the Project; and

(d) contain such other provisions as may be necessary in the premises.

The Sanitary Board respectfully represents to the Council that, during the construction of the Project, one of the two persons appointed to the Sanitary Board by the Council has been, is and must be a registered professional engineer.

WITNESS our signatures on this 19th day of April, 1993.

THE SANITARY BOARD OF THE CITY
OF CHARLESTON, WEST VIRGINIA

By: _____
Mayor of the City and
Ex-Officio Chairman

_____
Member

_____
Engineer-Member

EXHIBIT A

The Project consists of the following sub-projects, including all appurtenances necessary or incidental thereto:

(a) Trojan Steel extension -- Construction of approximately 1,120 linear feet of 8 inch gravity sewer with manholes and appurtenances, one grinder sewage pumping station and approximately 1,710 linear feet of 2 inch diameter plastic force to serve nine new previously unsewered customers in the vicinity of the south end of the Patrick Street Bridge between the Trojan Steel Corporation and the City of South Charleston Wastewater Treatment Plant.

(b) Parkwood Road upgrade -- Construction of approximately 3,750 linear feet of 12 inch diameter gravity sewer, 5,150 linear feet of 10 inch diameter gravity and appurtenances to allow the abandonment of five existing sewage pumping stations (Blue & Gold Stables P.S., Parkwood Road P.S., Bridlewood Road P.S., Woodland Heights P.S. #1, Woodland Heights P.S. #2) in the Parkwood Road sewer service area. The gravity sewers will connect to the newly constructed Ruthdale Sewer System.

(c) Virginia Street and Patrick Street Sewage Pumping Stations Value Replacement -- Replace the existing failing knife gate valves in both sewage pumping stations with solid wedge gate valves.

(d) Corridor G Sewage Pumping Station Upgrade -- Replacement of pumps, valves and appurtenances in the Ferry Branch Pump Station, Emerald Heights Pump Station, Lucado Road Pump Station, Angel Terrace Pump Station, and Sherwood Forest Pump Station to increase their sewage pumping capacities, and replace the existing Sherwood Forest force main with approximately 5,000 linear feet of new force main.

ABB0174C

C E R T I F I C A T E

Certified to be a true and correct copy of that certain oaths of office of Mayor, City Clerk and City Council Members, duly filed and of record in the Office of the City Clerk of the City of Charleston, West Virginia.

Given under my hand and the official seal of the City of Charleston, West Virginia, this 1st day of December, 1993.

(seal)

James C. Stucky, City Clerk

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Kent Strange Hall, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Mayor
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Kent Strange Hall

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 19 91

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, ~~19~~ 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Y. HOWARD QUICK, JR, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Y. Howard Quick Jr

Subscribed and sworn to before me the undersigned authority, this 6th day of January, 1991

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20 day of February, 1991

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 501 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Carl Hicks, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Carl Hicks

Subscribed and sworn to before me the undersigned authority, this 1,th day of May, 19 91

Robin L Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, 19 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I Arlie E. Robinson, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Arlie E. Robinson

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 19 91

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, 19 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Brayton Broady, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Brayton Broady

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 19 91

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, 19 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Ernest A. Jayne, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Ernest A. Jayne

Subscribed and sworn to before me the undersigned authority, this 1th day of May, 1991

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20 day of February, ~~19~~ 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 501 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Dennis McMillen, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Dennis C. McMillen

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 1991

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, 19 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 201 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, JAMES MONROE, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

James Monroe

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 1991

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, ~~19~~ 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, George W. McCloskie WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

George W. McCloskie

Subscribed and sworn to before me the undersigned authority, this 1th day of January, 1991

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20 day of February, 19 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Chester F. Thompson, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Chester F. Thompson

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 1991

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Betty Lee Wampler, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Betty Lee Wampler

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 1991

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, 19 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Joyce Horan, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Joyce Horan

Subscribed and sworn to before me the undersigned authority, this 1th day of May, 1991

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, ~~19~~ 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Linda M Nielsen, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Linda M. Nielsen

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 1991

Robin L Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, 19 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 501 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Jody Connell, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Jody Connell

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 1991

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20 day of February, 19 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Mary Jane Vandervort, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Mary Jane Vandervort

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1991

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, ~~19~~2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, William W. Huffman II, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

William W. Huffman II

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 1991

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, ~~19~~2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Marvin F McCelsod, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Marvin F McCelsod

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 1991

Robin L Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, ~~19~~ 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Nancy Stalnaker Robson, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Nancy Stalnaker Robson

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 1991

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, ~~19~~ 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 501 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Jean S. Londeree, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Jean S. Londeree

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 19 91

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20 day of February, 19 91

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2000

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Edward C. Armbrust Jr, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Edward C. Armbrust Jr.

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 1991

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, 19 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Stephen V. Brown, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Stephen V. Brown

Subscribed and sworn to before me the undersigned authority, this 14th day of May, 19 91

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, ~~19~~ 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Barbara H. Cary, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Barbara H. Cary

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 1991

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20 day of February, ~~19~~ 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston Clerk's Office
P. O. Box 2749, 501 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, J. Thomas Lane, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

J. Thomas Lane

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 1991

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, ~~19~~ 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston, Clerk's Office
P. O. Box 2749, 703 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

O F F I C E R ' S O A T H

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, David Amonler, WHO HAS BEEN DULY ELECTED

TO THE OFFICE OF Council
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

David Amonler

Subscribed and sworn to before me the undersigned authority, this 6th day of May, 1991

Robin L. Edens
Notary Public in and for Kanawha County

My commission expires on the 20th day of February, ~~19~~ 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. EDENS
City of Charleston Clerk's Office
P. O. Box 2749, 301 City Hall
Charleston, West Virginia 25330
My Commission Expires Feb. 20, 2001

OFFICER'S OATH

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, Loren Snodgrass, WHO HAS BEEN DULY APPOINTED

TO THE OFFICE OF Council Member 19th Ward
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

Loren E. Snodgrass

Subscribed and sworn to before me the undersigned authority, this 21st day of January, 19 92

Patricia Lucas
Notary Public in and for Kanawha County

My commission expires on the 3rd day of March, 19 96

OFFICER'S OATH

(Sec. 24, City Charter)

The State of West Virginia, City of Charleston, County of Kanawha, to wit:

I, James C. Stucky, WHO HAS BEEN DULY APPOINTED

TO THE OFFICE OF City Clerk
OF THE CITY OF CHARLESTON, WEST VIRGINIA, DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND THAT I WILL FAITHFULLY AND IMPARTIALLY DISCHARGE THE DUTIES OF SAID OFFICE, DURING MY CONTINUANCE THEREIN, TO THE BEST OF MY SKILL AND JUDGMENT; AND THAT I WILL NOT, IN ANY WAY, OR MANNER, BECOME PECUNIARILY INTERESTED DIRECTLY OR INDIRECTLY IN ANY CONTRACT WITH THE CITY, IN ANY FRANCHISE GRANTED BY IT, OR IN THE PURCHASE OF SUPPLIES THEREFOR, SO HELP ME GOD.

James C Stucky

Subscribed and sworn to before me the undersigned authority, this 18th day of May, 19 92

Patricia E Lucas
Notary Public in and for Kanawha County

My commission expires on the 12th day of March, 19 96

C E R T I F I C A T E

Certified to be a true and correct copy of that certain Ordinance No. 4547, duly filed and of record in the Office of the City Clerk of the City of Charleston, West Virginia, passed by Council of the City of Charleston at the meeting held on March 5, 1990.

Given under my hand and the official seal of the City of Charleston, West Virginia, this 1st day of December, 1993.

(seal)

James C. Stucky, City Clerk

"Bill No. 4547

Introduced in Council

February 20, 1990

Introduced by

Mary Jane Vanderwilt

Passed by Council

March 5, 1990

Referred to

Finance Committee

An Ordinance to amend and re-enact Section 25-7 of Article 1, of the Code of The City of Charleston, as amended, establishing a schedule of just and equitable rates or charges for the use of and services rendered by the sewer system of The City of Charleston, the purpose and effect of this ordinance being to provide a new increased schedule of rates as hereinafter stated, all as provided for by Chapter 16, Article 13, and Chapter 24, Article 2, Section 4b of the Code of West Virginia, 1931, as amended.

Be it Ordained by the Council of The City of Charleston, West Virginia:

That Section 25-7 of Article 1, of Chapter 25 of the Code of The City of Charleston, as amended, be further amended and re-enacted by establishing a schedule of increased rates and charges for the use of and services rendered by the sewer system of The City of Charleston, all of said section as hereby amended to read as follows:

Section 25-7. ESTABLISHMENT OF A SCHEDULE OF JUST AND EQUITABLE RATES OR CHARGES: USE OF WATER METERS.

For the payment of proper and reasonable expense of operation, repair, replacements, improvements, additions, betterments, extensions, and maintenance of the sewer system and for the payment of the sums required to pay the principal and interest of all sewer revenue bonds as the same become due, there is hereby established a schedule of just and equitable rates or charges for the use of and services rendered by the municipal sewer system and works of The City of Charleston, West Virginia, which schedule of rates or charges, based upon the metered amount of water supplied the premises, shall be as follows:

RULES AND REGULATIONS

I. Rules and Regulations for the Government of Sewerage Utilities, adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto, and modifications thereof hereafter made by said

Commission.

II. On all premises having a private water supply and connected with the sewer system and works there shall be installed a meter for measuring the amount of water supplied said premises.

III. If for any reason there be no record of the amount of water supplied any month, then the charge shall be based upon the last available monthly meter reading.

IV. Users, the nature and character of whose use is such that the amount of water discharged into the said system is deemed by the Sanitary Board to be substantially less than the amount of metered water supplied the premises, shall be charged for sewer service substantially on the basis of the amount of water discharged into the sewer system, as may be determined according to formulae approved by the Sanitary Board.

V. In apartment buildings, mobile home courts, shopping centers and other places where more than one occupancy unit is served with water through one water meter, the customer shall be required to pay not less than the minimum monthly charge provided in the tariff for each occupancy.

RATES

I. For sewage that does not contain industrial waste:

First	2,000 Gallons	used	per	month	$2.48	per thousand gallons
Next	3,000 Gallons	"	"	"	1.80	per thousand gallons
Next	25,000 Gallons	"	"	"	1.66	per thousand gallons
Next	70,000 Gallons	"	"	"	1.45	per thousand gallons
Next	100,000 Gallons	"	"	"	1.17	per thousand gallons
Next	100,000 Gallons	"	"	"	1.03	per thousand gallons
Next	700,000 Gallons	"	"	"	0.92	per thousand gallons
All over	1,000,000 Gallons	"	"	"	0.81	per thousand gallons

II. For sewage that contains industrial waste: The charge for the treatment of industrial waste will be calculated on the basis of the following formula:

$$Ci=VoVi+BoBi+SoSi$$

Ci=Charge to industrial users per year.

Vo=Average unit cost of transport and treatment chargeable to volume, in dollars per gallon.

Vi=Volume of waste water from industrial users, in gallons per year.

Bo=Average unit cost of treatment, chargeable to Brochemical Oxygen Demand (BOD), in dollars per pound.

Bi=Weight of BOD from industrial users, in pounds per year.

So=Average unit cost of treatment (including sludge treatment) chargeable to total solids, in dollars per pound.

Si=Weight of total solids from industrial users, in pounds per year.

When an industrial user is to be served, a preliminary study of its waste, and the cost of transport and treatment thereof, will be made. Waste containing materials which in the judgment of the Sanitary Board should not be introduced into the sewer system need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefor, based upon the formula set out above.

Thereafter, industrial sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and audit of Sanitary Board records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the industrial user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each industrial user, or refund given by the Sanitary Board, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

III. Minimum Charge. The Charge of $4.96 shall be the minimum for each month or fraction thereof. If for any reason there be no record of the amount of water supplied in any month, then the charge shall be based upon the last available monthly meter reading.

IV. Delayed Payment Penalty. The schedule of rates and charges set forth herein are net. On all accounts not paid within twenty (20) days from date of bill, ten percent (10%) will be added to the net amount shown.

V. Recovery of Bank Charges. If a bank returns a customer's check to the Sanitary Board due to insufficient funds in such customer's account and charges a fee to the Sanitary Board for such service, the bank charge will be added to the account of the customer whose check is returned.

VI. Disconnect, Lien and Reconnect Fees: If the Sanitary Board gives notice to a provider of water service to disconnect water service to a customer of the Sanitary Board, the following

charges will be added to the account of such customer:

a. A charge of $20.00, plus any legally required certified mail charge, will be added to such customer's account at the time notice to disconnect is given to the water provider.

b. A charge of $4.00 to cover the cost of placing a lien on the property served will be added to the account of such customer at the time such lien is filed in the Office of the Clerk of the County Commission of the County where the property served is located.

c. A reconnect charge of $20.00 will be made at the time the customer pays the amounts due on such customer's account and requests the reconnection of water and sewer service.

The rates and charges set forth above shall become effective forty-five (45) days after passage.

Any ordinance inconsistent with the provisions hereof are hereby expressly repealed to the extent of such inconsistency.

C E R T I F I C A T E

Certified to be a true and correct copy of the certain Journal of the April 19, 1993 Council Meeting, duly filed and of record in the Office of the City Clerk of the City of Charleston, West Virginia.

Given under my hand and the official seal of the City of Charleston, West Virginia, this 1st day of December, 1993.

(seal)

James C. Stucky, City Clerk

JOURNAL

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

April 19, 1993

The Council met in its Chamber in the City Building at 8:00 p.m. for the second meeting in the month of April and was called to order by the Mayor, the Honorable Kent Strange Hall.

Prayer was offered by the Honorable Linda Nielsen, Councilwoman from the Thirteenth Ward.

The Clerk called the roll and the following members answered to their names:

Armbrecht	Huffman	Nielsen
Broady	Lane	Quick
Brown	Layne	Snodgrass
Cary		Robinson
	McClaskie	Thompson
Dodson	McMillen	Vanderwilt
Hicks	Mohler	Wampler
Holt		Wright
Horan	Morrison	Mayor Hall

Twenty-four members being present, three being absent, Councilmembers Connell, Londeree and Monroe, the Mayor declared a quorum.

Pending the reading of the Journal of the previous meeting, the reading thereof was postponed.

APPOINTMENTS

TO: James Stucky
FROM: Kent Stange Hall, Mayor
DATE: April 12, 1993
RE: Reappointments to the Police Civil Service Commission

I am reappointing Harold R. Neal to the Police Civil Service Commission. His term will expire June 1, 1995.

Received and filed.

EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION
By the Mayor

WHEREAS: Equal opportunity in housing is a right guaranteed to all Americans under Title VII of the Civil Rights Act of 1968; and

WHEREAS: The twenty-fifth anniversary of the National Fair Housing Law provides an opportunity for all Americans to rededicate themselves to the principle of freedom of choice and to reacquaint themselves with the rights and responsibilities that are theirs under the law; and

WHEREAS: Implementation of the fair housing policy of the City of Charleston requires the positive commitment, involvement and support of each and every one of our citizens; and

WHEREAS: The departments and agencies of the City of Charleston are to provide leadership in the effort to make fair housing a right that can be realized by all our citizens.

NOW, THEREFORE, I, Kent Strange Hall, Mayor of the City of Charleston, do hereby proclaim the month of April , 1993, as

FAIR HOUSING MONTH

in the City of Charleston and urge every citizen to support and endorse the practice and policy of fair housing in their personal lives, as well as in their work day duties.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Executive Department to be affixed this 13th day of April, 1993.
/s/Kent Strange Hall, Mayor

Received and filed.

EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION
By the Mayor

WHEREAS: The National Association for the Education of Young Children (NAEYC) is the nation's largest organization of early childhood professionals; and

WHEREAS: More than half of all mothers with children younger than age 6 are employed and that proportion is expected to rise to two-thirds by 1993; and

WHEREAS: With single parent households the fastest growing type of household in the United States, an increase of reputable, secure child care facilities is essential for the well-being of the young child; and

WHEREAS: The goal of the NAEYC is to bring attention to this crisis and focus public attention on the needs of the young children and their families created by the dramatic changes in the patterns of family life.

NOW, THEREFORE, I, Kent Strange Hall, Mayor of the City of Charleston, do hereby proclaim April 18 through 24, 1993 as

THE WEEK OF THE YOUNG CHILD

in the City of Charleston.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Executive Department to be affixed this 8th day of April, 1993.
/s/Kent Strange Hall, Mayor

Received and filed.

EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION
By the Mayor

WHEREAS: Earth Day is observed annually to promote awareness of Earth's life-sustaining ecosystem and the importance of preserving its integrity, through education and wise stewardship; and

WHEREAS: We have only one Earth, one planet as the home of the whole human family; and

WHEREAS: The survival of the planet depends on global cooperation of private and public institutions with the citizens of every part of the world; and

WHEREAS: To aid these purposes, there is need for worldwide decisions and a personal commitment by individuals to be responsible trustees of the Earth, each in our own area of ability and influence.

NOW, THEREFORE, I, Kent Strange Hall, Mayor of the City of Charleston, do hereby proclaim April 22, 1993 as

EARTH DAY

in the City of Charleston and invite all citizens to strengthen and continue their personal resolve to be responsible trustees of the Earth through perseverance and wise action to achieve this goal.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Executive Department to be affixed this 7th day of April, 1993.
/s/Kent Strange Hall, Mayor

Recieved and filed.

EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION
By the Mayor

WHEREAS: the Centers for Disease Control and Prevention, the Immunization Education and Action Committee of the Healthy Mothers, Healthy Babies Coalition and other partners from the public and private sectors have established a National Preschool Immunization Week; and

WHEREAS: this year's theme is "Hands Across the Nation for Preschool Immunization" and

WHEREAS: early childhood immunization is a cost-effective disease prevention measure that works; and

WHEREAS: the goal of this coalition is to provide recommended immunizations to at least 90 percent of children by their second birthday; and

WHEREAS: the importance of this health issue will be elevated by the participation of the public, focusing on the need to immunize "by two" instead of "by school".

NOW, THEREFORE, I, Kent Strange Hall, Mayor of the City of Charleston, do hereby proclaim April 24-30, 1993 as

NATIONAL PRESCHOOL IMMUNIZATION WEEK

in the City of Charleston.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Executive Department to be affixed this 24th day of February, 1993.
/s/Kent Strange Hall, Mayor

Recieved and filed.

EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION
By the Mayor

WHEREAS: 35 million Americans are victimized in the United States each year and crime victims are repidly becoming a majority in our nation; and

WHEREAS: as a nation devoted to liberty and justice for all, America must increase its efforts to protect and restore crime victims rights; and

WHEREAS: crime victims deserve our support for their quest to secure victim justice; and

WHEREAS: a national commitment to violence reduction and victim assistance will help bring criminals to justice, and justice to victims; and

WHEREAS: victim service programs, criminal justice officials and concerned citizens join together to observe 1993 National Crime Victims' Rights Week.

NOW, THEREFORE, I, Kent Strange Hall, Mayor of the City of Charleston, do hereby proclaim April 25 to May 1, 1993 as

NATIONAL CRIME VICTIMS' WEEK

in the City of Charleston.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Executive Department to be affixed this 23rd day of March, 1993.
/s/Kent Strange Hall, Mayor

Received and filed.

EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION
By the Mayor

WHEREAS: The future of our community, our state and our nation depends upon the type of young people we raise to handle the affairs of tomorrow; and

WHEREAS: It is the duty of all citizens, parents and youth organizations to teach appropriate viewpoints amoung the young people of our community and to provide them with the right examples, environments and opportunities; and

WHEREAS: The youth of America have the power to link their talents and resources to impact some of the major issues facing our cities drug and alcohol abuse, education, hunger and homelessness, and care of our elderly; and

WHEREAS: The U.S. Conference of Mayor, the Jefferson Awards, Lutheran Brotherhood, Points of Light Foundation, the Commission on National and Community Service and Youth Service America join in sponsoring National Youth Service Day to reinforce in our young Americans the importance and excitement of helping other and in creating a public awareness of the positive contributions that young people make in our nation's growth and development.

NOW, THEREFORE, I, Kent Strange Hall, Mayor of the City of Charleston, do hereby proclaim April 20, 1993 as

NATIONAL YOUTH SERVICE DAY

in the City of Charleston.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Executive Department to be affixed this 8th day of April, 1993
/s/Kent Strange Hall, Mayor

EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION
By the Mayor

WHEREAS: The Center for Organ Recovery and Education (CORE) was founded in 1977 to promote organ recovery services and educational programs; and

WHEREAS: More than 30,000 individuals are awaiting transplantation nationwide and seven will die each day without receiving one; and

WHEREAS: In the CORE service area almost 1,000 piople are awaiting a lifesaving transplant and a new patient is added to the local list every six hours; and

WHEREAS: By 2010, one of every 20 people will require some type of lifesaving organ, tissue or corneal transplant; and

WHEREAS: Giving Life, the greatest gift, is as simple as signing a donor card; and

WHEREAS: CORE sponsors a Blue Bow campaign to symbolize those awaiting a lifesaving transplant.

NOW, THEREFORE, I, Kent Strange Hall, Mayor of the City of Charleston, do hereby proclaim April 1 through 24, 1993 as

NATIONAL ORGAN & TISSUE DONOR AWARENESS WEEK

in the City of Charleston.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Executive Department to be affixed this 8th day of April, 1993.
/s/Kent Strange Hall, Mayor

Received and filed.

CLAIMS

The Clerk read the following claims, which were referred as indicated:

1. A Claim of Susan Keneske; 1323 Frame Street, Charleston; alleges damage to property; referred to City Solicitor.

2. A Claim of Oce Smith; 109 Eleventh Street, Fairmont; alleges damage to vehicle; referred to City Solicitor.

COMMISSION REPORTS

Honorable Kent Strange Hall, Mayor
and Members of City Council
Charleston, WV 25301

Dear Mayor Hall and Councilmembers:

On April 7, 1993, the Municipal Planning Commission held public hearings and its regualr monthly meeting. Below is one of the cases they considered and their recommendation for your consideration.

Bill No. 4922--Petition of Bryant Trust, et al, requesting the rezoning from an R-6 district to an R-8 district that certain 2.0 acre, m/l, parcel of land situate at, and commonly known as 931 Oakhurst Drive, Charleston, WV. The Commission recommended passage of the bill, subject to a maximum of 22 apartments. Referred to Council Committee on Planning.

Sincerely,
Municipal Planning Commission

MISCELLANOUS RESOLUTION

Introduced by Councilman McMillen--April 19, 1993
Resolution No. 613-93--"Authorizing the Finance Director to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Finance Director is hereby authorized and directed to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

To provide for raises to certain employees starting July 1, 1993

Acount number	Account	Increase (Decrease)
1-422-0-0-1-3	Chance	3,133
1-422-0-0-1-4	FICA	240
1-422-0-0-1-6	Retirement	298
1-422-0-0-1-9	Health care withholding	(31)
1-422-0-0-2-26	Worker's Comp. and Unempl. Comp	149
1-530-0-0-1-3	Scott (PG-2 to G-3)	3,756
1-530-0-0-1-3	Net adjustment	(3,756)
1-540-0-0-1-3	Simmons	5,745
1-540-0-0-1-4	FICA	439
1-540-0-0-1-6	Retirement	546
1-540-0-0-1-9	Health care withholding	(57)
1-540-0-0-2-26	Worker's Comp. and Unempl. Comp	273
1-540-35-0-1-3	Marks	3,915
1-540-35-0-1-4	FICA	299
1-540-35-0-1-6	Retirement	372
1-540-35-0-1-9	Health care withholding	(39)
1-540-35-0-2-26	Worker's Comp. and Unempl. Comp	186
1-570-0-0-1-3	Thaxton	3,915
1-570-0-0-1-4	FICA	299
1-570-0-0-1-6	Retirement	372
1-570-0-0-1-9	Health care withholding	(39)
1-570-0-0-2-26	Worker's Comp. and Unempl. Comp	186
1-573-0-0-1-3	Copley	4,382
1-573-0-0-1-4	FICA	335
1-573-0-0-1-6	Retirement	416
1-573-0-0-1-9	Health care withholding	(44)
1-573-0-0-2-26	Worker's Comp. and Unempl. Comp	208
1-579-0-0-1-3	Carey (G-2 to G-5)	4,694
1-579-0-0-1-4	Net adjustment	(4,694)
1-603-0-0-1-3	Berkley	2,908
1-603-0-0-1-4	FICA	222
1-603-0-0-1-6	Retirement	276
1-603-0-0-1-9	Health care withholding	(29)
1-603-0-0-2-26	Worker's Comp. and Unempl. Comp	138
1-570-0-0-4-58	Special projects	(25,498)
		3,515
1-360-0-9004	Community Development	3,515

Department	Name	Present	Proposed At old rates	Proposed at new rates	Amount in Budget	Change	FICA	Retir.	Wkr's. Comp.	Hosp. W/H	Special Projects	MOECD
603	Berkley	18,728	21,537	22,841	19,933	2,908	222	276	138	(29)		3,515
579	Carey	21,783	25,050	26,477	21,783	4,694						
422	Chance	25,222	28,249	29,788	26,655	3,133	240	298	149	(31)	3,789	
573	Copley	28,228	32,462	34,148	29,766	4,382	335	416	208	(44)	5,297	
540 -35	Marks	25,222	29,005	30,570	26,655	3,915	299	372	186	(39)	4,733	
530	Scott	15,099	18,728	19,933	16,177	3,756						
540 -0	Simmons	36,900	42,458	44,494	38,749	5,745	439	546	273	(57)	6,946	
570	Thaxton	25,222	29,005	30,570	26,655	3,915	299	372	186	(39)	4,733	
						32,448	1,834	2,280	1,140	(239)	25,498	3,515

Referred to Council Committee on Finance.

REPORTS OF STANDING COMMITTEES

Councilman McMillen, Chairman of the Council Committee on Finance, submitted the following reports:

1. Your Committee on Finance has had under consideration bid submitted by J.W. Hughes, Inc., in the amount of $6,104, for eight (8) sets of bunker gear to be used by the Charleston Fire Department; to be charged to Account No. 01-500-0-0-3-45, Fire Department--Uniforms.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

2. Your Committee on Finance has had under consideration porposal submitted by Shamblin Construction, Inc., in the amount of approximately $3,300, for repair of pool at the King Community Center; to be charged to Account No. 01-540-49-0-2-16, P&R--Maintenance & Repair/Equipment (Pools).

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

3. Your Committee on Finance has had under consideration purchase of 1,800 feet of pipe and related materials from Contech Construction Products, in the amount of $6,596.10, for the Mountain Road drainage project; to be charged to Account No. 25-090-00-027, MOECD--Flood Drainage Facilities/Mountain Road.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were--yeas 24, nays 0 and absent 3 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, McClaskie, McMillen, Mohler, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: Connell, Londeree and Monroe.

So, a majority of members present and voting having voted in the affirmative the Mayor declared the committee report adopted.

4. Your Committee on Finance has had under consideration Resolution No. 608-93, authorizing the Finance Director to amend the 1988, 1989, 1990, 1991 and 1992 Community Development Block grant budgets as indicated on the attached list of accounts.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 608-93--"Authorizing the Finance Director to amend the 1988, 1989, 1990, 1991 and 1992 Community Development Block Grant budgets as indicated on the attached list of accounts."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Finance Director is hereby authorized and directed to amend the 1988, 1989, 1990, 1991 and 1992 Community Development Block Grant budgets as indicated on the attached list of accounts; and be it

FURTHER RESOLVED that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

AMENDMENTS TO 1988, 1989, 1990, 1991 AND 1992

COMMUNITY DEVELOPMENT BLOCK GRANT BUDGETS

Account Number	Description	Increase/(Decrease)
25-088-00-019	Housing Stimulation	(26,825.57)
25-089-00-027	Flood Drain/Sugar Creek Eng.	(4,203.00)
25-090-00-012	Planning	(152.78)
25-090-00-054	Neighborhood Facilities/Fire Dept.	(56.79)
25-091-00-013	Planning	(6,076.31)
25-091-00-199	Unprogrammed Funds	(5,753.55)
25-092-00-059	Parks & Rec/Diving Boards/KCC/NCCC	(931.50)
25-092-00-011	Youth Services/Orchard Manor	(75,000.00)

25-091-00-029	Street Improvements/Twilight Drive	(75,000.00)
25-091-00-032	Sidewalks/Barton Street	(95,000.00)
25-092-00-199	Unprogrammed Funds	(5,000.00)
25-088-00-029	Street Improvements/Bench Rd Slip	26,825.57
25-089-00-029	Street Improvements/Bench Rd Slip	4,203.00
25-090-00-029	Street Improvements/Bench Rd Slip	209.57
25-091-00-029	Street Improvements/Bench Rd Slip	11,830.36
25-091-00-029	Street Imp/West Side Streetscape	170,000.00
25-092-00-029	Street Improvements/Bench Rd Slip	931.50
25-092-00-029	Street Imp/West Side Streetscape	80,000.00

The question being on the adoption of the resolution a roll call was taken and there were--yeas 24, nays 0 and absent 3 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, McClaskie, McMillen, Mohler, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: Connell, Londeree and Monroe.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 608-93 adopted.

5. Your Committee on Finance has had under consideration Resolution No. 609-93, authorizing the Mayor to enter into a contract with B.B.R. Drilling Company, in the amount of $69,665, for repair of a landslide on Bench Road; to be charged to the following accounts:

$26,825.57	25-088-00-029, CDBG Street Improvements-Bench Road Slip
4,203.00	25-089-00-029
209.57	25-090-00-029
37,495.36	25-091-00-029
931.50	25-092-00-029

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 609-93--"Authorizing the Mayor to enter into a contract with B.B.R. Drilling Company, in the amount of $69,665, for repair of a landslide on Bench Road."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to enter into a contract with B.B.R. Drilling Company, in the amount of Sixty-nine Thousand Six Hundred Sixty-five Dollars ($69,665) for repair of a landslide on Bench Road.

The question being on the adoption of the resolution a roll call was taken and there were--yeas 24, nays 0 and absent 3 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, McClaskie, McMillen, Mohler, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: Connell, Londeree and Monroe.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 609-93 adopted.

6. Your Committee on Finance has had under consideration Resolution No. 610-93, authorizing the Mayor to enter into a contract with B&L Utility Contractors, in the amount of $1,039,012.21, for the West Side Streetscape Project/Phase II; to be charged to the following accounts:

$425,000.00	25-091-0-29,	CDBG--Street Improvements/West Side Streetscape
330,000.00	25-092-0-29,	CDBG--Street Improvements/West Side Streetscape
$284,012.21	CURA	

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 610-93--"Authorizing the Mayor to enter into a contract with B&L Utility Contractors, in the amount of $1,039,012.21, for the West Side Streetscape Project/Phase II."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to enter into a contract with B&L Utility Contractors, in the amount of One Million Thirty-nine Thousand Twelve Dollars and Twenty-one Cents ($1,039,012.21), for the West Side Streetscape Project/Phase II.

The question being on the adoption of the resolution a roll call was taken and there were--yeas 24, nays 0 and absent 3 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, McClaskie, McMillen, Mohler, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: Connell, Londeree and Monroe.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 610-93 adopted.

7. Your Committee on Finance has had under consideration Resolution No. 611-93, authorizing the Mayor to enter into a contract with Garcie R. Marker & Sons, Inc., in the amount of $18,970, for repair of the Porter Road culvert; to be charged to Account No. 24-570-0-0-4-58, Coal Severance--Street, Capital Outlay--Special Projects, Street & Slip Repair.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 611-93--"Authorizing the Mayor to enter into a contract with Garcie R. Marker & Sons, Inc., in the amount of $18,970, for repair of the Porter Road culvert."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to enter into a contract with Garcie R. Marker & Sons, Inc., in the amount of Eighteen Thousand Nine Hundred Seventy Dollars ($18,970), for repair of the Porter Road culvert.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 611-93 adopted.

8. Your Committee on Finance has had under consideration Resolution No. 612-93, authorizing the Mayor to expend the sum of $1,500 for title insurance on the real estate to be conveyed by the City of Charleston to the U.S. Department of Labor for the construction of the relocated Job Corps Center; to be charged to Account No. 55-0-0-0-2-27, Insurance & Bonds.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 612-93--"Authorizing and directing the Mayor to expend the sum of $1,500.00 for title insurance on the real estate to be conveyed by the City of Charlesotn to the U.S. Department of Labor for the construction of the relocated Job Corps Center."

WHEREAS, the City of Charleston, by mean conveyance, has effectuated the transfer of real estate from Corotoman, Inc. to the U.S. Department of Lobor for the construction of the relocated Job Corps Center; and,

WHEREAS, the City of Charleston, on the basis of the title report and title insurance done by Corotoman, Inc., has the opportunity to purchase title insurance for the City's conveyance for the sum of $1,500.00; now, therefore,

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to obtain for the sum of $1,500.00 title insurance on the real estate to be conveyed by the City of Charleston to the Department of Labor for the construction of the relocated Job Corps Center.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 612-93 adopted.

9. Your Committee on Finance has had under consideration Bill No. 4900, including including proposed amendments, closing, abandoning and discontinuing as a public alley that portion of O'Conner Avenue which extends from the residential housing complex known as Jacob Arbors southward to the intersection of the alley with Washington Street, in the general downtown area of Charleston; reserving sewer easements for the City of Charleston, West Virginia; and placing certain restrictions and requirements on the relocation of said alley and the proposed parking lot and other conditions herein contained as shown on the attached map.

And reports the same to Council with the recommendation that the bill, as amended, pass.

Bill No. 4900 as amended--A Bill closing, abandoning and discontinuing as a public alley that portion of O'Conner Avenue which extends from the residential housing complex known as Jacobs Arbors southward to the intersection of the alley with Washington Street, in the general downtown area of Charleston; reserving sewer easements for the City of Charleston, West Virginia; and placing certain restrictions and requirements on the relocation of said alley and the proposed parking lot.

Be it Ordained by the Council of the City of Charleston, West Virginia:

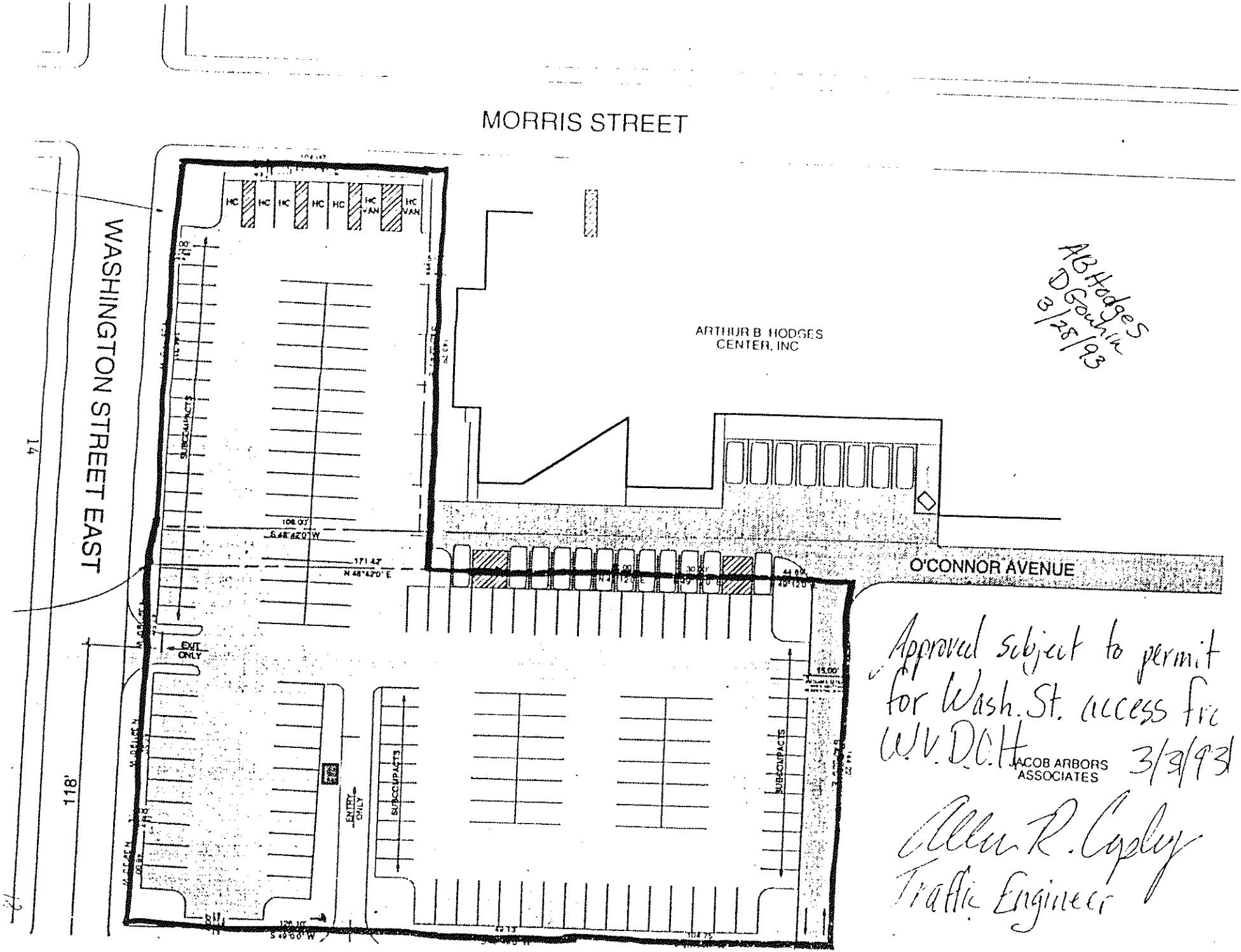
1. The portion of O'Connor Avenue extending from Jacob Arbors to East Washington Street is hereby closed, abandoned and discontinued.

2. The City of Charleston hereby reserves a sewer easement for the full length and width of the above-described right-of-way for the purpose of construction, maintenance, repair and removal of storm and sanitary sewer lines. No person shall construct improvements, plant trees or other vegetation, or take any other action which would interfere with this easement, noralter the present surface profile or contour of the subject right-of-way by more than one (1) foot without the written permission of the Sanitary Board of the City of Charleston and the City Engineer of the City of Charleston.

3. The Mayor of the City of Charleston be, and is hereby authorized and directed to execute, acknowledge and deliver a proper deed conveying to the Foutche Land Company, all right title and interest in and to said portion of O'Conner Avenue except as provided in Section Two (2) of this ordinance, upon payment of $1.00 (one dollar) to be paid to the City of Charleston by the petitioner, and subject to the Petitioner providing:

a. A 15' wide alley right-of-way for dedication, which will connect O'Conner Avenue and Jacob Street and lie adjacent to the Jacob Arbors property line, all improvements of such being the responsibility of the Petitioner or the subsequent purchaser, and all improvements must be approved by the City Engineer;
b. A proper easement or right-of-way agreement from Jacob Arbors Associates for the alley radius on their property, said radius to be adequate to serve all service and emergency vehicles;
c. A proper document from Arthur B. Hodges Center, Inc. waiving their right, title and interest to their "share" of the closed portion of the alley and inuring it to the benefit of the Petitioner or its successor in title (the form and substance to be approved by the City Auditor);
d. A proper document between Arthur B. Hodges Center, Inc. and the Petitioner, and/or its successor in title, granting an easement for Hodges-related parking which will straddle the current alley right-of-way line (the form and substance to be approved by the City Attorney); and
e. A letter from the Petitioner committing it or its successor in title to construct and operate the proposed parking lot in accordance with the plan attached hereto and made a part hereof, and that any revisions thereto must be approved by the Traffic Engineer.

4. All ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of the inconsistency.



AB Hodges
D Goulin
3/25/93

Approved subject to permit for Wash. St. access fr. W.V.D.O.H. 3/3/93

Allen R. Copley
Traffic Engineer

The question being on the passage of the bill as amended, a roll call was taken and there were--yeas 23, nays 0 and absent 3 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Dodson, Hicks, Holt, Horan, Huffman, Layne, McClaskie, McMillen, Mohler, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: Connell, Londeree and Monroe.

ABSTENTION: Lane.

So, a majority of members present and having voted in the affirmative the Mayor declared Bill No. 4900, as amended, passed.

10. Your Committee on Finance has had under consideration Bill No. 4924, as amended, to reenact Chapter Two, Article Six, Section One Hundred Seventeen of the Administration Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, relating to sick leave for employees other than for Fire, Police and Emergency Service departments.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 4924--A Bill to amend and reenact Chapter Two, Article Six, Section One hundred Seventeen of the Administration Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, relating to sick leave for employees other than for Fire, Police and Emergency Service Department.

Be it Ordained by the Council of the City of Charleston, West Virginia:

That Council hereby amends and reenacts Chapter Two, Article Six, Section One hundred Seventeen of the Administration Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, to read as follows:

Sec. 2-117. Sick leave.

(a) Except as otherwise provided in these rules, each employee, including nonclassified and classified, shall be entitled to and shall receive sick leave when and if needed with full pay computed on the basis of one working day for each complete calendar month of service, or major portion thereof.

(b) Sick leave, with pay, shall not be accorded to employees paid on an emergency or per diem basis or to irregular part-time employees.

(c) Sick leave accorded regular part-time covered employees each month shall be that proportion of one day that the amount of time they work is of their standard work week as defined pursuant to section 2-115.

(d) After an empolyee has completed three full months of service with the City, sick leave to be earned during a particular month may be credited to him in advance, at the discretion of the appointing authority, and provided uniform practices are followed for all employees with respect to this matter. This administrative device shall not be construed as meaning that such leave has been earned, except as provided in subsection (a) of this section.

(e) The minimum charge against sick leave shall be one-half day, and additional leave shall be charged in multiples thereof. Absences of less than half a day shall be recorded and shall be charged in multiples of half a day as they accumulate.

(f) When the service of an employee has been terminated, all sick leave credited to him shall be canceled as of his last working day with the city. However, after a reduction in force, or after pregnancy leave, any accumulated sick leave may be reinstated, if a permanent employee is reinstated to the City within a period of one year from date of separation. When a permanent employee retires, the employee may elect to have any accrued sick leave converted to insurance benefits based on the formula of two days sick leave for one month single coverage insurance premium or three days sick leave for one month family coverage insurance premium.

(g) Sick leave shall be granted to employees for the following reasons:

(1) Ill ness on the part of or injury to the employee, incapacitating him for duty.

(2) Ill ness in the immediate family (see definition in section 2-86) of such a critical nature as to require the presence of the employee. This provision shall not be construed to cover absence for the purpose of nursing or caring for members of the family not declared by the attending physician to be critically ill.

(3) Exposure to a contagious disease and determination by his supervisor that the presence on duty of the employee may jeopardize the health of others.

(4) Illness due to pregnancy may be charged to sick leave under the same conditions applying to any other illness. A pregnant employee may continue to work, as long as she furnishes to the City a physician's statement stating that she is physically able to work.

(h) An employee shall furnsih a certificate from the attending physician for all consecutive days of sick leave granted beyond three working days, except as may be otherwise provided.

(i) After the equivalent of one-half of annual sick leave has been used in single day events, an employee shall furnish documentation from a physician or other medical provider establishing reason for relief from duty for use of additional sick leave for single leave for single day events.

(j) This section shall not be applicable to paramedics and emergency medical technicians of the City Emergency Ambulance Service Department. The eligibility of paramedics and emergency medical technicians of the City Emergency Ambulance Service to receive sick leave with pay shall be determined in accordance with the provisions of section 11-10 of this Code.

(k) In the event of an emergency, as declared by the Mayor, an attending physician's excuse may be required for any day missed; and, further, during such emergency, the Mayor may suspend, in whole or in part, any sick leave as permitted by subsection (g) of this section.

The question being on the passage of the bill a roll call was taken and there were--yeas 24, nays 0 and absent 3 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, McClaskie, McMillen, Mohler, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: Connell, Londeree and Monroe.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 4924, as amended, passed.

11. Your Committee on Finance has had under consideration Bill No. 4937, amending and reenacting Chapter Eleven, Section Ten of the Emergency Ambulance Service Department Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, as it relates to sick leave.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 4937--A Bill amending and reenacting Chapter Eleven, Section Ten of the Emergency Ambulance Service Department Law of the Code of the City of Charleston, one thousnad nine hundred seventy-five, as amended, as it relates to sick leave.

Be it Ordained by the Council of the City of Charleston, West Virginia:

That Council hereby amends and reenacts Chapter Eleven, Section Ten of the Emergency Ambulance Service Department Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, to read as follows:

Sec. 11-10. Sick leave.

(a) Each member of the Emergency Ambulance Service Department shall be entitled to and granted sick leave, when and if needed, with full pay. Such leave is to be computed on the basis of ten hours for each completed calendar month of service, or major portion thereof.

(b) After the equivalent of one-half of annual sick leave has been used in single day events, a member shall furnish documentation from a physician or other medical provider establishing reason for relief from duty for use of additional sick leave for single day events.

(c) Sick leave shall only be granted for the following reasons:

(1) Ill ness on the part of, or injury to, the member, incapacitating him for duty.

(2) Illness in the immediate family, i.e., wife, child, father, mother, sister, brother, father-in-law and mother-in-law, of such a critical nature as to require the presence of the member. Nowise shall this provision be construed as to cover absences for the purpose of nursing or caring for immediate family members not declared by the attending physician to be critically ill.

(3) Exposure to a contagious disease and subsequent determination by competent medical authority that the member's presence on duty might jeopardize the health of others.

(d) For each sick leave period claimed by the member in excess of three working days, the member shall provide the Director of teh Emergency Ambulance Service with a certificate from the attending physician setting forth the nature and duration of any of the conditions which would entitle him to sick leave as provided in subsection (c) of this section. Failure to provide such certificate satisfactory to the Director shall result in the member not being granted sick leave with pay.

(e) When a member retires, the member may elect the privilege of converting accrued sick leave to insurance benefits based on the formula of two diays sick leave for one month single coverage insurance premium or three days sick leave for one month family coverage insurance premium.

(f) The Director of the Emergency Ambulance Service shall have the right to investigate or cause to be investigated the alleged illness of any member and, for good cause shown, to not only deny sick leave but also to take proper disciplinary action against any feigner or abuser.

(g) In the event of any emergency, as declared by the Mayor, an attending physician's excuse may be required for any days missed; and, further, during said emergency the Mayor may suspend, in whole or in part, any sick leave as permitted by subsection (c) of this section.

The question being on the passage of the bill a roll call was taken and there were--yeas 24, nays 0 and absent 3 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, McClaskie, McMillen, Mohler, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: Connell, Londeree and Monroe.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 4937 passed.

12. Your Committee on Finance has had under consideration Bill No. 4938, amending and reenacting Chapter Twelve, Article three, Section 36.3 of the Fire Protection Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, as it relates to sick leave.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 4938--A Bill amending and reenacting Chapter Twelve, Article Three, Section 36.3 of the Fire Protection Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, as it relates to sick leave.

Be it Ordained by the Council of the City of Charleston, West Virginia:

That Council hereby amends and reenacts Chapter Twelve, Article Three, Section 36.3 of the Fire Protection Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, to read as follows:

Sec. 12-36.3 Sick Leave.

(a) Each uniformed member of the Fire Department shall be entitled to and granted sick leave, when and if needed, with full pay. Such leave is to be computed on the basis of one and one-fourth days or working days for each completed calendar month of service or major portion thereof.

(b) When a sworn member of the Fire Department retires, the member will have the privilege of converting any accrued sick leave to insurance benefits based on the formula of two dyas sick leave for one month single coverage insurance premium or three days sick leave for one month family coverage insurance premium.

(c) Sick leave shall be granted for the following reasons:

(1) Illness on the part of or injury to the member, incapacitating him for duty.

(2) Illness in the immediate family (i.e. wife, child, father, mother, sister, brother, father-in-law and mother-in-law) of such a critical nature as to require the presence of the member. This provision shall not be construed to cover absences for the purpose of nursing or caring for members of the immediate family not declared by the attending physician to be critically ill.

(3) Exposure to contagious diseases and subsequent determination by competent medical authority that such member's presence on duty might jeopardize the health of others.

(d) For each sick leave period claimed by the member in excess of one shift or three working days, the member shall provide the Fire Chief with a certificate from the attending physician setting forth the nature and duration of any of the conditions which would entitle him to sick leave as provided in paragraph (c) of this section. Failure to provide such certificate satisfactory to the Fire Chief shall result in the member not being granted sick leave with pay.

(e) After the equivalent of one-half of annual sick leave is used in single shifts, the member shall furnish documentation from a physician or other medical provider establishing reason for relief from duty for use of additional sick leave for single shift events.

(f) The Fire Chief shall also have the right to investigate or cause to be invesitgated the alleged illness of any member and, for good cause shown, not only to deny sick leave but also to take proper disciplinary action against any feigner or abuser.

(g) In the event of an emergency, as declared by the Mayor, an attending physician's excuse may be required for any days missed; and, further, during said emergency the Mayor may suspend, in whole or in part, any sick leave as permitted by subsection (c) of this section.

The question being on the passage of the bill a roll call was taken and there were--yeas 24, nays 0 and absent 3 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, McClaskie, McMillen, Mohler, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.
ABSENT: Connell, Londeree and Monroe.
So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 4938 passed.

13. Your Committee on Finance has had under consideration Bill No. 4939, amending and reenacting Chapter Twenty-two, Article Two, Section Thirteen of the Police Department Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, as it relates to sick leave.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 4939--A Bill amending and reenacting Chapter Twenty-two, Article Two, Section Thirteen of the Police Department Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, as it relates to sick leave.

Be it Ordained by the Council of the City of Charleston, West Virginia:

That Council hereby amends and reenacts Chapter Twenty-two, Article Two, Section Thirteen of the Police Department Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, to read as follows:

Sec. 22-13. Sick leave.

(a) Each sworn member of the Police Department shall be entitled to and granted sick leave, when and if needed, with full pay. Such leave is to be computed on the basis of ten hours for each completed calendar month of service, or major potion thereof.

(b) When a sworn member of the Police Deparment retires, the member will have the privilege of converting any accrued sick leave to insurance benefits based on the formula of two days sick leave for one month single coverage insurance permium or three days sick leave for one month family coverage insurance premium.

(c) Sick leave shall only be granted for the following reasons:

(1) Illness on the part of, or injury to, the member, incapacitating him for duty.

(2) Ill ness in the immediate family, i.e. husband, wife, child, father, mother, sister, brother, father-in-law and mother-in-law, of such a critical nature as to require the presence of the member. Nowise shall this provision be construed as tocoer absences for the purposes of nursing or caring for immediate family members not declared by the attending physician to be critically ill.

(3) Exposure to a contagious disease and subsequent determination by competent medical authority that the member's presence on duty might jeopardize the health of others.

(d) A member shall be required to furnish to the Chief of Police a certificate from the attending physician for all consecutive days of sick leave granted beyond three working days.

(e) After the equivalent of one-half of annual sick leave has been used in a single day event, a member shall furnish documentation from a physician or other medical provider establishing reason for relief from duty for use of additional sick leave for single day events.

(f) The Chief of Police shall otherwise have the right to investigate or cause to be investigated the alleged illness of any member and, for good cause shown, to not only deny sick leave but also to take proper disciplinary action against any feigner or abuser.

(g) In the event of any emergency, as declared by the Mayor, an attending physician's excuse may be required for any days missed; and, further, during said emergency the Mayor may suspend, in whole or in part, any sick leave as permitted by subsection (c) of this section.

The question being on the passage of the bill a roll call was taken and there were--yeas 24, nays 0 and absent 3 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, McClaskie, McMillen, Mohler, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: Connell, Londeree and Monroe.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 4939 passed.

14. Your Committee on Finance has had under consideration payment of an invoice from Terminix, in the amount of $3,000, plus $120 yearly inspection fee, for the treatment of termits at the North Charleston Community Center; to be charged to Account No. 01-540-33-0-2-30, P&R-Contracted Services/North Charleston Center.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

15. Your Committee on Finance has had under consideration payment of an invoice from Charleston Lincoln Mercury, Inc., in the amount of $3,199.53, for repair of police car no. 35 involved in an accident on January 27, 1993; to be charged to Account No. 01-455-0-0-2-17, Police-Maintenance & Repair/Autos & Trucks.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adotped.

16. Your Committee on Finance has had under consideration payment of an invoice from The Physical Company, Inc., in the amount of $3,542 ($322 each) for eleven (11) physicals given to new recruits in the Police Department; to be charged to Account No. 01-455-0-0-2-23, Police--Professional Services.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

17. Your Committee on Finance has had under consideration authorizing the Charleston Housing Improvements Program to charge Account No. 25-089-00-014 in the amount of $22,405.00 for rehabilitation of four (4) projects approved by the CHIP Loan Review Committee at a meeting held on April 14, 1993.

And reports the same to Council with the recommendation that the committee report be adopted.

CONTRACTOR:	Telco Construction
PROJECT ADDRESS:	1716 Dudley Road
TOTAL ESTIMATED COST:	$ 7,499.50
RECORDING FEES:	2.50
TOTAL LOAN:	$ 7,500.00

CONTRACTOR:	David's Home Service
PROJECT ADDRESS:	1508 Third Avenue
TOTAL ESTIMATED COST:	$ 7,500.00
RECORDING FEES:	2.50 Owner to pay
TOTAL LOAN:	$ 7,500.00

CONTRACTOR:	David's Home Service
PROJECT ADDRESS:	1406 Milton Street
TOTAL ESTIMATED COST:	$ 5,050.00
RECORDING FEES:	2.50
TOTAL LOAN:	$ 5,052.50

CONTRACTOR:	David's Home Service
PROJECT ADDRESS:	1321 Turley Road
TOTAL ESTIMATED COST:	$ 2,350.00
RECORDING FEES:	2.50
TOTAL LOAN:	$ 2,352.50

The question being on the adoption of the committee report a roll call was taken and there were--yeas 24, nays 0 and absent 3 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, McClaskie, McMillen, Mohler, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: Connell, Londeree and Monroe.

So, a majority of members present and voting, having voted in the affirmative, the Mayor declared the committee report adopted.

Councilwoman Holt, Chairman of the Council Committee on Streets and Traffic, submitted the following reports:

1. Your Committee on Streets and Traffic has had under consideration Bill No. 4940.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 4940--A Bill to establish a 2 hour parking zone on the north side of Randolph Street from Tennessee Avenue to a point 126-feet east of Tennessee Avenue and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Be it Ordained by the Council of the City of Charleston, West Virginia:

Section 1. A 2 hour parking zone on the north side of Randolph Street from Tennessee Avenue to a point 126-feet east of Tennessee Avenue is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are amended to conform to this ordinance.

The question being on the passage of the bill a roll call was taken and there were--yeas 24, nays 0 and absent 3 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, McClaskie, McMillen, Mohler, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: Connell, Londeree and Monroe.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 4940 passed.

2. Your Committee on Streets and Traffic has had under consideration Bill No. 4942.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 4942--A Bill to establish No Parking Anytime Tow-Away on the northerly side of Piedmont Road from Court Street to Young Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Be it Ordained by the Council of the City of Charleston, West Virginia:

Section 1. A No Parking Anytime Tow-Away on the northerly side of Piedmont Road from Court Street to Young Street is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are, amended to conform to this ordinance.

The question being on the passage of the bill a roll call was taken and there were--yeas 24, nays 0 and absent 3 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, McClaskie, McMillen, Mohler, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: Connell, Londeree and Monroe.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 4942 passed.

3. Your Committee on Streets and Traffic has had under consideration Bill No. 4943.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 4943--A Bill to repeal Ordinance No. 1596 passed by Council November 4, 1974, relating to No Parking on the easterly and westerly sides of Huber Road from Northwood Road to 2013 Huber Road, and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Be it Ordained by the Council of the City of Charleston, West Virginia:

Section 1. Ordinance No. 1596, passed by Council November 4, 1974, relating to No Parking on the easterly and westerly sides of Huber Road from Northwood Road to 2013 Huber Road is hereby repealed.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are amended to conform to this ordinance.

The question being on the passage of the bill a roll call was taken and there were--yeas 24, nays 0 and absent 3 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, McClaskie, McMillen, Mohler, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: Connell, Londeree and Monroe.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 4943 passed.

Councilman Lane, Chairman of the Council Committee on Public Safety, submitted the following report:

1. Your Committee on Public Safety has had under consideration Bill No. 4941.

Councilman Lane moved to amend the bill as follows:

Page 1, line 7 by deleting the word "since", line 8 by deleting "nevertheless", line 11 by deleting "now, therefore" and substituting "and", on line 16 by inserting "certain" before the word "City", on lines 29 and 30 by deleting the work "excepting only for city, county, state and federal law enforcement officers" and on line 36 by inserting before the period the words: "provided, however, that teh provisions of this section shall not apply to city, county, state and federal law envorcement officers and to exhibitors and performers at city sanctioned events who obtain advance written authorization from the Chief of Police of the City".

And reports the same to Council with the recommendation that the bill pass as amended.

The question being on the adoption of the amendments a vote was taken. There being no dissent the Mayor declared the amendments adopted.

Bill No. 4941, as amended--A Bill to amend and reenact Chapter Eighteen of the Code of the City of Charleston entitled Offences--Miscellaneous Law, one thousand nine hundred seventy-five, as amended, by adding thereto a new section prohibiting the carrying of weapons upon municipal public property without license or other authorization.

WHEREAS, the West Virginia Supreme Court of Appeals has held that the police powers of the State may be exercised to promote the health, safety and general welfare of the public so long as the reasonable regulation upon the right to keep and bear arms does not frustrate the constitutional freedom in that regard; and

WHEREAS, the Council of the City of Charleston believes that the public safety has been threatened by the presence of weapons on City property and accordingly that a reasonable regulation of the right to keep and bear arms includes a restriction that weapons not be permitted on certain City property; now, therefore,

Be it Ordained by the Council of the City of Charleston, West Virginia:

That Council of the City of Charleston hereby amends and reenacts Chapter Eighteen of the Code of the City of Charleston, entitled Offenses--Miscellaneous Law, one thousand nine hundred seventy-five, as amended, by adding thereto a new section to read as follows:

Sec. 18-66.2. Carrying unlicensed or unauthorized weapons upon municipal public property.

It shall be unlawful for any person to carry on or about their person any revolver or pistol, dirk, bowie kinfe, sling shot, razor, billy, metallic or other false knuckles or other dangerous or deadly weapon of like kind or character in or upon City Hall, Municipal Auditorium, the Civic Center, and all parks and recreation buildings and facilities, including recreation centers, playgrounds, swimming pools, dressing areas,

tennis courts, parks and recreation areas provided, however, that the provisions of this section shall not apply to city, county, state and federal law enforcement officers and to exhibitors and performers at city sanctioned events who obtain advance written authorization for the Chief of Police of the City of Charleston.

BE IT FURTHER ORDAINED that said amendment is a matter of pressing public emergency affecting public health, safety or morals of the City and that requirement of West Virginia Code 8-11-4(1) be dispensed with, said emergency being the known fact that dangerous and deadly weapons are frequently being carried upon public property and other City facilities endangering employees and members of the public.

The question being on the passage of the bill a roll call was taken and there were--yeas 24, nays 0 and absent 3 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, McClaskie, McMillen, Mohler, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: Connell, Londeree and Monroe.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 4941, as amended, passed.

REPORTS OF OFFICERS

1. Application to operate a private club located at 600 Shrewsbury Street; received and filed.

2. Audit Report of the City of Charleston, for fiscal year ended June 30, 1992; received and filed.

NEW BILLS INTRODUCED

Introduced by Councilman Broady--April 19, 1993
Bill No. 4945--A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March, 1983, as amended, and the map made a part thereof, by rezoning from an R-4 district to an R-8 district, that certain parcel of land situate at the southwest corner of 3rd Avenue and Stockton Street, Charleston, West Virginia; referred to Municipal Planning Commission.

Introduced by Councilman Broady--April 19, 1993
Bill No. 4946--A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March, 1983, as amended, and the map made a part thereof, by rezoning from a C-10, with restricted use, to a C-10 district, with revised restricted use, that certain parcel of land situate at 1047, 1049 and 1051 Main Street, Charleston, West Virginia; referred to Municipal Planning Commission.

Introduced by Councilman Huffman--April 19, 1993
Bill No. 4947--A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March, 1983, as amended, and the map made a part thereof by rezoning from an R-2 district to an R-4 district that certain parcel of land situate at 1303 Turley Road, Charleston, West Virginia; referred to Municipal Planning Commission.

Introduced by Councilman Quick--April 19, 1993
Bill No. 4948--A Bill to establish a Stop intersection on 4th Avenue at 35th Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith; referred to Council Committee on Streets and Traffic.

Introduced by Councilman Quick--April 19, 1993
Bill No. 4949--A Bill to establish a Stop intersection on 5th Avenue at 35th Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith; referred to Council Committee on Streets and Traffic.

Introduced by Councilman Quick--April 19, 1993
Bill No. 4950--A Bill to establish a 20 mile per hour speed limit on Woodpath Lane and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith; referred to Council Committee on Streets and Traffic.

Introduced by Councilman Quick--April 19, 1993
Bill No. 4951--A Bill to establish a 25 mile per hour speed limit on 3rd Avenue from 28th Street to 35th Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith; referred to Council Committee on Streets and Traffic.

Introduced by Councilwoman Vanderwilt--April 19, 1993
Bill No. 4952--A Bill granting the Kanawha County Public Library an appropriate license to allow the erection of one sign on City right of way or property shown on the attached hand-drawn plat; referred to Council Committee on Finance.

Introduced by Councilman McMillen--April 19, 1993
Bill No. 4953--A Bill and Order relating to the laying of leview on real, personal and public utility property within the City of Charleston, West Virginia, including excess levies previously provided for in the Official Municipal Budget Document for the fiscal year beginning the first day of July, one thousand nine hundred ninety-three; referred to Council.

Introduced by Councilman McMillen--April 19, 1993
Bill No. 4954--A Bill supplementing Ordinance No. 4828 passed by Council on April 20, 1992, entitled "An Ordinance supplementing an Ordinance entitled: 'An ordinance placing the custody, operation, maintenance, supervision and control of the sewer system of the City of Charleston, and all betterments thereof and extensions thereto, in the Sanitary Board of the City of Charleston; authorizing the construction and acquisition of certain additions, extensions, improvements to said system; providing for the financing of such additions, extensions and improvements by the issuance of revenue bonds; providing for the establishment and collection of rates or charges for the use of said system and works and for the service rendered thereby and for the application of proceeds of such rates or charges to the operation, repair, replacement and maintenance of such system and works to a sinking fund for the payment of said revenue bonds and interest thereon; referred to Council Committee on Finance.

Introduced by Councilman McMillen--April 19, 1993
Bill No. 4955--A Bill authorizing the redemption prior to maturity of the outstanding Parking Revenue Bonds, Series A and Series B and Parking Revenue Bonds, Series 1986 of the City of Charleston; providing for the issuance of the City of Charleston Parking System Refunding Revenue Bonds, Series 1993, in an aggregate principal amount not to exceed $6,000,000 to provide for such refunding and redemption; making provision for such refunding, funding the reserve account and paying the cost in connection therewith; determining the denominations; established registration and payment procedures; continuing the Parking Facilities Committee; providing for the rights and remedies of and the security for the registered owners of such bonds and enacting other provisions with respect to such bonds; referred to Council Committee on Finance.

At 9:15 p.m., on motion of Coucnilman Brown, Council adjourned until Tuesday, April 20, 1993.

C E R T I F I C A T E

Certified to be a true and correct copy of that certain Ordinance No. 4954, duly filed and of record in the office of the City Clerk of the City of Charleston, West Virginia, ~~adopted~~ passed by the Council of the City of Charleston at the meeting held on May 3, 1993.

Given under my hand and the official seal of the City of Charleston, West Virginia, this 5th day of October 1993.

(seal)

City Clerk

Bill No. 4954

Ordinance No. _____

Introduced in Council: April 19, 1993

Referred to: Council Committee on Finance

Introduced by: Councilman McMillen

Passed by Council: May 3, 1993

A Bill supplementing Ordinance No. 4828 passed by the Council of The City of Charleston, West Virginia, on April 20, 1992, entitled "An Ordinance supplementing an Ordinance entitled: 'An Ordinance placing the custody, operation, maintenance, supervision and control of the sewer system of The City of Charleston, and all betterments thereof and extensions thereto, in the Sanitary Board of The City of Charleston; authorizing the construction and acquisition of certain additions, extensions, improvements to said system; providing for the financing of such additions, extensions and improvements by the issuance of revenue bonds; providing for the establishment and collection of rates or charges for the use of said system and works and for the service rendered thereby and for the application of the proceeds of such rates or charges to the operation, repair, replacement and maintenance of such system and works and to a sinking fund for the payment of said revenue bonds and the interest thereon, all as provided by Chapter 25 of the acts of the Legislature of West Virginia, Extraordinary Session of 1933, as amended' and enacted by the Council of The City of Charleston on the 8th day of July, 1952; authorizing the refunding of certain outstanding sewerage system revenue bonds of The City of Charleston, West Virginia; authorizing the defeasance of certain outstanding sewerage system revenue bonds of The City of Charleston, West Virginia; authorizing the issuance of two separate series of sewerage system revenue bonds of said The City of Charleston in the aggregate principal amount of not to exceed $10,000,000, which, along with other funds and moneys of, or available to, The City of Charleston may be lawfully expended for such purpose, to make provision for such refunding and to fund the cost of acquiring and constructing certain extensions, betterments and improvements to said system, fund a reserve account for such bonds and pay other costs in connection therewith; amending and superseding certain existing Ordinances of The City of Charleston relating to sewerage system revenue bonds of The City of Charleston; providing for the rights and remedies of and security for the holders of such bonds; and adopting other provisions related thereto;" authorizing the acquisition and construction of a wastewater treatment facility consisting of certain extensions, additions, betterments and improvements to the sewerage system of

The City of Charleston; authorizing the issuance of not more than $2,500,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more additional series as may be required, of said The City of Charleston to be used, along with other funds and moneys of, or available to, The City of Charleston which may be lawfully expended for such purposes, to finance the cost of such acquisition and construction, to fund reserve accounts for such bonds, to provide for capitalized interest during construction and to pay other costs in connection therewith; and adopting other provisions related thereto.

Be It Ordained by the Council of The City of Charleston, 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"), and other applicable provisions of law, and Ordinance No. 4828, passed by the Council of The City of Charleston on the 20th day of April, 1992.

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

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

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

C. The Sanitary Board has presented a petition to this City for the acquisition and construction of Project, enactment of this Ordinance and the issuance of the Bonds.

D. The estimated maximum cost of construction of the Project is $2,100,000, which will be permanently obtained for the proceeds of the Bonds herein authorized. The City may obtain such grants as may be necessary to pay Cost of the 1993 Project.

E. The acquisition and construction of the System were financed or refinanced in part by the proceeds of prior bond and note issues of the City, including The City of Charleston $1,912,194 Sewer Revenue Bonds, Series 1989 dated March 21, 1989 and The City of Charleston $829,856 Sewer Revenue Bonds, Series 1989B dated November 21, 1989 (the "WDA First Lien Bonds") and The City of Charleston $283,458 Supplemental Sewer Revenue Bonds, Series 1989 dated March 21, 1989 and The City of Charleston $123,015 Supplemental Sewer Revenue Bonds, Series 1989B, dated November 21, 1989 (the "WDA Subordinate Bonds," and collectively with the WDA First Lien Bonds, the "WDA Bonds"), the $2,955,000 The City of Charleston, West Virginia Sewerage System Refunding Revenue Bonds, Series 1992A, and the $6,670,000 The City of Charleston, West Virginia Sewerage System Refunding and Improvement Revenue Bonds, Series 1992B (the "1992 Bonds" and collectively with the WDA First Lien Bonds, the "Prior Bonds"). The Prior Bonds are equally and ratably secured under the provisions of Ordinance No. 4828 passed by Council of The City of Charleston on April 20, 1992 (the "Prior Ordinance") which amended and superseded several prior ordinances of the City relating to the System and the issuance of bonds and notes to finance the acquisition and construction of portions of the System. The WDA Subordinate Bonds are subordinate and junior as to lien and sources of payment to the Prior Bonds. (The Prior Bonds and the WDA Subordinate Bonds are hereinafter referred to from time to time as the "Prior Debt".)

F. The Prior Bonds are currently outstanding in the aggregate principal amount of $12,260,462, and the WDA Subordinate Bonds are currently outstanding in the aggregate principal amount of $385,629.

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

H. It is necessary and essential to acquire and construct the additions, improvements and extensions to the System (the "1993 Project"), generally described on Exhibit A hereto and incorporated herein by reference, in order to preserve the public health, to be financed through the issuance of Bonds pursuant to this Ordinance in one or more series (the "1993 Bonds") in the aggregate principal amount of $2,500,000.

I. The estimated revenues to be derived in each year after the enactment of this Ordinance from the operation of said System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Prior Debt and the 1993 Bonds authorized to be issued pursuant to this Ordinance and all sinking fund, reserve account and other payments provided for in this Ordinance or the Prior Ordinance.

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J. The 1993 Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the form set forth in Exhibit B attached hereto and incorporated herein by reference with necessary and appropriate variations, omissions and insertions as permitted or required by this Ordinance or a Supplemental Resolution or as deemed necessary by the Registrar or the City.

K. All things necessary to make the 1993 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 1993 Bonds, will be timely done and duly performed.

L. The enactment of this Ordinance, and the execution and issuance of the 1993 Bonds, subject to the terms thereof, will not result in any breach of, nor constitute a default under, any instrument to which the City is a party or by which it may be bound or affected.

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

N. The 1993 Bonds are not private activity bonds as defined in the Code.

O. Ninety-five percent (95%) or more of the net proceeds (as defined with respect to the Code) of the 1993 Bonds will be used for local governmental activities of the City.

P. The City shall not permit at any time any of the proceeds of the 1993 Bonds or other funds of the City to be used directly or indirectly in any manner which would result in the exclusion of the 1993 Bonds from the treatment afforded by Section 103(a) of the Code.

Q. The City will file all statements, instruments and returns necessary to assure the tax-exempt status of the 1993 Bonds.

R. The 1993 Bonds will not be federally guaranteed within the meaning of Section 149(b) of the Code.

S. It is deemed necessary for the City to issue its 1993 Bonds to finance the acquisition and construction of the 1993 Project.

T. It is deemed necessary for the City to issue its 1993 Bonds in the aggregate principal amount of not more than $2,500,000 to finance the costs of acquisition and construction of

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the 1993 Project herein described through the Program. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest on the original bonds prior to and during construction or acquisition and for six months after completion of construction of the 1993 Project; engineering, fiscal and legal expenses; expenses for estimates of cost and revenue; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, any fees or expenses of the Authority or DEP and any defaulted interest thereon, 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 1993 Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the 1993 Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the City for any amounts expended by it for allowable costs prior to the issuance of the 1993 Bonds or the repayment of the indebtedness incurred by the City for such purposes shall be deemed part of the Cost of the 1993 Project.

U. It is in the best interests of the City that its 1993 Bonds be sold to the West Virginia Water Development Authority pursuant to the terms and provisions of the Loan Agreement by and among the Authority, the DEP and the City.

V. The City has received a certificate from an independent certified public accountant that it meets the parity test established in the Prior Ordinance. The 1993 Bonds shall be issued with a lien on the Net Revenues on a parity with the lien held by the registered owners of the Prior Bonds, but the lien of the 1993 Bonds shall be senior and superior to the lien of the registered owners of the WDA Subordinate Bonds.

W. It is reasonably anticipated that all proceeds of the 1993 Bonds will be spent within three years from the date of issuance.

X. The City and all subordinate issuers do not reasonably expect to issue more than $10,000,000 of tax-exempt obligations during calendar year 1993, and the City hereby designates the 1993 Bonds as "qualified tax-exempt obligations" as defined in Section 265(b)(3)(B) of the Code.

Y. The City has complied with all requirements of West Virginia law relating to the authorization, the construction, acquisition and operation of Project and issuance of the 1993 Bonds, or will have so complied prior to the issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity, if required, from the

Public Service Commission of West Virginia by final order not subject to appeal or rehearing.

Section 1.03. Ordinance Constitutes Contract. In consideration of the acceptance of the 1993 Bonds authorized to be issued hereunder by those who shall hold the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the City and such Bondholders, and the covenants and agreements herein set forth to be performed by said City shall be for the equal benefit, protection and security of the legal holders of any and all of such 1993 Bonds issued hereunder, all of which shall be of equal rank and without preference, priority or distinction between any one 1993 Bond and any other 1993 Bonds 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 Amendatory Ordinance have the meanings set forth in the Prior Ordinance, as amended by this Amendatory 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.

"Amendatory Ordinance" or "this Ordinance" shall mean this ordinance as hereafter amended or supplemented.

"Authority" shall mean the West Virginia Water Development Authority, which is expected to be the original purchaser of the 1993 Bonds on behalf of the Program, or any other agency of the State of West Virginia that succeeds to the function of the Authority.

"Bond Construction Trust Fund" shall mean the fund created by Section 4.01(D) hereof.

"Bondholder" or "Owner of the 1993 Bonds" or any similar term shall mean any person who shall be the registered owner of any Outstanding Bond as hereinafter defined.

"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.

"Closing Date" shall mean the date or dates upon which there is an exchange of all or a portion of the 1993 Bonds for the proceeds or a portion of the proceeds representing the purchase of the 1993 Bonds by the Authority.

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"Code" shall mean the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated pursuant thereto or any predecessors or successors thereto.

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

"Consulting Engineers" shall mean Dunn Engineers, Consulting Engineers, and Kelley, Gidley, Blair & Wolfe, Inc., Charleston, West Virginia, or any engineer or firm of engineers which shall at any time hereafter be retained by the City as Consulting Engineers for the System.

"Costs of the 1993 Project" shall mean those costs described in Section 1.02(T) hereof to be a part of the cost of the acquisition and construction of the 1993 Project.

"Council" or "City Council" shall mean the Council of the City.

"Debt Service" shall mean the scheduled amount of interest and amortization of principal payable on the 1993 Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

"DEP" shall mean the West Virginia Division of Environmental Protection.

"Depository Bank" shall mean the bank designated as such in the Supplemental Resolution, as hereinafter defined, and its successors and assigns.

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

"Fund" shall mean the "West Virginia Water Pollution Control Revolving Fund" established by the State, administered by the DEP and the Authority and funded by capitalization grants awarded to the State pursuant to the federal Clean Water Act, as amended, for the purpose of establishing and maintaining a permanent perpetual fund for the construction, acquisition and improvement of wastewater treatment facilities.

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

"Loan Agreement" shall mean the Water Pollution Control Revolving Fund Loan Agreement by and among the Authority, the DEP and the City providing for the purchase of the 1993 Bonds from the

City by the Authority, the form of which is attached as Exhibit C hereto and incorporated herein by reference.

"Mayor" shall mean the Mayor of the City.

"1993 Bonds" or "Bonds originally authorized hereby" or similar phrases shall mean the not more then $2,500,000 in aggregate principal amount of Sewerage System Revenue Bonds issued for the purpose of paying a portion of the Costs of the 1993 Project and for such other purposes permitted hereby and authorized by a resolution supplemental hereto.

"1993 Project" shall mean the wastewater treatment facility projects described in Exhibit A attached hereto, constituting extensions, additions, betterments and improvements to the existing sewerage system of the City.

"Ordinance" shall mean the Prior Ordinance, as hereinafter defined, as supplemented by this Amendatory Ordinance and as further amended or supplemented. Unless the context clearly requires a different meaning, reference to "this Ordinance" in the Prior Ordinance shall mean the Ordinance.

"Outstanding" when used with reference to 1993 Bonds, as of any particular date, describes all such 1993 Bonds theretofore and thereupon being authenticated and delivered except (i) any such 1993 Bond cancelled by the Registrar, at or prior to said date; (ii) any such 1993 Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such 1993 Bond, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any such 1993 Bond deemed to have been paid as provided in Article X of the Prior Ordinance; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any such 1993 Bond registered to the City.

"Paying Agent" shall mean the West Virginia Municipal Bond Commission.

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

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

"Regulations" shall mean the regulations promulgated under the Code.

"Registrar" shall mean the entity named as such in the Supplemental Resolution.

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

"State" shall mean the State of West Virginia.

"Supplemental Resolution" shall mean any resolution, ordinance or order of the City supplementing or amending this Ordinance and, when preceded by the article "the", refers specifically to the supplemental resolutions authorizing the sale of one or more series of the 1993 Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the 1993 Bonds and not so included may be included in another Supplemental Resolution.

"System" shall mean the complete existing sewerage system now owned by the City and managed by the Sanitary Board, consisting of a sewerage treatment and collection system, and shall include any extensions, additions, betterments and improvements thereto, including the wastewater treatment facility, hereafter acquired or constructed for said sewerage system from any sources whatsoever, both within and without said City.

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 EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO SYSTEM

Section 2.01. Authorization of Extensions, Additions, Betterments and Improvements. The acquisition and construction of the 1993 Project in accordance with plans and specifications therefor prepared by the Consulting Engineers is hereby authorized.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF 1993 BONDS

Section 3.01. Authorization and Terms of 1993 Bonds. For the purposes of capitalizing interest on the 1993 Bonds, funding the Reserve Account, paying costs of issuance and financing a portion of the Costs of the 1993 Project not otherwise provided for, there shall be issued the 1993 Bonds of the City. The 1993 Bonds shall be issued in one or more series with the first series to be designated 1993 Series A, the second series as 1993 Series B, and so on, of "Sewerage System Revenue Bonds" in an aggregate principal amount of not more than $2,500,000. Each series of 1993 Bonds shall be dated as of the date of delivery of each series thereof, shall bear such interest, shall mature at such times, not exceeding twenty-one (21) years after the date of issuance, and in such amount as shall be set out in Schedule X to the Loan Agreement. The 1993 Bonds shall not bear interest during the construction period but interest shall commence accruing on the completion date as defined in the SRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on each series of 1993 Bonds shall be as set forth on Schedule Y to the Loan Agreement. The 1993 Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Ordinance and the Loan Agreement 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 1993 Bonds.

The 1993 Bonds shall be payable as to principal at the principal 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 1993 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, provided,

that so long as the Authority is the owner thereof, interest on the 1993 Bonds may be paid by wire transfer or other methods satisfactory to the City, the Paying Agent and the Authority.

Unless otherwise provided by the Supplemental Resolution, the 1993 Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a record of advances and a payment record attached, representing the aggregate principal amount, and shall mature in principal installments, all as provided in the Loan Agreement and said Supplemental Resolution. The 1993 Bonds shall be exchangeable at the option and expense of the Bondholder for other fully registered 1993 Bonds in aggregate principal amount equal to the amount of said 1993 Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said 1993 Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of 1993 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. Said 1993 Bonds shall be dated as of the date specified in said Supplemental Resolution and shall bear interest from such date.

Section 3.02. Form of 1993 Bonds. The text of the 1993 Bonds shall be of substantially as set forth in Exhibit B, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Ordinance or any subsequent resolution or ordinance adopted or enacted prior to the issuance thereof.

Section 3.03. Sale of 1993 Bonds; Execution of Loan Agreement. The 1993 Bonds shall be sold to the Authority, pursuant to the respective terms and conditions of the Loan Agreement. The Mayor is specifically authorized and directed to execute the Loan Agreement for each series of 1993 Bonds and the City Clerk is directed to affix the seal of the City, attest the same and deliver each Loan Agreement to the Authority and DEP. The Loan Agreement, attached hereto as Exhibit C and incorporated herein by reference, is specifically incorporated into this Ordinance.

Section 3.04. 1993 Bonds are Issued as Parity Bonds. The 1993 Bonds are issued as and shall constitute additional Parity Bonds in accordance with Section 6.08 of the Prior Ordinance. Prior to the issuance of the 1993 Bonds, the following must occur:

A. The City must receive the written approval of the Authority for the issuance of the parity bonds while the Original Supplemental Bonds remain Outstanding.

B. The conditions of Section 6.08 of the Prior Ordinance must be satisfied.

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C. Unless waived in writing by the Authority, the City must enter into written contracts for the immediate acquisition or construction of the 1993 Project not later than simultaneously with the delivery of the 1993 Bonds.

D. The 1993 Bonds shall not be issued unless all the payments into the respective funds and accounts provided for in the Prior Ordinance on account of the Prior Bonds Outstanding and any other payments provided for in the Prior Ordinance, shall have been made in full as required to the date of delivery of the 1993 Bonds.

Section 3.05. Certificate of Consulting Engineers. Prior to the issuance of the 1993 Bonds, the City must obtain the certificate of the Consulting Engineers in the form attached to the Loan Agreement to the effect that the 1993 Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the DEP and the Authority, the 1993 Project is adequate for the purposes for which it was designed, and the funding plan as submitted to the DEP and the Authority is sufficient to pay the costs of acquisition and construction of the 1993 Project.

ARTICLE IV

APPLICATION OF 1993 BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. Application of 1993 Bond Proceeds. From the moneys received from time to time from the sale of any or all of the 1993 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. The amount of the proceeds which together with the earnings thereon shall be at least sufficient to pay interest on the 1993 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 months after the estimated date of completion of construction of the 1993 Project.

B. Next, from the proceeds of the 1993 Bonds, there shall be deposited with the Commission in the Reserve Account the sum, if any, set forth in the Supplemental Resolution for funding of the Reserve Account.

C. The remaining moneys derived from the sale of the 1993 Bonds shall be deposited by the City as received from time to time in the Bond Construction Trust Fund hereinafter established.

D. There is hereby created and established with the Depository Bank a special fund, designated the "Bond Construction Trust Fund". The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in this Ordinance. Except with respect to any transfers to the Rebate Fund, moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the 1993 Project and until so transferred or expended, are hereby pledged as additional security for the 1993 Bonds.

Section 4.02. Disbursements From the Bond Construction Trust Fund. On or before the Closing Date, the City shall have delivered to the Authority a report listing the specific purposes for which the proceeds of the 1993 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the 1993 Project shall be made monthly.

Except as provided in Section 4.01 hereof, disbursements from the Bond Construction Trust Fund shall be made only after submission to, and approval from, the Authority and the DEP of the following:

(1) A "Payment Requisition Form," attached to the Loan Agreement as Exhibit C, and

(2) a certificate, signed by the Mayor and the Consulting Engineers, stating:

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

(B) That each item for which the payment is proposed to be made is or was necessary in connection with the 1993 Project and constitutes a Cost of the 1993 Project;

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

(D) That payment for each of the items proposed is then due and owing.

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Bond Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Bond Construction Trust Fund shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and

the Depository Bank shall not be required to monitor the application of disbursements from the Bond Construction Trust Fund. The Consulting Engineers shall from time to time file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

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

ARTICLE V

ADDITIONAL COVENANTS OF THE CITY

Section 5.01. Completion of 1993 Project; Schedule of Cost. The City will expeditiously complete the 1993 Project. Upon completion of the 1993 Project, the City shall file with the Authority a schedule in substantially the form of Amended Schedule A to the Program loan application, setting forth the actual costs of the 1993 Project and sources of funds therefor.

Section 5.02. Construction Bonds. The City will require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and the DEP, so long as the Authority is the Owner of the 1993 Bonds. The City will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the 1993 Project, to protect the interests of the City, the Authority, the prime contractor and all subcontractors as their interests may appear, in accordance with the Loan Agreement, during construction of the 1993 Project in the full insurable value thereof. In time of war, the City shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as provided in the Ordinance and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The City will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System. The City shall carry such other insurance as is required by the Authority and DEP and as set forth in the Loan Agreement, including but not limited to flood insurance and

business interruption insurance, to the extent available at reasonable cost to the City.

The City shall require all contractors engaged in the construction of the 1993 Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the 1993 Project covered by the particular contract as security for the faithful performance of such contract.

Section 5.03. Consulting Engineers. The City shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and the DEP covering the supervision and inspection of the development and construction of the 1993 Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers. Such resident engineer shall certify to the Authority, the DEP and the City at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The City shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the 1993 Project. The City shall notify the DEP in writing of such receipt. The City shall submit a Performance Certificate, the form of which is attached as Exhibit A to the Loan Agreement, and is incorporated herein by reference, to the DEP within 60 days of the end of the first year after the 1993 Project is completed.

The City shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the 1993 Project is 90% completed. The City agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The City agrees that qualified operating personnel properly certified by the State will be employed before the 1993 Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The City shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

Section 5.04. Compliance With Loan Agreement, Rules and Regulations. The City hereby covenants and agrees to perform and satisfy all terms and conditions of the Loan Agreement and to comply with all applicable laws, rules and regulations issued by the Authority, the DEP or other State, federal or local bodies in regard to the construction of the 1993 Project and operation, maintenance and use of the System. Notwithstanding anything herein to the contrary, the City will provide the DEP with copies of all documents submitted to the Authority.

Section 5.05. Records and Reports. The City shall keep complete and accurate records of the cost of acquiring the 1993 Project site and the costs of acquiring, constructing and installing the 1993 Project. The City shall permit the Authority and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the 1993 Project and the System at all reasonable times for the purpose of audit and examination. The City shall submit to the Authority and the DEP such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the 1993 Project, the operation and maintenance of the System and the administration of the Loan Agreement or Grant Receipts or other sources of financing for the 1993 Project.

The City shall permit the Authority and the DEP, or their agents and representatives, to inspect all records pertaining to the operation of the System at all reasonable times following completion of construction of the 1993 Project and commencement of operation thereof, or, if the 1993 Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The City will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the System, and any owner of a 1993 Bond or 1993 Bonds issued pursuant to the Ordinance shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the City relating thereto.

The accounting system for the System shall follow currently accepted accounting practices in accordance with the rules and regulations of the West Virginia Public Service Commission and the Act. Separate control accounting records shall be maintained by the City. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books, and along with other bookkeeping records as prescribed by the City. The City shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the City shall be reported to such agent of the City as the Council shall direct.

The City shall file with the Consulting Engineers, the Authority and DEP, and shall mail in each year to any owner or owners of 1993 Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses and Net Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Ordinance with respect to said 1993 Bonds and the status of all said funds and accounts.

(C) The amount of any Prior Debt or other obligations Outstanding and secured by a lien on the Net Revenues of the System.

The City shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Accountants, shall mail upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any owner or owners of 1993 Bonds issued pursuant to this Ordinance, and shall submit said report to the Authority and the DEP. The report of said audit shall include a statement that the City is in compliance with the terms and provisions of the Act and the Loan Agreement and that the City's revenues are adequate to meet its operation and maintenance expenses and debt service requirements.

The City shall, commencing on the date contracts are executed for the construction of the 1993 Project and for two years following the completion of the 1993 Project, each month complete a Monthly Financial Report, the form of which is attached to the Loan Agreement as Exhibit B and is incorporated herein by reference, and forward a copy by the 10th of each month to the Authority and the DEP.

The City shall, during construction of the 1993 Project, complete Payment Requisition Forms, the form of which is attached to the Loan Agreement as Exhibit C and is incorporated herein by reference, and forward a copy to the DEP in compliance with the City's construction schedule.

The Sanitary Board shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit E of the Loan Agreement or as promulgated from time to time.

The Sanitary Board shall permit the Authority or the DEP, or their agents and representatives, to enter and inspect the 1993 Project site and 1993 Project facilities at all reasonable times. Prior to, during and after completion of construction of the 1993 Project, the Sanitary Board shall also provide the Authority and the DEP, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the DEP with respect to the System pursuant to the Act.

Section 5.06. Operating Budget. The Sanitary Board shall submit a copy of Operating Budget required by Section 6.17 of the Prior Ordinance to the Authority and the DEP within thirty days of the adoption thereof.

Section 5.07. Tax Covenants. The City hereby further covenants and agrees as follows:

A. PUBLIC PURPOSE BONDS. The City shall use the 1993 Bond proceeds solely for the 1993 Project and as otherwise set forth herein, and the 1993 Project will be solely operated as a public purpose and as local governmental activity of the City.

B. PRIVATE ACTIVITY BOND COVENANT. The City shall not permit at any time or times any of the proceeds of the 1993 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 1993 Bonds from the treatment afforded by Section 103(a) of the Code by reason of the classification of the 1993 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 1993 Bonds.

C. PRIVATE LOAN LIMITATION. The City shall assure that not in excess of 5% of the Net Proceeds of the 1993 Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

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 1993 Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

E. INFORMATION RETURN. The City will file all statements, instruments and returns necessary to assure the tax exempt status of the 1993 Bonds, including without limitation the information return required under Section 149(e) of the Code.

F. FURTHER ACTIONS. The City will take any and all actions that may be required of it (including those deemed necessary by the Authority) so that the interest on the 1993 Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those determined by the Authority) which would adversely affect such exclusion.

Section 5.08. Rebate Covenant. The City is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the 1993 Project and the System. As covenanted above, the 1993 Bonds are not private activity bonds

within the meaning of the Code, and ninety-five percent (95%) or more of the net proceeds (as defined with respect to the Code) of the 1993 Bonds will be used for local governmental activities of the City. The City reasonably expects to expend the proceeds of the 1993 Bonds within the time period that would provide an exception from the rebate requirements of Section 148(f) of the Code. Notwithstanding the foregoing, if the City is in fact subject to such rebate requirements, the City hereby covenants to rebate to the United States the amounts required by the Code and to take all steps necessary to make such rebates. In the event the City fails to make such rebates as required, the City shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the tax-exempt status of interest on the 1993 Bonds.

Section 5.09. Arbitrage. The City covenants that (i) it will restrict the use of the proceeds of the 1993 Bonds in such manner and to such extent as may be necessary, in view of the City's reasonable expectations at the time of issuance of the 1993 Bonds, so that the 1993 Bonds will not constitute "arbitrage bonds" under 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 1993 Bonds so that the interest on the 1993 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 5.10. 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 1993 Bonds. In addition, the City covenants to comply with all regulations from time to time in effect and applicable to the 1993 Bonds as may be necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on the 1993 Bonds and fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such regulations, regardless of whether such actions may be contrary to any of the provisions of the Ordinance.

If it is determined that the City does not quality for an exception to Section 148 of the Code or the City is otherwise subject to rebate in connection with the 1993 Bonds, the City shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Authority, the City shall deposit, or cause to be deposited, with

the Depository Bank in a separate fund designated the Rebate Fund, such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder, if any, and used only for payment of rebatable arbitrage to the United States. The City shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the City to be used for any lawful purpose of the System. The City shall remit payments to the United States in the time and at the address prescribed by the regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the City shall assure that such payments are made by the City to the United States, on a timely basis, from any funds lawfully available therefor. In addition, the City shall cooperate with the Authority in preparing rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the City. To the extent not so performed by the Authority, the City and the Depository Bank (at the expense of the City) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the City or the Depository Bank may deem appropriate in order to assure compliance with this Section 5.11. The City shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 5.11 in accordance with the requirements of Section 148(f) of the Code. In the event the City fails to make such rebates as required, the City shall pay any and all penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, in order to maintain the exclusion of interest on the 1993 Bonds from gross income for federal income tax purposes.

The City shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation and certificate with respect thereto or, if the City qualifies for the small governmental issue exception to rebate or any other exception therefrom, then the City shall submit to the Authority a certificate stating that it is exempt from such rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the 1993 Bonds subject to rebate.

The City shall also furnish to the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority, including information with respect to earnings on all funds constituting "gross proceeds" of the 1993 Bonds (as defined in the Code).

The City shall furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be requested by the Authority and shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the 1993 Bonds (as that term is defined in the Code) from time to time as the Authority may request.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Modification or Amendment. No material modification or amendment of this Ordinance or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Bondholders shall be made without the consent in writing of the owners of two-thirds (2/3) or more in principal amount of the 1993 Bonds then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any 1993 Bond or 1993 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 owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of 1993 Bonds required for consent to the above permitted amendments or modifications.

Section 6.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 6.03. Repeal of Conflicting Ordinances. All ordinances, resolutions and orders, or parts thereof, other than the Prior Ordinance, in conflict with this Amendatory Ordinance are to the extent of such conflict repealed.

Section 6.04. 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 Amendatory Ordinance

do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the City Clerk and members of 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 6.05. Effective Date. This Ordinance shall take effect after passage, public hearing and otherwise in the manner prescribed by law.

EXHIBIT A

The 1993 Project consists of the following sub-projects, including all appurtenances necessary or incidental thereto:

(a) Trojan Steel extension -- Construction of approximately 1,120 linear feet of 8 inch gravity sewer with manholes and appurtenances, one grinder sewage pumping station and approximately 1,710 linear feet of 2 inch diameter plastic force to serve nine new previously unsewered customers in the vicinity of the south end of the Patrick Street Bridge between the Trojan Steel Corporation and the City of South Charleston Wastewater Treatment Plant.

(b) Parkwood Road upgrade -- Construction of approximately 3,750 linear feet of 12 inch diameter gravity sewer, 5,150 linear feet of 10 inch diameter gravity and appurtenances to allow the abandonment of five existing sewage pumping stations (Blue & Gold Stables P.S., Parkwood Road P.S., Bridlewood Road P.S., Woodland Heights P.S. #1, Woodland Heights P.S. #2) in the Parkwood Road sewer service area. The gravity sewers will connect to the newly constructed Ruthdale Sewer System.

(c) Virginia Street and Patrick Street Sewage Pumping Stations Value Replacement -- Replace the existing failing knife gate valves in both sewage pumping stations with solid wedge gate valves.

(d) Corridor G Sewage Pumping Station Upgrade -- Replacement of pumps, valves and appurtenances in the Ferry Branch Pump Station, Emerald Heights Pump Station, Lucado Road Pump Station, Angel Terrace Pump Station, and Sherwood Forest Pump Station to increase their sewage pumping capacities, and replace the existing Sherwood Forest force main with approximately 5,000 linear feet of new force main.

EXHIBIT B

[FORM OF THE 1993 BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES ____

No. R-____ $___

_____

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF CHARLESTON, a municipal corporation of the State of West Virginia, in Logan 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 (the "Authority "), or registered assigns, the sum of _____ ($_____), in quarterly installments on the 1st day of _____, the 1st day of _____, the 1st day of _____, and the 1st day of _____ in each year beginning _____, 199_, as set forth on the "Schedule of Debt Service" attached as Exhibit A hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said Exhibit A.

Interest on this 1993 Bond shall be zero (0%) percent from the date hereof until the Date of Completion of the 1993 Project, and after such date interest shall be payable on the 1st day of _____, the 1st day of _____, the 1st day of _____, and the 1st day of _____ in each year beginning _____, 199_, at the rate of _____ percent (__%) per annum. Principal installments of this 1993 Bond are 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 Paying Agent. The interest on this 1993 Bond is payable by check or draft mailed to the Payee at the address as it appears on the books of the Registrar on the 15th day of the month preceding an interest payment date or by such other method as shall be mutually agreeable so long as the Authority is registered owner hereof.

This 1993 Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated _____, among the Authority, the DEP and the City.

This 1993 Bond is issued (i) to pay costs of acquisition and construction of a wastewater treatment facility constituting improvements, additions, extensions and betterments to the existing sewerage system of the City (the "1993 Project"), (ii) to capitalize interest thereon, (iii) to fund a reserve account therefor and (iv) to pay certain costs of issuance hereof and related costs. This 1993 Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), Ordinance No. 4828 enacted on April 20, 1992, Ordinance No. _____ enacted by the City on the ____ day of _____, 1993, and a Supplemental Resolution adopted by the City on the ___ day of _____, 1993 (collectively called 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 1993 Bonds under the Ordinance.

This 1993 Bond ranks equally as to lien and security with the Prior Bonds and senior to the WDA Subordinate Bonds, as both are defined in the Ordinance.

This 1993 Bond is payable only from and secured by a pledge of a first lien on the Net Revenues as defined in the Ordinance, to be derived from the operation of the System, moneys in the Reserve Account created under the Ordinance and unexpended proceeds of the 1993 Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This 1993 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 Reserve Account and unexpended 1993 Bond proceeds. Pursuant to the Ordinance, the City has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with or prior to the 1993 Bonds, payable from such revenues, <u>provided</u> however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the 1993 Bonds and any bonds on a parity therewith in any succeeding fiscal year and in each of the reserve accounts for the Prior Bonds, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The

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City has entered into certain further covenants with the registered owners of the 1993 Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the 1993 Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This 1993 Bond is transferable, as provided in the Ordinance, only upon the books of the Registrar, kept for that purpose at the office of the Registrar, by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this 1993 Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

This 1993 Bond, under the provision of the Act is, and has provided 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 1993 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 1993 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 owner of this 1993 Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this 1993 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 1993 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 1993 Bond.

All provisions of the Ordinance, resolutions and statutes under which this 1993 Bond is issued shall be deemed to be a part of the contract evidenced by this 1993 Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, THE CITY OF CHARLESTON has caused this 1993 Bond to be signed by its Mayor and its corporate seal to

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be hereunto affixed or imprinted hereon and attested by its Clerk, and has caused this 1993 Bond to be dated _____, 1993.

[SEAL]

_____
Mayor

ATTEST:

_____
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This 1993 Bond is one of the 1993 Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

_____,
as Registrar

By _____
Its Authorized Officer

Dated: _____

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1
2
3
4
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SCHEDULE A

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____
_____
_____
_____
_____
the within 1993 Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said 1993 Bond on the books kept for registration of the within 1993 Bond of the said City with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

[THIS IS THE END OF EXHIBIT B]

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as City Clerk of The City of Charleston, Logan County, West Virginia, do hereby certify that the foregoing document is a true and accurate copy of the official record of The City of Charleston, such records being in the custody of the undersigned and maintained at The City of Charleston, Municipal Building, Charleston, Kanawha 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 _____, 1992.

_____
City Clerk

[SEAL]
ABB0037E

EXHIBIT C

SRF-LP-1
(August 1992)

LOAN AGREEMENT

THIS WATER POLLUTION CONTROL REVOLVING FUND LOAN AGREEMENT (the "Loan Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), the WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION, a division of the West Virginia Department of Commerce, Labor and Environmental Resources (the "DEP"), and the local government designated below (the "Local Government").

_____
(Local Government)

W I T N E S S E T H:

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

WHEREAS, pursuant to the provisions of Chapter 20, Article 5I, of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to direct the distribution of loans to particular local governments pursuant to the Clean Water Act;

WHEREAS, under the Act the DEP is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards and DEP has been awarded capitalization grants to partially fund the Program;

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

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

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

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

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

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

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

WHEREAS, having reviewed the Application and the Fund having available sufficient funds therefor, the Authority and DEP are willing to lend the Local Government the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Government with moneys held in the Fund, subject to the Local Government's satisfaction of certain legal and other requirements of the Program.

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

ARTICLE I

Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," "fund," "local

government," and "project" have the definitions and meanings ascribed to them in the Act or in the SRF Regulations.

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II

The Project and the System

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

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

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

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

2.5 The Local Government shall keep complete and accurate records of the cost of acquiring the Project site and the costs of constructing, acquiring and installing the Project. The Local Government shall permit the Authority and DEP, acting by and through their Directors or duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination, and the

Local Government shall submit to the Authority and DEP such documents and information as it may reasonably require in connection with the construction, acquisition and installation of the Project, the operation and maintenance of the System and the administration of the Loan or of any State and federal grants or other sources of financing for the Project.

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

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

2.8 The Local Government shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and DEP. Until the Project facilities are completed and accepted by the Local Government, the Local Government or (at the option of the Local Government) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Government, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Government on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Government must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Local Government shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans,

specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, DEP and the Local Government at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Government shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Local Government shall notify DEP in writing of such receipt. The Local Government shall submit a Performance Certificate, the form of which is attached hereto as Exhibit A, and being incorporated herein by reference, to DEP within 60 days of the end of the first year after the Project is completed.

2.10 The Local Government shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to DEP when the Project is 90% completed. The Local Government agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Local Government agrees that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The Local Government shall notify DEP in writing of the certified operator employed at the 25% completion stage.

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

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

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

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ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

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

(f) The Local Government shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local

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Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

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

(h) The Local Government shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project) with all requisite appeal periods having expired, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

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

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

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the Authority and DEP, including the SRF Regulations, or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make the Loan to the Local Government and the Local Government shall accept the Loan from the

Authority, and in furtherance thereof it is agreed that the Local Government shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

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

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

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

3.6 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions established by federal and state regulations as set forth in Exhibit E hereto at such times as are set forth in Exhibit E.

ARTICLE IV

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

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

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

(i) to pay Operating Expenses of the System;

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

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by the net revenues from the System;

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

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

(iv) That, except as otherwise required by State law or the Regulations, the System may be sold, mortgaged, leased or otherwise disposed of as a whole or substantially as a whole provided that the net proceeds to be realized from such sale, mortgage, lease or other deposition shall be sufficient to fully pay all of the local bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of such System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

(v) That the Local Government shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by

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a lien on or payable from the revenues of the System prior to the Local Bonds and with the written consent of the Authority and DEP; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

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

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

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

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

(xi) That the Local Government shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and DEP, which report shall include a statement that the Local Government is in compliance with the terms and provisions of the Local Act and this Loan Agreement and that the Local Government's revenues are adequate to meet its operation and maintenance expenses and debt service requirements;

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

(xiii) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC,

prospective users of the System shall be required to connect thereto;

(xiv) That the proceeds of the Local Bonds, advanced from time to time, except for accrued interest and capitalized interest, if any, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Local Government and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing for non-construction costs) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim funding of such Local Government, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and DEP, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

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

(xvi) That the Local Government shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the West Virginia Municipal Bond Commission (the "Commission") its required interest, principal and reserve fund payment. The Local Government shall complete the Monthly Payment Form, attached hereto as Exhibit F and incorporated herein by reference, and submit a copy of said form along with a copy of the check to the Authority by the 5th day of such calendar month;

(xvii) That the Commission shall serve as paying agent for all Local Bonds;

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

(xix) That the Local Government shall have obtained the certificate of the Consulting Engineers to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority, the Project is adequate for the purposes for which it was designed and the funding plan as submitted to the Authority is

sufficient to pay the costs of acquisition and construction of the Project; and

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

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

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

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

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

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

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

ARTICLE V

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

5.1 The Local Government hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Local Government hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System, as set forth in the Local Act and in compliance with the provisions of Subsection 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the minimum sums set forth in the Local Act, the Local Government hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges so as to provide funds sufficient to produce the minimum sums set forth in the Local Act and as required by this Loan Agreement.

5.3 In the event the Local Government defaults in any payment due to the Authority pursuant to Section 4.2 hereof, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Local Government hereby irrevocably covenants and agrees with the Authority that, in the event of any default

hereunder by the Local Government, the Authority may exercise any or all of the rights and powers granted under Section 5 of the Act, including without limitation the right to impose, enforce and collect directly charges upon users of the System.

ARTICLE VI

Other Agreements of the Local Government

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

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

6.3 The Local Government hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority or any other lender for the planning or design of the Project, provided that such repayment shall not be made from the proceeds of the Loan.

6.4 The Local Government hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Local Government fails to make any such rebates as required, then the Local Government shall pay any and all penalties, obtain a waiver from the Internal Revenue

Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

6.5 Notwithstanding Section 6.4, the Authority and DEP may at any time, in their sole discretion, cause the rebate calculations prepared by or on behalf of the Local Government to be monitored or cause the rebate calculations for the Local Government to be prepared, in either case at the expense of the Local Government.

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

6.7 The Local Government hereby agrees to file with the Authority upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule A to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

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

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

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

7.4 No waiver by any party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of

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the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

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

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

7.7 This Loan Agreement shall terminate upon the earlier of:

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

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

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

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

_____
[Proper Name of Local Government]

(SEAL)

By: _____
Its: _____

Attest:

Date: _____

_____
Its _____

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION

By: _____
Its:

Date: _____

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: _____
Its: Director

Attest:

Date: _____

_____
Secretary-Treasurer

Approved as to form by the
Office of the Attorney General

By: _____

Its: _____

Date: _____

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EXHIBIT A

[Form of Performance Certificate]

[TO BE PROVIDED BY DEP]

EXHIBIT B

[Form of Monthly Financial Report]

[Name of Local Government]

[Name of Bond Issue]

Fiscal Year - ____

Report Month: _____

ITEM	CURRENT MONTH	YEAR TO DATE	BUDGET YEAR TO DATE	DIFFERENCE
1. Gross Revenues Collected				
2. Operation and Maintenance Expense				
3. Other Bond Debt Payments (including Reserve Fund deposits)				
4. SRF Bond Payments (include Reserve Fund deposits)				
5. Renewal and Replacement Fund Deposit				
6. Funds available for capital construction				

Witnesseth my signature this ____ day of _____, 19__.

[Name of Local Government]

By: _____
Authorized Officer

EXHIBIT C

PAYMENT REQUISITION FORM

EXHIBIT D

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No._____, of _____, Consulting Engineers, _____, _____, hereby certify that my firm is engineer for the acquisition and construction of _____ to the _____ system (herein called the "Project") of _____ (the "Issuer") to be constructed primarily in _____County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the _____ passed by the _____ of the Issuer on _____, 19___, effective _____, 19___, and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated _____, 19___.

1. The Bonds are being issued for the purpose of _____ _____ (the "Project").

2. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least twenty years, (iii) the Issuer has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (v) the rates and charges for the System as adopted by the _____ of the Issuer are sufficient to comply with the provisions of Subsection 4.1(b) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be

simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and (vii) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this _____ day of _____, 19___.

_____

By _____

_____

West Virginia License No. ____

[SEAL]

EXHIBIT E

[Special Conditions]

[TO BE PROVIDED BY DEP FOR EACH PROJECT]

EXHIBIT F

[Monthly Payment Form]

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

Re: [Name of bond issue]

Dear Sirs:

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

Sinking Fund:

Interest $_____

Principal $_____

Total: $_____

Reserve Fund: $_____

Witness my signature this ___ day of_____.

[Name of Local Government]

By: _____
Authorized Officer

Enclosure: copy of check(s)

EXHIBIT G

[Opinion of Bond Counsel for Local Government]

[To Be Dated as of Date of Loan Closing]

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

Gentlemen:

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

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated _____, 19____, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Local Government and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Local Government, dated _____, 19__ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $_____, issued in the form of one bond registered as to principal and interest to the Authority, with interest payable _____ 1, _____ 1, _____ 1, and _____ 1 of each year, beginning _____ 1, 19__, at the respective rate or rates and with principal payable in installments on _____ 1 in each of the years, all as follows:

Year	Installment	Interest Rate

The Local Bonds are issued for the purpose of _____ _____ and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____ _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly enacted by the Local Government on _____ (the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

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

3. The Local Government is a duly organized and presently existing _____ _____, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary _____ in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Local Government, payable from the net revenues of the System referred to in the Local Act and secured by a [first] lien on and pledge of the net revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

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

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

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

Very truly yours,

SCHEDULE X

DESCRIPTION OF BONDS

Principal Amount of Bonds $
Purchase Price of Bonds $

Interest on the Bonds shall be zero percent from the date of delivery to and including _____. Principal and interest on the Bonds is payable quarterly, commencing _____, at a rate of __% per annum. Quarterly payments will be made thereafter on each September 1, December 1, March 1 and June 1 as set forth on Schedule Y attached hereto and incorporated herein by reference. As of the date of this Loan Agreement, it is the Authority's and DEP's understanding that the Local Government has [no other obligations outstanding which have a lien as to the source of and security for payment equal to or superior to the lien being granted by the Bonds] or [provide list of outstanding debt].

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

The Bonds will be fully registered in the name of the West Virginia Water Development Authority as to principal and interest and such Bonds shall grant the Authority a [first] lien on the net revenues of the Local Government's system.

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

SCHEDULE Y

[Repayment Schedule]

THE CITY OF CHARLESTON

AMENDATORY AND SUPPLEMENTAL SEWERAGE SYSTEM BOND ORDINANCE

THE CITY OF CHARLESTON

AMENDATORY AND SUPPLEMENTAL SEWERAGE SYSTEM BOND ORDINANCE

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C E R T I F I C A T E

Certified to be a true and correct copy of that certain Journal of the May 3, 1993 Council Meeting, duly filed and of record in the Office of the City Clerk of the City of Charleston, West Virginia.

Given under my hand and the official seal of the City of Charleston, West Virginia, this 1st day of December, 1993.

(seal)

James C. Stucky, City Clerk

JOURNAL

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

May 3, 1993

The Council met in its Chamber in the City Building at 8:00 p.m. for the first meeting in the month of May and was called to order by the Mayor, the Honorable Kent Strange Hall.

Prayer was offered by the Honorable Chester Thompson, Councilman from the Tenth Ward.

The Clerk called the roll and the following members answered to their names:

	Huffman	Nielsen
Broady	Lane	Quick
Brown	Layne	Snodgrass
Cary	Londeree	Robinson
Connell	McClaskie	Thompson
Dodson	McMillen	Vanderwilt
Hicks	Mohler	Wampler
Holt	Monroe	Wright
Horan	Morrison	Mayor Hall

Twenty-six members being present, one being absent, Councilman Armbrecht, the Mayor declared a quorum.

Pending the reading of the Journal of the previous meeting, the reading thereof was dispensed with and the same duly approved.

CLAIMS

The Clerk read the following claims, which were referred as indicated:

1. A Claim of Bernard L. Toppings; 1018 Woodward Drive, Charleston; alleges damage to vehicle; referred to City Solicitor.

2. A Claim of Lisa Shamblin; 1514 Red Oak Street; alleges damage to vehicle; referred to City Solicitor.

3. A Claim of Thornton Cox; 409 Fairview Drive; alleges damage to vehicle; referred to City Solicitor.

PETITION

TO: Charleston City Council
FROM: Residents of Angel Terrace
DATE: May 3, 1993
RE: Request to have streets resurfaced.

Received and filed.

PROCLAMATION

EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION
By the Mayor

WHEREAS: National days of prayer have been part of our country's heritage since the first one was declared by the Continental Congress in 1775; and

WHEREAS: May 5, 1988 marked the signing of a bill which passed unanimously through Congress making the first Thursday of every May the National Day of Prayer; and

WHEREAS: The National Day of Prayer Task Force of the National Prayer Committee would like everyone to recognize this day to acknowledge God and give thanks for the many blessings our country has received from him through the years; and

WHEREAS: The Task Force is urging that, at 12 Noon on May 6th, bells and chimes be rung in every community calling Americans to five minutes of unified prayer for our nation.

NOW, THEREFORE, I, Kent Strange Hall, Mayor of the City of Charleston, do hereby proclaim Thursday, May 6th, 1993 as

DAY OF PRAYER

in the City of Charleston and call upon every citizen of this great city to gather together, each after his or her own manner, and pray for unity of the hearts of all mankind. "TAKE 5 AT 12".

IN WITNESS WHEREOF, I have hereunto
set my hand and caused the Seal of
the Executive Department to be affixed
this 23rd day of April, 1993.
/s/Kent Strange Hall, Mayor

Received and filed.

EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION
By the Mayor

WHEREAS: The preservation of historic areas in the City of Charleston is an enduring educational connection with the artistry and architecture of the past; and

WHEREAS: By understanding and appreciating the past we can better understand the life styles that contributed to our modern way of life; and

WHEREAS: the successful projects of Downtown Charleston, the East End Historic District, streetscape improvements, and National Registration designations are continuing demonstrations that restorations combined with modern techniques provide continuity to our lives; and

WHEREAS: Using the theme "Preservation and Livable Communities Make the Connection!" the Charleston Planning Commission is dedicated to the continuation of the beauty of Charleston.

NOW, THEREFORE, I, Kent Strange Hall, Mayor of the City of Charleston, do hereby proclaim May 9 through 15, 1993 as

HISTORIC PRESERVATION WEEK

in the City of Charleston.

IN WITNESS WHEREOF, I have hereunto
set my hand and caused the Seal of
the Executive Department to be affixed
this 28th day of April, 1993.
/s/Kent Strange Hall, Mayor

Received and filed.

REPORTS OF STANDING COMMITTEES

Councilwoman Nielsen, Chairman of the Council Committee on Environment and Recycling, submitted the following report.

1. Your Committee on Environment and Recycling has had under consideration Resolution No. 614-93.

And reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 614-93--"Concerning advertising for the positions of Landfill Engineer and Refuse Collection Director."

WHEREAS, the City has determined that the Charleston Landfill should be upgraded to meet new state standards; and

WHEREAS, to develop and operate such a facility will require qualified professional employees who can give full attention to this project while continuing to operate the existing facility; and

WHEREAS, the City is in the process of developing and will soon be implementing a new collection program to incorporate separate collection of recyclables and yard waste.

WHEREAS, a vacancy exists in the position of Refuse Collection Director and, beginning July 1, 1993, a new position of Landfill Engineer has been established in the city budget; and

WHEREAS, the Public Works Director has prepared job descriptions for these positions which have been reviewed and approved by the Environmental and Recycling Committee of Council; therefore,

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Council of the City of Charleston directs the Mayor to immediately authorize the advertising of the positions of Landfill Engineer (G-7) and Refuse Collection Director (G-6) using as qualifications for these positions the job descriptions prepared by the Director of Public Works.

FURTHER RESOLVED, that the Public Works Director interview the applicants and make recommendations to the Mayor concerning the filling of these vacancies.

DIRECTOR OF REFUSE COLLECTION

1. Education: College Graduate
2. Field of Study: Management, transportation, environmental or other suitable degree plus experience in refuse collection and transportation or other qualifying solid waste management desired.
3. Desirable Attributes:
    a. Knowledge of USEPA and WV laws and regulations pertaining to the management of solid waste.
    b. Ability to perform and direct route studies and analysis, prepare appropriate maps, and optimize the use of personnel and equipment in handling the garbage and trash collection in the city.
    c. Ability to prepare and substantiate special permit requests, rate hikes, reports and other documents relative to solid waste collection and transportation.
    d. Understanding of standard and special solid waste equipment; ability to develop specifications; provide training in compaction, use and operator maintenance of assigned equipment; and handle health and safety, accident investigations and risk management/ loss control aspects of the collection department.
    e. Ability to prepare and manage budgets, perform operational and financial analysis, insure effectiveness of operator maintenance.

f. Ability to effectively coordinate and manage approximately 70 employees; 15-20 packer trucks; a budget of approximately 2 million annually; buildings, supplies and materials; and to optimize the effective use of time in accomplishment of assigned collection activities.
g. Ability to meet with the council, press and public and to communicate effectively, both orally and in writing.

Reports to the Director of Public Works.

Salary Range G-6: 25,222--31,528 (FY 93 Rates)

LANDFILL ENGINEER

1. Education: College Graduate
2. Field of Study: Civil Engineering Degree plus 2 years landfill management and operational experience desired. Appropriate degree and 2-5 years of landfill management or consulting experience acceptable.
3. Desirable Attributes:
   a. Knowledge of USEPA sub-title "D", RCRA, WV Senate Bill 18 and other laws, regulations and technology as pertains to landfills and transfer stations.
   b. Ability to prepare operational and technical landfill plans, drawings and other construction documents.
   c. Ability to contract and/or oversee the work of landfill employees, contractual engineers and laboratory tests.
   d. Ability to prepare permit requests, modifications, certificate of needs, PSC rate hikes and other documents relative to landfill management.
   e. Understanding of soils, cell design and construction, siting requirements, geotechnical and hydrogeolic studies, leachate and other stormwater management, liner systems, quality assurance, landfill closure and long-term care requirements.
   f. Ability to prepare and manage budgets, conduct operational and financial analysis, insure effectiveness of operator maintenance and conduct training as required.
   g. Ability to coordinate and manage personnel, equipment, supplies and material, money and time in an efficient manner.
   h. Ability to meet with the council and the press and to communicate effectively, both orally and in writing.

Reports of the Director of Public Works.

Salary Range G-7: 28,228--35,285 (FY 93 Rates)

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 614-93 adopted.

Councilman McMillen, Chairman of the Council Committee on Finance, submitted the following reports:

1. Your Committee on Finance has had under consideration proposal submitted by UARCO, Inc., of Scott Depot, in the amount of $2,789.60, for purchase of 20,000 self-mailing computer forms (B&O Quarterly Tax Returns); to be charged to Account No. 01-439-0-0-3-41, Data Processing--Materials and Supplies.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

2. Your Committee on Finance has had under consideration proposal submitted by Ferguson Enterprises, Inc., in the amount of $4,777, for a 1,000-gallon vertical cement lined hot water tank to be used at the Charleston Civic Center; to be charged to Account No. 81-443-0-0-0-16, Civic Center--Maintenance & Repair/Equipment.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

3. Your Committee on Finance has had under consideration bid submitted by Capitol Business Interiors, in the amount of $3,830.07, for installation of carpet in the City Manager's Office; to be charged to Account No. 01-440-0-0-3-41, Building Maintenance--Materials and Supplies.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

4. Your Committee on Finance has had under consideration proposal submitted by Evergreen Reclamation Co., Inc., in the amount of approximately $3,600 ($360/acre), for hydroseeding up to 10 acres at the Charleston Landfill; to be charged to Account No. 01-532-0-0-2-30, Landfill--Contracted Services.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

5. Your Committee on Finance has had under consideration Bill No. 4954 supplementing Ordinance No. 4828 passed by the Council of the City of Charleston, West Virginia, on April 20, 1992, entitled "An Ordinance supplementing an Ordinance entitled: 'An Ordinance placing the custody, operation, maintenance, supervision and control of the sewer system of the City of Charleston, and all betterments thereof and extentions thereto, in the Sanitary Board of the City of Charleston; authorizing the construction and acquisition of certain additions, extensions, improvements to said system; providing for the financing of such additions, extensions and improvements by the issuance of revenue bonds; providing for the establishment and collection of rates or charges for the use of said system and works and for the service rendered thereby and for the application of the proceeds of such rates or charges to the operation, repair, replacement and maintenance of such system and works and to a sinking fund for the payment of said revenue

bonds and the interest thereon.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 4954--supplementing Ordinance No. 4828 passed by the Council of the City of Charleston, West Virginia, on April 20, 1992, entitled "An Ordinance supplementing an Ordinance entitled: 'An Ordinance placing the custody, operation, maintenance, supervision and control of the sewer system of the City of Charleston, and all betterments thereof and extentions thereto, in the Sanitary Board of the City of Charleston; authorizing the construction and acquisition of certain additions, extensions, improvements to said system; providing for the financing of such additions, extensions and improvements by the issuance of revenue bonds; providing for the establishment and collection of rates or charges for the use of said system and works and for the service rendered thereby and for the application of the proceeds of such rates or charges to the operation, repair, replacement and maintenance of such system and works and to a sinking fund for the payment of said revenue bonds and the interest thereon, all as provided by Chapter 25 of the acts of the Legislature of West Virginia, Extraordinary Session of 1933, as amended, and enacted by the Council of the City of Charleston on the 8th day of July, 1952; authorizing the refunding of certain outstanding sewerage system revenue bonds of the City of Charleston, West Virginia; authorizing the defeasance of certain outstanding sewerage system revenue bonds of the City of Charleston, West Virginia; authorizing the issuance of two separate series of sewerage system revenue bonds of said the City of Charleston in the aggregate principal amount of not to exceed $10,000,000, which, along with other funds and moneys of, or available to, The City of Charleston may be lawfully expended for such purpose, to make provision for such refunding and to fund the cost of acquiring and constructing certain extensions, betterments and improvements to said system, fund a reserve account for such bonds and pay other costs in connection therewith; amending and superseding certain existing Ordinances of the City of Charleston relating to sewerage system revenue bonds of the City of Charleston; providing for the rights and remedies of and security for the holders of such bonds; and adopting other provisions related thereto;" authorizing the acquisition and construction of a wastewater treatment facility consisting of certain extentions, additions, betterments and improvements to the sewerage system of the City of Charleston; authorizing the issuance of not more than $2,500,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more additional series as may be required, of said The City of Charleston to be used, along with other funds and moneys of, or available to, the City of Charleston which may be lawfully expended for such purposes, to finance the cost of such acquisition and construction, to fund reserve accounts for such bonds, to provide for capitalized interest during construction and to pay other costs in connection therewith; and adopting other provisions related thereto.

Be it Ordained by the Council of the City of Charleston, 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"), and other applicable provisions of law, and Ordinance No. 4828, passed by the Council of the City of Charleston, on the 20th day of April, 1992.

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

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

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

C. The Sanitary Board has presented a petition to this City for the acquisition and construction of Project, enactment of this Ordinance and the issuance of the Bonds.

D. The estimated maximum cost of construction of the Project is $2,100,000, which will be permanently obtained for the proceeds of the Bonds herein authorized. The City may obtain such grants as may be necessary to pay Cost of the 1993 Project.

E. The acquisition and construction of the System were financed or refinanced in part by the proceeds of prior bond and note issues of the City, including The City of Charleston $1,912,194 Sewer Revenue Bonds, Series 1989 dated March 21, 1989 and The City of Charleston $829,856 Sewer Revenue Bonds, Series 1989B dated November 21, 1989 (the "WDA First Lien Bonds") and The City of Charleston $283,458 Supplemental Sewer Revenue Bonds, Series 1989 dated March 21, 1989 and The City of Charleston $123,015 Supplemental Sewer Revenue Bonds, Series 1989B, dated November 21, 1989 (the "WDA Subordinate Bonds," and collectively with the WDA First Lien Bonds, the "WDA Bonds"), the $2,955,000 The City of Charleston, West Virginia Sewerage System Refunding Revenue Bonds, Series 1992A, and the $6,670,000 The City of Charleston, West Virginia Sewerage System Refunding and Improvement Revenue Bonds, Series 1992B (the "1992 Bonds" and collectively with the WDA First Lien Bonds, the "Prior Bonds"). The Prior Bonds are equally and ratably secured under the provisions of Ordinance No. 4828 passed by Council of The City of Charleston on April 20, 1992 (the "Prior Ordinance") which amended and superseded several prior ordinances of the City relating to the System and the issuance of bonds and notes to finance the acquisition and construction of portions of the System. The WDA Subordinate Bonds are subordinate and junior as to lien and sources of payment to the Prior Bonds. (The Prior Bonds and the WDA Subordinate Bonds are hereinafter referred to from time to time as the "Prior Debt".)

F. The Prior Bonds are currently outstanding in the aggregate principal amount of $12,260,462, and the WDA Subordinate Bonds are currently outstanding in the aggregate principal amount of $385,629.

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

H. It is necessary and essential to acquire and construct the additions, improvements and extensions to the System (the "1993 Project"), generally described on Exhibit A hereto and incorporated herein by reference, in order to preserve the public health, to be financed through the issuance of Bonds pursuant to this Ordinance in one or more series (the "1993 Bonds") in the aggregate principal amount of $2,500,000.

I. The estimated revenues to be derived in each year after the enactment of this Ordinance from the operation of said System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Prior Debt and the 1993 Bonds authorized to be issued pursuant to this Ordinance and all sinking fund, reserve account and other payments provided for in this Ordinance or the Prior Ordinance.

J. The 1993 Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the form set forth in Exhibit B attached hereto and incorporated herein by reference with necessary and appropriate variations, omissions and insertions as permitted or required by this Ordinance or a Supplemental Resolution or as deemed necessary by the Registrar or the City.

K. All things necessary to make the 1993 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 1993 Bonds, will be timely done and duly performed.

L. The enactment of this Ordinance, and the execution and issuance of the 1993 Bonds, subject to the terms thereof, will not result in any breach of, nor constitute a default under, any instrument to which the City is a party or by which it may be bound or affected.

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

N. The 1993 Bonds are not private activity bonds as defined in the Code.

O. Ninety-five percent (95%) or more of the net proceeds (as defined with respect to the Code) of the 1993 Bonds will be used for local governmental activities of the City.

P. The City shall not permit at any time any of the proceeds of the 1993 Bonds or other funds of the City to be used directly or indirectly in any manner which would result in the exclusion of the 1993 Bonds from the treatment afforded by Section 103(a) of the Code.

Q. The City will file all statements, instruments and returns necessary to assure the tax-exempt status of the 1993 Bonds.

R. The 1993 Bonds will not be federally guaranteed within the meaning of Section 149(b) of the Code.

S. It is deemed necessary for the City to issue its 1993 Bonds to finance the acquisition and construction of the 1993 Project.

T. It is deemed necessary for the City to issue its 1993 Bonds in the aggregate principal amount of not more than $2,500,000 to finance the costs of acquisition and construction of the 1993 Project herein described through the Program. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest on the original bonds prior to and during construction or acquisition and for six months after completion of construction of the 1993 Project; engineering, fiscal and legal expenses; expenses for estimates of cost and revenue; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, any fees or expenses of the Authority or DEP and any defaulted interest thereon, 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 1993 Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the 1993 Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the City for any amounts expended by it for allowable costs prior to the issuance of the 1993 Bonds or the repayment of the indebtedness incurred by the City for such purposes shall be deemed part of the Cost of the 1993 Project.

U. It is in the best interests of the City that its 1993 Bonds be sold to the West Virginia Water Development Authority pursuant to the terms and provisions of the Loan Agreement by and among the Authority, the DEP and the City.

V. The City has received a certificate from an independent certified public accountant that it meets the parity test established in the Prior Ordinance. The 1993 Bonds shall be issued with a lien on the Net Revenues on a parity with the lien held by the registered owners of the Prior Bonds, but the lien of the 1993 Bonds shall be senior and superior to the lien of the registered owners of the WDA Subordinate Bonds.

W. It is reasonably anticipated that all proceeds of the 1993 Bonds will be spent within three years from the date of issuance.

X. The City and all subordinate issuers do not reasonably expect to issue more than $10,000,000 of tax-exempt obligations during calendar year 1993, and the City hereby designates the 1993 Bonds as "qualified tax-exempt obligations" as defined in Section 265(b)(3)(B) of the Code.

Y. The City has complied with all requirements of West Virginia law relating to the authorization, the construction, acquisition and operation of Project and issuance of the 1993 Bonds, or will have so complied prior to the issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity, if required, from the

Public Service Commission of West Virginia by final order not subject to appeal or rehearing.

Section 1.03. Ordinance Constitutes Contract. In consideration of the acceptance of the 1993 Bonds authorized to be issued hereunder by those who shall hold the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the City and such Bondholders, and the covenants and agreements herein set forth to be performed by said City shall be for the equal benefit, protection and security of the legal holders of any and all of such 1993 Bonds issued hereunder, all of which shall be of equal rank and without preference, priority or distinction between any one 1993 Bond and any other 1993 Bonds 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 Amendatory Ordinance have the meanings set forth in the Prior Ordinance, as amended by this Amendatory 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.

"Amendatory Ordinance" or "this Ordinance" shall mean this ordinance as hereafter amended or supplemented.

"Authority" shall mean the West Virginia Water Development Authority, which is expected to be the original purchaser of the 1993 Bonds on behalf of the Program, or any other agency of the State of West Virginia that succeeds to the function of the Authority.

"Bond Construction Trust Fund" shall mean the fund created by Section 4.01(D) hereof.

"Bondholder" or "Owner of the 1993 Bonds" or any similar term shall mean any person who shall be the registered owner of any Outstanding Bond as hereinafter defined.

"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.

"Closing Date" shall mean the date or dates upon which there is an exchange of all or a portion of the 1993 Bonds for the proceeds or a portion of the proceeds representing the purchase of the 1993 Bonds by the Authority.

"Code" shall mean the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated pursuant thereto or any predecessors or successors thereto.

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

"Consulting Engineers" shall mean Dunn Engineers, Consulting Engineers, and Kelley, Gidley, Blair & Wolfe, Inc., Charleston, West Virginia, or any engineer or firm of engineers which shall at any time hereafter be retained by the City as Consulting Engineers for the System.

"Costs of the 1993 Project" shall mean those costs described in Section 1.02(T) hereof to be a part of the cost of the acquisition and construction of the 1993 Project.

"Council" or "City Council" shall mean the Council of the City.

"Debt Service" shall mean the scheduled amount of interest and amortization of principal payable on the 1993 Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

"DEP" shall mean the West Virginia Division of Environmental Protection.

"Depository Bank" shall mean the bank designated as such in the Supplemental Resolution, as hereinafter defined, and its successors and assigns.

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

"Fund" shall mean the "West Virginia Water Pollution Control Revolving Fund" established by the State, administered by the DEP and the Authority and funded by capitalization grants awarded to the State pursuant to the federal Clean Water Act, as amended, for the purpose of establishing and maintaining a permanent perpetual fund for the construction, acquisition and improvement of wastewater treatment facilities.

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

"Loan Agreement" shall mean the Water Pollution Control Revolving Fund Loan Agreement by and among the Authority, the DEP and the City providing for the purchase of the 1993 Bonds from the

City by the Authority, the form of which is attached as Exhibit C hereto and incorporated herein by reference.

"Mayor" shall mean the Mayor of the City.

"1993 Bonds" or "Bonds originally authorized hereby" or similar phrases shall mean the not more then $2,500,000 in aggregate principal amount of Sewerage System Revenue Bonds issued for the purpose of paying a portion of the Costs of the 1993 Project and for such other purposes permitted hereby and authorized by a resolution supplemental hereto.

"1993 Project" shall mean the wastewater treatment facility projects described in Exhibit A attached hereto, constituting extensions, additions, betterments and improvements to the existing sewerage system of the City.

"Ordinance" shall mean the Prior Ordinance, as hereinafter defined, as supplemented by this Amendatory Ordinance and as further amended or supplemented. Unless the context clearly requires a different meaning, reference to "this Ordinance" in the Prior Ordinance shall mean the Ordinance.

"Outstanding" when used with reference to 1993 Bonds, as of any particular date, describes all such 1993 Bonds theretofore and thereupon being authenticated and delivered except (i) any such 1993 Bond cancelled by the Registrar, at or prior to said date; (ii) any such 1993 Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such 1993 Bond, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any such 1993 Bond deemed to have been paid as provided in Article X of the Prior Ordinance; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any such 1993 Bond registered to the City.

"Paying Agent" shall mean the West Virginia Municipal Bond Commission.

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

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

"Regulations" shall mean the regulations promulgated under the Code.

"Registrar" shall mean the entity named as such in the Supplemental Resolution.

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

"State" shall mean the State of West Virginia.

"Supplemental Resolution" shall mean any resolution, ordinance or order of the City supplementing or amending this Ordinance and, when preceded by the article "the", refers specifically to the supplemental resolutions authorizing the sale of one or more series of the 1993 Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the 1993 Bonds and not so included may be included in another Supplemental Resolution.

"System" shall mean the complete existing sewerage system now owned by the City and managed by the Sanitary Board, consisting of a sewerage treatment and collection system, and shall include any extensions, additions, betterments and improvements thereto, including the wastewater treatment facility, hereafter acquired or constructed for said sewerage system from any sources whatsoever, both within and without said City.

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 EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO SYSTEM

Section 2.01. Authorization of Extensions, Additions, Betterments and Improvements. The acquisition and construction of the 1993 Project in accordance with plans and specifications therefor prepared by the Consulting Engineers is hereby authorized.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF 1993 BONDS

Section 3.01. Authorization and Terms of 1993 Bonds. For the purposes of capitalizing interest on the 1993 Bonds, funding the Reserve Account, paying costs of issuance and financing a portion of the Costs of the 1993 Project not otherwise provided for, there shall be issued the 1993 Bonds of the City. The 1993 Bonds shall be issued in one or more series with the first series to be designated 1993 Series A, the second series as 1993 Series B, and so on, of "Sewerage System Revenue Bonds" in an aggregate principal amount of not more than $2,500,000. Each series of 1993 Bonds shall be dated as of the date of delivery of each series thereof, shall bear such interest, shall mature at such times, not exceeding twenty-one (21) years after the date of issuance, and in such amount as shall be set out in Schedule X to the Loan Agreement. The 1993 Bonds shall not bear interest during the construction period but interest shall commence accruing on the completion date as defined in the SRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on each series of 1993 Bonds shall be as set forth on Schedule Y to the Loan Agreement. The 1993 Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Ordinance and the Loan Agreement 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 1993 Bonds.

The 1993 Bonds shall be payable as to principal at the principal 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 1993 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, provided,

that so long as the Authority is the owner thereof, interest on the 1993 Bonds may be paid by wire transfer or other methods satisfactory to the City, the Paying Agent and the Authority.

Unless otherwise provided by the Supplemental Resolution, the 1993 Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a record of advances and a payment record attached, representing the aggregate principal amount, and shall mature in principal installments, all as provided in the Loan Agreement and said Supplemental Resolution. The 1993 Bonds shall be exchangeable at the option and expense of the Bondholder for other fully registered 1993 Bonds in aggregate principal amount equal to the amount of said 1993 Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said 1993 Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of 1993 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. Said 1993 Bonds shall be dated as of the date specified in said Supplemental Resolution and shall bear interest from such date.

Section 3.02. Form of 1993 Bonds. The text of the 1993 Bonds shall be of substantially as set forth in Exhibit B, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Ordinance or any subsequent resolution or ordinance adopted or enacted prior to the issuance thereof.

Section 3.03. Sale of 1993 Bonds; Execution of Loan Agreement. The 1993 Bonds shall be sold to the Authority, pursuant to the respective terms and conditions of the Loan Agreement. The Mayor is specifically authorized and directed to execute the Loan Agreement for each series of 1993 Bonds and the City Clerk is directed to affix the seal of the City, attest the same and deliver each Loan Agreement to the Authority and DEP. The Loan Agreement, attached hereto as Exhibit C and incorporated herein by reference, is specifically incorporated into this Ordinance.

Section 3.04. 1993 Bonds are Issued as Parity Bonds. The 1993 Bonds are issued as and shall constitute additional Parity Bonds in accordance with Section 6.08 of the Prior Ordinance. Prior to the issuance of the 1993 Bonds, the following must occur:

A. The City must receive the written approval of the Authority for the issuance of the parity bonds while the Original Supplemental Bonds remain Outstanding.

B. The conditions of Section 6.08 of the Prior Ordinance must be satisfied.

C. Unless waived in writing by the Authority, the City must enter into written contracts for the immediate acquisition or construction of the 1993 Project not later than simultaneously with the delivery of the 1993 Bonds.

D. The 1993 Bonds shall not be issued unless all the payments into the respective funds and accounts provided for in the Prior Ordinance on account of the Prior Bonds Outstanding and any other payments provided for in the Prior Ordinance, shall have been made in full as required to the date of delivery of the 1993 Bonds.

Section 3.05. Certificate of Consulting Engineers. Prior to the issuance of the 1993 Bonds, the City must obtain the certificate of the Consulting Engineers in the form attached to the Loan Agreement to the effect that the 1993 Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the DEP and the Authority, the 1993 Project is adequate for the purposes for which it was designed, and the funding plan as submitted to the DEP and the Authority is sufficient to pay the costs of acquisition and construction of the 1993 Project.

ARTICLE IV

APPLICATION OF 1993 BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. Application of 1993 Bond Proceeds. From the moneys received from time to time from the sale of any or all of the 1993 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. The amount of the proceeds which together with the earnings thereon shall be at least sufficient to pay interest on the 1993 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 months after the estimated date of completion of construction of the 1993 Project.

B. Next, from the proceeds of the 1993 Bonds, there shall be deposited with the Commission in the Reserve Account the sum, if any, set forth in the Supplemental Resolution for funding of the Reserve Account.

C. The remaining moneys derived from the sale of the 1993 Bonds shall be deposited by the City as received from time to time in the Bond Construction Trust Fund hereinafter established.

D. There is hereby created and established with the Depository Bank a special fund, designated the "Bond Construction Trust Fund". The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in this Ordinance. Except with respect to any transfers to the Rebate Fund, moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the 1993 Project and until so transferred or expended, are hereby pledged as additional security for the 1993 Bonds.

Section 4.02. Disbursements From the Bond Construction Trust Fund. On or before the Closing Date, the City shall have delivered to the Authority a report listing the specific purposes for which the proceeds of the 1993 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the 1993 Project shall be made monthly.

Except as provided in Section 4.01 hereof, disbursements from the Bond Construction Trust Fund shall be made only after submission to, and approval from, the Authority and the DEP of the following:

(1) A "Payment Requisition Form," attached to the Loan Agreement as Exhibit C, and

(2) a certificate, signed by the Mayor and the Consulting Engineers, stating:

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

(B) That each item for which the payment is proposed to be made is or was necessary in connection with the 1993 Project and constitutes a Cost of the 1993 Project;

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

(D) That payment for each of the items proposed is then due and owing.

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Bond Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Bond Construction Trust Fund shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and

the Depository Bank shall not be required to monitor the application of disbursements from the Bond Construction Trust Fund. The Consulting Engineers shall from time to time file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

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

ARTICLE V

ADDITIONAL COVENANTS OF THE CITY

Section 5.01. Completion of 1993 Project; Schedule of Cost. The City will expeditiously complete the 1993 Project. Upon completion of the 1993 Project, the City shall file with the Authority a schedule in substantially the form of Amended Schedule A to the Program loan application, setting forth the actual costs of the 1993 Project and sources of funds therefor.

Section 5.02. Construction Bonds. The City will require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and the DEP, so long as the Authority is the Owner of the 1993 Bonds. The City will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the 1993 Project, to protect the interests of the City, the Authority, the prime contractor and all subcontractors as their interests may appear, in accordance with the Loan Agreement, during construction of the 1993 Project in the full insurable value thereof. In time of war, the City shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as provided in the Ordinance and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The City will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System. The City shall carry such other insurance as is required by the Authority and DEP and as set forth in the Loan Agreement, including but not limited to flood insurance and

business interruption insurance, to the extent available at reasonable cost to the City.

The City shall require all contractors engaged in the construction of the 1993 Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the 1993 Project covered by the particular contract as security for the faithful performance of such contract.

Section 5.03. Consulting Engineers. The City shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and the DEP covering the supervision and inspection of the development and construction of the 1993 Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers. Such resident engineer shall certify to the Authority, the DEP and the City at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The City shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the 1993 Project. The City shall notify the DEP in writing of such receipt. The City shall submit a Performance Certificate, the form of which is attached as Exhibit A to the Loan Agreement, and is incorporated herein by reference, to the DEP within 60 days of the end of the first year after the 1993 Project is completed.

The City shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the 1993 Project is 90% completed. The City agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The City agrees that qualified operating personnel properly certified by the State will be employed before the 1993 Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The City shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

Section 5.04. Compliance With Loan Agreement, Rules and Regulations. The City hereby covenants and agrees to perform and satisfy all terms and conditions of the Loan Agreement and to comply with all applicable laws, rules and regulations issued by the Authority, the DEP or other State, federal or local bodies in regard to the construction of the 1993 Project and operation, maintenance and use of the System. Notwithstanding anything herein to the contrary, the City will provide the DEP with copies of all documents submitted to the Authority.

Section 5.05. Records and Reports. The City shall keep complete and accurate records of the cost of acquiring the 1993 Project site and the costs of acquiring, constructing and installing the 1993 Project. The City shall permit the Authority and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the 1993 Project and the System at all reasonable times for the purpose of audit and examination. The City shall submit to the Authority and the DEP such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the 1993 Project, the operation and maintenance of the System and the administration of the Loan Agreement or Grant Receipts or other sources of financing for the 1993 Project.

The City shall permit the Authority and the DEP, or their agents and representatives, to inspect all records pertaining to the operation of the System at all reasonable times following completion of construction of the 1993 Project and commencement of operation thereof, or, if the 1993 Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The City will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the System, and any owner of a 1993 Bond or 1993 Bonds issued pursuant to the Ordinance shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the City relating thereto.

The accounting system for the System shall follow currently accepted accounting practices in accordance with the rules and regulations of the West Virginia Public Service Commission and the Act. Separate control accounting records shall be maintained by the City. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books, and along with other bookkeeping records as prescribed by the City. The City shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the City shall be reported to such agent of the City as the Council shall direct.

The City shall file with the Consulting Engineers, the Authority and DEP, and shall mail in each year to any owner or owners of 1993 Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses and Net Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Ordinance with respect to said 1993 Bonds and the status of all said funds and accounts.

(C) The amount of any Prior Debt or other obligations Outstanding and secured by a lien on the Net Revenues of the System.

The City shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Accountants, shall mail upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any owner or owners of 1993 Bonds issued pursuant to this Ordinance, and shall submit said report to the Authority and the DEP. The report of said audit shall include a statement that the City is in compliance with the terms and provisions of the Act and the Loan Agreement and that the City's revenues are adequate to meet its operation and maintenance expenses and debt service requirements.

The City shall, commencing on the date contracts are executed for the construction of the 1993 Project and for two years following the completion of the 1993 Project, each month complete a Monthly Financial Report, the form of which is attached to the Loan Agreement as Exhibit B and is incorporated herein by reference, and forward a copy by the 10th of each month to the Authority and the DEP.

The City shall, during construction of the 1993 Project, complete Payment Requisition Forms, the form of which is attached to the Loan Agreement as Exhibit C and is incorporated herein by reference, and forward a copy to the DEP in compliance with the City's construction schedule.

The Sanitary Board shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit E of the Loan Agreement or as promulgated from time to time.

The Sanitary Board shall permit the Authority or the DEP, or their agents and representatives, to enter and inspect the 1993 Project site and 1993 Project facilities at all reasonable times. Prior to, during and after completion of construction of the 1993 Project, the Sanitary Board shall also provide the Authority and the DEP, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the DEP with respect to the System pursuant to the Act.

Section 5.06. Operating Budget. The Sanitary Board shall submit a copy of Operating Budget required by Section 6.17 of the Prior Ordinance to the Authority and the DEP within thirty days of the adoption thereof.

Section 5.07. Tax Covenants. The City hereby further covenants and agrees as follows:

A. PUBLIC PURPOSE BONDS. The City shall use the 1993 Bond proceeds solely for the 1993 Project and as otherwise set forth herein, and the 1993 Project will be solely operated as a public purpose and as local governmental activity of the City.

B. PRIVATE ACTIVITY BOND COVENANT. The City shall not permit at any time or times any of the proceeds of the 1993 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 1993 Bonds from the treatment afforded by Section 103(a) of the Code by reason of the classification of the 1993 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 1993 Bonds.

C. PRIVATE LOAN LIMITATION. The City shall assure that not in excess of 5% of the Net Proceeds of the 1993 Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

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 1993 Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

E. INFORMATION RETURN. The City will file all statements, instruments and returns necessary to assure the tax exempt status of the 1993 Bonds, including without limitation the information return required under Section 149(e) of the Code.

F. FURTHER ACTIONS. The City will take any and all actions that may be required of it (including those deemed necessary by the Authority) so that the interest on the 1993 Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those determined by the Authority) which would adversely affect such exclusion.

Section 5.08. Rebate Covenant. The City is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the 1993 Project and the System. As covenanted above, the 1993 Bonds are not private activity bonds

within the meaning of the Code, and ninety-five percent (95%) or more of the net proceeds (as defined with respect to the Code) of the 1993 Bonds will be used for local governmental activities of the City. The City reasonably expects to expend the proceeds of the 1993 Bonds within the time period that would provide an exception from the rebate requirements of Section 148(f) of the Code. Notwithstanding the foregoing, if the City is in fact subject to such rebate requirements, the City hereby covenants to rebate to the United States the amounts required by the Code and to take all steps necessary to make such rebates. In the event the City fails to make such rebates as required, the City shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the tax-exempt status of interest on the 1993 Bonds.

Section 5.09. Arbitrage. The City covenants that (i) it will restrict the use of the proceeds of the 1993 Bonds in such manner and to such extent as may be necessary, in view of the City's reasonable expectations at the time of issuance of the 1993 Bonds, so that the 1993 Bonds will not constitute "arbitrage bonds" under 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 1993 Bonds so that the interest on the 1993 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 5.10. 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 1993 Bonds. In addition, the City covenants to comply with all regulations from time to time in effect and applicable to the 1993 Bonds as may be necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on the 1993 Bonds and fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such regulations, regardless of whether such actions may be contrary to any of the provisions of the Ordinance.

If it is determined that the City does not quality for an exception to Section 148 of the Code or the City is otherwise subject to rebate in connection with the 1993 Bonds, the City shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Authority, the City shall deposit, or cause to be deposited, with

the Depository Bank in a separate fund designated the Rebate Fund, such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder, if any, and used only for payment of rebatable arbitrage to the United States. The City shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the City to be used for any lawful purpose of the System. The City shall remit payments to the United States in the time and at the address prescribed by the regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the City shall assure that such payments are made by the City to the United States, on a timely basis, from any funds lawfully available therefor. In addition, the City shall cooperate with the Authority in preparing rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the City. To the extent not so performed by the Authority, the City and the Depository Bank (at the expense of the City) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the City or the Depository Bank may deem appropriate in order to assure compliance with this Section 5.11. The City shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 5.11 in accordance with the requirements of Section 148(f) of the Code. In the event the City fails to make such rebates as required, the City shall pay any and all penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, in order to maintain the exclusion of interest on the 1993 Bonds from gross income for federal income tax purposes.

The City shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation and certificate with respect thereto or, if the City qualifies for the small governmental issue exception to rebate or any other exception therefrom, then the City shall submit to the Authority a certificate stating that it is exempt from such rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the 1993 Bonds subject to rebate.

The City shall also furnish to the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority, including information with respect to earnings on all funds constituting "gross proceeds" of the 1993 Bonds (as defined in the Code).

The City shall furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be requested by the Authority and shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the 1993 Bonds (as that term is defined in the Code) from time to time as the Authority may request.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Modification or Amendment. No material modification or amendment of this Ordinance or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Bondholders shall be made without the consent in writing of the owners of two-thirds (2/3) or more in principal amount of the 1993 Bonds then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any 1993 Bond or 1993 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 owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of 1993 Bonds required for consent to the above permitted amendments or modifications.

Section 6.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 6.03. Repeal of Conflicting Ordinances. All ordinances, resolutions and orders, or parts thereof, other than the Prior Ordinance, in conflict with this Amendatory Ordinance are to the extent of such conflict repealed.

Section 6.04. 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 Amendatory Ordinance

do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the City Clerk and members of 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 6.05. Effective Date. This Ordinance shall take effect after passage, public hearing and otherwise in the manner prescribed by law.

EXHIBIT A

The 1993 Project consists of the following sub-projects, including all appurtenances necessary or incidental thereto:

(a) Trojan Steel extension -- Construction of approximately 1,120 linear feet of 8 inch gravity sewer with manholes and appurtenances, one grinder sewage pumping station and approximately 1,710 linear feet of 2 inch diameter plastic force to serve nine new previously unsewered customers in the vicinity of the south end of the Patrick Street Bridge between the Trojan Steel Corporation and the City of South Charleston Wastewater Treatment Plant.

(b) Parkwood Road upgrade -- Construction of approximately 3,750 linear feet of 12 inch diameter gravity sewer, 5,150 linear feet of 10 inch diameter gravity and appurtenances to allow the abandonment of five existing sewage pumping stations (Blue & Gold Stables P.S., Parkwood Road P.S., Bridlewood Road P.S., Woodland Heights P.S. #1, Woodland Heights P.S. #2) in the Parkwood Road sewer service area. The gravity sewers will connect to the newly constructed Ruthdale Sewer System.

(c) Virginia Street and Patrick Street Sewage Pumping Stations Value Replacement -- Replace the existing failing knife gate valves in both sewage pumping stations with solid wedge gate valves.

(d) Corridor G Sewage Pumping Station Upgrade -- Replacement of pumps, valves and appurtenances in the Ferry Branch Pump Station, Emerald Heights Pump Station, Lucado Road Pump Station, Angel Terrace Pump Station, and Sherwood Forest Pump Station to increase their sewage pumping capacities, and replace the existing Sherwood Forest force main with approximately 5,000 linear feet of new force main.

EXHIBIT B

[FORM OF THE 1993 BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES ____

No. R-____ $___

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF CHARLESTON, a municipal corporation of the State of West Virginia, in Logan 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 (the "Authority "), or registered assigns, the sum of _____ ($_____), in quarterly installments on the 1st day of _____, the 1st day of _____, the 1st day of _____, and the 1st day of _____ in each year beginning _____, 199_, as set forth on the "Schedule of Debt Service" attached as Exhibit A hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said Exhibit A.

Interest on this 1993 Bond shall be zero (0%) percent from the date hereof until the Date of Completion of the 1993 Project, and after such date interest shall be payable on the 1st day of _____, the 1st day of _____, the 1st day of _____, and the 1st day of _____ in each year beginning _____, 199_, at the rate of _____ percent (__%) per annum. Principal installments of this 1993 Bond are 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 Paying Agent. The interest on this 1993 Bond is payable by check or draft mailed to the Payee at the address as it appears on the books of the Registrar on the 15th day of the month preceding an interest payment date or by such other method as shall be mutually agreeable so long as the Authority is registered owner hereof.

This 1993 Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated _____, among the Authority, the DEP and the City.

This 1993 Bond is issued (i) to pay costs of acquisition and construction of a wastewater treatment facility constituting improvements, additions, extensions and betterments to the existing sewerage system of the City (the "1993 Project"), (ii) to capitalize interest thereon, (iii) to fund a reserve account therefor and (iv) to pay certain costs of issuance hereof and related costs. This 1993 Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), Ordinance No. 4828 enacted on April 20, 1992, Ordinance No. _____ enacted by the City on the ____ day of _____, 1993, and a Supplemental Resolution adopted by the City on the ___ day of _____, 1993 (collectively called 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 1993 Bonds under the Ordinance.

This 1993 Bond ranks equally as to lien and security with the Prior Bonds and senior to the WDA Subordinate Bonds, as both are defined in the Ordinance.

This 1993 Bond is payable only from and secured by a pledge of a first lien on the Net Revenues as defined in the Ordinance, to be derived from the operation of the System, moneys in the Reserve Account created under the Ordinance and unexpended proceeds of the 1993 Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This 1993 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 Reserve Account and unexpended 1993 Bond proceeds. Pursuant to the Ordinance, the City has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with or prior to the 1993 Bonds, payable from such revenues, <u>provided</u> however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the 1993 Bonds and any bonds on a parity therewith in any succeeding fiscal year and in each of the reserve accounts for the Prior Bonds, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The

City has entered into certain further covenants with the registered owners of the 1993 Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the 1993 Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This 1993 Bond is transferable, as provided in the Ordinance, only upon the books of the Registrar, kept for that purpose at the office of the Registrar, by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this 1993 Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

This 1993 Bond, under the provision of the Act is, and has provided 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 1993 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 1993 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 owner of this 1993 Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this 1993 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 1993 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 1993 Bond.

All provisions of the Ordinance, resolutions and statutes under which this 1993 Bond is issued shall be deemed to be a part of the contract evidenced by this 1993 Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, THE CITY OF CHARLESTON has caused this 1993 Bond to be signed by its Mayor and its corporate seal to

be hereunto affixed or imprinted hereon and attested by its Clerk, and has caused this 1993 Bond to be dated _____, 1993.

[SEAL]

_____
Mayor

ATTEST:

_____
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This 1993 Bond is one of the 1993 Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

_____,
as Registrar

By _____
Its Authorized Officer

Dated: _____

SCHEDULE A

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____
_____
_____
_____
_____
the within 1993 Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said 1993 Bond on the books kept for registration of the within 1993 Bond of the said City with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

[THIS IS THE END OF EXHIBIT B]

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as City Clerk of The City of Charleston, Logan County, West Virginia, do hereby certify that the foregoing document is a true and accurate copy of the official record of The City of Charleston, such records being in the custody of the undersigned and maintained at The City of Charleston, Municipal Building, Charleston, Kanawha 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 _____, 1992.

_____
City Clerk

[SEAL]
ABB0037E

EXHIBIT C

SRF-LP-1
(August 1992)

LOAN AGREEMENT

THIS WATER POLLUTION CONTROL REVOLVING FUND LOAN AGREEMENT (the "Loan Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), the WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION, a division of the West Virginia Department of Commerce, Labor and Environmental Resources (the "DEP"), and the local government designated below (the "Local Government").

_____
(Local Government)

W I T N E S S E T H:

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

WHEREAS, pursuant to the provisions of Chapter 20, Article 5I, of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to direct the distribution of loans to particular local governments pursuant to the Clean Water Act;

WHEREAS, under the Act the DEP is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards and DEP has been awarded capitalization grants to partially fund the Program;

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

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

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

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

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

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

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

WHEREAS, having reviewed the Application and the Fund having available sufficient funds therefor, the Authority and DEP are willing to lend the Local Government the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Government with moneys held in the Fund, subject to the Local Government's satisfaction of certain legal and other requirements of the Program.

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

ARTICLE I

Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," "fund," "local

government," and "project" have the definitions and meanings ascribed to them in the Act or in the SRF Regulations.

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II

The Project and the System

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

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

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

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

2.5 The Local Government shall keep complete and accurate records of the cost of acquiring the Project site and the costs of constructing, acquiring and installing the Project. The Local Government shall permit the Authority and DEP, acting by and through their Directors or duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination, and the

Local Government shall submit to the Authority and DEP such documents and information as it may reasonably require in connection with the construction, acquisition and installation of the Project, the operation and maintenance of the System and the administration of the Loan or of any State and federal grants or other sources of financing for the Project.

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

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

2.8 The Local Government shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and DEP. Until the Project facilities are completed and accepted by the Local Government, the Local Government or (at the option of the Local Government) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Government, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Government on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Government must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Local Government shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans,

specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, DEP and the Local Government at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Government shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Local Government shall notify DEP in writing of such receipt. The Local Government shall submit a Performance Certificate, the form of which is attached hereto as Exhibit A, and being incorporated herein by reference, to DEP within 60 days of the end of the first year after the Project is completed.

2.10 The Local Government shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to DEP when the Project is 90% completed. The Local Government agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Local Government agrees that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The Local Government shall notify DEP in writing of the certified operator employed at the 25% completion stage.

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

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

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

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

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

(f) The Local Government shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local

Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

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

(h) The Local Government shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project) with all requisite appeal periods having expired, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

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

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

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the Authority and DEP, including the SRF Regulations, or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make the Loan to the Local Government and the Local Government shall accept the Loan from the

Authority, and in furtherance thereof it is agreed that the Local Government shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

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

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

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

3.6 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions established by federal and state regulations as set forth in Exhibit E hereto at such times as are set forth in Exhibit E.

ARTICLE IV

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

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

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

(i) to pay Operating Expenses of the System;

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

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by the net revenues from the System;

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

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

(iv) That, except as otherwise required by State law or the Regulations, the System may be sold, mortgaged, leased or otherwise disposed of as a whole or substantially as a whole provided that the net proceeds to be realized from such sale, mortgage, lease or other deposition shall be sufficient to fully pay all of the local bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of such System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

(v) That the Local Government shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by

a lien on or payable from the revenues of the System prior to the Local Bonds and with the written consent of the Authority and DEP; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

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

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

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

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

(xi) That the Local Government shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and DEP, which report shall include a statement that the Local Government is in compliance with the terms and provisions of the Local Act and this Loan Agreement and that the Local Government's revenues are adequate to meet its operation and maintenance expenses and debt service requirements;

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

(xiii) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC,

prospective users of the System shall be required to connect thereto;

(xiv) That the proceeds of the Local Bonds, advanced from time to time, except for accrued interest and capitalized interest, if any, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Local Government and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing for non-construction costs) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim funding of such Local Government, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and DEP, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

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

(xvi) That the Local Government shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the West Virginia Municipal Bond Commission (the "Commission") its required interest, principal and reserve fund payment. The Local Government shall complete the Monthly Payment Form, attached hereto as Exhibit F and incorporated herein by reference, and submit a copy of said form along with a copy of the check to the Authority by the 5th day of such calendar month;

(xvii) That the Commission shall serve as paying agent for all Local Bonds;

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

(xix) That the Local Government shall have obtained the certificate of the Consulting Engineers to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority, the Project is adequate for the purposes for which it was designed and the funding plan as submitted to the Authority is

sufficient to pay the costs of acquisition and construction of the Project; and

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

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

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

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

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

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

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

ARTICLE V

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

5.1 The Local Government hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Local Government hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System, as set forth in the Local Act and in compliance with the provisions of Subsection 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the minimum sums set forth in the Local Act, the Local Government hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges so as to provide funds sufficient to produce the minimum sums set forth in the Local Act and as required by this Loan Agreement.

5.3 In the event the Local Government defaults in any payment due to the Authority pursuant to Section 4.2 hereof, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Local Government hereby irrevocably covenants and agrees with the Authority that, in the event of any default

hereunder by the Local Government, the Authority may exercise any or all of the rights and powers granted under Section 5 of the Act, including without limitation the right to impose, enforce and collect directly charges upon users of the System.

ARTICLE VI

Other Agreements of the Local Government

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

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

6.3 The Local Government hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority or any other lender for the planning or design of the Project, provided that such repayment shall not be made from the proceeds of the Loan.

6.4 The Local Government hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Local Government fails to make any such rebates as required, then the Local Government shall pay any and all penalties, obtain a waiver from the Internal Revenue

Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

6.5 Notwithstanding Section 6.4, the Authority and DEP may at any time, in their sole discretion, cause the rebate calculations prepared by or on behalf of the Local Government to be monitored or cause the rebate calculations for the Local Government to be prepared, in either case at the expense of the Local Government.

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

6.7 The Local Government hereby agrees to file with the Authority upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule A to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

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

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

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

7.4 No waiver by any party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of

the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

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

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

7.7 This Loan Agreement shall terminate upon the earlier of:

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

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

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

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

_____
[Proper Name of Local Government]

(SEAL)

By: _____
Its: _____

Attest:

Date: _____

_____
Its _____

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION

By: _____
Its:

Date: _____

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: _____
Its: Director

Attest:

Date: _____

_____
Secretary-Treasurer

Approved as to form by the
Office of the Attorney General

By: _____

Its: _____

Date: _____

EXHIBIT A

[Form of Performance Certificate]

[TO BE PROVIDED BY DEP]

EXHIBIT B

[Form of Monthly Financial Report]

[Name of Local Government]

[Name of Bond Issue]

Fiscal Year - ____

Report Month: _____

ITEM	CURRENT MONTH	YEAR TO DATE	BUDGET YEAR TO DATE	DIFFERENCE
1. Gross Revenues Collected				
2. Operation and Maintenance Expense				
3. Other Bond Debt Payments (including Reserve Fund deposits)				
4. SRF Bond Payments (include Reserve Fund deposits)				
5. Renewal and Replacement Fund Deposit				
6. Funds available for capital construction				

Witnesseth my signature this ____ day of _____, 19__.

[Name of Local Government]

By: _____
Authorized Officer

EXHIBIT C

PAYMENT REQUISITION FORM

EXHIBIT D

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No._____, of _____, Consulting Engineers, _____, _____, hereby certify that my firm is engineer for the acquisition and construction of _____ to the _____ system (herein called the "Project") of _____ (the "Issuer") to be constructed primarily in _____County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the _____ passed by the _____ of the Issuer on _____, 19___, effective _____, 19___, and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated _____, 19___.

1. The Bonds are being issued for the purpose of _____ _____ (the "Project").

2. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least twenty years, (iii) the Issuer has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (v) the rates and charges for the System as adopted by the _____ of the Issuer are sufficient to comply with the provisions of Subsection 4.1(b) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be

simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and (vii) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this _____ day of _____, 19___.

_____

By _____

_____

West Virginia License No. ____

[SEAL]

EXHIBIT E

[Special Conditions]

[TO BE PROVIDED BY DEP FOR EACH PROJECT]

EXHIBIT F

[Monthly Payment Form]

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

Re: [Name of bond issue]

Dear Sirs:

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

Sinking Fund:

Interest $_____

Principal $_____

Total: $_____

Reserve Fund: $_____

Witness my signature this ___ day of_____.

[Name of Local Government]

By: _____
Authorized Officer

Enclosure: copy of check(s)

EXHIBIT G

[Opinion of Bond Counsel for Local Government]

[To Be Dated as of Date of Loan Closing]

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

Gentlemen:

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

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated _____, 19____, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Local Government and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Local Government, dated _____, 19__ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $_____, issued in the form of one bond registered as to principal and interest to the Authority, with interest payable _____ 1, _____ 1, _____ 1, and _____ 1 of each year, beginning _____ 1, 19__, at the respective rate or rates and with principal payable in installments on _____ 1 in each of the years, all as follows:

Year	Installment	Interest Rate

The Local Bonds are issued for the purpose of _____ _____ and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____ _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly enacted by the Local Government on _____ (the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

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

3. The Local Government is a duly organized and presently existing _____ _____, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary _____ in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Local Government, payable from the net revenues of the System referred to in the Local Act and secured by a [first] lien on and pledge of the net revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

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

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

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

Very truly yours,

SCHEDULE X

DESCRIPTION OF BONDS

Principal Amount of Bonds $
Purchase Price of Bonds $

Interest on the Bonds shall be zero percent from the date of delivery to and including _____. Principal and interest on the Bonds is payable quarterly, commencing _____, at a rate of __% per annum. Quarterly payments will be made thereafter on each September 1, December 1, March 1 and June 1 as set forth on Schedule Y attached hereto and incorporated herein by reference. As of the date of this Loan Agreement, it is the Authority's and DEP's understanding that the Local Government has [no other obligations outstanding which have a lien as to the source of and security for payment equal to or superior to the lien being granted by the Bonds] or [provide list of outstanding debt].

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

The Bonds will be fully registered in the name of the West Virginia Water Development Authority as to principal and interest and such Bonds shall grant the Authority a [first] lien on the net revenues of the Local Government's system.

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

SCHEDULE Y

[Repayment Schedule]

Councilman Monroe moved to table Bill No. 4954.

The question being on Councilman Monroe's motion a vote was taken. The majority of members present and voting having voted in the negative the Mayor declared the motion failed.

The question being on the passage of the bill a roll call was taken and there were--yeas 25, nays 1 and absent 1 as follows:

YEAS: Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: Monroe.

ABSENT: Armbrecht.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 4954 passed.

6. Your Committee on Finance has had had under consideration Bill No. 4955, authorizing the redemption prior to maturity of the outstanding Parking Revenue Bonds, Series A and Series B and Parking Revenue Bonds, Series 1986 of the City of Charleston; providing for the issuance of the City of Charleston Parking System Refunding Revenue Bonds, Series 1993, in an aggregate principal amount not to exceed $6,000,000 to provide for such refunding and redemption; making provision for such refunding, funding the reserve account and paying the cost in connection therewith; determining the denominations; establishing registration and payment procedures; continuing the Parking Facilities Committee; providing for the rights and remedies of and the security for the registered owners of such bonds and enacting other provisions with respect to such bonds.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 4955, authorizing the redemption prior to maturity of the outstanding Parking Revenue Bonds, Series A and Series B and Parking Revenue Bonds, Series 1986 of the City of Charleston; providing for the issuance of the City of Charleston Parking System Refunding Revenue Bonds, Series 1993, in an aggregate principal amount not to exceed $6,000,000 to provide for such refunding and redemption; making provision for such refunding, funding the reserve account and paying the cost in connection therewith; determining the denominations; establishing registration and payment procedures; continuing the Parking Facilities Committee; providing for the rights and remedies of and the security for the registered owners of such bonds and enacting other provisions with respect to such bonds.

Be it Ordained by the Council of the City of Charleston, West Virginia:

ARTICLE I
DEFINITIONS, STATUTORY AUTHORITY, AND FINDINGS

Section 1.01. Definitions. The following items shall have the following meaning in this Ordinance unless the context expressly requires otherwise:

"Act" shall mean Chapter 8, Article 12, Chapter 8, Article 16, Chapter 13, Article 2E, of the Code of West Virginia, 1931, as amended and in effect on the date of enactment of this Ordinance.

"Additions Fund" shall mean the fund created by Section 3.02 (E) hereof.

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

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

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

"Bonds" shall mean the $6,000,000 Parking System Refunding Revenue Bonds, Series 1993 and any pari passu additional Bonds hereafter issued within the terms, restrictions and conditions contained in this Ordinance.

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

"Certificate of Authentication and Registration" shall mean the Certificate of Authentication and Registration on the Series 1993 Bonds, substantially in the form set forth in Exhibit B hereto.

"City" shall mean The City of Charleston, a municipal corporation of the State of West Virginia, and, where appropriate, the City Council.

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

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

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

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

"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.

"Committee" or "Parking Facilities Committee" shall mean the committee composed of the Mayor and other members of the City Council established in the Prior Ordinance and continued pursuant to Section 5.22 hereof.

"Cost of Issuance" shall mean those costs of issuing Bonds, including, but not limited to, legal, accounting, fiscal agent fees and expenses, and reserve accounts insurance, letters of credit fees and expenses and other fees and expenses in connection therewith.

"Depository Bank" shall mean the bank designated in a resolution supplemental hereto as eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC and any successor thereto.

"DTC" shall mean The Depository Trust Company, New York, New York.

"DTC Eligible" shall mean bonds meeting the qualifications, prescribed by The Depository Trust Company, New York, New York.

"Escrow Agreement" shall mean the agreement between the City, the Commission and an escrow trustee, substantially in the form of the agreement attached hereto as Exhibit A and by this reference made a part hereof, relating to the refunding and defeasance of the Series 1974 Bonds and Series 1986 Bonds.

"Escrow Fund" shall mean the fund created by Paragraph 2 of the Escrow Agreement.

"Event of Default" shall mean any occurrence or events specified in Section 8.01 hereof.

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

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

"Government Obligations" shall mean direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of

those described in clause (i), which are irrevocably pledged for such purposes.

"Gross Revenues" shall mean all rates, rents, fees, charges or other income received by or accrued to the Parking Facilities Committee from the operation of the Parking System, as calculated in accordance with generally accepted accounting principles.

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

"Mayor" means the Mayor of the City.

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

"Net Revenues" shall mean Gross Revenues less Operating Expenses.

"Off-Street Parking Facilities" shall mean the parking lots, parking building or other structures, motor vehicle ramps within and leading to and from such buildings and structures, parking meters or other equipment, machinery or devices for obtaining revenue from public parking or motor vehicles, entrances, exits, fencing and all other facilities, equipment and accessories necessary or desirable for public parking of vehicles, for which fees or other charges are fixed, established and collected, pedestrian viaducts, ramps, bridges, tunnels or other pedestrian facilities leading to or from such parking lots, parking buildings and other structures, and buildings, structures and facilities acquired or constructed by the City for lease or (prior to the sale thereof) sale for commercial, business or charitable use on, in or under such parking lots, parking buildings and structures, and all properties, real personal, tangible or intangible, used in connection therewith, now owned, operated or controlled by the City, or hereafter constructed or acquired by said City from any source whatsoever, within the City, Provided, That Off-Street Parking Facilities do not include property owned by the City where municipal owned vehicles are parked or stored while being used in the performance of municipal functions.

"On-Street Parking Facilities" shall mean places on or in the streets of the City and parking meters or other equipment, machinery or devices installed, located or existing at or near the curbs of the streets adjacent to such places for collecting revenues from public parking of vehicles in such places, for which fees or other charges are fixed, established or collected, and all

such facilities hereafter located, constructed or acquired by said City from any sources whatsoever for which fees or other charges are fixed, established or collected.

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

"Original Ordinance" shall mean the Ordinance No. 1329 passed by the City Council on October 1, 1973 as amended and supplemented by Ordinance No. 1538 passed by the City Council on April 15, 1974.

"Outstanding" when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being issued and delivered except (a) any Bond cancelled by the Registrar for such Bond at or prior to said date; (b) any Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity, shall be held in trust under this Ordinance and set aside for such payment (whether upon or prior to maturity); (c) any Bond deemed to have been paid as provided by Section 9.02; and (d) with respect to determining the number or percentage of Bondholders or Bonds for the purpose of consents, notices and the like, any Bond registered to the City.

"Parking System" shall mean all Off-Street Parking Facilities and On-Street Parking Facilities as both facilities have been defined in this Ordinance.

"Participant" shall mean the person or entity registered as such with DTC.

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

"Prior Bonds" shall mean the City's Parking Revenue Bonds, Series A and Series B, dated June 1, 1974, issued in the original principal amount of $3,210,000 and currently outstanding in the principal amount of $2,075,000; and Parking Revenue Bonds, Series 1986, dated August 26, 1986, issued in the original principal amount of $3,300,000, and currently outstanding in the principal amount of $2,890,000.

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

"Prior Ordinances" shall mean collectively the following Ordinances passed by the City Council, as amended and supplemented thereafter:

(a) The Original Ordinance; and

(b) An ordinance dated July 21, 1986, supplementing the Original Ordinance, authorizing the issuance of the $3,300,000 Parking Revenue Bonds, dated August 26, 1986;

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

"Purchaser" or "Original Purchaser" shall mean Wheat, First Securities, Inc. and Ferris, Baker Watts, Incorporated, Charleston, West Virginia, or their successors.

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

(a) Government Obligations;

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

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

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

(d) U. S. dollar denominated deposit accounts, federal funds and banker's acceptances with domestic commercial banks which have a rating on their short term certificates of

deposit on the date of purchase of "A-1" or "A-1+" by Standard & Poor's Corporation and "P-1" by Moody's Investor Services, Inc. and maturing no more than 360 days after the date of purchase. (Ratings on holding companies are not considered as the rating of the bank);

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

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

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

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

(h) the "Consolidated Fund" (or any distinct portion thereof) managed by the West Virginia State Board of Investments pursuant to Article 6, Chapter 12 of the Code of West Virginia, 1931, as amended.

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

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

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

"Regulations" shall mean temporary and permanent regulations promulgated under the Code, and includes applicable regulations promulgated under the Internal Revenue Code of 1986, as amended.

"Repair, Operation and Maintenance Fund" shall mean the account created by Section 3.02(D) hereof.

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

"Reserve Account" shall mean the account in the Sinking Fund, as hereinafter defined, created by Section 3.02(C) hereof.

"Reserve Account Requirement" shall mean the maximum amount of principal and interest which will mature and come due on the Bonds in the then current or any one succeeding Fiscal Year.

"Revenue Fund" shall mean the fund created by Section 3.01 hereof.

"Series 1974 Bonds" shall mean the $145,000 Parking Revenue Bonds, Series A, and $3,065,000 Parking Revenue Bonds, Series B, dated June 1, 1974, issued pursuant to the Original Ordinance.

"Series 1986 Bonds" shall mean the $3,300,000 Parking Revenue Bonds, Series 1986 issued pursuant to the Prior Ordinance.

"Series 1993 Bonds" or "Bonds" shall mean the Parking System Refunding Revenue Bonds, Series 1993, of the City originally authorized to be issued pursuant to this Ordinance.

"Sinking Fund" shall mean the fund created by Section 3.02(B) hereof.

"State" shall mean the State of West Virginia.

"Supplemental Resolution" shall mean any ordinance or resolution amendatory hereof or supplemental hereto and, when preceded by the article "the," refers specifically to the Supplemental Resolution authorizing the sale of the Series 1993 Bonds to the Original Purchaser; provided, that any provision intended to be included in the Supplemental Resolution and not so included may be contained in any other Supplemental Resolution.

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

shall include firms and corporations and vice versa; and words importing the masculine gender shall include the feminine and neuter genders and vice versa.

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

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

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

SECTION 1.02. Authority for this Ordinance. This Ordinance is enacted pursuant to the provisions of Chapter 8, Article 12, Chapter 8, Article 16 (hereinafter referred to as the "Bond Act") and Chapter 13, Article 2E (hereinafter referred to as the "Refunding Act") of the Code of West Virginia, 1931, as amended (collectively, the Bond Act, the Refunding Act and Article 12 are hereinafter referred to as 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, maintains and operates on-street and off-street Parking System, the acquisition and construction of certain portions thereof having been permanently financed, along with the funds from other sources available therefor, with the proceeds of the Series 1974 Bonds.

(B) The Series 1986 Bonds permanently financed certain additions, extensions and improvements to the Parking System.

(C) The City of Charleston Parking System Refunding Revenue Bonds, Series 1993 (the "Series 1993 Bonds") are being issued for the purpose of refunding and redeeming prior to maturity the Series 1974 Bonds and Series 1986 Bonds.

(D) The City derives revenues from the Parking System, and said revenues are not pledged or encumbered in any manner, except for the Series 1974 Bonds and Series 1986 Bonds issued and outstanding under the Prior Ordinance and to be refunded and redeemed with the proceeds of Series 1993 Bonds hereinafter authorized.

(E) The estimated Net Revenues to be derived in each year hereafter from the operation of the Parking System will be sufficient to pay all of the cost of the operation and maintenance of the Parking System, the principal of and interest on the outstanding Series 1993 Bonds as the same become due and all sinking fund, reserve and other payments provided for herein.

(F) Under the Refunding Act, the City may refund and redeem outstanding bonds to release, terminate or modify restrictions, conditions or limitations imposed by such bonds. The City thus determines that it is in the best interests of the citizens of the City to refund and redeem prior to maturity its outstanding Series 1974 Bonds and Series 1986 Bonds to release, terminate or modify restrictions, conditions and limitations imposed in connection with the Series 1974 Bonds and Series 1986 Bonds and to effect a debt service savings.

(G) The City, under the provisions of Section 17 of the Bond Act may fully fund the Reserve Account requirement from the Bonds proceeds or from other moneys of the Parking System.

(H) It is in the best interests of the City that the Series 1993 Bonds be sold to the Original Purchaser.

(I) All things necessary to make the Series 1993 Bonds, when authenticated by the Registrar and issued as in this Ordinance provided, the valid, binding and legal special obligations of the City according to the import thereof, and to validly pledge and assign those funds pledged hereby to the payment of the principal of and interest on the Series 1993 Bonds, will be timely done and duly performed.

(J) The enactment of this Ordinance, and the execution and issuance of the Series 1993 Bonds, subject to the terms thereof, 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.

(K) The Prior Bonds were not industrial development bonds as defined in the Internal Revenue Code of 1954.

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

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

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

(O) The City does hereby find and determine that the amount of bonds, other than private activity bonds, which it anticipates issuing during calendar year 1993 shall not exceed $10,000,000 and therefore the City hereby designates the Series 1993 Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b) of the Code.

(P) In accordance with Section 4 of the Bond Act, the Parking System is under the supervision and control of the Parking Facilities Committee.

(Q) The City does hereby find and determine that such Parking Facilities Committee shall be continued as set forth herein.

SECTION 1.04. Ordinance Constitutes Contract. In consideration of the acceptance of the Series 1993 Bonds hereinafter authorized 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 owners of the Series 1993 Bonds, 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 owners of any and all of such Series 1993 Bonds hereinafter authorized, all of which shall be of equal rank and without preference, priority or distinction between any one such bond and any other such bond by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

ARTICLE II

AUTHORIZATION OF REFUNDING AND REDEMPTION; AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

SECTION 2.01. Authorization of Refunding and Redemption. The lien of the Series 1974 Bonds and Series 1986 Bonds outstanding as of the date of issuance of the Series 1993 Bonds imposed by the Prior Ordinances on the revenues of the Parking System is hereby ordered terminated, discharged and released upon the payment into the Escrow Fund relating thereto from the proceeds of the Series 1993 Bonds, together with other moneys available therefor, including those moneys transferred as provided below, of the following: (a) an amount equal to the fiscal and paying agent charges, and (b) an amount which will be simultaneously invested in United States Treasury Obligations bearing interest and having maturities sufficient to provide (i) for the payment of the principal of the Prior Bonds as the same mature on each principal payment date established with respect thereto prior to the Prior Bonds Redemption Date, if any, established for such Prior Bonds, (ii) for the payment of the redemption price of the Prior Bonds outstanding on the Prior Bonds Redemption Date, if any, established for such Prior Bonds, and (iii) for the payment of the interest on the Prior Bonds as the same becomes due. Contemporaneously with the deposit of proceeds of the Series 1993 Bonds into the respective Escrow Fund, and as prescribed by the Escrow Agreement, the amounts on deposit in the sinking fund (other than the reserve account therein), created and maintained on behalf of the Prior Bonds shall be deposited into the Escrow Fund and simultaneously invested as provided in such Escrow Agreement. Upon the refunding of the Prior Bonds, the amounts on deposit in the renewal and replacement fund and operation and maintenance fund created and maintained under the Prior Ordinances with respect to the Prior Bonds shall be transferred as set forth in the Supplemental Resolution and the amounts held in the reserve account in the aforesaid sinking fund shall be applied as set forth in the Supplemental Resolution.

Section 2.02. Authorization and Terms of Series 1993 Bonds. For the purpose of refunding all of the Prior Bonds, there shall be issued the Parking System Refunding Revenue Bonds, Series 1993 of the City. The Series 1993 Bonds shall be in such aggregate principal amount, not to exceed $6,000,000; shall be dated such date; shall bear interest payable semiannually at such dates and at such rate or rates not exceeding the rate permitted by the Act; shall be in fully registered form; shall mature at such time or times, not exceeding forty (40) years after the date of issuance; shall have such denominations; and shall contain such other terms, provisions, conditions and limitations, all as provided by this Ordinance and as the City Council shall prescribe by Supplemental

Resolutions adopted in connection with the sale of such Series 1993 Bonds.

The Bonds shall be payable as to principal at the office of the Paying Agent in any coin or currency which on the respective date of payment of principal and interest, is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address that appears on the books of the Registrar or, in the event of a default in the payment on the Series 1993 Bonds, that special record date to be fixed by the Registrar by notice given to the Registered Owners not less than ten (10) days prior to said special record date (the "Special Record Date") or, if requested in the case of such an owner of $1,000,000 or more in principal amount of Series 1993 Bonds, by wire transfer to a domestic bank account specified in writing at least five (5) days prior to the Record Date by such owner.

The Series 1993 Bonds shall, at the option of the City, be redeemable in whole or in part, at the times, in the manner, and upon payment of the redemption prices, as provided in the Supplemental Resolution.

The Series 1993 Bonds shall be sold as soon as practical and in the best interests of the City, as may be authorized and permitted by applicable law, and delivered to the Original Purchaser thereof; provided, that such Original Purchaser and the City shall have agreed to the terms of the purchase thereof.

SECTION 2.03. Execution of Bonds. Bonds shall be executed in the name of the City by the manual or facsimile signature of the Mayor, and the seal of the City shall be affixed thereto or imprinted thereon and attested by the manual or facsimile signature of the City Clerk. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the City before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Bonds shall hold the proper office in the City, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

SECTION 2.04. 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 and Registration on such Bond, substantially in the form set forth in Exhibit B, shall have been duly manually executed by the Registrar. Any such executed

Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered, and delivered under this Ordinance. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Registrar if manually signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

SECTION 2.05. Book-Entry Bonds. (a) Except as provided in subparagraph (c) of this Section 2.05, the Registered Owner of all of the Bonds shall be The Depository Trust Company (hereinafter "DTC"), and the Bonds shall be registered in the name of Cede & Co. Payment of semiannual interest for any Bond registered as of each Record Date in the name of Cede & Co. shall be made by wire transfer of New York clearing house or equivalent next-day funds to the account of Cede & Co. on the interest payment date for the Bonds at the address indicated on the regular Record Date or special Record Date for Cede & Co. in the Bond Register.

(b) The City and the Bond Register may treat DTC (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal or redemption price of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Bondholders under this Ordinance, registering the transfer of Bonds, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever, and neither the City nor the Bond Register shall be affected by any notice to the contrary. Neither the City nor the Bond Register shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Bonds under or through DTC or any Participant, or any Participant of any amount in respect of the principal or redemption price of or interest on the Bonds; any notice which is permitted or required to be given to Bondholders under this Ordinance; the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Bonds; or any consent given or other action taken by DTC as Bondholder. The Paying Agent shall pay all principal of and premium, if any, and interest on the Bonds only to or "upon the order of" (as that term is used in the Uniform Commercial Code as adopted in the State of West Virginia), and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal or redemption price of and interest on the Bonds to the extent of the sum or sums so paid. No person other than DTC shall receive an authenticated Bond for each separate stated maturity evidencing the obligation of the City to make payments of principal or redemption price and interest pursuant to this Ordinance. Upon delivery by DTC to the City of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions herein with respect to Record Dates, the

word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(c) In the event the City determines that it is in the best interest of the Owners that they be able to obtain Bond certificates, the City may notify DTC, whereupon DTC will notify the Participants, of the availability through DTC of Bond certificates. In such event, the City shall issue and the Bond Register shall authenticate, transfer and exchange Bond certificates as requested by DTC and any other Bondholders in appropriate amounts. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the City and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is no successor securities depository), the City shall be obligated to deliver Bond certificates as described herein. In the event Bond certificates are issued, the provisions herein shall apply to, among other things, the transfer and exchange of such certificates and the method of payment of principal of and interest on such certificates. Whenever DTC requests the City to do so, the City will assist DTC in taking appropriate action after reasonable notice (a) to make available one or more separate certificates evidencing the Bonds to any Participant having Bonds credited to its DTC account or (b) to arrange for another securities depository to maintain custody of certificates evidencing the Bonds.

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., all payments with respect to the principal or redemption price of and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, to DTC as provided in the Representation Letter. When the City gives notices to DTC or its nominee as Bondholder, it shall request that DTC forward (or cause to be forwarded) the notices to the Participants so that such Participants may forward (or cause to be forwarded) such notices to the Owners.

(e) In connection with any notice or other communication to be provided to Bondholders pursuant to this Ordinance by the City with respect to any consent or other action to be taken by Bondholders, the City shall establish a record date for such consent or other action and give DTC notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent possible. Notice to DTC shall be given only when DTC is the sole Bondholder.

SECTION 2.06. Negotiability, Transfer and Registration. Subject to the provisions for transfer or registration set forth below, the Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner, in accepting any of said Bonds, shall be conclusively deemed to have

agreed that such Bonds shall be, and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

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

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

In all cases in which the privilege of exchanging Bonds or transferring the Bonds is exercised, Bonds shall be delivered in accordance with the provisions of this Ordinance. All Bonds surrendered in any such exchanges or transfer shall forthwith be cancelled by the Registrar. For every such exchange or transfer of Bonds, the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of said Registrar incurred in connection therewith, which changes and expenses shall be paid by the Registered Owner requesting such transfer or exchange. The Registrar shall not be obligated to make any such change or transfer of Bonds during the period beginning with the Record Date and ending on the date or, in a case of any partial redemption of Bonds during the fifteen (15) days next preceding the date of the selection of Bonds to be redeemed.

SECTION 2.07. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bonds shall become mutilated or be destroyed, stolen or lost, the City may in its discretion issue and deliver a new Bond in exchange and substitution for such Bonds so mutilated, destroyed, stolen or lost, upon surrender and cancellation of such mutilated Bond or in lieu of and substitution for the Bond, if any, destroyed, stolen or lost, and upon the Registered Owner's furnishing the City proof of his or her ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the City may prescribe and paying such expenses as the City may incur. All Bonds so surrendered shall be cancelled by the Registrar and held for the account of the City. If such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the City may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen, or destroyed, without surrender therefor.

Any such duplicate Bonds issued pursuant to this Section 2.07 shall constitute original, additional contractual obligations on the part of the City, whether or not the lost, stolen or destroyed Bonds be at any time found by any one, and such duplicate Bonds shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment from the revenues pledged herein with all other Bonds issued hereunder.

SECTION 2.08. Bonds Secured by Pledge of Net Revenues; Not to be Indebtedness of the City. The payment of the debt service of all of the Series 1993 Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the Parking System. Such Net Revenues, in the amount sufficient to pay the principal of and interest on the Bonds and to make the payments required into the Sinking Fund and the Reserve Account therein, and the Additions Fund all hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due. The Bonds shall not, in any event, be or constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from Net Revenues and otherwise as provided herein. No Registered Owner or Owners of any of the Bonds shall ever have the right to compel the exercise of the taxing power of the City to pay the Bonds or the interest thereon.

SECTION 2.09. Notice of Redemption. (a) The Registrar shall cause notice of any redemption of Bonds to be mailed by first class mail to the Owners of all Bonds to be redeemed at the addresses thereof appearing in the Bond Register. Each such notice shall (i) be mailed not more than 60 days nor less than 30 days prior to the redemption date, (ii) identify the Bonds to be redeemed (specifying the CUSIP numbers, if any, assigned to the Bonds), (iii) specify the redemption date and the Redemption Price, and (iv) state that on the redemption date the Bonds called for redemption will be payable at the principal corporate trust office of the Paying Agent, that from that date the Bonds called for redemption will be deemed to be paid, and interest will cease to accrue, and that no representation is made as to the accuracy or correctness of the CUSIP numbers printed therein or notice of redemption or mailing thereof (including any failure to mail such notice), shall affect the validity of the redemption proceedings for any other Bonds for which notice was properly given.

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

the Registrar promptly shall notify the Owners of all Bonds called for redemption of such fact.

(c) Notwithstanding any other provisions herein to the contrary, the Registrar shall cause copies of any notices delivered pursuant to this Section 2.09 to be delivered to such other organizations or entities to which like notices are then delivered in accordance with industry standards.

SECTION 2.10 Form of Bonds. The text of the Bonds, and the form of the Certificate of Authentication and Registration thereon, shall be of substantially as set forth in Exhibit B hereto, 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.

ARTICLE III

PARKING SYSTEM REVENUES AND APPLICATION THEREOF

SECTION 3.01. Parking System Revenue Fund. The entire Gross Revenues derived from the Parking System of the City shall be deposited in a special fund, which fund is hereby created and designated as the "Parking System Revenue Fund" (hereinafter referred to as "Revenue Fund"). Said Revenue Fund shall constitute a trust fund for the purposes provided in this Ordinance and shall be kept separate and distinct from all other funds of the City and used only for the purposes and in the manner provided in this Article III.

SECTION 3.02. Disposition of Parking System Revenues. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following manner and order of priority:

(A) All revenues deposited in the Revenue Fund shall be used first to pay current Operating Expenses of the Parking System.

(B) Thereafter, from the moneys remaining in the Revenue Fund, the City shall next, on the first day of each month, commencing on the first day of the calendar month following the Closing Date, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in a fund to be known as the "Sinking Fund," which is hereby created and established, a sum equal to one-sixth (1/6) of the amount of interest which will become due on said Bonds on the next ensuing semi-annual interest payment date: Provided, however, That in the event that the period to elapse between the closing date and the next semi-annual interest payment date is less than six (6) months, then such monthly payments shall be increased proportionately to provide the required amount of interest maturing on the next semi-annual interest payment date.

The City shall also apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in said Sinking Fund, on the first day of each month, beginning on the first day of the calendar month following the Closing Date, a sum equal to one-twelfth (1/12) of the amount of principal which will mature and become due on said Bonds on the next ensuing principal payment date: Provided, however, That in the event that the period to elapse between the closing date and the next annual principal payment date is less than twelve (12) months, then such monthly payments shall be increased proportionately to provide the required amount of principal maturing on the next annual principal payment date.

The City shall also, from the Revenue Fund, remit to the Commission, on such dates, or at such other times, as the

Commission shall require, such additional sums as shall be necessary to pay the fiscal agency charges due for paying the Bonds and the interest thereon.

The Commission is hereby designated as the Fiscal Agent for the administration of the Sinking Fund created hereunder, and all amounts required for said Sinking Fund shall be remitted to the Commission from said Revenue Fund and from the proceeds of the sale of the Bonds as provided herein, by the City, at the times provided herein.

Moneys in the Sinking Fund shall be used only for the purposes of paying principal of and interest on the Bonds as the same shall become due.

(C) Thereafter, the City shall next, from the moneys remaining in said Revenue Fund remit to the Commission for deposit in a Reserve Account in said Sinking Fund, on the first day of each month of each year, beginning with and including the month in which payments from the Revenue Fund for semi-annual interest are commenced, an amount equal to twenty per centum (20%) of all amounts required to be deposited for maturing principal and interest into said Sinking Fund, as provided above, on said dates: Provided, however, That no further payments shall be made into said Reserve Account when there shall have been deposited therein, and as long as there shall remain therein, an amount equal to the maximum amount of principal and interest which will mature and become due on said Bonds in any succeeding Fiscal Year.

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

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

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

(D) The City shall, thereafter on the first day of each month, beginning on the first day of the calendar month following the Closing Date, deposit into a fund maintained with a bank or trust company in the State, to be known as the "Repair, Operation

and Maintenance Fund," which is hereby created and established, a sum equal to ten per centum (10%) of the aggregate amount estimated for repair (including replacements), maintenance and operation of the Parking System for the ensuing Fiscal Year: Provided, however, That no further deposits shall be required to be made into said Repair, Operation and Maintenance Fund when there shall have been deposited in said fund a sum equal to the aggregate amount of estimated repair (including replacements), maintenance and operation of the Parking System for such Fiscal Year. Moneys held in the Repair, Operation and Maintenance Fund shall be used solely to pay costs of the repair (including replacements), maintenance and operation of the Parking System in such instances as the City shall deem necessary or desirable by resolution of City Council.

(E) Thereafter, from the moneys remaining in said Revenue Fund, the City shall next, on the first day of the calendar month following the Closing Date, pay into a fund to be known as the "Additions Fund," the amount set forth in the Supplemental Resolution. The moneys in said Additions Fund shall be used only for the construction or acquisition of additions, extensions, improvements, and replacements of capital assets of said Parking System, or any part thereof: Provided, however, That moneys in said Fund shall always be used, for the payment of debt service on the Bonds authorized by this Ordinance to the extent that moneys in the Sinking Fund or in the Reserve Account therein are insufficient therefor.

No further payment shall be required to be made into said Additions Fund when there shall have been deposited therein, and so long as there shall remain on deposit therein, the amount set forth in the Supplemental Resolution.

Said Additions Fund shall be deposited in and maintained with the Depository Bank.

(F) If on any payment date the Net Revenues are insufficient to place the required amount in any of the funds as hereinafter provided, the deficiency shall be made up in subsequent payments to such funds.

(G) Thereafter, on the fifteenth day of each month, the balance of any moneys remaining in the Revenue Fund, after all payments provided for above have been made, may be used by the City for the purpose of paying the cost of additions, extensions or improvements to, or the replacement of capital assets of the Parking System, or for the redemption or purchase of the last maturing Bonds then outstanding at prices not exceeding the then redemption price of such Bonds, or may be withdrawn by the City and used for any lawful purposes: Provided, however, That none of such revenues shall ever be used by the City at any time for any purpose other than the purposes provided in this Section 3.02 (A) through (E), inclusive, above, unless all payments required by this

Ordinance at such time, including any deficiencies for prior payments, have been fully made and the City shall have complied fully with all of the covenants, agreements and provisions of this Ordinance.

(H) All of the funds provided for above shall constitute trust funds and shall be used only for the purposes provided herein. The moneys in excess of the sum of $100,000 in said Revenue Fund and in said Additions Fund shall at all times be secured, to the full extent thereof in excess of the sum of $100,000, by direct obligations of the United States of America, or such other obligations as shall be eligible as security for deposits of State and municipal funds under the laws of the State.

(I) Moneys at any time remaining on deposit in the Sinking Fund, including the Reserve Account therein, and in said Additions Fund may be invested in direct obligations of the United States of America maturing not later than the dates on which such moneys will be needed for the purposes of such funds.

ARTICLE IV

REGISTRAR; PAYING AGENT

SECTION 4.01. Appointment of Registrar. The Registrar shall be appointed by a Supplemental Resolution. The Mayor shall be authorized and directed by such Supplemental Resolution to enter into an agreement with the Registrar, the substantial form of which agreement shall be approved by said supplemental resolution.

SECTION 4.02. Responsibilities of Registrar. The recitals of fact in the Series 1993 Bonds shall be taken as statements of the City, and the Registrar shall not be responsible for their accuracy. The Registrar shall not be deemed to make any representation as to, and shall not incur any liability on account of, the validity of the execution of any Series 1993 Bonds by the City. Notwithstanding the foregoing, the Registrar shall be responsible for any representation in its Certificate of Authentication and Registration on the Series 1993 Bonds. The Registrar and any successor thereto shall agree to perform all the duties and responsibilities spelled out in this Ordinance and any other duties and responsibilities incident thereto, all as provided by said agreement described in Section 4.01.

SECTION 4.03. Evidence on Which Registrar May Act. Except as otherwise provided by Section 4.02, the Registrar shall be protected in acting upon any notice, resolution, request, consent, order, certificate, opinion or other document believed by it to be genuine and to have been signed or presented by the proper party or parties. Whenever the Registrar shall deem it necessary or desirable that a fact or matter be proved or established prior to taking or suffering any action, such fact or matter, unless other evidence is specifically prescribed, may be deemed to be conclusively proved and established by a certificate of the Mayor of the City, but in its discretion the Registrar may instead accept other evidence of such fact or matter.

SECTION 4.04. Compensation and Expenses. The City shall pay to the Registrar from time to time reasonable compensation for all services, including the first transfer of registration of Series 1993 Bonds and the exchange of Series 1993 Bonds in the event of partial redemption, incurred in the performance of its duties hereunder.

SECTION 4.05. Certain Permitted Acts. The Registrar may become the owner of or may deal in Series 1993 Bonds as fully and with the same rights it would have if it were not Registrar. To the extent permitted by law, the Registrar may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or effect or aid in any

reorganization growing out of the enforcement of the Series 1993 Bonds or the Ordinance, whether or not any such committee shall represent the Holders of a majority in principal amount of the Series 1993 Bonds Outstanding.

SECTION 4.06. Resignation of Registrar. The Registrar may at any time resign and be discharged of its duties and obligations under this Ordinance by giving not less than sixty (60) days' written notice to the City and to the registered owners at the address which appears on the Bond Register. Such resignation shall take effect upon the day specified in such notice unless a successor shall have been previously appointed by the City or Registered Owners, in which event such resignation shall take effect immediately.

SECTION 4.07. Removal. The Registrar may be removed at any time by the City or by the Registered Owners of a majority in principal amount of the Series 1993 Bonds then Outstanding by an instrument or concurrent instruments in writing signed and duly acknowledged by the City or by such Registered Owners or their attorneys duly authorized in writing and delivered to the City, as the case may be. Copies of each such instrument shall be delivered by the City to the Registrar.

SECTION 4.08. Appointment of Successor. In case at any time the Registrar shall resign or shall be removed or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or if a receiver, liquidator or conservator of the Registrar or of its property shall be appointed, or if any public officer or court shall take charge or control of the Registrar or of its property or affairs, a successor may be appointed by the Registered Owners of a majority in principal amount of the Series 1993 Bonds then Outstanding by an instrument or concurrent instruments in writing signed by such Registered Owners or their attorneys duly authorized in writing and delivered to the City and such successor Registrar, notification thereof being given to the predecessor Registrar. Pending such appointment, the City shall forthwith appoint a Registrar to fill such vacancy until a successor Registrar shall be appointed by such Registered Owners. Within twenty (20) days after the effective date of such appointment, a copy of such notice shall also be mailed to each Registered Owner. Any successor Registrar appointed by the City shall, immediately and without further act, be superseded by a Registrar appointed by such Registered Owner. If in a proper case no appointment of a successor Registrar shall be made within forty-five (45) days after the Registrar shall have given to the City written notice of resignation or after the occurrence of any other event requiring such appointment, the Registrar or any Registered Owner may apply to any court of competent jurisdiction to appoint a successor. Any Registrar appointed under the provisions of this Section 4.08 shall be a bank, trust company or national banking association authorized to perform the duties imposed upon it by this Ordinance.

SECTION 4.09. Transfer of Rights and Property to Successor. Any predecessor Registrar or Paying Agent shall pay over, assign and deliver any moneys and books held by it to its successor.

SECTION 4.10. Merger or Consolidation. Any company into which the Registrar may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party, or any company to which the Registrar or any public officer or court may sell or transfer all or substantially all of its corporate trust business, shall be the successor to such Registrar without the execution or filing of any paper or the performance of any further act; Provided, however, That such company shall be a bank, trust company or national banking association meeting the requirements set forth in Section 4.08.

SECTION 4.11. Adoption of Authentication. In case any of the Series 1993 Bonds shall have been authenticated but not delivered, any successor Registrar may adopt a Certificate of Authentication and Registration executed by any predecessor Registrar and deliver such Series 1993 Bonds so authenticated, and, in case any Series 1993 Bonds shall have been prepared but not authenticated, any successor Registrar may authenticate such Series 1993 Bonds in the name of the predecessor Registrar or in its own name.

SECTION 4.12. Paying Agent. The Registrar shall also serve as the Paying Agent (herein the "Paying Agent"). Acceptance of the duties and responsibilities of the Registrar expressed in Section 4.02 shall also include the acceptance of the trusts and the duties of Paying Agent. Any alternate Paying Agent must be a bank, trust company or national banking association authorized to perform the duties imposed upon it by this Ordinance. Such alternate Paying Agent 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.

Each Paying Agent shall be entitled to payment and reimbursement for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by such Paying Agent in connection with such services solely from moneys available therefor.

Any bank, trust company or national banking association with or into which any Paying Agent may be merged or consolidated, or to which the assets and business of such Paying Agent may be sold, shall be deemed the successor of such Paying Agent for the purposes of this Ordinance. If the position of Paying Agent shall become vacant for any reason, the City shall, within thirty (30) days thereafter, appoint a bank, trust company or national banking

association to fill such vacancy; Provided, however, That, if the City shall fail to appoint such Paying Agent within said period, the Commission, a court of competent jurisdiction or a majority of the Bondholders may make such appointment.

The Paying Agents shall enjoy the same protective provisions in the performance of their duties hereunder as are specified in this Article IV with respect to the Registrar, insofar as such provisions may be applicable.

Notice of the appointment of successor or additional Paying Agents or fiscal agents shall be given in the same manner as provided by Section 4.08 hereof with respect to the appointment of a successor Registrar.

All moneys received by the Paying Agents shall, until used or applied as provided in the Ordinance, be held in trust for the purposes for which they were received.

ARTICLE V

ADDITIONAL COVENANTS OF THE CITY

SECTION 5.01. 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 Registered Owners of said Bonds. In addition to the other covenants, agreements and provisions of this Ordinance, the City hereby covenants and agrees with the Registered Owner or Owners of said Bonds in the manner provided in this Article V. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Bonds or the interest thereon, are Outstanding and unpaid.

SECTION 5.02. Bonds Not to be Indebtedness of the City. The Series 1993 Bonds shall not be or constitute an indebtedness of the City, within the meaning of any constitutional statutory or charter limitation of indebtedness, but shall be payable solely from the Net Revenues of the Parking System, as herein provided. No Registered Owner of any Bond issued hereunder shall ever have the right to compel the exercise of the taxing power of the City, to pay said Bonds or the interest thereon.

SECTION 5.03. Bonds Secured By Pledge of Net Revenues. The payment of the debt service of all of the bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the Parking System to the extent necessary to make the payments required under this Ordinance. The Net Revenues derived from the Parking System, in an amount sufficient to pay the principal of and interest on the Bonds herein authorized, and to make the payments into the Sinking Fund, including the Reserve Account therein, and all other payments provided for in this Ordinance, are hereby irrevocably pledged in the manner provided in this Ordinance, to the payment of the principal of and interest on the Bonds herein authorized as the same become due, and for the other purposes provided in this Ordinance.

SECTION 5.04. Statutory Mortgage Lien Created. The Registered Owners of the Bonds issued pursuant to this Ordinance shall have a statutory mortgage lien upon the Parking System pursuant to the provisions of Section 22 of the Bond Act, which statutory mortgage lien shall exist in favor of, and shall be enforceable in any lawful manner by, the Registered Owners of the Series 1993 Bonds, and each of them, and the Parking System shall remain subject to such statutory mortgage lien until payment in full of the principal of and interest on the Bonds issued pursuant to this Ordinance. The statutory mortgage lien shall be a first mortgage on said Parking System, and the City shall not place any

other mortgage or encumbrance on said Parking System, or any part thereof.

SECTION 5.05. Rates. The City will fix, establish and maintain such rates and collect such fees, rentals or other charges for the services and facilities of said Parking System, and revise the same from time to time whenever necessary, as will always provide revenues in each fiscal year at least sufficient to pay, one hundred twenty-five per centum (125%) of the largest amount of principal and interest maturing and becoming due on said Bonds then Outstanding in any succeeding fiscal year, in addition to paying, as the same shall become due, the necessary expenses or repair (including replacement), maintenance and operation of said Parking System in each fiscal year, and all obligations or indebtedness other than the Bonds payable out of revenues of said Parking System in such fiscal year, and that such rates, fees, rentals or other charges shall not be reduced so as to be insufficient to provide adequate revenues for such purposes.

SECTION 5.06. Operation and Maintenance. The City will maintain the Parking System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof from the revenues of said Parking System in the manner provided in this Ordinance.

SECTION 5.07. Sale of the Parking System. The City will not voluntarily sell, mortgage or otherwise dispose of or encumber the Parking System or any property essential to the proper operation thereof while any of the Bonds herein authorized are Outstanding except for leases or sales of space therein designed for sale or lease for commercial, business or charitable uses; Provided, however, That the City may sell all or any portion the Parking System if the City shall receive from such sale moneys adequate to fully defease all of the Outstanding Series 1993 Bonds in accordance with the provision in Section 9.02 hereof; and further Provided That the City may sell or otherwise dispose of a portion of the Parking System only following a receipt of an Independent Accountant to the effect that the Net Revenues for the remaining unsold portion of the Parking System are sufficient to meet the requirements of Section 5.05 hereof. Any proceeds received from the sale of a portion of the Parking System shall be deposited with the Commission and used to redeem Series 1993 Bonds on the next available redemption date.

SECTION 5.08. Issuance of Other Obligations Payable Out of Revenues. The City will not issue any other obligations for any purpose, payable from the revenues derived from the operation of said Parking System, except pari passu additional Bonds provided for in Section 5.09 hereof, nor voluntarily create or cause to be created any debt, lien, pledge, assignment, encumbrance or any

other charge which will have priority to or be on a parity with the lien of the Bonds issued pursuant to this Ordinance and interest thereon, upon any of the income and revenues of said Parking System, or any part thereof. Any other obligations hereafter issued by the City, payable from such revenues, except such pari passu additional Bonds, shall contain an express statement that such obligations are junior, subordinate and inferior to the Bonds issued pursuant to this Ordinance as to lien and source and security for payment from the revenues of said Parking System, and in all other respects.

SECTION 5.09. Issuance of Pari Passu Additional Bonds. No pari passu additional Bonds as in this subsection defined, payable out of the revenues of the Parking System, shall be created after the issuance of any Bonds pursuant to this Ordinance, except under the conditions and in the manner herein provided.

No such pari passu additional Bonds shall be issued unless the net revenues derived from the Parking System during any twelve (12) consecutive months during the period of eighteen (18) months immediately prior to the issuance of the additional Bonds then proposed to be issued, as set forth in a certificate of an Independent Accountant, appointed by the City, filed with the City Clerk, shall be not less than one hundred twenty-five per centum (125%) of the largest amount of principal and interest which will mature and become due in any succeeding year on the Bonds issued pursuant to this Ordinance then Outstanding and on any pari passu additional Bonds theretofore issued and then Outstanding, and on any other obligations then Outstanding which are payable from the revenues of said Parking System, or any part thereof, and on the pari passu additional Bonds then proposed to be issued.

Such pari passu additional Bonds shall be issued only for the financing of the construction and acquisition of additions, extensions and improvements to the Parking System, and all revenues derived therefrom shall be deposited in the Revenue Fund created by this Ordinance or for refunding all or any part of any Bonds Outstanding hereunder.

The term "pari passu additional Bonds" as used in this subsection, shall be deemed to mean additional Bonds issued under the provisions and within the limitations of this subsection, payable from the Parking System pari passu additional bonds with Bonds originally authorized and issued pursuant to this Ordinance. Such pari passu additional Bonds shall be deemed to have been issued pursuant to this Ordinance, and all of the covenants, agreements and other provisions of this Ordinance (except as to details of such pari passu additional Bonds inconsistent therewith) shall be for the equal benefit, protection and security of the Registered Owners of any Bonds originally authorized and issued pursuant to this Ordinance and the holders of any pari passu additional Bonds subsequently created within the limits of and in

compliance with this subsection. All of such Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of said Parking System and their source and security for payment from said revenues without preference of any Bond, over any other. The City shall comply fully with all the increased payments into the various funds created in this Ordinance required for such pari passu additional Bonds, in addition to the payments required for Bonds originally issued pursuant to this Ordinance.

The term "pari passu additional Bonds", as used in this subsection shall not be deemed to include bonds, notes, certificates, or any other obligations subsequently issued, the lien of which on the revenues of the Parking System, or any part thereof, is subject to the prior and superior lien on such revenues of the Bonds issued pursuant to this Ordinance, and the City shall not issue any obligations whatsoever payable from the revenues of said Parking System, or for payment from such revenues with Bonds issued pursuant to this Ordinance, except in the manner and under the conditions provided in this Section 5.09.

No pari passu additional Bonds, as in this subsection defined, shall be created at any time, however, unless all of the payments into the respective funds provided for in this Ordinance shall have been made in full to the date of issuance of such pari passu additional Bonds, and the City shall have fully complied with all covenants, agreements and terms of this Ordinance.

SECTION 5.10. Insurance. The City will carry such insurance and in such amounts as is customarily carried with respect to works and properties similar to the Parking System with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, flood, cyclone, occupancy or other hazards and risks, which insurance shall at all times be in an amount or amounts equal to the fair appraisal value of the buildings, properties, furniture, fixtures, and equipment of said Parking System. In time of war, the City shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war.

The City shall also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the Parking System.

SECTION 5.11. Books and Records. The City will keep books and records of the Parking System, which shall be separate and apart from all other books, records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the Parking System, and any Registered Owner of a Bond or Bonds issued pursuant to this Ordinance shall have the right at all reasonable times to inspect the Parking

System and all parts thereof, and all records, accounts and data of the City relating thereto.

The accounting system for the Parking System shall follow generally accepted accounting principles and safeguards. Subsidiary records as may be required shall be kept in the manner, on the forms, books, and other bookkeeping records as prescribed by the City. The City shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the City shall be reported to such agent of the City as the Council of the City shall direct. The City Treasurer of the City shall prescribe the forms and manner for depositing with said City Treasurer all sums due the City from the operation of its Parking System.

The City shall file with the Original Purchaser, and shall mail in each year to any Registered Owner or Owners of Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses and Net Revenues derived from the Parking System.

(B) A balance sheet statement showing all deposits in all the funds provided for in this Ordinance, and the status of all said funds.

The City shall also, at least once a year, cause the books, records and accounts of the Parking System to be completely audited by the State Tax Commissioner or any successor to that function or by an Independent Accountant, and shall mail upon request, and make available generally, the audit report, or a summary thereof, to any Registered Owner or Owners of Bonds issued pursuant to this Ordinance who has so requested in writing, and shall file said report with the Original Purchaser of the Bonds.

SECTION 5.12. Services Rendered to the City. The City will not render or cause to be rendered any free parking or services of any nature by the Parking System, nor will any preferential rates be established for users thereof of the same class; and in the event the City shall authorize any board, department, agency, instrumentality, officer or employee of said City to avail itself or themselves of the facilities or services provided by the Parking System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like service under similar circumstances shall be charged said City, board, department, agency, instrumentality, officer or employee of said City,and such charges shall be paid as they accrue, and the City shall transfer from its general funds sums sufficient to pay such charges. The revenues so received shall be deemed to be revenues derived from the operation of the Parking System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the Parking System.

SECTION 5.13. Annual Operating Budget. The City shall include in its annual budget adopted prior to the beginning of each Fiscal Year, and as a separate part thereof, a detailed estimate of the expenditures for operation and maintenance of the Parking System during such succeeding fiscal year. No expenditures for the operation and maintenance of the Parking System shall be made in any fiscal year in excess of the amount provided therefor in such budget without a written finding and recommendation by the general manager of such Parking System or other duly authorized officer in charge thereof, which finding and recommendation shall state in detail the purpose of and necessity for such additional expenditures for the operation and maintenance of the Parking System, and no such additional expenditures shall be made until the City Council shall have approved such finding and recommendation and shall have authorized such additional expenditures by a resolution duly adopted. No additional expenditures in excess of ten per centum (10%) of the amount of such budget shall be made except upon the further certificate of the Parking Facilities Committee such additional expenditures are necessary for the continued operation of said Parking System.

SECTION 5.14. Enforcement of Collection. The City will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the Parking 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 charter of said City and by laws of the State.

SECTION 5.15. Relocation of Parking Meters. The City will maintain parking meters on all streets where such parking meters are located and maintained on the date of enactment of this Ordinance and will not remove or relocate said parking meters unless such removal or relocation shall be recommended and approved by the officials of the City having authority to designate the location of parking meters, where such removal, relocation or substitution will materially lessen the revenues obtained from the operation of said parking meters. The covenant hereinabove contained in this Section 5.15 shall not be construed so as to prevent the removal or relocation of parking meters where such removal or relocation is made necessary by street widening or street crossings nor shall said covenant prevent the substitution, removal, relocation or change in location of parking meters necessary, essential and required for proper traffic regulations and control.

SECTION 5.16. Schedule of Rates. The rates, rentals, fees and other charges for the use of the services and facilities of said Parking System, established under an ordinance of the City enacted on the same date as the adoption of a resolution or ordinance adopted in connection with the sale of Bonds as provided

in Section 2.02 of this Ordinance, shall constitute the initial schedule of rates for said Parking System.

The City further covenants that rates, rentals, fees or other charges will be charged and collected as long as the Bonds issued hereunder, and the interest thereon are outstanding and unpaid, on all metered On-Street and Off-Street Parking Facilities for which rates, fees, rentals or other charges are now fixed, established and collected; and on any additional metered On-Street or Off-Street Parking Facilities for which parking meters are hereafter acquired and installed in or on the streets of the City.

Said initial schedule of rates shall not be reduced, nor shall any subsequent schedule of rates be at any time reduced, unless the following conditions have been complied with:

(1) That all current payments, including any deficiencies for prior payments into all the funds provided for in this Ordinance have been made in full to the end of the then Fiscal Year.

(2) That an Independent Accountant shall certify that the proposed new schedule of rates will in each year thereafter produce sufficient Net Revenues, as defined herein, from said Parking System to equal one hundred twenty-five per centum (125%) of the largest amount of principal of and interest on said Bonds which will mature and become due in any ensuing year, and on any pari passu additional Bonds theretofore issued and then Outstanding, or if it is then proposed that pari passu additional Bonds be issued, to equal one hundred twenty-five centum (125%) of the largest amount of principal of and interest on said Bonds which will mature and become due in any ensuing year, and on any pari passu additional Bonds theretofore issued and then Outstanding and those proposed to be issued, and in either event, 125% of any other obligations then Outstanding which are payable from the Net Revenues of the Parking System.

SECTION 5.17. No Competing Facilities. The City hereby irrevocably covenants that it will not construct or acquire any on-street or off-street parking facilities for which no fees or other charges are fixed, established and collected and which will be competitive with the On-Street or Off-Street Parking Facilities of said Parking System; Provided, That the City may designate certain streets or areas of the City as special parking areas upon a certification from the Parking Facilities Committee that (1) such special designated parking area is not competing with the Parking System, (2) that the City is current on all payments required hereunder, and (3) that the number of spaces in such areas do not exceed 2% of the total parking spaces in the Parking System.

SECTION 5.18. Tax Covenants. The City hereby further covenants and agrees as follows:

A. PUBLIC PURPOSE BONDS. The Parking System will be solely operated as a public purpose and as local governmental activity of the City.

B. 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.

C. INFORMATION RETURN. The City will file all statements, instruments and returns necessary to assure the tax exempt status of the Bonds, including without limitation the information return required under Section 149(e) of the Code.

D. FURTHER ACTIONS. The City will 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 which would adversely affect such exclusion.

SECTION 5.19. Filings. The City will file all statements, instruments and returns necessary to assure the tax-exempt status of the Bonds, including, without limitation, the information return required under Section 149(e) of the Code.

SECTION 5.20. Right to Amend Ordinance. The City retains the right to make any amendments, insertions or deletions by Supplemental Resolution to this Ordinance as the City deems desirable or necessary prior to the issuance of the Bonds, including but not limited to amendments, insertions or deletions to comply with the Code. Notwithstanding the provisions of Section 9.01 hereof, the City through City Council shall without consent of the Registered Owners of the Bonds amend or supplement this Ordinance by resolutions supplemental hereto or any amendatory ordinance to comply with the Code if such amendment or supplement is necessary to preserve the exclusion of interest on the Bonds from gross income for federal income tax purposes. In making its determination to amend or supplement this Ordinance, the City Council may rely on the opinion of a nationally recognized bond counsel.

Prior to the issuance of Series 1993 Bonds, the City also retains the right to make any amendments, insertions or deletions by Supplemental Resolution of this Ordinance as the City deems necessary prior to the issuance of the Bonds to meet the requirements of the Original Purchaser.

SECTION 5.21. Parties Interested Herein. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, the Paying Agent and the Registered Owners of the Bonds, any right, remedy or claim under or by reason of this

Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Paying Agent and the Registered Owners of the Bonds.

SECTION 5.22. Parking Facilities Committee. The Parking Facilities Committee created pursuant to the Original Ordinance is hereby continued and shall be composed of the Mayor and the members of City Council's Finance Committee.

ARTICLE VI

APPLICATION OF SERIES 1993 BOND PROCEEDS

SECTION 6.01. Funds and Accounts. From the moneys received from the sale of the Series 1993 Bonds, together with other available funds of the City, the following amount shall be first deducted and deposited as follows:

(A) All accrued interest received from the Original Purchaser of the Series 1993 Bonds shall be deposited in the Sinking Fund and used to pay the next maturing interest on the Series 1993 Bonds.

(B) The amount of money necessary, if any, to fund the Reserve Account at the requirement therefor shall be deposited into said Reserve Account.

(C) The amount necessary to refund and defease the Series 1974 Bonds and Series 1986 Bonds shall be deposited in the Escrow Fund.

(D) The amount necessary to pay the expenses incurred in connection with the issuance of the Series 1993 Bonds shall be deposited in a special bank account in a fund to be known as the "Series 1993 Bonds Cost of Issuance Account," which is hereby created, which funds shall be kept separate and apart from all other funds of the City and such expenses shall include, but not be limited to, any premium for bond insurance or for credit embracements.

If for any reason any portion of the Series 1993 Bond such proceeds are not applied for such purposes set forth above, then the amount of unapplied proceeds shall be transferred by the City to the Reserve Account and if said Reserve Account is then funded to the Reserve Account requirement, then such amount shall be transferred to the Sinking Fund.

All such proceeds shall be and constitute a trust fund for such purposes and there is hereby created a lien upon such moneys until so applied in favor of the Registered Owners of the Series 1993 Bonds.

ARTICLE VII

ADDITIONAL COVENANTS OF THE CITY

SECTION 7.01. Investment of Funds. Pending the application of moneys in any funds or fund established by or pursuant to this Ordinance to the purposes thereof, the moneys therein shall be invested and reinvested, as the City Council shall direct by supplemental resolution or ordinance which may be general, or specific as to any one or more investments or reinvestments, in direct obligations of the United States of America, or time deposits secured by direct obligation of the United States of America, having a maturity date or dates not later than the estimated time when the invested moneys will be needed for the purposes thereof as determined by the City Council or any person designated by the City Council to make such determination.

SECTION 7.02. Restrictions as to Arbitrage Bonds. The City covenants that (i) it will restrict the use of the proceeds of the Series 1993 Bonds in such manner and to such extent as may be necessary, in view of the City's reasonable expectations at the time of issuance of the Series 1993 Bonds, so that the Series 1993 Bonds will not constitute "arbitrage bonds" under Section 103 of the Code and the Regulations, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Series 1993 Bonds) so that the interest on the Series 1993 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 exclusions.

SECTION 7.03. Tax Certificate. At or prior to the issuance of the Series 1993 Bonds, the City shall deliver a tax certificate, tax regulatory agreement or similar document setting forth its covenants with respect to yield, rebate, Bond Year and related matters, all as to comply with the requirements of the Code.

ARTICLE VIII

DEFAULTS AND REMEDIES

SECTION 8.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Bonds.

(A) If default occurs in the due and punctual payment of the principal of or interest on any Bonds;

(B) If default occurs in the City's observance of any of the covenants, agreements or conditions on its part relating to the Bonds set forth in this Ordinance, the Supplemental Resolution or in the Bonds and such default shall have continued for a period of 30 days after the City shall have been given written notice of such default by the Depository Bank holding any fund or account hereunder or a Registered Owner of a Bond; or

(C) If the City files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

SECTION 8.02. Remedies. Any Registered Owner of Bonds issued under the provisions of this Ordinance or any trustee acting for such Bondholders in the manner hereinafter provided, may either at law or in equity, by suit, action, mandamus or other proceeding at any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State, or granted and contained in this Ordinance, and may enforce and compel the performance of all duties required by this Ordinance or by any applicable statutes to be performed by the City or by any officer thereof, including the fixing, charging and collecting of rates, fees, rentals or charges for the services and facilities of the Parking System.

In the event that default shall be made in the payment of the interest on or the principal of any of the Bonds issued pursuant to this Ordinance as the same shall become due, or in the making of the payments into any reserve or sinking fund or any other payments required to be made by this Ordinance, or in the event that the City or any officer, agent or employee thereof shall fail or refuse to comply with provisions of this Ordinance, or shall default in any covenant made herein, and in the further event that any such default shall continue for a period of thirty days, any Registered Owner of such Bonds or any trustee appointed to represent Bondholders as hereinafter provided shall be entitled as of right to appointment of a receiver of the Parking System in an appropriate judicial proceeding in a court of competent jurisdiction, whether or not such Registered Owner or trustee is also seeking or shall have sought to enforce any other right or exercise any other remedy in connection with Bonds issued pursuant to this Ordinance.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of said Parking 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 shall exercise all the rights and powers of the City with respect to said facilities as the City itself might do. Such receiver shall collect and receive all revenues, maintain and operate such facilities in the manner provided in this Ordinance and comply under the jurisdiction of the court appointing such receiver, with all of the provisions of this Ordinance.

Whenever all that is due upon the Bonds issued pursuant to this Ordinance and interest thereon, and under any covenants of this Ordinance for reserve, sinking or other funds, and upon any other obligations and interest thereon, having a charge, lien or encumbrance upon the revenues of the Parking 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 Parking System shall be surrendered to the City upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of Bonds issued pursuant to this Ordinance, or any trustee appointed for Bondholders as hereinafter provided, shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver shall in the performance of the powers hereinabove conferred upon him 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 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 Parking System in the name of the City and for the joint protection and benefit of the City and Registered Owners of Bonds issued pursuant to this Ordinance. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging to pertaining to the Parking System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the Parking System, for the sole purpose of the protection of both the City and Bondholders, and the curing and making good of any default under the provisions of this Ordinance, and the title to and ownership of said Parking System shall remain in the City, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage or otherwise dispose of any assets of the Parking System.

The Registered Owner or Owners of Bonds in an aggregate principal amount of not less than twenty-five per centum (25%) of Bonds issued under this Ordinance then Outstanding may be a duly executed certificate in writing appointing a trustee for Registered Owners of Bonds issued pursuant to this Ordinance with authority to represent such Bondholders in any legal proceedings for the enforcement and protection of the rights of such Bondholders. Such certificate shall be executed by such Bondholders or their duly authorized attorneys or representatives, and shall be filed in the office of the City Clerk.

ARTICLE IX

MISCELLANEOUS

SECTION 9.01. Modification or Amendment. No material modification or amendment of this Ordinance or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of the Bondholders shall be made without the consent in writing of the holders of two-thirds (2/3) or more in principal amount of the Series 1993 Bonds then Outstanding; Provided, however, That no change shall be made in the maturity of any Series 1993 Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the City to pay such principal and interest out of the revenues of the Parking System without the consent of the Registered Owner thereof. No amendment or modification shall be made which would reduce the percentage or modification of the principal amount of the Series 1993 Bonds required for consent to the above-permitted amendments or modifications.

SECTION 9.02. Defeasance. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the Registered Owners of all Bonds the principal of, and redemption premium, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Ordinance, then the pledge of any revenues, and other moneys and securities pledged under this Ordinance and all covenants, agreements and other obligations of the City to the Bondholders, shall thereupon cease, terminate and become void and be discharged and satisfied.

Bonds or interest installments for the payment or redemption of which moneys shall have been set aside and shall be held in trust by the Paying Agent (through deposit by the City for such payment or redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section 9.02. All Bonds, shall prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section 9.02 if (a) in case any of said Bonds are to be redeemed on any date prior to their maturity, the City shall have given to the Commission in form satisfactory to it irrevocable instructions to mail as provided in Section 2.09 of this Ordinance notice of redemption of such Bonds on said date, (b) there shall have been deposited with the Commission either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Commission at the same time, shall be sufficient, to pay when due the principal of and redemption premium, if applicable, and interest due and to become

due on said Bonds on and prior to the redemption date or maturity date thereof, as the case may be and (c) in the event said bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the City shall have given the Commission in form satisfactory to it irrevocable instructions to mail, as soon as practicable, a notice to the Registered Owners of such Bonds that the deposit required by (b) above has been made with the Commission and that said Bonds are deemed to have been paid in accordance with this Section 9.02 and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal of and redemption premium, if applicable, on said Bonds. Neither securities nor moneys deposited with the Commission pursuant to this Section 9.02 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 redemption premium, if applicable, and interest on said Bonds; Provided, That any cash received from such principal or interest payments on such securities deposited with the Commission, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and redemption premium, if applicable, and interest to become due on said Bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the City, as received by the Commission, free and clear of any trust, lien or pledge. For the purposes of this Section 9.02, securities shall mean and include only Government Obligations.

SECTION 9.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

SECTION 9.04. 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 happen, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the City Clerk and members of City Council were at all times when any actions in connection with this Ordinance occurred, and are, duly in office and duly qualified for such office.

SECTION 9.05. Effective Date. This Ordinance shall take effect after passage, public hearing, and otherwise in the manner prescribed by law.

ABBOTTE

EXHIBIT A

ESCROW AGREEMENT

This AGREEMENT, made and entered into as of the ____ day of _____, 199_, by and among THE CITY OF CHARLESTON, WEST VIRGINIA (hereinafter referred to as the "City"), the WEST VIRGINIA MUNICIPAL BOND COMMISSION (hereinafter referred to as the "Commission") and _____, Charleston, West Virginia, a national banking association having and exercising full and complete trust powers, duly organized and existing under the laws of the United States of America (hereinafter referred to as the "Escrow Trustee" or "Escrow Agent").

W I T N E S S E T H T H A T:

WHEREAS, the City, pursuant to Ordinance No. 1329, adopted on October 1, 1993 as supplemented and amended by Ordinance No. 1538, enacted on April 15, 1974 (the "Original Ordinance"), the City issued its Parking Revenue Bonds, Series A and Series B, dated June 1, 1974, in the original principal amount of $3,210,000, of which $2,075,000 is currently outstanding (the "1974 Bonds"); and pursuant to Ordinance No. 4063 of the City Council on July 21, 1986 (the "1986 Ordinance"; and collectively with the Original Ordinance, the "Prior Ordinance"), the City issued its Parking Revenue Bonds, Series 1976, dated August 26, 1986, in the original principal amount of $3,300,000, of which $2,890,000 is currently outstanding (the "1986 Bonds" and collectively with the 1974 Bonds, the "Prior Bonds");

WHEREAS, the Prior Bonds mature on the dates and bear interest at the rates set forth in Schedule A hereto;

WHEREAS, the City has determined to issue its Parking System Refunding Revenue Bonds, Series 1993 (the "Series 1993 Bonds"), pursuant to Ordinance No. ____ passed on _____, 1993, as supplemented by resolution adopted on _____, 1993, (the "Ordinance"), the proceeds of which will be used to refund the Prior Bonds;

WHEREAS, the City has made arrangements for the Escrow Trustee to purchase from the proceeds of the Series 1993 Bonds and other available moneys, the United States Treasury Obligations (the "Government Securities") described in Schedule B hereto, the principal of and interest on which, when due, without consideration of any reinvestment of such maturing principal and interest, together with cash to be deposited with the Escrow Trustee, will provide sufficient moneys to enable the Escrow Trustee to pay as the same shall become due and payable the interest to accrue on and

payment to mature all Prior Bonds to the respective dates of payment at maturity.

WHEREAS, the City has found it desirable to appoint the Escrow Trustee, and the Commission has agreed to such appointment, for the purposes of holding title, as trustee for the City, to the Government Securities, receiving payments of the principal thereof and interest thereon when due, disbursing to the paying agents such amounts as may be necessary to provide for payment of the Prior Bonds and the interest thereon when due, and holding and investing and reinvesting any cash balances which may at any time not be needed for immediate disbursement; and

WHEREAS, the Commission, at the request of the City, has taken all action necessary to appoint and designate _____, Charleston, West Virginia, as the Escrow Trustee to accomplish such purposes;

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and in order further to secure payment of the Prior Bonds, as heretofore provided, the parties hereto mutually undertake, promise and agree for themselves, their respective representatives, successors and assigns, as follows:

1. Receipt of true and correct copies of the Ordinance and the Prior Ordinances are hereby acknowledged by the Commission and the Escrow Trustee. Reference herein to or citation herein of any provisions of either the Prior Ordinances or the Ordinance shall be deemed to incorporate the same as a part hereof in the same manner and with the same effect as if the same were fully set forth herein.

2. There is hereby created and established with the Escrow Trustee a special and irrevocable trust fund designated the "The City of Charleston, West Virginia, Prior Parking System Revenue Bonds Escrow Fund (hereinafter referred to as the "Escrow Fund"), to be held in the custody of the Escrow Trustee, separate and apart from other funds of the City, the Commission or the Escrow Trustee. The deposit of investments or moneys in the Escrow Fund shall constitute an irrevocable deposit of said investments or moneys in trust for, and such moneys and the investments thereof, together with any income or interest earned thereon, shall be applied, except as otherwise provided herein, to, the payment of the principal of and interest on the Prior Bonds as the same become due and payable.

3. Concurrently with the delivery of the Series 1993 Bonds, the City shall deposit $_____ from the proceeds of sale of the Series 1993 Bonds, and $_____ from the sinking fund, including the reserve account therein, created and maintained on account of the Prior Bonds into the Escrow Fund with the Escrow Trustee (total deposit $_____), and the Escrow Trustee

shall apply $_____ to the purchase of the Government Securities described in Schedule B hereto and shall hold $_____ in cash. _____, _____, West Virginia, independent certified public accountants, have certified, in their letter dated _____, 1993, attached hereto as Schedule C, that the Government Securities, together with the income to be derived from the investment of the Government Securities and cash, will be sufficient to pay the principal of and interest on the Prior Bonds as the same become due and payable as described in the fifth recital hereto.

4. The Government Securities shall be credited to the Escrow Fund. The Escrow Trustee shall deposit any proceeds (whether principal, interest or otherwise) derived from the Government Securities in the Escrow Fund. Upon receipt of (a) an opinion of nationally recognized bond counsel that such substitution is permitted under the Prior Order and will not cause any of the Series 1993 Bonds to be "arbitrage bonds" as within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended and then in effect, or to be subject to treatment under subsection (c)(1) of said Section as an obligation not described in subsection (a) of said Section and (b) a verification of an independent certified public accountant that the substituted Government Securities are sufficient to pay the debt service, as it becomes due, on the Prior Bonds, the Escrow Trustee may substitute other United States Treasury Obligations for the Government Securities described in Schedule B hereto, provided that the yield of such United States Treasury Obligations being substituted must equal or exceed the yield of the Government Securities described in Schedule B hereto for which they are being substituted. Except as provided above, the Escrow Trustee shall have no power or duty to invest any moneys held hereunder or to make substitutions of the Government Securities hereunder, or to sell, transfer or otherwise dispose of Government Securities acquired hereunder.

5. The Escrow Trustee shall deposit directly with the paying agent or agents therefor, in immediately available funds, from the amounts held in the Escrow Fund on the dates set forth on Schedule A hereto the amounts required to comply with the payments of principal and interest on the Prior Bonds in accordance with the terms of the fifth recital hereto.

6. The holders of the Prior 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.

7. After the payment of all the Prior Bonds, and the interest thereon, the amounts remaining in the Escrow Fund shall be transferred to the Sinking Fund established under the Ordinance.

8. The Commission is not rendering any services under this Agreement and shall not be entitled to any fees under this

Agreement. The Escrow Trustee shall be responsible for all acts required of the Commission under the Prior Ordinance. Notwithstanding any provisions to the contrary in the Prior Ordinance, the Prior Bonds or other documents relating to the Prior Bonds, as of the date hereof, all responsibility and liability of the Commission for the Prior Bonds is terminated. All duties performed by the Commission for the Prior Bonds are terminated. All duties performed by the Commission as fiscal agent, whether assigned or assumed, including but not limited to, authorizing the publication of all optional and/or mandatory redemption notices, taking reasonable actions to reconcile statements of the paying agents for the Prior Bonds, handle lost coupon and bond inquiries, and other administrative matters, are henceforth assumed by the Escrow Trustee hereunder.

Concurrently with the delivery of the Series 1993 Bonds, the Escrow Trustee shall be paid its acceptance fee, first year fee and expenses incurred with respect to this Agreement. Future fees and expenses of the Escrow Trustee and the paying agents for the Prior Bonds shall be promptly paid by the City from the net revenues of the System described in the Ordinance as they accrue.

In no event, however, shall the Escrow Trustee or the paying agents have any lien whatsoever upon any of the moneys or Government Securities in the Escrow Fund, for the payment of such fees or expenses.

9. The City and the Escrow Trustee 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 1993 Bonds to be "arbitrage bonds" as defined in Section 148 of the Internal Revenue Code of 1986, as amended.

10. Neither the Commission nor the Escrow Trustee shall have any responsibility in respect of the validity or sufficiency of this Agreement. The liability of the Escrow Trustee for the payment of the principal of and the interest on the Prior Bonds shall be limited to the application of the moneys and Government Securities available for such purposes in the Escrow Fund. Neither the Commission nor the Escrow Trustee shall be liable or responsible because of the failure of the City to perform any act required of it by this Agreement or because of the loss of any moneys arising through the insolvency or the act or default or omission of any depository, other than the Escrow Trustee, in which such moneys shall have been deposited.

11. If any outstanding Prior Bonds or coupons are not presented for payment when due, and moneys are held by the Escrow Trustee for payment thereof but not including any funds held by the paying agent for the Prior Bonds, such moneys shall be held for such purposes for a period of six (6) years from the date such

payment was due, at which time such moneys shall be paid to the City. Prior to such repayment by the Escrow Trustee to the City, the Escrow Trustee shall notify the national securities depository, if any, or any similar organization that said moneys remain unclaimed and that after a date named in said notice, which date shall be the date of such repayment and shall not be less than thirty (30) days after the date of such notice, such moneys shall be paid to the City as its absolute property and free from trust. The City shall pay any costs incurred with respect to such notice.

12. Concurrently with the execution of this Agreement and the defeasance of the lien of the Prior Bonds, the Commission, at the express direction of the City, shall pay from the funds held by it in the respective sinking funds, including the reserve accounts therein, created and maintained under the Prior Ordinances the sum of $_____ into the Escrow Fund, and the City will cause $_____ to be deposited into the Escrow Fund for the simultaneous purchase of Government Securities by the Escrow Trustee.

13. 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.

14. Whenever it shall be required hereunder to redeem Prior Bonds, as set out in the fifth recital to this Agreement and Schedule A hereto, the Escrow Trustee shall be responsible for the preparation, publication and mailing of the notice of redemption in accordance with the provisions of the Prior Ordinance. The costs of any required publication and mailing of any notice of redemption shall be paid by the City and under no circumstance shall the Escrow Trustee have any claim on moneys on deposit in the Escrow Fund for payment of such costs, but shall look solely to the City for such payment. The Escrow Trustee shall act on behalf of the City in the conduct of the proceedings for the redemption of the outstanding bonds to be redeemed in accordance with the Prior Ordinance.

15. 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.

16. This Agreement is made in the State of West Virginia under the Constitution and laws of such State and is to be so construed.

17. This Agreement shall terminate on the earlier of the date on which all the outstanding Prior Bonds have been paid and discharged in accordance with the respective provisions of the Prior Ordinance or, as described in Paragraph 11, above, six (6) years after the last date on which payment on the Prior Bonds is due. Government Securities in the Escrow Fund shall be transferred as provided in Paragraph 7 hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

THE CITY OF CHARLESTON, WEST VIRGINIA

By _____
Its Mayor

WEST VIRGINIA MUNICIPAL BOND COMMISSION

By _____
Its Executive Director

_____

By _____
Its _____

SCHEDULE A

Series 1974

Maturity Date	Principal Amount	Interest Rate

Series 1986

Maturity Date	Principal Amount	Interest Rate

SCHEDULE B

United States Treasury
Certificate of Indebtedness

SCHEDULE C

NOTICE OF REDEMPTION

THE CITY OF CHARLESTON, WEST VIRGINIA

PARKING REVENUE BONDS, SERIES 1986

DATED _____ 1, 1993

TO: _____ CUSIP No. _____

_____

_____

Please be advised that all the above-referenced Bonds maturing _____ have been refunded with the proceeds of The City of Charleston, West Virginia, Parking Refunding Revenue Bonds, Series 1993 and will be redeemed on _____, 1993.[1] Such Bonds must be presented for payment on such date at the principal office of _____, Charleston, West Virginia _____. On such date such Bonds shall be deemed paid, and interest on such Bonds shall cease to accrue.

Dated this _____ day of _____, 1993.

THE CITY OF CHARLESTON

By _____
Mayor

---

[1] Said date shall be within 20 days of the issuance of said Series 1993 Bonds.

SCHEDULE D

NOTICE OF REDEMPTION

THE CITY OF CHARLESTON, WEST VIRGINIA

PARKING REVENUE BONDS, SERIES A (B)

DATED _____ 1, 1993

TO: _____ CUSIP No. _____
_____
_____

Please be advised that all the above-referenced Bonds maturing _____ have been refunded with the proceeds of The City of Charleston, West Virginia, Parking Refunding Revenue Bonds, Series 1993 and will be redeemed on _____, 1993.[1] Such Bonds must be presented for payment on such date at the principal office of _____, _____, Charleston, West Virginia _____. On such date such Bonds shall be deemed paid, and interest on such Bonds shall cease to accrue.

Dated this _____ day of _____, 1993.

THE CITY OF CHARLESTON

By _____
Mayor

---

[1] Said [illegible] 20 days of the issuance of said Series 1993 [illegible]

EXHIBIT B

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
THE CITY OF CHARLESTON

PARKING REFUNDING REVENUE BOND, SERIES 1993

R - _____

Interest Rate: Maturity Date: Bond Date: Cusip:

Registered Owner: _____,

Principal Amount: $

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF CHARLESTON, a municipal corporation organized and existing under the laws of the State of West Virginia (the "City"), for value received hereby promises to pay, solely from the special fund provided therefor, as hereinafter set forth, to the Registered Owner set forth above, on the Maturity Date set forth above, the Principal Amount set forth above, and solely from such special fund also to pay interest on said sum from the date of authentication hereof at the Interest Rate set forth above, semiannually, on the first day of June and the first day of December in each year, except as the provisions hereinafter set forth as to redemption may become applicable hereto. The Principal Amount of this Bond is payable in any coin or currency which, on the date of payment thereof, 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 through _____, Charleston, West Virginia, as Registrar and Paying Agent (the "Registrar"), and the interest on this Bond is payable by check or draft mailed to the Registered Owner at his address as it appears on the bond register of the Registrar (the "Bond Register") on the 15th day of the month prior to the said interest payment date (the "Record Date").

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS BOND SET FORTH ON THE REVERSE HEREOF, WHICH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF SET FORTH HEREIN.

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 exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of said City, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia, and that a sufficient amount of the net revenues of the parking system of the City has been pledged to and will be set aside into said special fund by said City for the prompt payment of the principal of and interest on this Bond and the issue of which it is one.

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

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

_____

MAYOR

[SEAL]

ATTEST:

_____

CITY CLERK

CERTIFICATE OF AUTHENTICATION
AND REGISTRATION

This Bond is one of the Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the Registered Owner set forth above.

Date of Authentication:

_____,
as Registrar

By_____
Its Authorized Officer

(REVERSE OF BOND)

This Bond is one of an authorized issue of bonds in the aggregate principal amount of _____ Dollars ($_____) the "Bonds"), of like date and of like tenor and effect, except as to number, interest rate and date of maturity, issued for the purpose of refunding and redeeming prior to maturity certain outstanding The City of Charleston Parking Revenue Bonds, Series 1974, dated June 1, 1974 and The City of Charleston Parking Revenue Bonds, Series 1986, dated August 26, 1986 (the "Prior Bonds"), under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 12, and Chapter 13, Article 2E, of the Code of West Virginia, 1931, as amended (the "Act"), and Ordinance No. ____, duly passed by the Council of the City on the _____ day of _____, 1993 (the "Ordinance"), and is subject to all the terms and conditions of said Ordinance. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally with the Bonds.

The Bonds are payable only from and secured by a shared first lien on the net revenues to be derived from the operation of the parking system of the City, which net revenues shall be sufficient to pay the principal of, and interest on, all bonds which may be issued for the construction, acquisition, extension or betterment of such parking system as and when the same become due and payable, and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, nor shall said City be obligated to pay the same or the interest hereon except from said special fund provided from the net revenues from the operation of said parking system. The City in said Ordinance has covenanted and agreed to fix and establish and maintain such rates and collect such fees, rentals or other charges for the service and facilities of said parking system, and to revise the same from time to time whenever necessary, as will always provide revenues in each fiscal year sufficient to pay one hundred twenty-five per centum (125%) of the largest amount of principal and interest which will mature and become due on the Bonds payable from the net revenues then outstanding in any succeeding fiscal year, in addition to paying, as the same shall become due, the necessary expenses of repair (including replacement), maintenance and operation of said parking system during such fiscal year, and all obligations payable out of the net revenues of said parking system during such fiscal year, and that such rates, fees, rentals or other charges shall not be reduced so as to be insufficient to provide adequate revenues for such purposes, and said City has entered into certain further covenants with the registered owners of the bonds for the terms of which reference is made to said Ordinance.

Subject to the registration requirements, this Bond is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia but may be transferred only upon the surrender hereof at the office of the Registrar and otherwise as provided by the Ordinance.

All moneys received from the sale of this Bond and other bonds of the issue of which this Bond is one, shall be applied solely to refund and redeem the Prior Bonds and to pay all costs in connection therewith 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 owner or owners of said bonds.

[FORM OF ASSIGNMENT]

THE CITY OF CHARLESTON, WEST VIRGINIA

PARKING SYSTEM REFUNDING ORDINANCE

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EXHIBIT A - Escrow Agreement
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The question being on the passage of the bill a roll call was taken and there were--yeas 26, nays 0 and absent 1 as follows:

YEAS: Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: Armbrecht.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 4955 passed.

7. Your Committee on Finance has had under consideration Resolution No. 613-93, authorizing the Finance Director to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 613-93--"Authorizing the Finance Director to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Finance Director is hereby authorized and directed to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

Budget amendment #1 (Fiscal 1993-94)
Resolution 613-93
Passed May 3, 1993

To provide for raises to certain employees starting July 1, 1993

Acount number	Account	Increase (Decrease)
1-422-0-0-1-3	Chance	3,133
1-422-0-0-1-4	FICA	240
1-422-0-0-1-6	Retirement	298
1-422-0-0-1-9	Health care withholding	(31)
1-422-0-0-2-26	Worker's Comp. and Unempl. Comp	149
1-530-0-0-1-3	Scott (PG-2 to G-3)	3,756
1-530-0-0-1-3	Net adjustment	(3,756)
1-540-0-0-1-3	Simmons	5,745
1-540-0-0-1-4	FICA	439
1-540-0-0-1-6	Retirement	546
1-540-0-0-1-9	Health care withholding	(57)
1-540-0-0-2-26	Worker's Comp. and Unempl. Comp	273
1-540-35-0-1-3	Marks	3,915
1-540-35-0-1-4	FICA	299
1-540-35-0-1-6	Retirement	372
1-540-35-0-1-9	Health care withholding	(39)
1-540-35-0-2-26	Worker's Comp. and Unempl. Comp	186
1-570-0-0-1-3	Thaxton	3,915
1-570-0-0-1-4	FICA	299
1-570-0-0-1-6	Retirement	372
1-570-0-0-1-9	Health care withholding	(39)
1-570-0-0-2-26	Worker's Comp. and Unempl. Comp	186
1-573-0-0-1-3	Copley	4,382
1-573-0-0-1-4	FICA	335
1-573-0-0-1-6	Retirement	416
1-573-0-0-1-9	Health care withholding	(44)
1-573-0-0-2-26	Worker's Comp. and Unempl. Comp	208
1-579-0-0-1-3	Carey (G-2 to G-5)	3,382
1-579-0-0-1-4	Net adjustment	(3,382)
1-603-0-0-1-3	Berkley	2,908
1-603-0-0-1-4	FICA	222
1-603-0-0-1-6	Retirement	276
1-603-0-0-1-9	Health care withholding	(29)
1-603-0-0-2-26	Worker's Comp. and Unempl. Comp	138
1-570-0-0-4-58	Special projects	(25,498)
		3,515
1-360-0-9004	Community Development	3,515

23095.405

Department	Name	Present	Proposed At old rates	Proposed at new rates	Amount in Budget	Change	FICA	Retir.	Wkr's. Comp.	Hosp. W/H	Special Projects	MOECD
603	Berkley	18,728	21,537	22,841	19,933	2,908	222	276	138	(29)		3,515
579	Carey	21,783	25,050	26,477	23,095	3,382						
422	Chance	25,222	28,249	29,788	26,655	3,133	240	298	149	(31)	3,789	
573	Copley	28,228	32,462	34,148	29,766	4,382	335	416	208	(44)	5,297	
540 -35	Marks	25,222	29,005	30,570	26,655	3,915	299	372	186	(39)	4,733	
530	Scott	15,099	18,728	19,933	16,177	3,756						
540 -0	Simmons	36,900	42,458	44,494	38,749	5,745	439	546	273	(57)	6,946	
570	Thaxton	25,222	29,005	30,570	26,655	3,915	299	372	186	(39)	4,733	
						31,136	1,834	2,280	1,140	(239)	25,498	3,515

The question being on the adoption of the resolution a roll call was taken and there were--yeas 10, nays 16 and absent 1 as follows:

YEAS: Broady, Brown, Cary, Horan, Londeree, McMillen, Morrison, Thompson, Wright and Mayor Hall.

NAYS: Connell, Dodson, Hicks, Holt, Huffman, Lane, Layne, McClaskie, Mohler, Monroe, Nielsen, Quick, Robinson, Snodgrass, Vanderwilt and Wampler.

ABSENT: Armbrecht.

So, a majority of members present and voting having voted in the negative, the Mayor declared Resolution No. 613-93 failed.

8. Your Committee on Finance has had under consideration Resolution No. 615-93, authorizing the Mayor to sign Change Order No. 1 with McClanahan Construction in the amount of $30,001 for Curb, Gutter and Sidewalk Restoration in Community Development eligible areas. The change order brings the total contract price for this project from $169,999 to $200,000; to be charged to Account No. 25-092-00-032, CD--Curbs, Sidewalks & Steps.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 615-93--"Authorizing the Mayor to sign Change Order No. 1 with McClanahan Construction in the amount of $30,001 for Curb, Gutter and Sidewalk Restoration in Community Development eligible areas."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to sign Change Order No. 1 with McClanahan Construction in the amount of Thirty Thousand One Dollar ($30,001) for Curb, Gutter and Sidewalk Restoration in Community Development eligible areas. The change order brings the total contract price for this project from One Hundred Sixty-nine Thousand Nine Hundred Ninety-nine (169,999) to Two Hundred Thousand Dollars ($200,000).

The question being on the adoption of the resolution a roll call was taken and there were--yeas 26, nays 0 and absent 1 as follows:

YEAS: Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: Armbrecht.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 615-93 adopted.

9. Your Committee on Finance has had under consideration Resolution No. 616-93, authorizing and directing the Mayor of the City of Charleston to acquire, without cost to the City, a 60-foot right-of-way from the State of West Virginia for dedication to a public right-of-way for access to the relocated Charleston Job Corps Center.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 616-93--"Authorizing and directing the Mayor of the City of Charleston to acquire, without cost to the City of Charleston, right-of-way from the State of West Virginia for dedication to a public right-of-way for access to the relocated Job Corps Center."

WHEREAS, in order for the City to have a 60 foot street right-of-way for a public street to the relocated Charleston Job Corps Center from existing public streets or roadways; and,

WHEREAS, a request has been made by the City of Charleston to the West Virginia Department of Highways for conveyance of said right-of-way, presently owned by the Department of Highways, to the City of Charleston at fair market value; and,

WHEREAS, Corotoman, Inc., grantor of the real estate to be conveyed to the United States Department of Labor for the purchase of the land for the relocation of the Charleston Job Corps Center, has agreed to pay all costs in connection with the acquisition and transfer of said right-of-way for said purpose; therefore,

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor of the City of Charleston is hereby authorized and directed to acquire, without cost to the City, said right-of-way and to convey said right-of-way for the purpose of establishing said 60 foot right-of-way for dedication for use as a public street and right-of-way.

The question being on the adoption of the resolution a roll call was taken and there were--yeas 26, nays 0 and absent 1 as follows:

YEAS: Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: Armbrecht.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 616-93 adopted.

10. Your Committee on Finance has had under consideration Resolution No. 620-93, finding that Ordinance No. 4954 was passed by the Council of the City of Charleston, WEst Virginia, on May 3, 1993, supplementing Ordinance No. 4828, as supplemented and amended, and calling for a public hearing on May 17, 1993.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 620-93--A Resolution finding that Ordinance No. 4954 was passed by the Council of the City of Charleston, West Virginia, on May 3, 1993, supplementing Ordinance No. 4828, as supplemented and amended, entitled "An Ordinance placing the custody, operation, maintenance, supervision and control of the sewer system of the City of Charleston, and all betterments thereof and extensions thereto, in the Sanitary Board of the City of Charleston; authorizing the construction and acquisition of certain additions, extensions and improvements to said system; providing for the financing of such additions, extensions and improvements by the issuance of revenue bonds; providing for the establishment and collection of rates or charges for the use of said system and works and for the service rendered thereby and for the application of the proceeds of such rates or charges to the operation, repair , replacement and maintenance of such system and works and to a sinking fund for the payment of said revenue bonds and the interest thereon, all as provided by Chapter 25 of the Acts of the Legislature of West Virginia, Extraordinary Session of 1933, as amended" and enacted by the Council

of the City of Charleston on the 8th day of July, 1952; authorizing the refunding of certain outstanding sewerage system revenue bonds of the City of Charleston, West Virginia, authorizing the defeasance of certain outstanding sewerage system revenue bonds of the City of Charleston, West Virginia; authorizing the issuance of two separate series of sewerage system revenue bonds of said City of Charleston in the aggregate principal amount of not to exceed $10,000,000, which, along with other funds and moneys of, or available to, the City of Charleston may be lawfully expended for such purpose, to make provision for such refunding and to fund the costs of acquiring and constructing certain extensions, betterments and improvements to said system, fund a reserve account for such bonds and pay other costs in connection therewith; amending and superseding certain existing ordinances of the City of Charleston relating to sewerage system revenue bonds of the City of Charleston; providing for the rights and remedies of and security for the holders of such bonds, and adopting other provisions related thereto, "; authorizing the acquisition and construction of certain extensions, additions, betterments and improvements to the sewerage system of the City of Charleston; authorizing the issuance of not more than $2,500,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more additional series as may be required, of said the City of Charleston to be used, along with other funds and moneys of, or available to, The City of Charleston which may be lawfully expended for such purposes, to finance the cost of such acquisition and construction, to fund reserve accounts for such bonds, to provide for capitalized interest during construction and to pay other costs in connection therewith; and adopting other provisions related thereto, all as more fully set out therein; finding that an abstract of said Ordinance, together with a notice that said Ordinance has been adopted and that the City of Charleston contemplates the issuance of sewerage system revenue bonds to finance the acquisition and construction of the extensions, betterments and improvements to the sewerage system, all as described in said Ordinance, and that any person interested may appear before the Council of the City of Charleston upon a certain date and present protests, must be published, reviewing the abstract prepared on behalf of the City Clerk and determining that such abstract contains sufficient information as to give notice of the contents of said Ordinance; and directing the publication of such abstract, together with said notice.

WHEREAS, the Council (the "Council") of the City of Charleston, West Virginia (the "City"), on May 3, 1993, adopted Ordinance No. 4954 supplementing an Ordinance entitled "An Ordinance placing the custody, operation, maintenance, supervision and control of the sewer system of the City of Charleston, and all betterments thereof and extensions thereto, in the Sanitary Board of the City of Charleston; authorizing the construction and acquisition of certain additions, extensions and improvements to said system; providing for the financing of such additions, extensions and improvements by the issuance of revenue bonds; providing for the establishment and collection of rates or charges for the use of said system and works and for the service rendered thereby and for the application of the proceeds of such rates or charges to the operation, repair, replacement and maintenance of such system and works and to a sinking fund for the payment of said revenue bonds and the interest thereon, all as provided by Chapter 25 of the Acts of the Legislature of West Virginia, Extraordinary Session of 1933, as amended" and enacted by the Council of the City of Charleston on the 8th day of July, 1952; authorizing the refunding of certain outstanding sewerage system revenue bonds of the City of Charleston, West Virginia; authorizing the defeasance of certain outstanding sewerage system revenue bonds of the City of Charleston, West Virginia; authorizing the issuance of two

separate series of sewerage system revenue bonds of said City of Charleston in the aggregate principal amount of not to exceed $10,000,000, which, along with other funds and moneys of, or available to, the City of Charleston may be lawfully expended for such purpose, to make provision for such refunding and to fund the costs of acquiring and constructing certain extensions, betterments and improvements to said system, fund a reserve account for such bonds and pay other costs in connection therewith; amending and superseding certain existing ordinances of the City of Charleston relating to sewerage system revenue bonds of the City of Charleston; providing for the rights and remedies of and security for the holders of such bonds, and adopting other provisions related thereto,"; authorizing the acquisition and construction of certain extensions, additions, betterments and improvements to the sewerage system of the City of Charleston (the "Project"); authorizing the issuance of not more that $2,500,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more additional series as may be required, of said The City of Charleston to be used, along with other funds and moneys of, or available to, The City of Charleston which may be lawfully expended for such purposes, to finance the cost of such acquisition and construction, to fund reserve accounts for such bonds, to provide for capitalized interest during construction and to pay other costs in connection therewith; and adopting other provisions related thereto, all as more fully set out therein (said Ordinance No. 4954 is hereinafter referred to as the "Ordinance"); and

WHEREAS, capitalized terms used and not defined herein shall have the meaning set forth in the Ordinance; and

WHEREAS, Chapter 16, Article 13, Section 6 of the Code of West Virginia, 1931, as amended (the "Act") requires that an abstract of the Ordinance, together with a notice that the Ordinance has been adopted, that the City contemplates the issuance of the sewerage system revenue bonds and the acquisition and construction of the Project, all as described in the Ordinance and that any person interested may appear before the Council upon a certain date and present protests, be published; and

WHEREAS, the Act further requires that such abstract of the Ordinance be determined by the Council to contain sufficient information to give notice of the contents of the Ordinance; and

WHEREAS, the City Clerk presented to this meeting an abstract of the Ordinance (the "Abstract"), together with a notice as described above (the "Notice"), as hereinafter set forth; and

WHEREAS, the Council of the City has reviewed the Abstract and has found and determined that such Abstract contains sufficient information as to give notice of the contents of the Ordinance;

Now, Therefore, Be it Resolved by the Council of the City of Charleston, West Virginia, as Follows:

1) It is hereby found and determined that the Ordinance was duly adopted by the Council at its regular meeting held on May 3, 1993, and that the Act requires that the Abstract, together with the Notice, be published.

2) The Abstract, together with the Notice, as prepared on behalf of the City Clerk, in the following form and substance, contains sufficient information as to give notice of the contents of the Ordinance:

Notice is hereby given to any person interested that on May 3, 1993, the Council of the City of Charleston, West Virginia (the "City"), adopted an Ordinance that:

1. Determined it is necessary and desirable for the health, welfare and safety of the inhabitants of the City to acquire and construct certain extensions, additions, betterments and improvements (the "Project") to the sewerage system (the "System") in order to preserve the public health, to be financed through the issuance of Sewerage System Revenue Bonds (the "Series 1993 Bonds") in the aggregate principal amount of not more than $2,500,000.

2. Provided for the sale of the Series 1993 Bonds to the West Virginia Water Development Authority (the "Authority") through the West Virginia Water Pollution Control Revolving Fund Program (the "Program") pursuant to the terms and provisions as will be prescribed in a supplemental resolution of the Council.

3. Directed that the Series 1993 Bonds be issued as fully registered bonds to the Authority; be dated as of the date of delivery thereof; mature on such dates in such years, not exceeding twenty-one (21) years after the date of issuance and in such amounts as will be prescribed by supplemental resolution of Council; provided that the Series 1993 Bonds shall bear interest at the rate per annum not to exceed the maximum legal limit, payable quarterly, on March 1, June 1, September 1 and December 1 of each year following the delivery of the Series 1993 Bonds; that the Series 1993 Bonds be executed in the name of the City by the Mayor, and the seal of the City be affixed thereto and attested to by the City Clerk; and that said Series 1993 Bonds be duly authenticated by the registrar.

4. Authorized and continuation of the Revenue Fund, the Renewal and Replacement Fund and the Costs of Issuance Account; provided for the monthly payment of principal and interest on the Series 1993 Bonds; and provided for the creation of reserve accounts for the Series 1993 Bonds.

5. Provided for the disposition of the Series 1993 Bonds proceeds; created a construction trust fund to hold the monies derived from the sale of the Series 1993 Bonds to be used solely to pay costs of the Project.

6. Provided that the Series 1993 Bonds shall not be or constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter limitation of indebtedness but shall be payable solely from the Revenues of the System.

7. Provided that the Series 1993 Bonds shall be secured equally and ratably with each other by a first lien on the Revenues of the System which lien is on a parity with the lien of certain outstanding bonds of the City and superior to the lien of certain outstanding bonds of the City.

8. Provided that the rates and charges for the System shall produce gross revenues sufficient to pay all reasonable operating expenses of the System and leave a balance each year equal to at least 110% of the maximum annual debt service on the Series 1993 Bonds and all obligations of the City prior to or on a parity with the Series 1993 Bonds, payable from Revenues of the System.

The City contemplates the issuance of the Series 1993 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 Charleston at a meeting thereof at eight o'clock (8:00) p.m., prevailing time, on Monday, May 17, 1993, in the Council Chambers in the City Building, Virginia Street, East, Charleston, West Virginia, and present protests and be heard as to whether the Ordinance shall be put into effect.

A certified copy of the Ordinance, as adopted by the Council of the City on May 3, 1993, is on file in the Office of the City Clerk of the City for review by interested persons during the regular office hours of such office, to-wit: 8:00 a.m. to 5:00 p.m., Mondays through Fridays.

James C. Stucky,
City Clerk of the City
of Charleston, West Virginia

3) The City Clerk, as provided in the Notice, shall maintain in his office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office.

4) The Council of the City, as provided in the Notice, shall meet on May 17, 1993, at 8 p.m., in Council Chambers in the City Building, for the purpose of hearing all objections and suggestions regarding whether the Ordinance shall be put into effect.

5) The City Clerk is hereby authorized and directed to cause the Abstract, together with the Notice, to be published as a Class II legal advertisement in the Charleston Gazette and the Charleston Daily Main, two newspapers of general circulation in the City, and the first publication of such Abstract and Notice shall be not less than ten days before the date set aforesaid at which interested persons may appear before the Council of the City and present protests, and the last publication of such Abstract and Notice shall be prior to said date set aforesaid.

6) At such hearing, all objections and suggestions shall be heard, and the Council of the City shall take such action as it shall deem proper in the premises; provided, however, that, if at such hearing written protest is filed by thirty percent (30%) or more of the owners of real estate situate in the City, then the Council of the City shall not take further action unless four-fifths (4/5) of the qualified members of said Council assent thereto.

7) This Resolution shall take effect immediately upon adoption.

The question being on the adoption of the resolution a vote was taken. There being no dissent, with the exception of Councilman Monroe, the Mayor declared Resolution No. 620-93 adopted.

11. Your Committee on Finance has had under consideration Resolution No. 621-93, finding that Ordinance No. 4955 was duly passed by the Council of the City of Charleston at a regualr meeting on May 3, 1993, and that the Act requires the Abstract, together with the Notice, to be published, and calling for a public hearing on May 17, 1993.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 621-93--"Finding that Ordinance No. 4955 was passed by the Council of the City of Charleston, West Virginia, on May 3, 1993, entitled "An Ordinance authorizing the redemption prior to maturity of the outstanding Parking Revenue Bonds, Series A and Series B and Parking Revenue Bonds, Series 1986 of the City of Charleston; providing for the issuance of the City of Charleston Parking System Refunding Revenue Bonds, Series 1993, in an aggregate principal amount not to exceed $6,000,000 to provide for such refunding and redemption; making provisions for such refunding, funding the reserve account and paying the cost in connection therewith; determining the denominations; establishing registration and payment procedures; continuing the Parking Facilities Committee; providing for the rights and remedies of and the security for the registered owners of such bonds and enacting other provisions with respect to such bonds," all as more fully set out therein; finding that an abstract of said ordinance, together with a notice specifying a date, time and place for a public hearing at which time and place all interested persons may appear before the Council of the City of Charleston and may be heard as to whether or not said ordinance shall be put into effect and identifying the office in which a certified copy of such ordinance shall be on file for review by interested persons during the office hours of such office, must be published; reviewing the abstract prepared on behalf of the City Clerk and determining that such abstract contains sufficient information as to give notice of the contents of said ordinance; and directing the publication of such abstract, together with said notice.

WHEREAS, the Council of the City of Charleston, West Virginia (the "City"), this day passed an ordinance (the "Ordinance"), authorizing the redemption prior to maturity of the outstanding Parking Revenue Bonds, Series A and Series B and Parking Revenue Bonds, Series 1986 of the City of Charleston; providing for the issuance of the City of Charleston Parking System Refunding Revenue Bonds, Series 1993, in an aggregate principal amount not to exceed $6,000,000 (the "Series 1993 Bonds") to provide for such refunding and redemption; making provisions for such refunding, funding the reserve account and paying the cost in connection therewith; determining the denominations; establishing registration and payment procedures; continuing the Parking Facilities Committee; providing for the rights and remedies of and the security for the registered owners of such bonds and enacting other provisions with respect to the Series 1993 Bonds of the City, all as more fully set out therein; and

WHEREAS, Chapter 8, Article 16, Section 7 of the Code of West Virginia, 1931, as amended (the "Act"), requires that an abstract of the Ordinance, together with a notice specifying a date, time and place for a public hearing at which time and place all interests may appear before the Council of the City of Charleston and may be heard as to whether or not the Ordinance shall be put into effect and identifying the office in which a certified copy of the Ordinance shall be on file for review by interested persons during the office hours of such office, be published; and

WHEREAS, the Act further requires that such abstract of the Ordinance be determined by the Council of the City to contain sufficient information as to give notice of the contents of the Ordinance; and

WHEREAS, the City Clerk presented to this meeting an abstract of the Ordinance (the"Abstract"), together with a notice as described above (the "Notice"), as hereinafter set forth; and

WHEREAS, the Council of the City has reviewed the Abstract and has found and determined that the Abstract contains sufficient information as to give notice of the contents of the Ordinance;

Now, Therefore, Be it Resolved by the Council of the City of Charleston, West Virginia, as follows:

(1) It is hereby found and determined that the Ordinance was duly passed by the Council of the City at a regular meeting on May 3, 1993, and that the Act requires the Abstract, together with the Notive, to be published.

(2) The Abstract, together with the Notice, as prepared on behalf of the City Clerk in the following form and substance:

> Notice is hereby given to any person interested that on May 3, 1993, the Council of the City of Charleston, West Virginia (the "City"), passed an ordinance (the "Ordinance") which

1. Found that the City now owns, maintanins and operates on-street and off-street parking facilities within the City (the "Parking System") and that the acquisition and construction of certain portions thereof were permanently financed, along with funds from other sources therefor, with the proceeds of $3,210,000 in aggregate principal amount of the City's Parking Revenue Bonds, Series A and B, dated June 1, 1974 and $3,300,000 of the City's Parking Revenue Bonds, Series 1986 (collectively referred to as the "Prior Bonds").

2. Authorized The City of Charleston Parking System Refunding Revenue Bonds, Series 1993 (the "Series 1993 Bonds") in an aggregate principal amount not to exceed $6,000,000 to be issued for refunding and redeeming prior to maturity the Prior Bonds.

3. Determined that the City derives revenues from the Parking System, and said revenues are not pledged or encumbered in any manner, except for the Prior Bonds, which Prior Bonds will be refunded and redeemed with the proceeds of the Series 1993 Bonds.

4. Determining that the estimated net revenues to be derived in each year hereafter from the operation of the Parking System will be sufficient to pay all of the cost of the operation and maintenance of the Parking System, the principal of and interest on the Series 1993 Bonds as the same become due, and all sinking fund, reserve and other payments provided for in the ordinance.

5. Found that it is in the best interests of the City that the Series 1993 Bonds be sold to Wheat, First Securities, Inc. and Ferris, Baker Watts, Incorporated (the "Original Purchasers").

6. Authorized that the Prior Bonds outstanding as of the date of issuance of the Series 1993 Bonds be refunded and redeemed and the lien of said Prior Bonds and the statutory mortgage lien created on behalf of those Prior Bonds, be terminated, discharged and released upon the payment into an excrow fund (the "Escrow Fund") from the proceeds of the Series 1993 Bonds an amount sufficient together with moneys already on deposit therein, to pay the redemption price of the Prior Bonds and interest accrued thereon to maturity or the first applicable redemption date.

7. Directed that simultaneously with the issuance of the Series 1993 Bonds, the Mayor shall give notice of redemption of the Prior Bonds.

8. Directed that the moneys in the Escrow Fund be held irrevocably in trust for the owners of the Prior Bonds and be invested in government obligations until used to redeem or pay the Prior Bonds.

9. Directed that the Series 1993 Bonds shall be executed in the name of the City by the Mayor, the seal of the City shall be affixed thereto or imprinted thereon and attested by the City Clerk; and that said Bonds shall be duly authenticated by the Registrar.

10. Directed that the Registrar shall authenticate, register and deliver the Series 1993 Bonds to the Original Purchaser as described in the Ordinance.

11. Covenanted to maintain rates and collect charges for the Parking Ststem as will always provide revenues in each fiscal year at least sufficient to pay 125% of the largest amount of principal of and interest due on the Series 1993 Bonds in any succeeding fiscal year in addition to paying, as the same becomes due, the necessary expenses of repair, maintenance and operation of the Parking System in each fiscal year and all other obligations payable out of revenues of the Parking System in such fiscal year.

12. Provided for the investment of the Bond proceeds and limitations thereon; provided for covenants against making the Bonds "arbitrage bonds."

13. Provided that the Parking Facilities Committee be continued under the ordinance.

14. Established the terms for defaults and the remedies of the owners of the Series 1993 Bonds.

Any person interested, and all parties and interest, may appear before the Council of the City at a meeting thereof at 8:00 p.m. on May 17, 1993, in Council Chambers, City Hall, Virginia Street, E., Charleston, West Virginia and be heard as to whether the above-described Ordinance shall be put into effect.

A certified copy of the Ordinance as passed by the Council of the City on May 3, 1993, is on file in the office of the City Clerk, located at City Hall, for review by interested persons during the regular office hours of such office, to-wit: 8:00 a.m. and 5:00 p.m. Mondays through Fridays.

James C. Stucky
City Clerk of the City
of Charleston, West Virginia

contains sufficient information as to give notice of the contents of the ordinance.

(3) The City Clerk, as provided in the Notice, shall maintain in his office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office.

(4) The Council of the City, as provided in the Notice, shall meet on May 17, 1993, at 8:00 p.m. in Council Chambers in City Hall for the purpose of hearing all objections and suggestions regarding whether the Ordinance shall be put into effect.

(5) The City Clerk is hereby authorized and directed to cause the Abstract, together with the Notice, to be published as a Class II legal advertisement in the Charleston Daily Mail and the Charleston Gazette, newspapers of general circulation in the City, and the first publication of such Abstract and Notice shall be not less than ten (10) days before the date set aforesaid at which interested persons may appear before the Council of the City and be heard, and the last publication of such Abstract and Notice shall be prior to said date set aforesaid.

(6) At such hearing, all objections and suggestions shall be heard, and the Council of the City shall take such actions as it shall deem proper in the premises; provided, however, that if at such hearing written protest is filed by thirty percent (30%) or more of the freeholders of the City, then the Council of the City shall not take further action unless four-fifths (4/5) of the members of said Council assent thereto.

(7) This resolution shall take effect immediately upon adoption .

The question being on the adoption of the resolution a vote was taken. There being no dissent, with the exception of Councilman Monroe, the Mayor declared Resolution No. 621-93 adopted.

12. Your Committee on Finance has had under consideration payment of an invoice from Guyan Machinery, in the amount of $3,000, for repair of the wheels on the 826-C compactor used at the Landfill; to be charged to Account No. 01-532-0-0-2-16, Landfill--Maintenance & Repair/Equipment.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

13. Your Committee on Finance has had under consideration payment of an invoice from Contech Construction Products, Inc., in the amount of $6,786.80, for a specially designed arch for the culvert on Porter Road; to be charged to Account No. 24-570-0-0-4-58, Coal Severance-Street, Capital Outlay--Special Projects, Street & Slip Repair.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

14. Your Committee on Finance has had under consideration payment of an invoice from West Virginia Tractor Company, in the amount of $2,001.86, for the repair of street sweeper; to be charged to Account No. 01-570-0-0-2-16, Street Department--Maintenance and Repair/Equipment.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

15. Your Committee on Finance has had under consideration payment of an invoice from West Virginia Uniforms, in the amount of $3,280.35, for various items related to the uniform of Neighborhood Assistance Officers working out of the Police Department; to be charged to Account No. 23-299-0-0-3-45, Police/Support Services, Uniforms.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

16. Your Committee on Finance has had under consideration payment of an invoice from Lewis, Friedberg, Glasser, Casey & Rollins, in the amount of $1,387.34, for professional services rendered relating to Landfill disposal costs; to be charged to Account No. 01-532-0-0-2-23, Landfill--Professional Services.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of teh committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

17. Your Committee on Finance has had under consideration payment of an invoice from Bowles, Rice, McDavid, Graff & Love, in the amount of $1,458.17, for professional services rendered through March 31, 1993, for the Police Civil Service Commission regarding 1992 new recruits/promotions; to be charged to Account No. 01-417-0-0-2-23, City Attorney--Professional Services.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent, with the exception of Councilman Lane's abstention, the Mayor declared the committee report adopted.

Councilwoman Connell, Chairman of the Council Committee on Planning, submitted the following report:

1. Your Committee on Planning has had under consideration Bill No. 4922.

Your Committee finds that the proposed use is an appropriate use of the subject property.

Your Committee further finds that in order to protect the character of the neighborhood and the entrance to the City the Bill should be amended as follows:

Page 1, line 6, by striking the period after the word "Virginia" and adding the phrase ", and restricting the use thereof.";
Page 1, line 32, by adding a new Section 2 to read:

"2. The use of the above-described land is hereby restricted as follows:

a. The building shall contain no more than twenty-two (22) apartment units;
b. The building shall be of not more than two (2) stories; and
c. Adequate landscaping with trees and evergreens shall be planted and maintained along the Oakhurst Drive frontage to provide a visual buffer of the property from Corridor "G".

Page 1, lines 33 and 37, by changing the section numbers "2" and "3" to "3" and "4" respectively.

And reports the same to Council with the recommendation that the bill as amended pass.

The question being on the adoption of the amendments a vote was taken. There being no dissent the Mayor declared the amendments adopted.

Bill No. 4922, as amended--A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March, 1983, as amended, and the map made a part thereof by rezoning from an R-6 district to an R-8 district that certain parcel of land situate at 931 Oakhurst Drive, Charleston, West Virginia, and restricting the use thereof.

Be it Ordained by the Council of the City of Charleston, West Virginia:

1. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of march, 1983, as amended, is hereby amended by rezoning from an R-6 district to an R-8 district the whole of the following described parcel of land:

Beginning at a DOH concrete monument at Station 388+48 220' left of the centerline of Corridor "G"; thence N 39°04'50" E 163.005' to a point; thence N 39°01'55" E 290.87' to a point; thence N 37°00' W 116.50' to a point; thence S 39° 01'55" W 193.0', m/l, to a point; thence S 48°10'W78.00' to a point; thence N 54°50' W 75.0', m/l, to a point; thence S 53°45' W 253.50' to a point; thence S 51° 27' 31" E 100.0' to a point; thence S 55°32' E 165.0' to a DOH concrete monument being the common corner of the Leonard Mullins property; thence N 38°08'18" 26.11' to the point of beginning, said parcel of land containing approximately 2.0 acres, subject property is commonly known as 931 Oakhurst Drive, Charleston, WV.

2. The use of the above-described land is hereby restricted as follows:

a. The building shall contain not more than twenty-two (22) apartment units;
b. The building shall be of not more than two (2) stories; and
c. Adequate landscaping with trees and evergreens shall be planted and maintained along the Oakhurst Drive frontage to provide a visual buffer of the property from Corridor "G".

3. The Zoning Map, attached to and made a part of said Zoning Ordinance, is hereby amended in accordance with Section 1 of this ordinance.

4. All prior ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

The question being on the passage of the bill a roll call was taken and there were--yeas 24, nays 2 and absent 1 as follows:

YEAS: Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.
NAYS: Lane and Nielsen.
ABSENT: Armbrecht.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 4922, as amended, passed.

REPORTS OF OFFICERS

1. city Treasurer's Report dated February 18, 1993; received and filed.

2. City Treasurer's Report dated March 31, 1993; received and filed.

3. Weekly report of the Municipal Judge for month ending November 30, 1993; received and filed.

4. City of Charleston Financial Statements for the nine months ended March 31, 1993; received and filed.

5. Report of the Charleston Building Department dated April, 1993; received and filed.

NEW BILLS INTRODUCED

Introduced by Councilman McMillen--May 3, 1993
Bill No. 4956--A Bill authorizing and directing the Mayor to enter into an Agreement with the West Virginia Department of Transportation, Division of Highways, regarding the installation and maintenance of a highway lighting system on Greenbrier Street in the City of Charleston; referred to Council Committee on Finance.

Introduced by Councilman Monroe--May 3, 1993
Bill No. 4957--A Bill to establish a No Parking Anytime Tow Away zone on the east side of Watts Street from Costello Street to a point 100-feet north of Costello and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith; referred to Council Committee on Streets and Traffic.

Introduced by Councilman Monroe--May 3, 1993
Bill No. 4958--A Bill to repeal Ordinance No. 4247 pertaining to handicap parking on the easterly side of Market Drive from a point 115 feet south of Burlew Drive to a poing 135 feet south of Burlew Drive and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith; referred to Council Committee on Streets and Traffic.

At 9:55 p.m., on motion of Councilman Brown, Council adjourned until Monday, May 17, 1993.

C E R T I F I C A T E

Certified to be a true and correct copy of that certain Resolution No. 621-93, duly filed and of record in the Office of the City Clerk of the City of Charleston, West Virginia, adopted by the Council of the City of Charleston at the meeting held on May 3, 1993.

Given under my hand and the official seal of the City of Charleston, West Virginia, this 1st day of December, 1993.

(seal)

James C. Stucky, City Clerk

Resolution No. 621-93

Introduced in Council

May 3, 1993

Introduced by

Councilman McMillen

Adopted by Council

May 3, 1993

A Resolution finding that Ordinance No. 4955 was passed by the Council of the City of Charleston, West Virginia, on May 3, 1993, entitled "An Ordinance authorizing the redemption prior to maturity of the outstanding Parking Revenue Bonds, Series A and Series B and Parking Revenue Bonds, Series 1986 of the City of Charleston; providing for the issuance of The City of Charleston Parking System Refunding Revenue Bonds, Series 1993, in an aggregate principal amount not to exceed $6,000,000 to provide for such refunding and redemption; making provisions for such refunding, funding the reserve account and paying the cost in connection therewith; determining the denominations; establishing registration and payment procedures; continuing the Parking Facilities Committee; providing for the rights and remedies of and the security for the registered owners of such bonds and enacting other provisions with respect to such bonds," all as more fully set out therein; finding that an abstract of said ordinance, together with a notice specifying a date, time and place for a public hearing at which time and place all interested persons may appear before the Council of the City of Charleston and may be heard as to whether or not said ordinance shall be put into effect and identifying the office in which a certified copy of such ordinance shall be on file for review by interested persons during the office hours of such office, must be published; reviewing the abstract prepared on behalf of the City Clerk and determining that such abstract contains sufficient information as to give notice of the contents of said ordinance; and directing the publication of such abstract, together with said notice.

WHEREAS, the Council of The City of Charleston, West Virginia (the "City"), this day passed an ordinance (the "Ordinance"), authorizing the redemption prior to maturity of the outstanding Parking Revenue Bonds, Series A and Series B and Parking Revenue Bonds, Series 1986 of The City of Charleston; providing for the issuance of The City of Charleston Parking System Refunding Revenue Bonds, Series 1993, in an aggregate principal amount not to exceed $6,000,000 (the "Series 1993 Bonds") to provide for such refunding and redemption; making provisions for such refunding, funding the reserve account and paying the cost in connection therewith; determining the denominations; establishing registration and payment procedures; continuing the Parking Facilities Committee; providing for the rights and remedies of and

the security for the registered owners of such bonds and enacting other provisions with respect to the Series 1993 Bonds of the City, all as more fully set out therein; and

WHEREAS, Chapter 8, Article 16, Section 7 of the Code of West Virginia, 1931, as amended (the "Act"), requires that an abstract of the Ordinance, together with a notice specifying a date, time and place for a public hearing at which time and place all interests may appear before the Council of the City of Charleston and may be heard as to whether or not the Ordinance shall be put into effect and identifying the office in which a certified copy of the Ordinance shall be on file for review by interested persons during the office hours of such office, be published; and

WHEREAS, the Act further requires that such abstract of the Ordinance be determined by the Council of the City to contain sufficient information as to give notice of the contents of the Ordinance; and

WHEREAS, the City Clerk presented to this meeting an abstract of the Ordinance (the "Abstract"), together with a notice as described above (the "Notice"), as hereinafter set forth; and

WHEREAS, the Council of the City has reviewed the Abstract and has found and determined that the Abstract contains sufficient information as to give notice of the contents of the Ordinance;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA, AS FOLLOWS:

(1) It is hereby found and determined that the Ordinance was duly passed by the Council of the City at a regular meeting on May 3, 1993, and that the Act requires the Abstract, together with the Notice, to be published.

(2) The Abstract, together with the Notice, as prepared on behalf of the City Clerk in the following form and substance:

> Notice is hereby given to any person interested that on May 3, 1993, the Council of The City of Charleston, West Virginia (the "City"), passed an ordinance (the "Ordinance") which

1. Found that the City now owns, maintains and operates on-street and off-street parking facilities within the City (the "Parking System") and that the acquisition and construction of certain portions thereof were permanently financed, along with funds from other sources therefor, with the proceeds of $3,210,000 in aggregate principal amount of the City's Parking Revenue Bonds, Series A and B, dated June 1, 1974 and $3,300,000 of the City's Parking Revenue Bonds, Series 1986 (collectively referred to as the "Prior Bonds").

2. Authorized The City of Charleston Parking System Refunding Revenue Bonds, Series 1993 (the "Series 1993 Bonds") in an aggregate principal amount not to exceed $6,000,000 to be issued for refunding and redeeming prior to maturity the Prior Bonds.

3. Determined that the City derives revenues from the Parking System, and said revenues are not pledged or encumbered in any manner, except for the Prior Bonds, which Prior Bonds will be refunded and redeemed with the proceeds of the Series 1993 Bonds.

4. Determining that the estimated net revenues to be derived in each year hereafter from the operation of the Parking System will be sufficient to pay all of the cost of the operation and maintenance of the Parking System, the principal of and interest on the Series 1993 Bonds as the same become due, and all sinking fund, reserve and other payments provided for in the Ordinance.

5. Found that it is in the best interests of the City that the Series 1993 Bonds be sold to Wheat, First Securities, Inc. and Ferris, Baker Watts, Incorporated (the "Original Purchasers").

6. Authorized that the Prior Bonds outstanding as of the date of issuance of the Series 1993 Bonds be refunded and redeemed and the lien of said Prior Bonds and the statutory mortgage lien created on behalf of those Prior Bonds, be terminated, discharged and released upon the payment into an escrow fund (the

"Escrow Fund") from the proceeds of the Series 1993 Bonds an amount sufficient together with moneys already on deposit therein, to pay the redemption price of the Prior Bonds and interest accrued thereon to maturity or the first applicable redemption date.

7. Directed that simultaneously with the issuance of the Series 1993 Bonds, the Mayor shall give notice of redemption of the Prior Bonds.

8. Directed that the moneys in the Escrow Fund be held irrevocably in trust for the owners of the Prior Bonds and be invested in government obligations until used to redeem or pay the Prior Bonds.

9. Directed that the Series 1993 Bonds shall be executed in the name of the City by the Mayor, the seal of the City shall be affixed thereto or imprinted thereon and attested by the City Clerk; and that said Bonds shall be duly authenticated by the Registrar.

10. Directed that the Registrar shall authenticate, register and deliver the Series 1993 Bonds to the Original Purchaser as described in the Ordinance.

11. Covenanted to maintain rates and collect charges for the Parking System as will always provide revenues in each fiscal year at least sufficient to pay 125% of the largest amount of principal of and interest due on the Series 1993 Bonds in any succeeding fiscal year in addition to paying, as the same becomes due, the necessary expenses of repair, maintenance and operation of the Parking System in each fiscal year and all other obligations payable out of revenues of the Parking System in such fiscal year.

12. Provided for the investment of the Bond proceeds and limitations thereon; provided for covenants against making the Bonds "arbitrage bonds."

13. Provided that the Parking Facilities Committee be continued under the Ordinance.

14. Established the terms for defaults and the remedies of the owners of the Series 1993 Bonds.

Any person interested, and all parties and interest, may appear before the Council of the City at a meeting thereof at 8:00 p.m. on May 17, 1993, in Council Chambers, City Hall, Virginia Street, E., Charleston, West Virginia, and be heard as to whether the above-described Ordinance shall be put into effect.

A certified copy of the Ordinance as passed by the Council of the City on May 3, 1993, is on file in the office of the City Clerk, located at City Hall, for review by interested persons during the regular office hours of such office, to-wit: 8:00 a.m. and 5:00 p.m. Mondays through Fridays.

James C. Stucky
City Clerk of The City of
Charleston, West Virginia

contains sufficient information as to give notice of the contents of the Ordinance.

(3) The City Clerk, as provided in the Notice, shall maintain in his office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office.

(4) The Council of the City, as provided in the Notice, shall meet on May 17, 1993, at 8:00 p.m. in Council Chambers in City Hall for the purpose of hearing all objections and suggestions regarding whether the Ordinance shall be put into effect.

(5) The City Clerk is hereby authorized and directed to cause the Abstract, together with the Notice, to be published as a Class II legal advertisement in the Charleston Daily Mail and the Charleston Gazette, newspapers of general circulation in the City, and the first publication of such Abstract and Notice shall be not less than ten (10) days before the date set aforesaid at which interested persons may appear before the Council of the City and be heard, and the last publication of such Abstract and Notice shall be prior to said date set aforesaid.

(6) At such hearing, all objections and suggestions shall be heard, and the Council of the City shall take such actions as it shall deem proper in the premises; provided, however, that if

at such hearing written protest is filed by thirty percent (30%) or more of the freeholders of the City, then the Council of the City shall not take further action unless four-fifths (4/5) of the members of said Council assent thereto.

(7) This resolution shall take effect immediately upon adoption.

ABB02CBA

C E R T I F I C A T E

Certified to be a true and correct copy of that certain Resolution No. 629-93, duly filed and of record in the Office of the City Clerk of the City of Charleston, West Virginia, adopted by Council of the City of Charleston, West Virginia at the meeting held on May 17, 1993.

Given under my hand and the official seal of the City of Charleston, West Virginia, this 1st day of December, 1993.

(seal)

James C. Stucky, City Clerk

Resolution No. 629-93

Introduced in Council

May 17, 1993

Introduced by

Bennett McMillen/jms

Adopted by Council

May 17, 1993

Resolution No. 629-93 -- "Finding that the Council of the City of Charleston, West Virginia, passed Ordinance 4954 on May 3, 1993, which found that the City of Charleston now owns, maintains, operates, supervises, controls and has custody of the sewer system of The City of Charleston, and all betterments therefor and extensions thereto, in the Sanitary Board of the City of Charleston (the "System"); authorizing the construction and acquisition of certain additions, extensions, improvements to said System; providing for the financing of such additions, extensions and improvements by the issuance of revenue bonds; providing for the establishment and collection of rates or charges for the use of said system and works and for the service rendered thereby and for the application of the proceeds of such rates or charges to the operation, repair, replacement and maintenance of such system and works and to a sinking fund for the payment of said revenue bonds and the interest thereon, all as provided by Chapter 25 of the acts of the Legislature of West Virginia, Extraordinary Session of 1933, as amended and enacted by the Council of The City of Charleston on the 8th day of July, 1952; authorizing the acquisition and construction of a wastewater treatment facility consisting of certain extensions, additions, betterments and improvements to the sewerage system of The City of Charleston; authorizing the issuance of not more than $2,500,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more additional series as may be required, of said The City of Charleston to be used, along with other funds and moneys of, or available to, The City of Charleston which may be lawfully expended for such purposes, to finance the cost of such acquisition and construction, to fund reserve accounts for such bonds, to provide for capitalized interest during construction and to pay other costs in connection therewith; and adopting other provisions related thereto; finding that the Council of the City of Charleston adopted a resolution on May 3, 1993, directing that an abstract of Ordinance No. 4954, together with a notice that said Ordinance has been adopted, that The City of Charleston contemplates the issuance of the Series 1993 Bonds, and that any person interested may appear before Council of The City of Charleston upon a certain date and present protests, be published; finding that said abstract and notice have been duly published; finding that the Council of the City of Charleston met and heard all objections and suggestions regarding whether Ordinance No. 4954 should be put into effect; and ordering that Ordinance No. 4954 be put into effect and providing that The City

of Charleston Sewerage System Revenue Bonds, Series 1993, contemplated thereunder be issued under and the proceeds thereof used to acquire and construct certain extensions, additions, betterments and improvements to the System.

WHEREAS, the Council of the City of Charleston, West Virginia (the "City"), on May 3, 1993, passed Ordinance No. 4954 (the "Ordinance"), which found that the City of Charleston now maintains, operates, supervises, controls and has custody of the System of The City of Charleston, and all betterments therefor and extensions thereto, in the Sanitary Board of the City of Charleston; and authorizing the construction and acquisition of certain additions, extensions, improvements to said System; providing for the financing of such additions, extensions and improvements by the issuance of revenue bonds; providing for the establishment and collection of rates or charges for the use of said system and works and for the service rendered thereby and for the application of the proceeds of such rates or charges to the operation, repair, replacement and maintenance of such system and works and to a sinking fund for the payment of said revenue bonds and the interest thereon, all as provided by Chapter 25 of the acts of the Legislature of West Virginia, Extraordinary Session of 1933, as amended and enacted by the Council of The City of Charleston on the 8th day of July, 1952; authorizing the acquisition and construction of a wastewater treatment facility consisting of certain extensions, additions, betterments and improvements to the sewerage system of The City of Charleston; authorizing the issuance of not more than $2,500,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more additional series as may be required, of said The City of Charleston to be used, along with other funds and moneys of, or available to, The City of Charleston which may be lawfully expended for such purposes, to finance the cost of such acquisition and construction, to fund reserve accounts for such bonds, to provide for capitalized interest during construction and to pay other costs in connection therewith; and adopting other provisions related thereto; and

WHEREAS, capitalized terms used and not defined herein shall have the meanings set forth in the Ordinance; and

WHEREAS, the Council of the City, on May 3, 1993, adopted a resolution (the "Resolution") which pursuant to Chapter 16, Article 13, Section 6, of the Code of West Virginia, 1931, as amended (the "Act"), directing the City Clerk to publish an abstract of the Ordinance (the "Abstract"), together with a notice that the Ordinance has been adopted, that the City contemplates the issuance of the Series 1993 Bonds as described in the Ordinance and that any person interested may appear before the Council upon a certain day and present protests (the "Notice"); and

WHEREAS, the Resolution required that the Abstract and Notice be published as a Class II legal advertisement in the

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Charleston Daily Mail and Charleston Gazette, newspapers of general circulation of the City, and the first publication of such Abstract and notice was to be not less than ten (10) days before the date set by the Resolution and the Notice at which interested persons might appear before the Council and present protests, and the last publication of such Abstract and Notice was to be prior to said date set by the Resolution and the Notice; and

WHEREAS, the Resolution and the Notice provided for a public hearing to be held at 8:00 p.m., prevailing time, on May 17, 1993, in Council Chambers in City Hall;

<u>NOW, THEREFORE, Be It Resolved by the Council of the City of Charleston, West Virginia, as follows</u>:

(1) It is hereby found and determined:

(A) That the Abstract and Notice were duly published in the Charleston Daily Mail and Charleston Gazette, newspapers of general circulation in The City of Charleston, with the first publication thereof being on May 6, 1993, which first publication date was not less than ten (10) days before the date set by the Resolution and the Notice for the public hearing at which interested persons might appear before the Council of the City and present protests, and with the last publication thereof being on May 13, 1993, which last publication date was prior to said date set by the Resolution and the Notice for the public hearing, and a copy of the affidavit of publication reflecting such publication is attached hereto and incorporated herein.

(B) That, in accordance with the Resolution and the Notice, the City Clerk has maintained in his office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office;

(C) That, in Council Chambers in the City Building, Virginia Street, East, Charleston, West Virginia, on May 17, 1993, at 8:00 p.m., prevailing time, in accordance with the Resolution and the Notice, the Council of the City met for the purpose of hearing all objections and suggestions regarding whether the Ordinance should be put into effect, and heard all objections and suggestions with regard thereto; and

(D) That, at said public hearing, no significant reasons were presented that could require modification or amendment of the Ordinance, and no written protest with regard thereto was filed by thirty percent (30%) or more of the owners of real estate situate in the City.

(2) The Ordinance shall be put into effect as of the date hereof, and that the Series 1993 Bonds contemplated thereunder may be issued, as provided in the Ordinance.

(3) This resolution shall be effective immediately upon its adoption.

ABB02E08

AFFIDAVIT OF PUBLICATION

STATE OF WEST VIRGINIA,

KANAWHA COUNTY, TO-WIT:

I, Belinda Withrow OF

THE CHARLESTON GAZETTE, A DAILY DEMOCRATIC NEWSPAPER,

THE DAILY MAIL, A DAILY REPUBLICAN NEWSPAPER,

PUBLISHED IN THE CITY OF CHARLESTON, KANAWHA COUNTY,

WEST VIRGINIA, DO SOLEMNLY SWEAR THAT THE ANNEXED

NOTICE OF: SEWERAGE SYSTEM

WAS DULY PUBLISHED IN SAID PAPER(S) ON THE DATES

LISTED BELOW, AND WAS POSTED AT THE FRONT DOOR OF THE

COURT HOUSE OF SAID KANAWHA COUNTY, WEST VIRGINIA,

ON THE

7TH DAY OF MAY , 1993 .

DATES PUBLISHED:

05/06/93	GAZETTE	05/06/93	DAILY MAIL
05/13/93	GAZETTE	05/13/93	DAILY MAIL

SUBSCRIBED AND SWORN TO BEFORE ME THIS

14TH DAY OF MAY , 1993 .

Sarah J. Withrow

NOTARY PUBLIC OF KANAWHA COUNTY, WEST VIRGINIA

PRINTERS FEE $ 236.00

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
SARAH J. WITHROW
1001-T LINCOLN DRIVE
SO. CHARLESTON, WV 25309
My Commission Expires April 28, 2003

NOTICE OF PUBLIC HEARING AND ABSTRACT OF SEWERAGE SYSTEM ORDINANCE

Notice is hereby given to any person interested that on May 3, 1993, the Council of The City of Charleston, West Virginia (the "City"), adopted an Ordinance that:

1. Determined it is necessary and desirable for the health, welfare and safety of the inhabitants of the City to acquire and construct certain extensions, additions, betterments and improvements (the "Project") to the sewerage system (the "System") in order to preserve the public health, to be financed through the issuance of Sewerage System Revenue Bonds (the "Series 1993 Bonds") in the aggregate principal amount of not more than $2,500,000.

2. Provided for the sale of the Series 1993 Bonds to the West Virginia Water Development Authority (the "Authority") through the West Virginia Water Pollution Control Revolving Fund Program (the "Program") pursuant to the terms and provisions as will be prescribed in a supplemental resolution of the Council.

3. Directed that the Series 1993 Bonds be issued as fully registered bonds to the Authority; be dated as of the date of delivery thereof; mature on such dates in such years, not exceeding twenty-one (21) years after the date of issuance and in such amounts as will be prescribed by supplemental resolution of Council; provided that the Series 1993 Bonds shall bear interest at the rate per annum not to exceed the maximum legal limit, payable quarterly, on March 1, June 1, September 1 and December 1 of each year following the delivery of the Series 1993 Bonds; that the Series 1993 Bonds be executed in the name of the City by the Mayor, and the seal of the City be affixed thereto and attested to by the City Clerk; and that said Series 1993 Bonds be duly authenticated by the registrar.

4. Authorized the continuation of the Revenue Fund, the Renewal and Replacement Fund and the Costs of Issuance Account; provided for the monthly payment of principal and interest on the Series 1993 Bonds; and provided for the creation of reserve accounts for the Series 1993 Bonds.

5. Provided for the disposition of the Series 1993 Bonds proceeds; created a construction trust fund to hold the monies derived from the sale of the Series 1993 Bonds to be used solely to pay costs of the Project.

6. Provided that the Series 1993 Bonds shall not be or constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter limitation of indebtedness but shall be payable solely from the Revenues of the System.

7. Provided that the Series 1993 Bonds shall be secured equally and ratably with each other by a first lien on the Revenues of the System which lien is on a parity with the lien of certain outstanding bonds of the City and superior to the lien of certain outstanding bonds of the City.

8. Provided that the rates and charges for the System shall produce gross revenues sufficient to pay all reasonable operating expenses of the System and leave a balance each year equal to at least 110% of the maximum annual debt service on the Series 1993 Bonds and all obligations of the City, prior to or on a parity with the Series 1993 Bonds, payable from Revenues of the System.

The City contemplates the issuance of the Series 1993 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 Charleston at a meeting thereof at eight o'clock (8:00) p.m., prevailing time, on Monday, May 17, 1993, in the Council Chambers in the City Building, Virginia Street, East, Charleston, West Virginia, and present protests and be heard as to whether the Ordinance shall be put into effect.

A certified copy of the Ordinance, as adopted by the Council of the City on May 3, 1993, is on file in the office of the City Clerk of the City for review by interested persons during the regular office hours of such office, to-wit: 9:00 a.m. to 5:00 p.m., Mondays through Fridays.

James C. Stucky
City Clerk of
The City of
Charleston, West Virginia
(124591)

C E R T I F I C A T E

Certified to be a true and correct copy of that certain Journal of the May 17, 1993 Council Meeting, duly filed and of record in the Office of the City Clerk of the City of Charleston, West Virginia.

Given under my hand and the official seal of the City of Charleston, West Virginia, this 1st day of December, 1993.

(seal)

James C. Stucky, City Clerk

JOURNAL

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

May 17, 1993

The Council met in its Chamber in the City Building at 8:00 p.m. for the second meeting in the month of May and was called to order by the Mayor, the Honorable Kent Strange Hall.

Prayer was offered by the Honorable Jody Connell, Councilwoman from the Fourteenth Ward.

The Clerk called the roll and the following members answered to their names:

Amrbrecht	Huffman	Nielsen
Broady	Lane	Quick
Brown	Layne	Snodgrass
Cary	Londeree	Robinson
Connell	McClaskie	Thompson
Dodson	McMillen	Vanderwilt
Hicks	Mohler	Wampler
Holt	Monroe	Wright
Horan	Morrison	Mayor Hall

Twenty-seven members being present, no one being absent, the Mayor declared a quorum.

Pending the reading of the Journal of the previous meeting, the reading thereof was dispensed with and the same duly approved.

APPOINTMENTS

TO: James C. Stucky, City Clerk
FROM: Kent Strange Hall, Mayor
DATE: May 17, 1993
RE: Appointment to the Civic Center-Auditorium Board

I am appointing, with the consent of council, Charlotte E. Giles, #8 Downing Street, to the Civic Center-Auditorium Board, replacing A. L. Hardman. Her term expires June 22, 1993.

The question being on the confirmation of the appointment a vote was taken. There being no dissent the Mayor declared the appointment confirmed.

TO: James Stucky, City Clerk
FROM: Kent Strange Hall, Mayor
DATE: May 17, 1993
RE: Sanitary Board Reappointment

I am requesting that Charleston City Council reappoint David C. Brown, P.E., to the Charleston Sanitary Board. Mr. Brown will continue to be the Registered Engineer member as required by statute.

Mr. Brown's term will expire March 16, 1996.

The question being on the confirmation of the appointment a vote was taken. There being no dissent the Mayor declared the appointment confirmed.

COMMUNICATIONS

TO: Mayor Kent Strange Hall
FROM: James E. Jones, City Collector
RE: A letter from Jahjah, Inc. requesting permission for Special New Hackney Carriage Service for wheelchair accessible vehicles (WAV)
DATE: May 17, 1993

Referred to Council Committee on Finance.

Honorable Kent Strange Hall, Mayor
and Members of City Council
Charleston, West Virginia 25301

Dear Mayor Hall and Council Members:

On May 12, 1993, at the Municipal Planning Commission's public hearing on Bill No. 4945, which sought to rezone the southwest corner of 3rd Avenue and Stockton Street, the petitioner, Mr. H.R. Thomas, advised the Commission he was withdrawing this case. As the Councilman of the 4th Ward in which the subject property is situate, and being the sponsor of this bill, I do hereby request that Bill No. 4945 be withdrawn from further consideration.

Sincerely,
/s/Braxton Broady

The question being on Councilman Broady's request a vote was taken. There being no dissent the Mayor declared Bill No. 4945 officially withdrawn.

CLAIMS

The Clerk read the following claims, which were referred as indicated:

1. A Claim of Joseph Haynes; 1207 Homer Street; alleges damage to vehicle; referred to City Solicitor.

2. A Claim of Curtis Green; 3109 Kanawha Avenue; alleges damaget to vehicle; referred to City Solicitor.

3. A Claim of Willard Christian; Box 45, Peytona, WV; alleges damage to vehicle; referred to City Solicitor.

4. A Claim of Albert Redman, Jr.; 1022 Hillcrest Drive; alleges damage to vehicle; referred to City Solicitor.

COMMISSION REPORTS

Honorable Kent Strange Hall, Mayor
and Members of City Council
Charleston, West Virginia 25301

Dear Mayor Hall and Council Members:

On May 12, 1993, the Municipal Planning Commission held public hearings and its regular monthly meeting. Below are the cases they considered and their recommendations for your consideration.

Bill No. 4946--Petition of Harold and Garnet Givens requesting a rezoning from a C-10 district, with restricted use (including a 1-story restriction), to a C-10 district, with use restrictions (excluding the 1-story restriction), the property at 1047, 1049 and 1051 Main Street, Charleston, WV; referred to Council Committee on Planning.

Bill No. 4947--Petition of William W. Huffman, II, 16th Ward Councilman, requesting a rezoning from an R-2 district to an R-4 district the property at 1303 Turley Road, Charleston, WV; referred to Council Committee on Planning.

Also, transmitted herewith is the 1992 Annual Report of the Municipal Planning Commission. A copy has been provided each Council Members.

Respectfully submitted,
Municipal Planning Commission.

Honorable Kent Strange Hall, Mayor
and Members of City Council
Charleston, WV 25301

Dear Mayor Hall and Council Members:

We have received a proper petition from two (2) property owners requesting the annexation of 2.88 acres, m/l, at the end of Flintlock Road, Southpointe Village, Kanawha County, West Virginia. We have attached a map of the subject properties and the petition. Please refer this matter to the Council's Committee on Planning for the necessary review and comments.

Sincerely,
Planning Department

Referred to Council Committee on Planning.

EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION
By the Mayor

WHEREAS: emergency medical services is a vital public service; and

WHEREAS: access to quality emergency medical care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS: emergency medical services teams consist of emergency medical technicians, paramedics, emergency physicians, emergency nurses, educators, administrators and others; and

WHEREAS: emergency medical services teams engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

WHEREAS: Charleston established the Emergency Ambulance Service 21 years ago to provide emergency medical services to the citizens of Charleston.

NOW, THEREFORE, I, Kent Strange Hall, Mayor of the City of Charleston, do hereby proclaim May 23-29, 1993 as

EMERGENCY MEDICAL SERVICES WEEK

in the City of Charleston and urge all citizens to recognize the value and accomplishments of emergency medical service providers.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Executive Department to be affixed this 17th day of May, 1993.
/s/Kent Stange Hall, Mayor

REPORTS OF STANDING COMMITTEES

Councilman McMillen, Chairman of the Council Committee on Finance, submitted the following reports:

1. Your Committee on Finance has had under consideration Resolution No. 622-93, authorizing the Finance Director to amend the 1990 and 1991 Community Development Block Grant budgets as follows:

25-090-00-059	Parks & Recreation/Backstop (NCCC)	(1,875.89)
25-090-00-059	Parks & Recreation/Batting Cage (NCCC)	1,875.89
25-091-00-006	Acquisition of Property/Thompson Street	(405.00)
25-091-00-029	Street Improvements/Amith Drive Slip	(425.20)
25-091-00-199	Unprogrammed Funds	(169.14)
25-091-00-011	Public Svcs/Youth Svcs/YWCA Daycare	999.34

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 622-93-"Authorizing the Finance Director to amend the 1990 and 1991 Community Development Block Grant budgets."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Finance Director is hereby authorized and directed to amend the 1990 and 1991 Community Development Block Grant budgets as follows:

25-090-00-059	Parks & Recreation/Backstop (NCCC)	(1,875.89)
25-090-00-059	Parks & Recreation/Batting Cage (NCCC)	1,875.89
25-091-00-006	Acquisition of Property/Thompson Street	(405.00)
25-091-00-029	Street Improvements/Amith Drive Slip	(425.20)
25-091-00-199	Unprogrammed Funds	(169.14)
25-091-00-011	Public Svcs/Youth Svcs/YWCA Daycare	999.34

and be it

FURTHER RESOLVED that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

The question being on the adoption of the resolution a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Resolution No. 622-93 adopted.

2. Your Committee on Finance has had under consideration Resolution No. 623-93, authorizing the Mayor to sign Change Order No. 1 with NCR Credit Corporation to upgrade the Metro print computer system to interface with the State Police and NCIC. The previous monthly payemnt was $5,700.34 and the new amount will be $6,179.56. This represents the cost of $21,000 for purchase of the equipment from Fletcher Data Systems, plus finance charges of $3,919.44 over a 52-month period;

to be charged to Account No. 01-711-0-0-4-61, Metro Communications--Capital Outlay/Lease Purchase.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 623-93--"Authorizing the Mayor to sign Change Order No. 1 with NCR Corporation to upgrade the Metro print computer system to interface with the State Police and NCIC."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to sign Change Order No. 1 with NCR Credit Corporation to upgrade the Metro print computer system to interface with the State Police and NCIC. The previous monthly payment was Five Thousand Seven Hundred Dollars and Thirty-four Cents ($5,700.34) and the new amount will be Six Thousand One Hundred Seventy-nine Dollars and Fifty-six Cents ($6,179.56). This represents the cost of Twenty-one Thousand Dollars ($21,000) for purchase of the equipment from Fletcher Data Systems, plus finance charges of Three Thousand Nine Hundred Nineteen Dollars and Forty-four Cents ($3,919.44) over a 52-month period.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 623-93 adopted.

3. Your Committee on Finance has had under consideration Resolution No. 624-93, authorizing the Mayor to enter into a contract with Rodney Loftis & Son, in the amount of $1,000, for demolition of a dilapidated structure at 1432½ Second Avenue; to be charged to Account No. 25-089-00-033, CDBG--Clearance & Demolition.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 624-93--"Authorizing the Mayor to enter into a contract with Rodney Loftis & Son, in the amount of $1,000, for demolition of a dilapidated structure at 1432½ Second Avenue."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to enter into a contract with Rodney Loftis & Son, in the amount of One Thousand Dollars ($1,000), for demolition of a dilapidated structure at 1432½ Second Avenue.

The question being on the adoption of the resolution a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Resolution No. 624-93 adopted.

4. Your Committee on Finance has had under consideration Resolution No. 626-93, authorizing the Mayor to enter into a contract with P.R. Harrison, in the amount of $5,748, for repairs to headwalls in connection with the Porter Road culvert project; to be charged to Account No. 24-570-00-0-4-58, Coal Severance/Street, Capital Outlay-Special Projects, Street & Slip Repair.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 626-93--"Authorizing the Mayor to enter into a contract with P.R. Harrison, in the amount of $5,748, for repairs to headwalls in connection with the Porter Road Culvert project."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to enter into a contract with P.R. Harrison, in the amount of Five Thousand Seven Hundred Forty-eight Dollars ($5,748), for repairs to headwalls in connection with the Porter Road Culvert project.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 626-93 adopted.

5. Your Committee on Finance has had under consideration Resolution No. 627-93, authorizing the Mayor to enter into an Agreement with Mountain Classics, Inc., local sponsor of the Kmart Classic Bike Race proposed to be held in the City of Charleston on May 30, 1993.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 627-93--"Authorizing and directing the Mayor to enter into an Agreement between Mountain Classics, Inc. and the City of Charleston."

WHEREAS, Mountain Classics, Inc., local sponsor of the K Mart Classic Bike Race has proposed to hold a bike race in the City of Charleston on May 30, 1993, all as more fully set forth and provided for in the hereto attached Agreement; and,

WHEREAS, the Council of the City of Charleston deems the said event to be an appropriate and desirable event for the City of Charleston; now, therefore,

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to enter into the hereto attached Agreement with Mountain Classics, Inc., and to do any and all other necessary and needful things to carry out and fulfill the obligations of the City under said Agreement and to require compliance therewith by the said Mountain Classics, Inc.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 627-93 adopted.

"Pursuant to Chapter 8, Article 16, Section 7 of the West Virginia Code, I now declare the floor open for a public hearing on Resolution No. 628-93."

The Chair saw no one from the public, the Chair heard no one from the public, the Chair declared the public hearing closed.

6. Your Committee on Finance has had under consideration Resolution No. 628-93, authorizing Ordinance No. 4955, passed by City Council on May 3, 1993, be put into effect as of the date hereon, that the Series 1993 Bonds contemplated thereunder be issued and that the City of Charleston Parking Revenue Bonds, Series A and B and City of Charleston Parking Revenue Bonds, Series 1986, be refunded and redeemed prior to the maturity thereof as contemplated thereunder.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 628-93--"Finding that the Council of the City of Charleston, West Virginia on May 3, 1993, passed Ordinance No. 4955 which authorized the redemption prior to maturity of the outstanding The City of Charleston Parking Revenue Bonds, Series A and B, dated June 1, 1974 and The City of Charleston Parking Revenue Bonds, Series 1986; provided for The City of Charleston Parking System Refunding Revenue Bonds, Series 1993 in an aggregate principal amount not to exceed $6,000,000 to provide for such refunding and redemption; provided for such refunding, funding the reserve account and paying the costs in connection therewith; determined the denominations of Series 1993 Bonds; established registration and payment procedures; continued the Parking Facilities Committee; and provided for the rights and remedies of and security for the registered owners of such bonds all as more fully set out therein; finding that the Council of the City of Charleston adopted a resolution on May 3, 1993, directing that an abstract of Ordinance No. 4955, together with a notice specifying a date, time and place for a public hearing at which time all interested persons may appear before the Council of the City of Charleston and may be heard as to whether or not said ordinance shall be put into effect and identifying the office which a certified copy of such ordinance shall be on file for review by interested persons during the office hours of such office, be published; finding that said abstract and notice have been duly published; finding that the Council of the City of Charleston met and heard all objections and suggestions regarding whether Ordinance No. 4955 should be put into effect; and ordering that Ordinance No. 4955 be put into effect and providing that The City of Charleston Parking System Refunding Revenue Bonds, Series 1993, contemplated thereunder be issued and the proceeds thereof used to redeem and refund prior to maturity The City of Charleston Parking Revenue Bonds, Series A and B, dated June 1, 1974 and the City of Charleston Parking Revenue Bonds, Series 1986, to fund the reserve account and to pay the costs in connection therewith under the conditions provided therefor.

WHEREAS, the Council of the City of Charleston, West Virginia (the "City"), on May 3, 1993, passed Ordinance No. 4955 (the "Ordinance"), which authorized the redemption prior to maturity of the outstanding The City of Charleston Parking Revenue Bonds, Series A and B, dated June 1, 1974 and The City of Charleston Parking Revenue Bonds, Series 1986 (collectively

referred to as the "Prior Bonds"); provided for The City of Charleston Parking System Refunding Revenue Bonds, Series 1993 (the "Series 1993 Bonds") in an aggregate principal amount not to exceed $6,000,000 to provide for such refunding and redemption; provided for such refunding, funding the reserve account and paying the costs in connection therewith; determined the denominations of the Series 1993 Bonds; established registration and payment procedures; continued the Parking Facilities Committee; and provided for the rights and remedies of and security for the registered owners of such bonds, all as more fully set out therein; and

WHEREAS, the Council of the City, on May 3, 1993, adopted a resolution (the "Resolution") which pursuant to Chapter 8, Article 16, Section 7, of the Code of West Virginia, 1931, as amended (the "Act"), directing the City Clerk to publish an abstract of the Ordinance (the "Abstract"), together with a notice specifying a date, time and place for a public hearing at which time and place all interested persons may appear before the Council of the City and may be heard as to whether the Ordinance shall be put into effect and identifying the office in which a certified copy of the Ordinance shall be on file for review by interested persons during the office hours of such office (the "Notice"); and

WHEREAS, the Resolution required that the Abstract and Notice be published as a Class II legal advertisement in the Charleston Daily Mail and Charleston Gazette, newspapers of general circulation in the City, and the first publication of such Abstract and notice was to be not less than ten (10) days before the date set by the Resolution and the Notice at which interested persons might appear before the Council of the City and be heard, and the last publication of such Abstract and Notice was to be prior to said date set by the Resolution and the Notice; and

WHEREAS, the Resolution and the Notice provided for a public hearing to be held at 8:00 p.m., prevailing time, on May 17, 1993, in Council Chambers in City Hall;

<u>NOW, THEREFORE, Be It Resolved by the Council of the City of Charleston, West Virginia, as follows</u>:

(1) It is hereby found and determined:

(A) That the Abstract and Notice were duly published in the Charleston Daily Mail and Charleston Gazette, newspapers of general circulation in The City of Charleston, with the first publication thereof being on May 6, 1993, which first publication date was not less than ten (10) days before the date set by the Resolution and the Notice for the public hearing at which interested persons might appear before the Council of the City and be heard, and with the last publication thereof being on May 13, 1993, which last publication date was prior to

said date set by the Resolution and the Notice for the public hearing, and a copy of the affidavit of publication reflecting such publication is attached hereto and incorporated herein.

(B) That, in accordance with the Resolution and the Notice, the City Clerk has maintained in his office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office;

(C) That, in Council Chambers in the City Building, Virginia Street, East, Charleston, West Virginia, on May 17, 1993, at 8:00 p.m., prevailing time, in accordance with the Resolution and the Notice, the Council of the City met for the purpose of hearing all objections and suggestions regarding whether the Ordinance should be put into effect, and heard all objections and suggestions with regard thereto; and

(D) That, at said public hearing, no significant reasons were presented that could require modification or amendment of the Ordinance, and no written protest with regard thereto was filed by thirty percent (30%) or more of the freeholders of the City.

(2) Ordinance No. 4955 shall be put into effect as of the date hereof, and the Series 1993 Bonds contemplated thereunder may be issued pursuant to said Ordinance, and The City of Charleston Parking Revenue Bonds, Series A and B, dated June 1, 1974 and The City of Charleston Parking Revenue Bonds, Series 1986, may be refunded and redeemed prior to the maturity thereof as contemplated thereunder.

(3) This resolution shall be effective immediately upon its adoption.

The question being on the adoption of the resolution a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Resolution No. 628-93 adopted.

"Pursuant to Chapter 8, Article 16, Section 7 of the West Virginia Code, I now declare the floor open for a public hearing on Resolution No. 629-93.

The Chair saw no one from the public, the Chair heard no one from the public, the Chair declared the public hearing closed.

7. Your Committee on Finance has had under consideration Resolution No. 629-93, authorizing Ordinance No. 4954, passed by City Council on May 3, 1993, be put into effect as of the date hereon, contemplating the issuance of the Series 1993 bonds for the Charleston Sanitary Board.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 629-93--"Finding that the Council of the City of Charleston, West Virginia, passed Ordinance 4954 on May 3, 1993, which found that the City of Charleston now owns, maintains, operates, supervises, controls and has custody of the sewer system of the City of Charleston, and all betterments thereof and extensions thereto, in the Sanitary Board of the City of Charleston (the "System"); authorizing the construction and acquisition of certain additions, extensions, improvements to said System; providing for the financing of such additions, extensions and improvements by the issuance of revenue bonds; providing for the establishment and collection of rates or charges for the use of said system and works and for the service rendered thereby and for the application of the proceeds of such rates or charges to the operation, repair, replacement and maintenance of such system and works and to a sinking fund for the payment of said revenue bonds and the interest thereon, all as provided by Chapter 25 of the acts of the Legislature of West Virginia, Extraordinary Session of 1933, as amended and enacted by the Council of the City of Charleston on the 8th day of July, 1952; authorizing the acquisition and construction of a wastewater treatment facility consisting of certain extensions, additions, betterments and improvements to the sewerage system of the City of Charleston; authorizing the issuance of not more that $2,500,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more additional series as may be required, of said The City of Charleston to be used, along with other funds and moneys of, or available to, The City of Charleston which may be lawfully expended for such purposes, to finance the cost of such acquisition and construction, to fund reserve accounts for such bonds, to provide for capitalized interest during construction and to pay other costs in connection therewith; and adopting other provisions related thereto; finding that the Council of the City of Charleston adopted a resolution on May 3, 1993, directing that an abstract of Ordinance No. 4954, together with a notice that said Ordinance has been adopted, that The City of Charleston contemplates the issuance of the Series 1993 Bonds, and that any person interested may appear before Council of The City of Charleston upon a certain date and present protests, be published; finding that said abstract and notice have been duly published; finding that the Council of the City of Charleston met and heard all objections and suggestions regarding whether Ordinance No. 4954 should be put into effect; and ordering that Ordinance No. 4954 be put into effect and providing the The City of Charleston Sewerage System Revenue Bonds, Series 1993, contemplated thereunder be issued under and the proceeds thereof used to acquire and construct certain extensions, additions, betterments and improvements to the System.

WHEREAS, the Council of the City of Charleston, West Virginia (the "City"), on May 3, 1993, passed Ordinance No. 4954 (the "Ordinance"), which found that the City of Charleston now maintains, operates, supervises, controls and has custody of the System of The City of Charleston, and all betterments therefor and extensions thereto, in the Sanitary Board of the City of Charleston; and authorizing the construction and acquisision of certain additions, extensions, improvements to said System; providing for the financing of such additions, extensions and improvements by the issuance of revenue bonds; providing for the establishment and collection of rates or charges for the use of said system and works and for the service rendered thereby and for the application of the proceeds of such rates or charges to the operation, repair, replacement and maintenance of such system and works and to a sinking fund for the payment of said revenue bonds and the interest thereon, all as provided by Chapter 25 of the acts of the Legislature of West Virginia, Extraordinary Session of 1933, as amended and enacted by the Council of The City of Charleston on the 8th day of July, 1952; authorizing the acquisition and construction of a wastewater treatment facility consisting of certain extensions, additions, betterments

and improvements to the sewerage system of The City of Charleston; authorizing the issuance of not more than $2,500,000 in aggregate principal amount of Sewerage System Revenue Bonds, in one or more additional series as may be required, of said The City of Charleston to be used, along with other funds and moneys of, or available to, The City of Charleston which may be lawfully expended for such purposes, to finance the cost of such acquisition and construction, to fund reserve accounts for such bonds, to provide for capitalized interest during construction and to pay other costs in connection therewith; and adopting other provisions related thereto; and

WHEREAS, capitalized terms used and not defined herein shall have the meanings set forth in the Ordinance; and

WHEREAS, the Council of the City, on May 3, 1993, adopted a resolution (the "Resolution ") which pursuant to Chapter 16, Article 13, Section 6, of the Code of West Virginia, 1931, as amended (the "Act"), directing the City Clerk to publish an abstract of the Ordinance (the "Abstract"), together with a notice that the Ordinance has been adopted, that the City contemplates the issuance of the Series 1993 Bonds as described in the Ordinance and that any person interested may appear before the Council upon a certain day and present protests (the "Notice"); and

WHEREAS, the Resolution required that the Abstract and Notice be published as a Class II legal advertisement in the Charleston Daily Mail and Charleston Gazette, newspapers of general circulation of the City, and the first publication of such Abstract and notice was to be not less than ten (10) days before the date set by the Resolution and the Notice at which interested persons might appear before the Council and present protests, and the last publication of such Abstract and Notice was to be prior to said date set by the Resolution and the Notice; and

WHEREAS, the Resolution and the Notice provided for a public hearing to be held at 8:00 p.m., prevailing time, on May 17, 1993, in Council Chambers in City Hall;

Now, Therefore, Be it Resolved by the Council of the City of Charleston, West Virginia, as follows:

(1) It is hereby found and determined:

(A) That the Abstract and Notice were duly published in the Charleston Daily Mail and Charleston Gazette, newspapers of general circulation in the City of Charleston, with the first publication thereof being on May 6, 1993, which first publication date was not less than ten (10) days before the date set by the Resolution and the Notice for the public hearing at which interested persons might appear before the Council of the City and present protests, and with the last publication thereof being on May 13, 1993, which last publication date was prior to said date set by the Resolution and the Notice for the public hearing, and a copy of the affidavit of publication reflecting such publication is attached hereto and incorporated herein.

(B) That, in accordance with the Resolution and the Notice, the City Clerk has maintained in his office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office;

(C), That, in Council Chambers in the City Building, Virginia Street, East, Charleston, West Virginia, on May 17, 1993, at 8:00 p.m. prevailing time, in accordance with the Resolution and Notice, the Council of the City met for the purpose of hearing all objections and suggestions regarding whether the Ordinance should be put into effect, and heard all objections and suggestions with regard thereto; and

(D) That, at said public hearing, no significant reasons were presented that could require modification or amendment of the Ordinance, and no written protest with regard thereto was filed by thirty percent (30%) or more of the owners of real estate situate in the City.

(2) The Ordinance shall be put into effect as of the date hereof, and that the Series 1993 bonds contemplated thereunder may be issued, as provided in the Ordinance.

(3) This resolution shall be effective immediately upon its adopted.

The question being on the adoption of the resolution a roll call was taken and there were--yeas 25, nays 2 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Morrison, Nielsen, Quick, Robinson, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: Monroe and Snodgrass.

ABSENT: None.

So, all members present and voting with the majority having voted in the affirmative the Mayor declared Resolution No. 629-93 adopted.

8. Your Committee on Finance has had under consideration Resolution No. 630-93, authorizing the Finance Director to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts.

And reports the same to Council with the recommendation that the committee report be defeated.

Resolution No. 630-93--"Authorizing the Finance Director to make revisions to the 1993-94 General Fund budget."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Finance Director is hereby authorized and directed to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

1-422-0-0-1-3	Chance	3,133
1-422-0-0-1-4	FICA	240
1-422-0-0-1-6	Retirement	298
1-422-0-0-1-9	Health care witholding	(31)
1-422-0-0-2-26	Worker's Comp. and Unempl. Comp.	149
1-570-0-0-4-58	Special projects	(3,789)

The question being on the adoption of the resolution a roll call was taken and there were--yeas 10, nays 17 and absent 0 as follows:

YEAS: Broady, Brown, Cary, Horan, Londeree, McMillen, Morrison, Thompson, Wright and Mayor Hall.

NAYS: Armbrecht, Connell, Dodson, Hicks, Holt, Huffman, Lane, Layne, McClaskie, Mohler, Monroe, Nielsen, Quick, Robinson, Snodgrass, Vanderwilt and Wampler.

ABSENT: None.

So, all members present and voting with the majority having voted in the negative the Mayor declared Resolution No. 630-93 defeated.

9. Your Committee on Finance has had under consideration Resolution No. 631-93, authorizing the Finance Director to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts.

And reports the same to Council with the recommendation that the committee report be defeated.

Resolution No. 631-93--"Authorizing the Finance Director to make revisions to the 1993-94 General Fund budget."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Finance Director is hereby authorized and directed to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

1-530-0-0-1-3	Scott (PG-2 to G-3)	3,756
1-530-0-0-1-3	Net adjustment	(3,756)

The question being on the adoption of the resolution a roll call was taken and there were yeas--11, nays 16 and absent 0 as follows:

YEAS: Broady, Brown, Cary, Horan, Londeree, McMillen, Morrison, Snodgrass, Thompson, Wright and Mayor Hall.

NAYS: Armbrecht, Connell, Dodson, Hicks, Holt, Huffman, Lane, Layne, McClaskie, Mohler, Monroe, Nielsen, Quick, Robinson, Vanderwilt and Wampler.

ABSENT: None.

So, all members present and voting with the majority having voted in the negative the Mayor declared Resolution No. 631-93 defeated.

10. Your Committee on Finance has had under consideration Resolution No. 632-93, authorizing the Finance Director to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts.

And reports the same to Council with the recommendation that the committee report be rejected.

Resolution No. 632-93--"Authorizing the Finance Director to make revisions to the 1993-94 General Fund budget."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Finance Director is hereby authorized and directed to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

1-540-0-0-1-3	Simmons	5,745
1-540-0-0-1-4	FICA	439
1-540-0-0-1-6	Retirement	546
1-540-0-0-1-9	Health care withholding	(57)
1-540-0-0-2-26	Worker's Comp. and Unempl. Comp.	273
1-570-0-0-4-58	Special projects	(6,946)

The question being on the adoption of the resolution a roll call was taken and there were--yeas 12, nays 15 and absent 0 as follows:

YEAS: Broady, Brown, Cary, Horan, Lane, Londeree, McMillen, Morrison, Snodgrass, Thompson, Wright and Mayor Hall.

NAYS: Armbrecht, Connell, Dodson, Hicks, Holt, Huffman, Layne, McClaskie, Mohler, Monroe, Nielsen, Quick, Robinson, Vanderwilt and Wampler.

ABSENT: None.

So, all members present and voting with the majority having voted in the negative the Mayor declared Resolution NO. 632-93 defeated.

11. Your Committee on Finance has had under consideration Resolution No. 633-93, authorizing the Finance Director to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts.

And reports the same to Council with the recommendation that the committee report be defeated.

Resolution No. 633-93--"Authorizing the Finance Director to make revisions to the 1993-94 General Fund budget."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Finance Director is hereby authorized and directed to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

1-540-35-0-1-3	Marks	3,915
1-540-35-0-1-4	FICA	299
1-540-35-0-1-6	Retirement	372
1-540-35-0-1-9	Health care withholding	(39)
1-540-35-0-2-26	Worker's Comp. and Unempl. Comp	186
1-570-0-0-4-58	Special Projects	(4,733)

The question being on the adoption of the resolution a roll call was taken and there were--yeas 13, nays 14 and absent 0 as follows:

YEAS: Broady, Brown, Cary, Connell, Horan, Lane, Londeree, McMillen, Morrison, Snodgrass, Thompson, Wright and Mayor Hall.

NAYS: Armbrecht, Dodson, Hicks, Holt, Huffman, Layne, McClaskie, Mohler, Monroe, Nielsen, Quick, Robinson, Vanderwilt and Wampler.
ABSENT: None.
So, all members present and voting with the majority having voted in the negative the Mayor declared Resolution No. 633-93 defeated.

12. Your Committee on Finance has had under consideration Resolution No. 634-93, authorizing the Finance Director to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts.

And reports the same to Council with the recommendation that the committee report be rejected.

Resolution No. 634-93--"Authorizing the Finance Director to make revisions to the 1993-94 General Fund budget."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Finance Director is hereby authorized and directed to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

1-570-0-0-1-3	Thaxton	3,915
1-570-0-0-1-4	FICA	299
1-570-0-0-1-6	Retirement	372
1-570-0-0-1-9	Health care withholding	(39)
1-570-0-0-2-26	Worker's Comp. and Unempl. Comp.	186
1-570-0-0-4-58	Special projects	(4,733)

The question being on the adoption of the resolution a roll call was taken and there were--yeas 12, nays 15 and absent 0 as follows:
YEAS: Broady, Brown, Cary, Hicks, Horan, Londeree, McMillen, Morrison, Snodgrass, Thompson, Wright and Mayor Hall.
NAYS: Armbrecht, Connell, Dodson, Holt, Huffman, Lane, Layne, McClaskie, Mohler, Monroe, Nielsen, Quick, Robinson, Vanderwilt and Wampler.
ABSENT: None.
So, all members present and voting with the majority having voted in the negative the Mayor declared Resolution No. 634-93 rejected.

13. Your Committee on Finance has had under consideration Resolution No. 635-93, authorizing the Finance Director to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts.

And reports the same to Council with the recommendation that the committee report be rejected.

Resolution No. 635-93--"Authorizing the Finance Director to make revisions to the 1993-94 General Fund budget."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Finance Director is hereby authorized and directed to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

1-573-0-0-1-3	Copley	4,382
1-573-0-0-1-4	FICA	335
1-573-0-0-1-6	Retirement	416
1-573-0-0-1-9	Health Care withholding	(44)
1-573-0-0-2-26	Worker's Comp. and Unempl. Comp.	208
1-570-0-0-4-58	Special projects	(5,297)

The question being on the adoption of the resolution a roll call was taken and there were--yeas 11, nays 16 and absent 0 as follows:

YEAS: Broady, Brown, Cary, Horan, Londeree, McMillen, Morrison, Snodgrass, Thompson, Wright and Mayor Hall.

NAYS: Armbrecht, Connell, Dodson, Hicks, Holt, Huffman, Lane, Layne, McClaskie, Mohler, Monroe, Nielsen, Quick, Robinson, Vanderwilt and Wampler.

ABSENT: None.

So, all members present and voting with the majority of members having voted in the negative the Mayor declared Resolution No. 635-93 adopted.

14. Your Committee on Finance has had under consideration Resolution No. 636-93, authorizing the Finance Director to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts.

And reports the same to Council with the recommendation that the committee report be rejected.

Resolution No. 636-93--"Authorizing the Finance Director to make revisions to the 1993-94 General Fund budget."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Finance Director is hereby authorized and directed to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

1-579-0-0-1-3	Carey (G-2 to G-5)	3,382
1-579-0-0-1-4	Net adjustment	(3,382)

The question being on the adoption of the resolution a roll call was taken and there were--yeas 11, nays 16 and absent 0 as follows:

YEAS: Broady, Brown, Cary, Horan, Londeree, McMillen, Morrison, Snodgrass, Thompson, Wright and Mayor Hall.

NAYS: Armbrecht, Connell, Dodson, Hicks, Holt, Huffman, Lane, Layne, McClaskie, Mohler, Monroe, Nielsen, Quick, Robinson, Vanderwilt and Wampler.
ABSENT: None.
So, all members present and voting with the majority having voted in the negative the Mayor declared Resolution No. 636-93 rejected.

15. Your Committee on Finance has had under consideration Resolution No. 637-93, authorizing the Finance Director to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts.

And reports the same to Council with the recommendation that the committee report be rejected.

Resolution No. 637-93--"Authorizing the Finance Director to make revisions to the 1993-94 General Fund budget."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Finance Director is hereby authorized and directed to make revisions to the 1993-94 General Fund budget as indicated on the attached list of accounts; and be it

FURTHER RESOLVED that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

1-603-0-0-1-3	Berkley	2,908
1-603-0-0-1-4	FICA	222
1-603-0-0-1-6	Retirement	276
1-603-0-0-1-9	Health care withholding	(29)
1-603-0-0-2-26	Worker's Comp. and Unempl. Comp	138
		3,515
1-360-0-9004	Community Development	3,515

The question being on the adoption of the resolution a roll call was taken and there were--yeas 12, nays 15 and absent 0 as follows:
YEAS: Broady, Brown, Cary, Horan, Lane, Londeree, McMillen, Morrison, Snodgrass, Thompson, Wright and Mayor Hall.
NAYS: Armbrecht, Connell, Dodson, Hicks, Holt, Huffman, Layne, McClaskie, Mohler, Monroe, Nielsen, Quick, Robinson, Vanderwilt and Wampler.
ABSENT: None.
So, all members present and voting with the majority having voted in the negative the Mayor declared Resolution No. 637-93 defeated.

16. Your Committee on Finance has had under consideration proposal submitted by B. Stanley Gill, in the amount of $2,717, for purchase of thirteen (13) work stations ($209 each) to be installed in the newly remodeled offices for designated units of the Metro Emergency Operations Center and the Police Department; to be charged to Account No. 01-711-0-0-4-59, Metro--Capital Outlay/Equipment.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

17. Your Committee on Finance has had under consideration proposal submitted by Rite-Way Fence Company, in the amount of $2,985, for materials to construct a batting cage at the North Charleston Community Center ballfield; to be charged to the following accounts:

$1,875.89 25-090-00-59, CDBG--P&R/Batting Cage (NCCC)
$1,109.11 25-092-00-59, CDBG--P&R/Batting Cage (NCCC)

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.
NAYS: None.
ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared the committee report adopted.

18. Your Committee on Finance has had under consideration bid submitted by Tiffin Scenic Studios, Inc., in the amount of $9,417, for the purchase and installation of stage drapery at the Charleston Municipal Auditorium; to be charged to Account No. 54-54-0-0-3-41, Civic Center Renewal & Replacement Fund/Materials and Supplies.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

19. Your Committee on Finance has had under consideraiton Bill No. 4952, granting the Kanawha County Public Library an appropriate license to allow the placement of a sign at the Kanawha County Library on City right-of-way.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 4952--A Bill granting the Kanawha County Public Library an appropriate license to allow the erection of one sign on City right-of-way or property shown on the attached hand-drawn plat.

WHEREAS, the Kanawha County Public Library has a drive-in window to facilitate the return of books; and,

WHEREAS, in order to publicize the movement of traffic utilizing said facilities, it is necessary that an appropriate sign be placed on City right-of-way; and,

WHEREAS, the appropriate City offices have approved the placement of said sign; and,

WHEREAS, the Kanawha County Public Library has agreed to save the City harmless for any injury or damage to people or property caused by the placement or maintenance of said sign; now, therefore, be it

Ordained by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to execute a license agreement to the Kanawha County Public Library for the placement of a sign at the location shown on a map attached hereto, incorporated herein, and made a part hereof.

The question being on the passage of the bill a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 4952 passed.

20. Your Committee on Finance has had under consideration Bill No. 4956, authorizing the Mayor to enter into an Agreement with the West Virginia Department of Transportation, Division of Highways, regarding the installation and maintenance of a highway lighting system on Greenbrier Street in the City of Charleston.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 4956--A Bill authorizing and directing the Mayor to enter into an Agreement with the West Virginia Department of Transportation, Division of Highways, regarding the installation and maintenance of a highway lighting system on Greenbrier Street in the City of Charleston.

WHEREAS, the Department of Transportation has agreed to install a highway lighting system on Greenbrier Street in the vicinity of Airport Road, and the City has agreed to assume the maintenance cost and cost of energy and relamping of said lighting system; now, therefore, be it

Ordained by the Council of the City of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to enter into an Agreement with the West Virginia Department of Transportation, Division of Highways, for the installation and maintenance of a highway lighting system on Greenbrier Street as set forth in the Agreement attached hereto and incorporated herein.

The question being on the passage of the bill a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 4956 passed.

21. Your Committee on Finance has had under consideration authorizing the Charleston Housing Improvements Program to charge Account No. 25-089-00-014 in the amount of $11,498.22 for rehabilitation of three (3) projects approved by the CHIP Loan Review Committee at a meeting held on May 12, 1993.

CONTRACTOR:	Lowe's Contracting Service
PROJECT ADDRESS:	1426 Third Avenue
TOTAL ESTIMATED COST:	$3,775.72
RECORDING FEE:	2.50
TOTAL LOAN:	$3,778.22

CONTRACTOR:	Lamb's Contracting
PROJECT ADDRESS:	1412 First Avenue
TOTAL ESTIMATED COST:	$7,497.50
RECORDING FEE:	2.50
TOTAL LOAN:	$7,500.00

CONTRACTOR:	Flood Insurance
PROJECT ADDRESS:	203 28th Street
INSURANCE:	$ 220.00
TOTAL LOAN:	$ 220.00

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were--yeas 25, nays 2 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: Hicks and Mohler.

ABSENT: None.

So, all members present and voting with the majority having voted in the affirmative the Mayor declared the committee report adopted.

22. Your Committee on Finance has had under consideration payment of two invoices from Walker Machinery Company for repair of the 826-C compactor used at the Landfill, in the amount of $4,703.96 (replacement of cylinder head), and $2,805.86 (parts for replacement of drive shaft and "U" joints), for a total of $7,509.82; to be charged to Account No. 01-532-0-0-2-16, Landfill--Maintenance & Repair/Equipment.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

23. Your Committee on Finance has had under consideration an invoice in the amount of $49,409.54 from Shuman, Annand & Poe--South Charleston vs. Charleston for payment of $40,000.00 as partial payment to Shuman, Annand & Poe for professional services and expenses rendered through April 16, 1993 in City of South Charleston vs. City of Charleston, Civil Action No. 93-C-1411; this will provide for payment to Shuman, Annand & Poe in the amount of $40,000 as partial payment of charges in the amount of $49,409.54 for professional services through April 16, 1993 (104.3 hours @ $100.00 per hour; plus 314.4 hours @ $90.00 per hour; 139.5 hours @ $45.00 per hour; plus miscellaneous expenses of $4,370.04).

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

24. Your Committee on Finance has had under consideration Resolution No. 638-93, granting preliminary approval for the partial refunding of the Kanawha County, West Virginia, Putnam County, West Virginia, City of Huntington, West Virginia, City of Charleston, West Virginia $39,004,959.50 Single Family Residence Mortgage Revenue Bonds 1984 Series A.

And reports the same to Council with the recommendation that the committee report be adopted.

Councilman Huffman moved to amend the resolution by adding the word "preliminary" between the words "hereby authorized" in Section 1.

The question being on Councilman Huffman's motion a vote was taken. There being no dissent the Mayor declared the amendment adopted.

Councilman Thompson moved to amend the resolution by adding "With all provisions, conditions and financial consideration subject to satisfactory negociated resolution by all interested parties of this refinancing." after the word approved in Section 1 and by deleting all of Section 3.

The question being on Councilman Thompson's motion a vote was taken. With the majority of members having voted in the negative the Mayor declared the motion defeated.

Resolution No. 638-93, as amended--A Resolution of the Council of the City of Charleston, West Virginia Granting Preliminary Approval For the Partial Refunding of the Kanawha County, West Virginia, Putnam County, West Virginia, City of Huntington, West Virginia, City of Charleston, West Virginia, $39,004,959.50 Single Family Residence Mortgage Revenue Bonds 1984 Series A.

WHEREAS, pursuant to a Trust Indenture dated August 1, 1984 by and among Kanawha County, West Virginia, Putnam County, West Virginia (the "Counties"), City of Huntington, West Virginia, City of Charleston, West Virginia (the "Cities") and Charleston National Bank (the "Trustee") and certain other documents, the Counties and Cities issued the Kanawha County, West Virginia, Putnam County, West Virginia, City of Huntington, West Virginia, City of Charleston, West Virginia $39,004,959.50 Single Family Residence Mortgage Revenue Bond, 1984 Series A (the "1984 Series A Bonds"); and

WHEREAS, the proceeds of the 9184 Series A Bonds were utilized by lending institutions to make mortgage loans to qualified homebuyers in the Counties and Cities at interest rates below then prevailing interest rate levels; and

WHEREAS, Morgan Keegan & Company, Inc. and Ferris, Baker Watts, Incorporated, having consulted with the Trustee, have determined that a partial refunding of the 1984 Series A Bonds can be accomplished which will result in debt service savings and the receipt by the Counties and Cities of monies which may be used for the governmental purposes of the Counties and Cities.

Now, therefore, be it Resolved by the Council of the City of Charleston, West Virginia (the "Council") as follows:

Section 1. That, the partial refunding of the 1984 Series A Bonds is hereby preliminarily authorized and approved.

Section 2. That any such refunding bonds shall be issued by the Counties and Cities pursuant to documents which shall be subject to the prior review and approval of the Council.

Section 3. That, in connection with the proposed refunding bond issue, Morgan Keegan Company, Inc. and Ferris, Baker Watts, Incorporated are hereby appointed as underwriters and Goodwin & Goodwin, Charleston, West Virginia is hereby appointed as bond counsel.

Section 4. That the Council shall have the right to designate local counsel which shall cooperate with the underwriters, bond counsel and Trustee in the issuance of the proposed refunding bonds.

Section 5. That, in connection with the issuance of the proposed refunding bonds, there shall be no expense to the City of Charleston, West Virginia or to any officer or employee of the City, and the issuance of the proposed refunding bonds is subject to review and approval of all terms, conditions and documents relating to such issuance.

Section 6. This Resolution shall be effective immediately.

The question being on the adoption of the resolution a roll call was taken and there were--yeas 26, nays 1 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: Thompson.

ABSENT: None.

So, all members present and voting with the majority having voted in the affirmative the Mayor declared Resolution No. 638-93 as amended, adopted.

Councilwoman Holt, Chairman of the Council Committee on Streets and Traffic, submitted the following reports.

1. Your Committee on Streets and Traffic has had under consideration Bill No. 4948.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 4948--A Bill to establish a stop intersection on 4th Avenue at 35th Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Be it Ordained by the Council of the City of Charleston, West Virginia:

Section 1. A stop intersection on 4th Avenue at 35th Street is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are amended to conform to this ordinance.

The question being on the passage of the bill a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 4948 passed.

2. Your Committee on Streets and Traffic has had under consideration Bill No. 4949.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 4949--A Bill to establish a stop intersection on 5th Avenue and 35th Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Be it Ordained by the Council of the City of Charleston, West Virginia:

Section 1. A stop intersection on 5th Avenue at 35th Street is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are, amended to conform to this ordinance.

The question being on the passage of the bill a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 4949 passed.

3. Your Committee on Streets and Traffic has had under consideration Bill No. 4950.

And reports the same to Council with the recommendation that the bill be amended on line 1 and 11 by changing 20 miles to 15 miles and that the bill pass as amended.

The question being on the adoption of the amendments a vote was taken. There being no dissent the Mayor declared the amendments adopted.

Bill No. 4950, as amended--A Bill to establish a 15 mile per hour speed limit on Woodpath Lane and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Be it Ordained by the Council of the City of Charleston, West Virginia:

Section 1. A 15 mile per hour speed limit on Woodpath Lane is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are, amended to conform therewith.

The question being on the passage of the bill a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 4950, as amended, passed.

4. Your Committee on Streets and Traffic has had under consideration Bill No. 4951.

And reports the same to Council with the recommendation that the bill be amended on line 1 and 11 by changing 25 to 20 and passed as amended.

The question being on the adoption of the amendment a vote was taken. There being no dissent the Mayor declared the amendment adopted.

Bill No. 4951, as amended--A Bill to establish a 20 mile per hour speed limit on 3rd Avenue from 28th Street to 35th Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Be it Ordained by the Council of the City of Charleston, West Virginia:

Section 1. A 20 mile per hour speed limit on 3rd Avenue from 28th Street to 35th Street is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are amended to conform to this ordinance.

The question being on the passage of the bill a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 4951, as amended, passed.

5. Your Committee on Streets and Traffic has had under consideration Bill No. 4957.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 4957--A Bill to establish No Parking Anytime Tow Away zone on the east side of Watts Street from Costello Street to a point 100 feet north of Costello and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three to conform therewith.

Be it Ordained by the Council of the City of Charleston, West Virginia:

Section 1. A No Parking Anytime Tow Away zone on the east side of Watts Street from Costello Street to a point 100 feet north of Costello Street is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are amended to conform to this ordinance.

The question being on the passage of the bill a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 4957 passed.

6. Your Committee on Streets and Traffic has had under consideration Bill No. 4958.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 4958--A Bill to repeal Ordinance No. 4247 pertaining to handicap parking on the easterly side of Market Drive from a point 115 feet south of Burlew Drive to a point 135 feet south of Burlew Drive and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Be it Ordained by the Council of the City of Charleston, West Virginia:

Section 1. Ordinance No. 4247 pertaining to handicap parking on the easterly side of Market Drive from a point 115 feet south of Burlew Drive to a point 135 feet south of Burlew Drive is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are amended to conform to this ordinance.

The question being on the passage of the bill a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 4958 passed.

REPORTS OF OFFICERS

1. City Treasurer's Report for month ending April, 1993; received and filed.

NEW BILLS INTRODUCED

Introduced by Councilmembers Lane and McMillen--May 17, 1993
Bill No. 4959--A Bill amending and reenacting Chapter Twelve, Article Three, Section 36.3 of the Fire Protection Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, as it relates to sick leave; referred to Council Committee on Finance.

Introduced by Councilmembers Lane and McMillen--May 17, 1993
Bill No. 4960--A Bill amending and reenacting Chapter Twenty-two, Article Two, Section Thirteen of the Police Department Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, as it relates to sick leave; referred to Council Committee on Finance.

Introduced by Councilmembers Lane and McMillen--May 17, 1993
Bill No. 4961--A Bill amending and reenacting Chapter Eleven, Section Ten of the Emergency Ambulance Service Department Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, as it relates to sick leave; referred to Council Committee on Finance.

Introduced by Councilman Monroe--May 17, 1993
Bill No. 4962--A Bill to repeal Ordinance No. 4229 passed by Council on September 21, 1987, relating to handicap parking on the northerly side of Pennsylvania Avenue from a point 232 feet west of Spring Street to a point 254 feet west of Spring Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith; referred to Council Committee on Streets and Traffic.

Introduced by Councilman Huffman--May 17, 1993
Bill No. 4963--A Bill to establish a no parking zone on the north side of Sweetbrier Road from Hampton Road to a point 180 feet east of Hampton Road from 7:30 am to 8:30 am and from 2:00 pm to 3:00 pm "when school is in session: and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith; referred to Council Committee on Streets and Traffic.

Introduced by Councilman Snodgrass--May 17, 1993
Bill No. 4964--A Bill to establish a 15 mile per hour speed limit in the east west alley from 57th Street to 56th Street between Virginia Avenue and Kanawha Avenue and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith; referred to Council Committee on Streets and Traffic.

Introduced by Councilmembers Connell and Londeree--May 17, 1993
Bill No. 4965--A Bill to establish a stop intersection on Shamrock Road at Londonderry Road and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith; referred to Council Committee on Streets and Traffic.

Introduced by Councilwoman Nielsen--May 17, 1993
Bill No. 4966--A Bill to establish a 15 mile per hour speed limit on Loop Road and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith; referred to Council Committee on Streets and Traffic.

Introduced by Councilwoman Nielsen--May 17, 1993
Bill No. 4967--A Bill to establish a 15 mile per hour speed limit on Lexington Drive and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith; referred to Council Committee on Streets and Traffic.

Introduced by Councilwoman Nielsen--May 17, 1993
Bill No. 4968--A Bill to establish a no parking anytime tow-away on the east side of Loop Road from the intersection of Loop Road at Lexington Drive to a point 30 feet south of Lexington Drive and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith; referred to Council Committee on Streets and Traffic.

Be it Ordained by the Council of the City of Charleston, West Virginia:

Section 1. No Parking Anytime Tow-Away on the east side of Loop Road from the intersection of Loop Road at Lexington Drive to a point 30 feet south of Lexington Drive is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are, amended, to conform to this ordinance.

Section 3. The City Council finds that there is a pressing public emergency to enact this ordinance on grounds of public safety.

The question being on the passage of the bill a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 4968 passed.

Introduced by Councilwoman Nielsen--May 17, 1993
Bill No. 4969--A Bill authorizing the Mayor to offer and purchase for Three Thousand Dollars ($3,000.00) certain real estate located in the City of Charleston identified as Lot One Hundred Forty-four of Block B in Vandalia, from Lewis R. Smoot, Sr. and Geniveve W. Smoot; referred to Council Committee on Finance.

UNFINISHED BUSINESS AND MISCELLANOUS MATTERS

Councilman Wright submitted a petition from citizens of Smith and Shrewsbury streets requesting the Chief of Police be directed by the Mayor to get prostitutes, pimps, drag queens and boy/girls off our streets.

Received and filed.

At 10:30, on motion of Councilman Brown, Council adjourned until Monday, June 7, 1993.

AFFIDAVIT OF PUBLICATION

STATE OF WEST VIRGINIA,

KANAWHA COUNTY, TO-WIT:

I, Belinda Withrow OF

THE CHARLESTON GAZETTE, A DAILY DEMOCRATIC NEWSPAPER,

THE DAILY MAIL, A DAILY REPUBLICAN NEWSPAPER,

PUBLISHED IN THE CITY OF CHARLESTON, KANAWHA COUNTY,

WEST VIRGINIA, DO SOLEMNLY SWEAR THAT THE ANNEXED

NOTICE OF: SEWERAGE SYSTEM

WAS DULY PUBLISHED IN SAID PAPER(S) ON THE DATES

LISTED BELOW, AND WAS POSTED AT THE FRONT DOOR OF THE

COURT HOUSE OF SAID KANAWHA COUNTY, WEST VIRGINIA,

ON THE

7TH DAY OF MAY , 1993 .

DATES PUBLISHED:

05/06/93	GAZETTE	05/06/93	DAILY MAIL
05/13/93	GAZETTE	05/13/93	DAILY MAIL

SUBSCRIBED AND SWORN TO BEFORE ME THIS

14TH DAY OF MAY , 1993 .

Sarah J. Withrow

NOTARY PUBLIC OF KANAWHA COUNTY, WEST VIRGINIA

PRINTERS FEE $ 236.00

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
SARAH J. WITHROW
1001-T LINCOLN DRIVE
SO. CHARLESTON, WV 25309
My Commission Expires April 28, 2003

NOTICE OF PUBLIC HEARING AND ABSTRACT OF SEWERAGE SYSTEM ORDINANCE

Notice is hereby given to any person interested that on May 3, 1993, the Council of The City of Charleston, West Virginia (the "City"), adopted an Ordinance that:

1. Determined it is necessary and desirable for the health, welfare and safety of the inhabitants of the City to acquire and construct certain extensions, additions, betterments and improvements (the "Project") to the sewerage system (the "System") in order to preserve the public health, to be financed through the issuance of Sewerage System Revenue Bonds (the "Series 1993 Bonds") in the aggregate principal amount of not more than $2,500,000.

2. Provided for the sale of the Series 1993 Bonds to the West Virginia Water Development Authority (the "Authority") through the West Virginia Water Pollution Control Revolving Fund Program (the "Program") pursuant to the terms and provisions as will be prescribed in a supplemental resolution of the Council.

3. Directed that the Series 1993 Bonds be issued as fully registered bonds to the Authority; be dated as of the date of delivery thereof; mature on such dates in such years, not exceeding twenty-one (21) years after the date of issuance and in such amounts as will be prescribed by supplemental resolution of Council; provided that the Series 1993 Bonds shall bear interest at the rate per annum not to exceed the maximum legal limit, payable quarterly, on March 1, June 1, September 1 and December 1 of each year following the delivery of the Series 1993 Bonds; that the Series 1993 Bonds be executed in the name of the City by the Mayor, and the seal of the City be affixed thereto and attested to by the City Clerk; and that said Series 1993 Bonds be duly authenticated by the registrar.

4. Authorized the continuation of the Revenue Fund, the Renewal and Replacement Fund and the Costs of Issuance Account; provided for the monthly payment of principal and interest on the Series 1993 Bonds; and provided for the creation of reserve accounts for the Series 1993 Bonds.

5. Provided for the disposition of the Series 1993 Bonds proceeds; created a construction trust fund to hold the monies derived from the sale of the Series 1993 Bonds to be used solely to pay costs of the Project.

6. Provided that the Series 1993 Bonds shall not be or constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter limitation of indebtedness but shall be payable solely from the Revenues of the System.

7. Provided that the Series 1993 Bonds shall be secured equally and ratably with each other by a first lien on the Revenues of the System which lien is on a parity with the lien of certain outstanding bonds of the City and superior to the lien of certain outstanding bonds of the City.

8. Provided that the rates and charges for the System shall produce gross revenues sufficient to pay all reasonable operating expenses of the System and leave a balance each year equal to at least 110% of the maximum annual debt service on the Series 1993 Bonds and all obligations of the City, prior to or on a parity with the Series 1993 Bonds, payable from Revenues of the System.

The City contemplates the issuance of the Series 1993 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 Charleston at a meeting thereof at eight o'clock (8:00) p.m., prevailing time, on Monday, May 17, 1993, in the Council Chambers in the City Building, Virginia Street, East, Charleston, West Virginia, and present protests and be heard as to whether the Ordinance shall be put into effect.

A certified copy of the Ordinance, as adopted by the Council of the City on May 3, 1993, is on file in the office of the City Clerk of the City for review by interested persons during the regular office hours of such office, to-wit: 9:00 a.m. to 5:00 p.m., Mondays through Fridays.

James C. Stucky
City Clerk of
The City of
Charleston, West Virginia
(124591)

SRF-LP-1
(April 1993)

LOAN AGREEMENT

THIS WATER POLLUTION CONTROL REVOLVING FUND LOAN AGREEMENT (the "Loan Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), the WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION, a division of the West Virginia Department of Commerce, Labor and Environmental Resources (the "DEP"), and the local government designated below (the "Local Government").

CITY OF CHARLESTON
(Local Government)

W I T N E S S E T H:

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

WHEREAS, pursuant to the provisions of Chapter 20, Article 5I, of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to direct the distribution of loans to particular local governments pursuant to the Clean Water Act;

WHEREAS, under the Act the DEP is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards and DEP has been awarded capitalization grants to partially fund the Program;

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

WHEREAS, pursuant to the Act, the Authority and DEP are empowered to make loans from the Fund to local governments for the acquisition or construction of wastewater treatment projects by

such local governments, all subject to such provisions and limitations as are contained in the Clean Water Act and the Act;

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

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

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

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

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

WHEREAS, having reviewed the Application and the Fund having available sufficient funds therefor, the Authority and DEP are willing to lend the Local Government the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Government with moneys held in the Fund, subject to the Local Government's satisfaction of certain legal and other requirements of the Program.

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

ARTICLE I

Definitions

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II

The Project and the System

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

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

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

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

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

the Project, the operation and maintenance of the System and the administration of the Loan or of any State and federal grants or other sources of financing for the Project.

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

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

2.8 The Local Government shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and DEP. Until the Project facilities are completed and accepted by the Local Government, the Local Government or (at the option of the Local Government) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Government, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Government on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Government must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Local Government shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, DEP and the

Local Government at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Government shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Local Government shall notify DEP in writing of such receipt. The Local Government shall submit a Performance Certificate, the form of which is attached hereto as Exhibit A, and being incorporated herein by reference, to DEP within 60 days of the end of the first year after the Project is completed.

2.10 The Local Government shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to DEP when the Project is 90% completed. The Local Government agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Local Government agrees that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The Local Government shall notify DEP in writing of the certified operator employed at the 25% completion stage.

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

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

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

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

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

(f) The Local Government shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local

Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

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

(h) The Local Government shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project) with all requisite appeal periods having expired, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

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

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

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the Authority and DEP, including the SRF Regulations, or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make the Loan to the Local Government and the Local Government shall accept the Loan from the

Authority, and in furtherance thereof it is agreed that the Local Government shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

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

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

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

3.6 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions established by federal and state regulations as set forth in Exhibit E hereto at such times as are set forth in Exhibit E.

ARTICLE IV

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

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

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

(i) to pay Operating Expenses of the System;

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

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by the net revenues from the System;

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

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

(iv) That, except as otherwise required by State law or the Regulations, the System may be sold, mortgaged, leased or otherwise disposed of as a whole or substantially as a whole provided that the net proceeds to be realized from such sale, mortgage, lease or other deposition shall be sufficient to fully pay all of the local bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of such System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

(v) That the Local Government shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by

a lien on or payable from the revenues of the System prior to the Local Bonds and with the written consent of the Authority and DEP; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

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

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

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

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

(xi) That the Local Government shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and DEP, which report shall include a statement that the Local Government is in compliance with the terms and provisions of the Local Act and this Loan Agreement and that the Local Government's revenues are adequate to meet its operation and maintenance expenses and debt service requirements;

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

(xiii) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC,

prospective users of the System shall be required to connect thereto;

(xiv) That the proceeds of the Local Bonds, advanced from time to time, except for accrued interest and capitalized interest, if any, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Local Government and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing for non-construction costs) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim funding of such Local Government, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and DEP, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

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

(xvi) That the Local Government shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the West Virginia Municipal Bond Commission (the "Commission") its required interest, principal and reserve fund payment. The Local Government shall complete the Monthly Payment Form, attached hereto as Exhibit F and incorporated herein by reference, and submit a copy of said form along with a copy of the check to the Authority by the 5th day of such calendar month;

(xvii) That the Commission shall serve as paying agent for all Local Bonds;

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

(xix) That the Local Government shall have obtained the certificate of the Consulting Engineers to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority, the Project is adequate for the purposes for which it was designed and the funding plan as submitted to the Authority is

sufficient to pay the costs of acquisition and construction of the Project; and

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

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

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

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

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

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

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

ARTICLE V

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

5.1 The Local Government hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Local Government hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System, as set forth in the Local Act and in compliance with the provisions of Subsection 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the minimum sums set forth in the Local Act, the Local Government hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges so as to provide funds sufficient to produce the minimum sums set forth in the Local Act and as required by this Loan Agreement.

5.3 In the event the Local Government defaults in any payment due to the Authority pursuant to Section 4.2 hereof, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Local Government hereby irrevocably covenants and agrees with the Authority that, in the event of any default

hereunder by the Local Government, the Authority may exercise any or all of the rights and powers granted under Section 5 of the Act, including without limitation the right to impose, enforce and collect directly charges upon users of the System.

ARTICLE VI

Other Agreements of the Local Government

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

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

6.3 The Local Government hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority or any other lender for the planning or design of the Project, provided that such repayment shall not be made from the proceeds of the Loan.

6.4 The Local Government hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Local Government fails to make any such rebates as required, then the Local Government shall pay any and all penalties, obtain a waiver from the Internal Revenue

Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

6.5 Notwithstanding Section 6.4, the Authority and DEP may at any time, in their sole discretion, cause the rebate calculations prepared by or on behalf of the Local Government to be monitored or cause the rebate calculations for the Local Government to be prepared, in either case at the expense of the Local Government.

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

6.7 The Local Government hereby agrees to file with the Authority upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule A to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

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

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

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

7.4 No waiver by any party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of

the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

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

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

7.7 This Loan Agreement shall terminate upon the earlier of:

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

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

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

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

City of Charleston
[Proper Name of Local Government]

(SEAL)

By: Joe Strange Hall
Its: Mayor

Attest:

Its Clerk

Date: October 5, 1993

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION

By:

Its: Chief, Office of Water Resources

Date: 11 02 93

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By:

Its: Director

Attest:

Secretary-Treasurer

Date: 10/12/93

APPROVED AS TO FORM PRIOR TO ACKNOWLEDGEMENT THEREOF, THIS 25th day of August, 1992.

Attorney General

BY: Dawn E Warfield

DEPUTY ATTORNEY GENERAL

EXHIBIT A

Certificate of Performance
for
Publicly Owned Treatment Works

I. As required by the Clean Water Act under Title VI, Section 602(b)(6), and the Loan Agreement, the Local Government does hereby certify that it has :

a. Provided to the WV DEP written notification of the actual date of initiation of operation. This date of initiation was on the _____ day of _____, 19___.

b. Utilized the services of _____, our prime engineer who either:

_____ Supervised our project construction; and/or

_____ Provided architectural and engineering services during construction.

For a period of twelve (12) months following the initiation of operations, the prime engineer provided the following services:

1) Directed project operation and maintenance; and
2) Trained operating personnel and prepared the required curricula and training materials, and revised the operation and maintenance manual(s); and
3) Advised the Local Government on the status of the project meeting performance standards.

II. The Local Government, having access to and control of all the necessary data, and having monitored the construction of this project, hereby certifies that the project built under this Loan Agreement meets:

a. The specifications for which the project was planned, designed, and built.

b. The effluent limitations contained in its NPDES permit, if applicable.

_____
Local Government Name

_____ _____
Local Government Representative's Name and Title Date

EXHIBIT B

[Form of Monthly Financial Report]

[Name of Local Government]

[Name of Bond Issue]

Fiscal Year - ____

Report Month: _____

ITEM	CURRENT MONTH	YEAR TO DATE	BUDGET YEAR TO DATE	DIFFERENCE
1. Gross Revenues Collected				
2. Operation and Maintenance Expense				
3. Other Bond Debt Payments (including Reserve Fund deposits)				
4. SRF Bond Payments (include Reserve Fund deposits)				
5. Renewal and Replacement Fund Deposit				
6. Funds available for capital construction				

Witnesseth my signature this ____ day of _____, 19__.

[Name of Local Government]

By: _____
Authorized Officer

EXHIBIT C

PAYMENT REQUISITION FORM

(TO BE PROVIDED BY DEP FOR EACH PROJECT)

EXHIBIT D

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No._____, of _____, Consulting Engineers, _____, _____, hereby certify that my firm is engineer for the acquisition and construction of _____ to the _____ system (herein called the "Project") of _____ (the "Issuer") to be constructed primarily in _____County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the _____ passed by the _____ of the Issuer on _____, 19___, effective _____, 19___, and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated _____, 19___.

1. The Bonds are being issued for the purpose of _____ _____ (the "Project").

2. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least twenty years, (iii) the Issuer has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (v) the rates and charges for the System as adopted by the _____ of the Issuer are sufficient to comply with the provisions

of Subsection 4.1(b) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and (vii) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this _____ day of _____, 19___.

_____

By _____

West Virginia License No. ____

[SEAL]

EXHIBIT E

[Special Conditions]

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

EXHIBIT F

[Monthly Payment Form]

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

Re: [Name of bond issue]

Dear Sirs:

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

Sinking Fund:

Interest $_____

Principal $_____

Total: $_____

Reserve Fund: $_____

Witness my signature this ___ day of_____.

[Name of Local Government]

By: _____
Authorized Officer

Enclosure: copy of check(s)

EXHIBIT G

[Opinion of Bond Counsel for Local Government]

[To Be Dated as of Date of Loan Closing]

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

Gentlemen:

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

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated _____, 19____, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Local Government and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Local Government, dated _____, 19__ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $_____, issued in the form of one bond registered as to principal and interest to the Authority, with interest payable _____ 1, _____ 1, _____ 1, and _____ 1 of each year, beginning _____ 1, 19__, at the respective rate or rates and with principal payable in installments on _____ 1 in each of the years, all as follows:

Year	Installment	Interest Rate

The Local Bonds are issued for the purpose of _____ _____ and paying certain issuance and other costs in connection therewith.

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

Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

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

3. The Local Government is a duly organized and presently existing _____ _____, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary _____ in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Local Government, payable from the net revenues of the System referred to in the Local Act and secured by a [first] lien on and pledge of the net revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

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

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

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

Very truly yours,

SCHEDULE X

DESCRIPTION OF BONDS

Principal Amount of Bonds	$ 773,237.00
Purchase Price of Bonds	$ 773,237.00

Interest on the Bonds shall be zero percent from the date of delivery to and including February 28, 1994. Principal and interest on the Bonds is payable quarterly, commencing June 1, 1994, at a rate of 3.0% per annum. Quarterly payments will be made thereafter on each September 1, December 1, March 1 and June 1 as set forth on Schedule Y attached hereto and incorporated herein by reference. As of the date of this Loan Agreement, it is the Authority's and DEP's understanding that the Local Government has ~~[no other obligations outstanding which have a lien as to the source of and security for payment equal to or superior to the lien being granted by the Bonds] or~~ [provide list of outstanding debt].*

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

The Bonds will be fully registered in the name of the West Virginia Water Development Authority as to principal and interest and such Bonds shall grant the Authority a [first] lien on the net revenues of the Local Government's system.

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

*West Virginia Water Development Authority - $1,912,194 Sewer Revenue Bonds, Series 1989; $283,458 Supplemental Sewer Revenue Bonds, Series 1989; $829,856 Sewer Revenue Bonds, Series 1989B; and $123,015 Supplemental Sewer Revenue Bonds, Series 1989B; and,

City of Charleston - $2,955,000 Sewerage System Refunding Revenue Bonds, Series 1992A and $6,670,000 Sewerage System Refunding and Improvement Revenue Bonds, Series 1992B.

SCHEDULE Y

City of Charleston
SRF

DEBT SERVICE SCHEDULE

DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
3/01/1994	-	-	-	-
6/01/1994	7,089.00	3.00000%	5,799.28	12,888.28
9/01/1994	7,142.00	3.00000%	5,746.11	12,888.11
12/01/1994	7,196.00	3.00000%	5,692.55	12,888.55
3/01/1995	7,250.00	3.00000%	5,638.58	12,888.58
6/01/1995	7,304.00	3.00000%	5,584.20	12,888.20
9/01/1995	7,359.00	3.00000%	5,529.42	12,888.42
12/01/1995	7,414.00	3.00000%	5,474.23	12,888.23
3/01/1996	7,470.00	3.00000%	5,418.62	12,888.62
6/01/1996	7,526.00	3.00000%	5,362.60	12,888.60
9/01/1996	7,582.00	3.00000%	5,306.15	12,888.15
12/01/1996	7,639.00	3.00000%	5,249.29	12,888.29
3/01/1997	7,696.00	3.00000%	5,192.00	12,888.00
6/01/1997	7,754.00	3.00000%	5,134.28	12,888.28
9/01/1997	7,812.00	3.00000%	5,076.12	12,888.12
12/01/1997	7,871.00	3.00000%	5,017.53	12,888.53
3/01/1998	7,930.00	3.00000%	4,958.50	12,888.50
6/01/1998	7,989.00	3.00000%	4,899.02	12,888.02
9/01/1998	8,049.00	3.00000%	4,839.11	12,888.11
12/01/1998	8,110.00	3.00000%	4,778.74	12,888.74
3/01/1999	8,171.00	3.00000%	4,717.91	12,888.91
6/01/1999	8,232.00	3.00000%	4,656.63	12,888.63
9/01/1999	8,294.00	3.00000%	4,594.89	12,888.89
12/01/1999	8,356.00	3.00000%	4,532.69	12,888.69
3/01/2000	8,418.00	3.00000%	4,470.02	12,888.02
6/01/2000	8,482.00	3.00000%	4,406.88	12,888.88
9/01/2000	8,545.00	3.00000%	4,343.27	12,888.27
12/01/2000	8,609.00	3.00000%	4,279.18	12,888.18
3/01/2001	8,674.00	3.00000%	4,214.61	12,888.61
6/01/2001	8,739.00	3.00000%	4,149.56	12,888.56
9/01/2001	8,804.00	3.00000%	4,084.01	12,888.01
12/01/2001	8,871.00	3.00000%	4,017.98	12,888.98
3/01/2002	8,937.00	3.00000%	3,951.45	12,888.45
6/01/2002	9,004.00	3.00000%	3,884.42	12,888.42
9/01/2002	9,072.00	3.00000%	3,816.89	12,888.89
12/01/2002	9,140.00	3.00000%	3,748.85	12,888.85
3/01/2003	9,208.00	3.00000%	3,680.30	12,888.30
6/01/2003	9,277.00	3.00000%	3,611.24	12,888.24
9/01/2003	9,347.00	3.00000%	3,541.67	12,888.67
12/01/2003	9,417.00	3.00000%	3,471.56	12,888.56
3/01/2004	9,488.00	3.00000%	3,400.94	12,888.94
6/01/2004	9,559.00	3.00000%	3,329.78	12,888.78
9/01/2004	9,630.00	3.00000%	3,258.08	12,888.08
12/01/2004	9,703.00	3.00000%	3,185.86	12,888.86
3/01/2005	9,775.00	3.00000%	3,113.09	12,888.09
6/01/2005	9,849.00	3.00000%	3,039.77	12,888.77
9/01/2005	9,923.00	3.00000%	2,965.91	12,888.91
12/01/2005	9,997.00	3.00000%	2,891.48	12,888.48
3/01/2006	10,072.00	3.00000%	2,816.51	12,888.51
6/01/2006	10,148.00	3.00000%	2,740.97	12,888.97
9/01/2006	10,224.00	3.00000%	2,664.86	12,888.86

Ferris, Baker Watts, Inc.
Public Finance Department

FILE = NEWFILE
10/ 4/1993 8:54 AM

City of Charleston
SRF

DEBT SERVICE SCHEDULE

DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
12/01/2006	10,300.00	3.00000%	2,588.18	12,888.18
3/01/2007	10,378.00	3.00000%	2,510.93	12,888.93
6/01/2007	10,455.00	3.00000%	2,433.09	12,888.09
9/01/2007	10,534.00	3.00000%	2,354.68	12,888.68
12/01/2007	10,613.00	3.00000%	2,275.67	12,888.67
3/01/2008	10,692.00	3.00000%	2,196.08	12,888.08
6/01/2008	10,773.00	3.00000%	2,115.89	12,888.89
9/01/2008	10,853.00	3.00000%	2,035.09	12,888.09
12/01/2008	10,935.00	3.00000%	1,953.69	12,888.69
3/01/2009	11,017.00	3.00000%	1,871.68	12,888.68
6/01/2009	11,099.00	3.00000%	1,789.05	12,888.05
9/01/2009	11,183.00	3.00000%	1,705.81	12,888.81
12/01/2009	11,267.00	3.00000%	1,621.94	12,888.94
3/01/2010	11,351.00	3.00000%	1,537.43	12,888.43
6/01/2010	11,436.00	3.00000%	1,452.30	12,888.30
9/01/2010	11,522.00	3.00000%	1,366.53	12,888.53
12/01/2010	11,608.00	3.00000%	1,280.12	12,888.12
3/01/2011	11,695.00	3.00000%	1,193.06	12,888.06
6/01/2011	11,783.00	3.00000%	1,105.34	12,888.34
9/01/2011	11,871.00	3.00000%	1,016.97	12,887.97
12/01/2011	11,961.00	3.00000%	927.94	12,888.94
3/01/2012	12,050.00	3.00000%	838.23	12,888.23
6/01/2012	12,141.00	3.00000%	747.86	12,888.86
9/01/2012	12,232.00	3.00000%	656.80	12,888.80
12/01/2012	12,323.00	3.00000%	565.06	12,888.06
3/01/2013	12,416.00	3.00000%	472.64	12,888.64
6/01/2013	12,509.00	3.00000%	379.52	12,888.52
9/01/2013	12,603.00	3.00000%	285.70	12,888.70
12/01/2013	12,697.00	3.00000%	191.18	12,888.18
3/01/2014	12,793.00	3.00000%	95.95	12,888.95
TOTAL	773,237.00	-	257,842.00	1,031,079.00

Ferris, Baker Watts, Inc.
Public Finance Department

FILE = NEWFILE
10/ 4/1993 8:54 AM

YIELD STATISTICS

Accrued Interest from 03/01/1994 to 03/01/1994...	-
Average Life.....	11.115 YEARS
Bond Years.....	8,594.73
Average Coupon.....	3.0000000%
Net Interest Cost (NIC).....	3.0000000%
Bond Yield for Arbitrage Purposes.....	3.0112514%
True Interest Cost (TIC).....	3.0112500%
Effective Interest Cost (EIC).....	3.0112514%

C E R T I F I C A T E

Certified to be a true and correct copy of that certain Resolution No. 741-93, duly filed and of record in the Office of the City Clerk of the City of Charleston, West Virginia, adopted by the Council of the City of Charleston at the meeting held on November 15, 1993.

Given under my hand and the official seal of the City of Charleston, West Virginia, this 1st day of December, 1993.

(seal)

James C. Stucky, City Clerk

Resolution No. 741-93

Introduced in Council

November 15, 1993

Introduced By

Dennis McMillen

Adopted by Council

November 15, 1993

Resolution No. 741-93 "Finding that the Council of The City of Charleston, West Virginia, adopted Ordinance No. 4954 on May 3, 1993, all as more fully set out therein; providing for the date, maturity, interest rate, principal payment schedule, sale price and other terms of the $773,237 The City of Charleston Sewerage System Revenue Bonds, Series 1993 A, of The City of Charleston; authorizing and approving the sale and delivery of such bonds to the West Virginia Water Development Authority; designating a Registrar, Paying Agent and Depository Bank; and making other provisions as to the Bonds."

WHEREAS, the Council of The City of Charleston, West Virginia (the "Council"), on May 3, 1993, adopted Ordinance No. 4954, all as more fully set out therein; (said Ordinance is hereinafter referred to as the "Ordinance"); and

WHEREAS, the Ordinance provides for the issuance of The City of Charleston Sewerage System Revenue Bonds, of the City (the "Bonds"), in the aggregate principal amount not to exceed $2,500,000, in one or more series, and has authorized the execution and delivery of a loan agreement relating to the Bonds, including all amendments and supplements (collectively, the "Loan Agreement"), by and among the City, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection (the "DEP"), all in accordance with Chapter 16, Article 13 of the West Virginia Code of 1991, as amended (the "Act"); and in the Ordinance it is provided that the exact principal amounts, maturity dates, interest rates, interest and principal payment dates, sale prices and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for; and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Ordinance; and

WHEREAS, the Council deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the exact principal amount, the price, the maturity dates, the redemption provision, the interest rates and

the interest and principal payment dates of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, be it resolved by the Council of The City of Charleston, 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 City of Charleston Sewerage System Revenue Bonds, of the City, originally represented by a single Bond, designated Series 1993 A, numbered AR-1, in the principal amount of $773,237. The Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2014, and shall bear interest at the rate of 3.0% per annum. The Bonds shall not bear interest during construction of the 1993 Project. Both principal of and interest on the Bonds are payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 1994. The Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Bonds, and shall be payable in installments of principal and interest in the amounts as set forth in "Schedule Y," attached thereto and to the Loan Agreement and incorporated therein by reference.

The proceeds of the Series 1993 A Bonds shall be applied to the cost of acquisition and construction of the 1993 Project described in Exhibit A(a) and (b) attached to the Ordinance.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Ordinance.

Section 3. The City does hereby ratify the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery by the Mayor of the Loan Agreement, and the performance of the obligations contained therein, on behalf of the City are hereby authorized, directed, ratified and approved. The City hereby affirms all covenants and representations made in the Loan Agreement, dated October 12, 1993, and in the Application to the DEP and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds will be advanced from time to time as requisitioned by the City.

Section 4. The City does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, as Registrar (the "Registrar") for the Bonds and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the City and the Registrar, in

substantially the form attached hereto, and the execution and delivery by the Mayor of the Registrar's Agreement, and the performance of the obligations contained therein, on behalf of the City are hereby authorized, approved and directed.

Section 5. The City does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds.

Section 6. The City does hereby appoint Commerce Bank, Charleston, National Association, Charleston, West Virginia, as Depository Bank for the Revenue Fund under the Ordinance.

Section 7. The City hereby appoints and designates One Valley Bank, National Association, Charleston, West Virginia as the Depository Bank for the Bond Construction Trust Fund.

Section 8. Series 1993 A Bonds proceeds in the amount not to exceed $52,176 shall be deposited in the Series 1993 A Bonds Reserve Account.

Section 9. The proceeds of the Bonds, as advanced from time to time, shall be deposited in or credited to the Bond Construction Trust Fund, as received from time to time for payment of Costs of the Project, including costs of issuance of the Bonds.

Section 10. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Ordinance approved and provided for, to the end that the Bonds may be delivered on or about December 2, 1992, to the Authority pursuant to the Loan Agreement.

Section 11. The financing of the Project in part with proceeds of the Bonds is in the public interest, serves a public purpose of the City and will promote the health, welfare and safety of the residents of the City.

Section 12. The City hereby determines to invest all moneys in the funds and accounts established by the Ordinance held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the City hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such money market accounts until further directed in writing by the City. Moneys in the Series 1993 A Bonds Sinking Fund, including the Reserve Account therein, shall be invested by the Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 13. 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 Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The City will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 14. This Supplemental Resolution shall be effective immediately following adoption hereof.

SCHEDULE Y

City of Charleston
SRF

DEBT SERVICE SCHEDULE

DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
3/01/1994	-	-	-	-
6/01/1994	7,089.00	3.00000%	5,799.28	12,888.28
9/01/1994	7,142.00	3.00000%	5,746.11	12,888.11
12/01/1994	7,196.00	3.00000%	5,692.55	12,888.55
3/01/1995	7,250.00	3.00000%	5,638.58	12,888.58
6/01/1995	7,304.00	3.00000%	5,584.20	12,888.20
9/01/1995	7,359.00	3.00000%	5,529.42	12,888.42
12/01/1995	7,414.00	3.00000%	5,474.23	12,888.23
3/01/1996	7,470.00	3.00000%	5,418.62	12,888.62
6/01/1996	7,526.00	3.00000%	5,362.60	12,888.60
9/01/1996	7,582.00	3.00000%	5,306.15	12,888.15
12/01/1996	7,639.00	3.00000%	5,249.29	12,888.29
3/01/1997	7,696.00	3.00000%	5,192.00	12,888.00
6/01/1997	7,754.00	3.00000%	5,134.28	12,888.28
9/01/1997	7,813.00	3.00000%	5,076.12	12,888.12
12/01/1997	7,871.00	3.00000%	5,017.53	12,888.53
3/01/1998	7,930.00	3.00000%	4,958.50	12,888.50
6/01/1998	7,989.00	3.00000%	4,899.02	12,888.02
9/01/1998	8,049.00	3.00000%	4,839.11	12,888.11
12/01/1998	8,110.00	3.00000%	4,778.74	12,888.74
3/01/1999	8,171.00	3.00000%	4,717.91	12,888.91
6/01/1999	8,232.00	3.00000%	4,656.63	12,888.63
9/01/1999	8,294.00	3.00000%	4,594.89	12,888.89
12/01/1999	8,356.00	3.00000%	4,532.69	12,888.69
3/01/2000	8,418.00	3.00000%	4,470.02	12,888.02
6/01/2000	8,482.00	3.00000%	4,406.88	12,888.88
9/01/2000	8,545.00	3.00000%	4,343.27	12,888.27
12/01/2000	8,609.00	3.00000%	4,279.18	12,888.18
3/01/2001	8,674.00	3.00000%	4,214.61	12,888.61
6/01/2001	8,739.00	3.00000%	4,149.56	12,888.56
9/01/2001	8,804.00	3.00000%	4,084.01	12,888.01
12/01/2001	8,871.00	3.00000%	4,017.98	12,888.98
3/01/2002	8,937.00	3.00000%	3,951.45	12,888.45
6/01/2002	9,004.00	3.00000%	3,884.42	12,888.42
9/01/2002	9,072.00	3.00000%	3,816.89	12,888.89
12/01/2002	9,140.00	3.00000%	3,748.85	12,888.85
3/01/2003	9,208.00	3.00000%	3,680.30	12,888.30
6/01/2003	9,277.00	3.00000%	3,611.24	12,888.24
9/01/2003	9,347.00	3.00000%	3,541.67	12,888.67
12/01/2003	9,417.00	3.00000%	3,471.56	12,888.56
3/01/2004	9,488.00	3.00000%	3,400.94	12,888.94
6/01/2004	9,559.00	3.00000%	3,329.78	12,888.78
9/01/2004	9,630.00	3.00000%	3,258.08	12,888.08
12/01/2004	9,703.00	3.00000%	3,185.86	12,888.86
3/01/2005	9,775.00	3.00000%	3,113.09	12,888.09
6/01/2005	9,849.00	3.00000%	3,039.77	12,888.77
9/01/2005	9,923.00	3.00000%	2,965.91	12,888.91
12/01/2005	9,997.00	3.00000%	2,891.48	12,888.48
3/01/2006	10,072.00	3.00000%	2,816.51	12,888.51
6/01/2006	10,148.00	3.00000%	2,740.97	12,888.97
9/01/2006	10,224.00	3.00000%	2,664.86	12,888.86

Ferris, Baker Watts, Inc.
Public Finance Department

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JACKSON & KELLY
ATTORNEYS AT LAW
1600 LAIDLEY TOWER
P. O. BOX 553
CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000 TELECOPIER 304-340-1130

300 FOXCROFT AVENUE
MARTINSBURG, WEST VIRGINIA 25401
TELEPHONE 304-263-8800

6000 HAMPTON CENTER
MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE 304-599-3000

256 RUSSELL AVENUE
NEW MARTINSVILLE, WEST VIRGINIA 26155
TELEPHONE 304-455-1751

700 EAST WASHINGTON STREET
CHARLES TOWN, WEST VIRGINIA 25414
TELEPHONE 304-728-6088

300 WEST MAIN STREET
CLARKSBURG, WEST VIRGINIA 26302
TELEPHONE 304-623-3002

175 EAST MAIN STREET
LEXINGTON, KENTUCKY 40595
TELEPHONE 606-255-9500

202 WEST MAIN STREET
FRANKFORT, KENTUCKY 40601
TELEPHONE 502-227-4000

2401 PENNSYLVANIA AVENUE N.W.
WASHINGTON, D.C. 20037
TELEPHONE 202-973-0200

1660 LINCOLN STREET
DENVER, COLORADO 80264
TELEPHONE 303-837-0003

WRITER'S DIRECT DIAL NO.
340-1314

January 7, 1994

Mr. R. Witter Hallan
Executive Director
West Virginia Municipal Bond Commission
Building 3, Rooms 337-342
Capitol Complex
Charleston, WV 25305

Re: $773,237 The City of Charleston, West Virginia
Sewerage System Revenue Bonds, 1993 Series A

Dear Mr. Hallan:

Enclosed is a certified copy of the current rate ordinance for the City of Charleston. The 1990 rate ordinance was inadvertently placed in the transcript for the above-referenced financing sent to you on December 13, 1993. Please include the current rate ordinance at Tab #6 in the transcript. If you have any questions, please call me.

Very truly yours,

Antoinette D. Brkovich

Antoinette D. Brkovich
Legal Assistant

ADB/tp
Enclosure

RECEIVED
JAN 10 1994
MBC

C E R T I F I C A T E

Certified to be a true and correct copy of that certain Ordinance No. 4852, duly filed and of record in the office of the City Clerk of the City of Charleston, West Virginia, passed by the Council of the City of Charleston at the meeting held on July 6, 1992.

Given under my hand and the official seal of the City of Charleston, West Virginia, this 7th day of December, 1993.

(seal)

James C. Atkinson

City Clerk

"Bill No. 4852

Introduced in Council

June 15, 1992

Introduced by

Dennis A. McMillen

Passed by Council

July 6, 1992

Referred to

Council Committee on Finance

An Ordinance to amend and re-enact Section 25-7 of Article 1, of the Code of The City of Charleston, as amended, establishing a schedule of just and equitable rates or charges for the use of and services rendered by the sewer system of The City of Charleston, the purpose and effect of this ordinance being to provide for a tapping charge of $250.00 for making a new connection to the sewer system, as hereinafter stated, all as provided for by Chapter 16, Article 13, and Chapter 24, Article 2, Section 4b of the Code of West Virginia, 1931, as amended.

Be it Ordained by the Council of The City of Charleston, West Virginia:

That Section 25-7 of Article 1, of Chapter 25 of the Code of The City of Charleston, as amended, be further amended and re-enacted by establishing a schedule of rates and charges for the use of and services rendered by the sewer system of The City of Charleston, all of said section as hereby amended to read as follows:

Section 25-7. ESTABLISHMENT OF A SCHEDULE OF JUST AND EQUITABLE RATES OR CHARGES: USE OF WATER METERS.

For the payment of proper and reasonable expense of operation, repair, replacements, improvements, additions, betterments, extensions, and maintenance of the sewer system and for the payment of the sums required to pay the principal and interest of all sewer revenue bonds as the same become due, there is hereby established a schedule of just and equitable rates or charges for the use of and services rendered by the municipal sewer system and works of The City of Charleston, West Virginia, which schedule of rates or charges, based upon the metered amount of water supplied the premises, shall be as follows:

RULES AND REGULATIONS

I. Rules and Regulations for the Government of Sewerage Utilities, adopted by the Public Service Commission of

West Virginia, and now in effect, and all amendments thereto, and modifications thereof hereafter made by said Commission.

II. On all premises having a private water supply and connected with the sewer system and works there shall be installed a meter for measuring the amount of water supplied said premises.

III. If for any reason there be no record of the amount of water supplied any month, then the charge shall be based upon the last available monthly meter reading.

IV. Users, the nature and character of whose use is such that the amount of water discharged into the said system is deemed by the Sanitary Board to be substantially less than the amount of metered water supplied the premises, shall be charged for sewer service substantially on the basis of the amount of water discharged into the sewer system, as may be determined according to formulae approved by the Sanitary Board.

V. In apartment buildings, mobile home courts, shopping centers and other places where more than one occupancy unit is served with water through one water meter, the customer shall be required to pay not less than the minimum monthly charge provided in the tariff for each occupancy.

RATES

I. For sewage that does not contain industrial waste:

First	2,000 Gallons	used	per	month	$2.48	per thousand gallons
Next	3,000 Gallons	"	"	"	1.80	per thousand gallons
Next	25,000 Gallons	"	"	"	1.66	per thousand gallons
Next	70,000 Gallons	"	"	"	1.45	per thousand gallons
Next	100,000 Gallons	"	"	"	1.17	per thousand gallons
Next	100,000 Gallons	"	"	"	1.03	per thousand gallons
Next	700,000 Gallons	"	"	"	0.92	per thousand gallons
All over	1,000,000 Gallons	"	"	"	0.81	per thousand gallons

II. For sewage that contains industrial waste: The charge for the treatment of industrial waste will be calculated on the basis of the following formula:

$$Ci=VoVi+BoBi+SoSi$$

Ci=Charge to industrial users per year.

Vo=Average unit cost of transport and treatment chargeable to volume, in dollars per gallon.

Vi=Volume of waste water from industrial users, in gallons per year.

Bo=Average unit cost of treatment, chargeable to Brochemical Oxygen Demand (BOD), in dollars per pound.

Bi=Weight of BOD from industrial users, in pounds per year.

So=Average unit cost of treatment (including sludge treatment) chargeable to total solids, in dollars per pound.

Si=Weight of total solids from industrial users, in pounds per year.

When an industrial user is to be served, a preliminary study of its waste, and the cost of transport and treatment thereof, will be made. Waste containing materials which in the judgment of the Sanitary Board should not be introduced into the sewer system need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefor, based upon the formula set out above.

Thereafter, industrial sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and audit of Sanitary Board records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the industrial user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each industrial user, or refund given by the Sanitary Board, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

III. Minimum Charge. The Charge of $4.96 shall be the minimum for each month or fraction thereof. If for any reason there be no record of the amount of water supplied in any month, then the charge shall be based upon the last available monthly meter reading.

IV. Recovery of Bank Charges. If a bank returns a customer's check to the Sanitary Board due to insufficient funds in such customer's account and charges a fee to the Sanitary Board for such service, the bank charge will be added to the account of the customer whose check is returned.

V. Disconnect, Lien and Reconnect Fees: If the Sanitary Board gives notice to a provider of water service to disconnect water service to a customer of the Sanitary Board, the following charges will be added to the account of such customer:

a. A charge of $20.00, plus any legally required certi-

fied mail charge, will be added to such customer's account at the time notice to disconnect is given to the water provider.

b. A charge of $4.00 to cover the cost of placing a lien on the property served will be added to the account of such customer at the time such lien is filed in the Office of the Clerk of the County Commission of the County where the property served is located.

c. A reconnect charge of $20.00 will be made at the time the customer pays the amounts due on such customer's account and requests the reconnection of water and sewer service.

VI. Tapping Charge. A Tapping Charge of $250.00 shall be made for making a new connection to the sewer system.

The rates and charges set forth above shall become effective forty-five (45) days after passage.

Any ordinance inconsistent with the provisions hereof are hereby expressly repealed to the extent of such inconsistency."

C E R T I F I C A T E

Certified to be a true and correct copy of that certain Journal of the November 15, 1993 Council Meeting, duly filed and of record in the Office of the City Clerk of the City of Charleston, West Virginia.

Given under my hand and the official seal of the City of Charleston, West Virginia, this 1st day of December, 1993.

(seal)

James C. Stucky, City Clerk

J O U R N A L

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

November 15, 1993

The Council met in its Chamber in the City Building at 8:00 p.m. for the second meeting in the month of November and was called to order by the Mayor, the Honorable Kent Strange Hall.

Prayer was offered by the Honorable Arlie Robinson, Councilman for the Third Ward.

The Clerk called the roll and the following members answered to their names:

Armbrecht	Huffman	Nielsen
Broady	Lane	Quick
Brown	Layne	Snodgrass
Cary	Londeree	Robinson
Connell	McClaskie	Thompson
Dodson	McMillen	Vanderwilt
Hicks	Mohler	Wampler
Holt	Monroe	Wright
Horan	Morrison	Mayor Hall

Twenty-seven members being present, no one being absent, the Mayor declared a quorum.

Pending the reading of the Journal of the previous meeting, the reading thereof was dispensed with and the same duly approved.

COMMUNICATIONS

November 12, 1993

Honorable Kent Strange Hall, Mayor
and Members of City Council
Charleston, West Virginia 25301

Dear Mayor and Council Members:

Our office received the attached offers of dedication of two streets in Hamilton Subdivision, off Oakridge Drive. These streets are "VIA DRIVE" and "BRAMMER DRIVE".

According to established procedure, these offers should be referred to the Council's Committee on Planning for its consideration.

Planning Department

Referred to Council Committee on Planning.

CLAIMS

The Clerk read the following claims, which were referred as indicated:

1. A Claim of James E. Townsend; 1820 Bigley Avenue; alleges loss of property; referred to City Solicitor.

2. A Claim of Leonard R. Burdette; 4615 Big Tyler Road; alleges damage to vehicle; referred to City Solicitor.

COMMISSION REPORTS

November 8, 1993

Honorable Kent Strange Hall, Mayor
and Members of City Council
Charleston, West Virginia 25301

Dear Mayor Hall and Councilmembers:

On November 3, 1993, the Municipal Planning Commission held public hearings and its regular monthly meeting. Below are the cases they considered and their recommendation for your consideration.

Bill No. 5038--Petition of the West Side Mens Improvement League, optionee, requesting a re-zoning from an R-4 district to a C-4 district the old Penn Hotel at 1446 Third Avenue, Charleston, WV. The Commission voted to recommend rejection of the bill; referred to Council Committee on Planning.

Bill No. 5040--Petition of Appalachian Power Company requesting a re-zoning from an R-4 district to an I-2 district certain parcels of land in the block bounded by 27th Street, W., 5th Avenue, W., 29th Street, W. and 4th Avenue, W., Charleston, WV. The Commission voted to recommend passage of the bill; referred to Council Committee on Planning.

Bill No. 5041--Petition of Thomas L. Fielder requesting a re-zoning from an R-10 district to a C-6 district the properties at 731 and 733 Central Avenue, Charleston, WV. The Commission voted to recommend passage of the bill; referred to Council Committee on Planning.

Bill No. 5042--Petition of Appalachian Power Company requesting the closing, abandoning and discontinuing as public streets and a public alley: (1) 27th Street between 5th Avenue, W., and 4th Avenue, W., (2) 4th Avenue between 27th and 29th Streets, W., and (3) the alley parallel with, and between, 4th and 5th Avenues, W., and running between 27th Street, W., and 29th Street, W., Charleston, WV. The Commission voted to instruct the Planning Staff to amend Bill No. 5042 to include Kanawha Valley Restaurants and recommend passage of the amended bill; referred to Council Committee on Planning.

Special Permit No. 687--Application of George, Ferguson, & Lorensen, Attorneys-at-Law, optionees, requesting permission to convert the house to law offices at 1612 Kanawha Boulevard, East, Charleston, WV. The Commission voted to recommend approval of the special permit, subject to the granting of a permanent access easement by the church, a lease for the parking spaces, and approval of the BZA Case No. 3413; referred to Council Committee on Planning.

Municipal Planning Commission

MISCELLANOUS RESOLUTIONS

Introduced by Councilman Quick--November 15, 1993
Resolution No. 743-93--"Congratulating Miss Linda Bailey on being crowned Miss West Virginia, USA, and wishing her luck in the upcoming national Miss USA pageant."

WHEREAS, Miss Linda Bailey has been a long time resident of the First Ward of the City of Charleston; and

WHEREAS, Miss Linda Bailey is the daughter of Charles and Patsy Bailey; and

WHEREAS, Miss Linda Bailey is currently a nursing student at the University of Charleston and employed part-time by One Valley Bank; and

WHEREAS, Miss Linda Bailey is the former Miss Sternwheel Regatta 1992; and

WHEREAS, Miss Linda Bailey with her unsurpassed beauty, and personality, on November 7, 1993, was crowned Miss West Virginia, USA and will represent the City of Charleston, and the entire State of West Virginia in the national Miss USA pageant in South Padre Island, Texas, in February, 1994, now, therefore,

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor, Kent Strange Hall, and all of the members of Council of the City of Charleston, wish to extend to Miss Linda Bailey their congratulations on being recently crowned Miss West Virginia, USA, and her bringing honor to the City of Charlesotn by her efforts, and further wish her the best of luck during the upcoming national Miss USA pageant.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 743-93 adopted.

Introduced by Councilman McMillen--November 15, 1993
Resolution No. 745-93--A Resolution directing and authorizing the City Clerk to publish notice to all persons concerned that a Bill has been introduced at a meeting of the City Council proposing certain amendments to the rates and charges for the use of and the service rendered by the sewer system and works of the Sanitary Board of the City of Charleston, specifically by increasing the rates and charges in all blocks by 26.2%, adding a pretreatment charge for pretreatment customers of $2500.00 per year, and by eliminating the late payment penalty, and providing for a hearing at which interested persons may appear.

WHEREAS, on November 15, 1993, a Bill was introduced in the Council of this City which would amend and re-enact Section 25-7 of Article 1, Chapter 25, of the Code of the City of Charleston. The text of said Bill is as follows:

Introduced by Councilman McMillen--November 15, 1993
Bill No. 5061--An Ordinance to amend and re-enact Section 25-7 of Article 1, of the Code of the City of Charleston, as amended, establishing a schedule of just and equitable rates or charges for the use of and services rendered by the sewer system of the City of Charleston, by increasing the rates and charges in all blocks by 26.2%, adding a pretreatment charge for pretreatment customers of $2500.00 per year, and by eliminating the late payment penalty, as hereinafter stated, all as provided for by Chapter 16, Article 13, and Chapter 24, Article 2, Section 4b of the Code of West Virginia, 1931, as amended.

Be it Ordained by the Council of the City of Charleston, West Virginia:

That Section 25-7 of Article 1, of Chapter 25 of the Code of the City of Charleston, as amended, by further amended and re-enacted by establishing a schedule of rates and charges for the use of and services rendered by the sewer system of the City of Charleston, all of said section as hereby amended to read as follows:

Section 25-7. Establishment of a schedule of just and equitable rates or charges: Use of water meters.

For the payment of proper and reasonable expense of operation, repair, replacements, improvements, additions, betterments, extensions, and maintenance of the sewer system and for the payment of the sums required to pay the principal and interest of all sewer revenue bonds as the same become due, there is hereby established a schedule of just and equitable rates or charges for the use of and services rendered by the municipal sewer system and works of the City of Charleston, West Virginia, which schedule of rates or charges, based upon the metered amount of water supplied the premises, shall be as follows:

RULES AND REGULATIONS

I. Rules and Regulations for the Government of Sewerage Utilities, adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto, and modifications thereof hereafter made by said Commission.

II. On all premises having a private water supply and connected with the sewer system and works there shall be installed a meter for measuring the amount of water supplied said premises.

III. If for any reason there be no record of the amount of water supplied any month, then the charge shall be based upon the last available monthly meter reading.

IV. Users, the nature and character of whose use is such that the amount of water discharged into the said system is deemed by the Sanitary Board to be substantially less than the amount of metered water supplied the premises, shall be charged for sewer service substantially on the basis of the amount of water discharged into the sewer system as may be determined according to formulae approved by the Sanitary Board.

V. In apartment buildings, mobile home courts, shopping centes and other places where more than one occupancy unit is served with water through one water meter, the customer shall be required to pay not less than the minimum monthly charge proviced in the tariff for each occupancy.

RATES

I. For sewage that does ont contain industrial waste:

First	2,000	Gallons	used	per	month	$3.13 per thousand gallons
Next	3,000	Gallons	"	"	"	2.27 per thousand gallons
Next	25,000	Gallons	"	"	"	2.10 per thousand gallons
Next	70,000	Gallons	"	"	"	1.83 per thousand gallons
Next	100,000	Gallons	"	"	"	1.48 per thousand gallons
Next	100,000	Gallons	"	"	"	1.30 per thousand gallons
Next	700,000	Gallons	"	"	"	1.16 per thousand gallons
All over	1,000,000	Gallons	"	"	"	1.02 per thousand gallons

II. For sewage that contains industrial waste: The charge for the treatment of industrial waste will be calculated on the basis of the following formula:

$$Ci=VoVi+BoBi+SoSi$$

Ci=Charge to industrial users per year.
Vo=Average unit cost of transport and treatment chargeable to volume, in dollars per gallon.
Vi=Volume of waste water from industrial users, in gallons per year.
Bo=Average unit cost of treatment, chargeable to Brochemical Oxygen Demand (BOD), in dollars per pound.
Bi=Weight of BOD from industrial users, in poinds per year.
So=Average unit cost of treatment (including sludge treatment) chargeable to total solids, in dollars per pound.
Si=Weight of total solids from industrial users, in pounds per year.

When an industrial user is to be served, a preliminary study of its waste, and the cost of transport and treatment thereof, will be made. Waste containing materials which in the judgment of the Sanitary Board should not be introduced into the sewer system need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefor, based upon the formula set out above.

Thereafter, industrial sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and audit of Sanitary Board records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the industrial user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each industrial user, or refund given by the Sanitary Board, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

III. Minimum Charge. The Charge of $6.26 shall be the minimum for each month or fraction thereof. If for any reason there be no record of the amount of water supplied in any month, then the charge shall be based upon the last available monthly meter reading.

IV. Recovery of Bank Charges. If a bank returns a customer's check to the Sanitary Board due to insufficient funds in such customer's account and charges a fee to the Sanitary Board for such service, the bank charge will be added to the account of the customer whose check is returned.

V. Pretreatment Charge. In addition to all other charges contained herein, all customers who operate under a pretreatment permit will pay an annual charge of $2500.00, payable on July 1, 1994, and on each following July 1.

VI. Disconnect, Lien and Reconnect Fees: If the Sanitary Board gives notice to a provider of water service to disconnect water service to a customer of the Sanitary Board, the following charges will be added to the account of such customer:

a. A charge of $20.00, plus any legally required certified mail charge, will be added to such customer's account at the time notice to disconnect is given to the water provider.

b. A charge of $4.00 to cover the cost of placing a lien on the property served will be added to the account of such customer at the time such lien is filed in the Office of the Clerk of the County Commission of the Council where the property served is located.

c. A reconnect charge of $20.00 will be made at the time the customer pays the amounts due on such customer's account and request the reconnection of water and sewer service.

Tapping Charge. A Tapping Charge of $250.00 shall be made for making a new connection to the sewer system.

The rates and charges set forth above shall become effective forty-five (45) days after passage.

Any ordinance inconsistent with the provisions hereof are hereby expressly repealed to the extent of such inconsistency."

WHEREAS, the cited Code Section provides that notice of such hearing shall be given by publication in compliance with the provisions of Chapter 16, Article 13, Section 16 of the Code of West Virginia, 1931, as amended:

Now, Therefore, Be It Resolved by this Council: That the City Clerk is hereby authorized and directed to publish a copy of this resolution once each week for two successive weeks in The Charleston Daily Mail and The Charleston Gazette, two newspapers of opposite political faith, in the City of Charleston, West Virginia, and the same shall constitute notice to all persons concerned that the Bill herein stated has been introduced at a meeting of the City Council on June 15, 1992, and that the City Council contemplates the amendment of the Schedule of Rates and Charges as set forth in said Bill as just and equitable rates or charges for use of and the service rendered by the sewer system and works of the City of Charleston, West Virginia, and that any person interested may appear before the Council on the 6th day of December, 1993, at 8:00 p.m., in the Council Chamber, in the City Building, in the City of Charleston, and present to the Council any protest or objection he may have to the rates or charges proposed in such Bill. The first day of the successive publications aforesaid shall be at least ten (10) days prior to the date set for the hearing of protests.

A copy of the proposed ordiance is available for public inspection in the office of the City Clerk.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 745-93 adopted.

Introduced by Councilman Lane--November 15, 1993
Resolution No. 746-93--"Expressing gratitude to the private citizens who comprise the Citizens Commission of the Charleston Police Mounted Patrol and others who contributed private resources for the public service and public good."

WHEREAS, group of private citizens in the City of Charleston formed a Citizens Commission for the purpose of sponsoring a police mounted patrol; and

WHEREAS, the Citizens Commission working inconjunction with the Chief of Police of the City of Charleston has raised $76,000.00 to date for the purpose of the start-up costs of the mounted patrol; and

WHEREAS, the Citizens Commission has paid the costs to train four officers in Washington, D.C. by the United States Parks Police, including approximately $3,000.00 for ten weeks of training per officer, outfitted horses and officers with saddles, blankets, riding pants and tack in the approximate amount of $3,000.00 for each horse and officer, and has paid the stable costs for horses of approximately $215.00 per month per horse; and

WHEREAS, the Citizens Commission has leased a tract of 2.62 acres from the Faternal Order of Police and plans to construct a barn with an office and shower for police officers at an estimated cost of $46,000.00; and

WHEREAS, the Citizens Commission has recruited a veterinarian who will provide professional services without charge; and

WHEREAS, many citizens of the City of Charleston have applauded the effectiveness of a mounted patrol;

NOW, THEREFORE, BE IT RESOLVED, the Charleston City Council offers its gratitude to the private citizens who comprise the Citizens Commission of the Charleston Police Mounted Patrol and other private citizens of the City of Charleston who have contributed generously of their time and resources to the important public service of providing effective police for the City of Charleston and commends these citizens who have voluntarily used private resources for the public good.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 746-93 adopted.

REPORTS OF STANDING COMMITTEES

Councilman Lane, Chairman of the Council Committee on Public Safety, submitted the following report.

1. Your committee on Public Safety has had under consideration Bill no. 5051 and at a meeting of the Committee, quorum present, the Committee voted to amend the Bill on line 21 by adding the number "50" in the blank space and on lines 43 and 44 by putting a period after the word "duties" and striking the remainder of the paragraph.

And reports the same to Council with the recommendation that the bill, as amended, pass, but first be referred to Council Committee on Finance for their consideration.

Referred to Council Committee on Finance.

Councilman McMillen moved for a five minute recess.

Councilman McMillen, Chairman of the Council Committee on Finance, submitted the following reports:

1. Your Committee on Finance has had under consideration Bill No. 5051 and moves to amend the bill on line 21 by adding the number "50" in the blank space and on lines 43 and 44 by putting a period after the word "duties" and striking the remainder of the paragraph.

And reports the same to Council with the recommendation that the bill pass as amended.

The question being on the adoption of the amendments a roll call was taken and there were--yeas 21, nays 6 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Holt, Horan, Huffman, Lane, Londeree, McMillen, Mohler, Morrison, Nielsen, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: Hicks, Layne, McClaskie, Monroe, Quick and Robinson.

ABSENT: None.

So, all members present and voting with the majority having voted in the affirmative the Mayor declared the amendments adopted.

Councilman Monroe moved to table Bill No. 5051.

The question being on Councilman Monroe's motion a vote was taken. With the majority of members having voted in the negative the Mayor declared the motion failed.

Councilman Quick moved to further amend the bill by making two of the appointed members be members of council and approved by council.

The question being on Councilman Quick's motion a vote was taken. There being no dissent the Mayor declared the amendment approved.

Bill No. 5051, as amended--A Bill to amend and reenact Chapter Two, Article Seven of the Administration Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, by adding thereto a new Division pertaining to the Citizens Commission of the Charleston Mounted Police Patrol.

Be it Ordained by the Council of the City of Charleston, West Virginia:

That the Council does hereby amend and reenact Chapter Two, Article Seven of the Administration Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, to read as follows:

Division 8. Citizens Commission of the Charleston Mounted Police Patrol.

Sec. 1-182. Created.

There is hereby created the Citizens Commission of the Charleston Mounted Police Patrol (hereinafter referred to as Commission).

Sec. 2-183. Membership.

The Commission shall consist of fifty appointed members, who shall be appointed by the Mayor and serve at the will and pleasure of the Mayor. Two Council members shall be appointed by the Mayor and confirmed by Council.

Sec. 2-184. General Purpose.

The general purpose of the Commission shall be to promote and assist in the operation of the Charleston Mounted Police Patrol, including but not limited to, raising funds for the construction, operation and maintenance of facilities for housing horses, and for the expenses of transportation in connection therewith, and any and all other expenses incident to the operation of the Charleston Mounted Police Patrol.

Sec. 2-185. Declaration of Council.

That the Council declares the Citizens Commission to be an agent or board of the City of Charleston within the meaning of Chapter One, Section Nine of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, and other applicable ordinances and resolutions, for the purpose of providing said Citizens Commission the protection of the insurance policies required under said Section, and any immunity provided thereby for liability arising from, or growing out of, or in any way connected with acts or omissions of said Citizens Commission in the performance of their official duties.

The question being on the passage of the bill as amended a roll call was taken and there were--yeas 20, nays 7 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Holt, Horan, Huffman, Lane, Londeree, McMillen, Morrison, Nielsen, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: Hicks, Layne, McClaskie, Mohler, Monroe, Quick and Robinson.

ABSENT: None.

So, all members present and voting with the majority having voted in the affirmative the Mayor declared Bill No. 5051, as amended, passed.

"Pursuant to Chapter 16, Article 13, Section 6 of the Code of West Virginia, as amended, I declare the floor open for a public hearing on Resolution No. 740-93."

The Chair saw no one from the public, the Chair heard no one from the public, the Chair declared the Public Hearing closed.

2. Your Committee on Finance has had under consideration Resolution No. 740-93, ordering that Bill No. 5048, authorizing a line of credit from Commerce Bank, Charleston, National Association, in an amount not to exceed $800,000, and all other aspects provided thereunder, be put into effect and said Note issued.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 740-93--"Finding that the Council of the City of Charleston, West Virginia, adopted Ordinance No. 5048 on November 1, 1993, which Ordinance No. 5048 authorized a line of credit from Commerce Bank, Charleston, National Association, in an amount not to exceed $800,000 to provide funds for the completion of the acquisition and construction of certain extensions, improvements and betterments previously authorized for the existing sewer system of the City of Charleston pending the receipt of grant receipts or sewer revenue bond proceeds or other funds available therefor, an agreement with respect to said line of credit, the issuance of a sewer revenue note of the City of Charleston in the principal amount not to exceed $800,000, to evidence a draw or draws upon said line of credit and providing for the security for and payment of the principal of and interest on said note; all as more fully set out therein; finding that the Council of the City of Charleston adopted a resolution on November 1, 1993, directing that an abstract of Ordinance No. 5048, together with a notice that said Ordinance has been adopted, that the City of Charleston contemplates the issuance of said note described in Ordinance No. 5048 and that any person interested may appear before the Council of the City of Charleston upon a certain date and present protests, be published; finding that said abstract and notice have been duly published; finding that the Council of the City of Charleston met and heard all objections and suggestions regarding whether Ordinance No. 5048 should be put into effect and ordering that Ordinance No. 5048 be put into effect; and that said note be issued as provided therein.

WHEREAS, the Council of the City of Charleston, West Virginia (the "Council"), on November 1, 1993, adopted Ordinance No. 5048 supplementing an Ordinance entitled "An Ordinance placing the custody, operation, maintenance, supervision and control of the sewer system of the City of Charleston, and all betterments thereof and extensions thereto, in the Sanitary Board of the City of Charleston; authorizing the construction and the acquisition of certain additions, extensions and improvements to said system; providing for the financing of such additions,

extensions and improvements by the issuance of revenue bonds; providing for the establishment and collection of rates or charges for the use of said system and works and for the service rendered thereby and for the application of the proceeds of such rates or charges to the operation, repair, replacement and maintenance of such system and works and to a sinking fund for the payment of said revenue bonds and the interest thereon, all as provided by Chapter 25 of the Act of the Legislature of West Virginia, Extraordinary Session of 1933, as amended"; authorizing a revolving line of credit from Commerce Bank, Charleston, National Association, in an amount not to exceed $800,000 to provide funds for the completion of the acquisition and construction of certain extensions, improvements and betterments previously authorized for the existing sewer system of the City of Charleston (the "City") pending the receipt of grant receipts or sewer revenue bond proceeds or other funds available therefor, approving an agreement with respect to said line of credit, the issuance of a sewer revenue note (the "Note") of the City in the principal amount not to exceed $800,000, to evidence the obligation of the City to repay any draw or draws upon said line of credit and providing for the security for and payment of the principal of and interest on said Note; and enacting other provisions related thereto; all as more fully set out therein (said Ordinance No. 5048 is hereinafter referred to as the "Ordinance"); and

WHEREAS, the Council of the City, on November 1, 1993, adopted a resolution (the "Resolution") which pursuant to Chapter 16, Article 13, Section 6, of the Code of West Virginia, 1931, as amended (the "Act"), directed the City Clerk of the City to publish an abstract of the Ordinance (the "Abstract"), together with a notice that the Ordinance has been adopted, that the City contemplates the issuance of the Note described in the Ordinance and that nay person interested may appear before the Council of the City upon a certain date and present protests (the "Notice"); and

WHEREAS, the Resolution required that the Abstract and Notice be published as a Class II-0 legal advertisement in the Charleston Daily Mail and the Charleston Gazette, and the first publication of such Abstract and Notice was to be not less than ten (10) days before the date set by the Resolution and the Notice at which interested persons might appear before the Council of the City and present protests and the last publication of such Abstract and Notice was to be prior to said date set by the Resolution and the Notice; and

WHEREAS, the REsolution and the Notice provided for a public hearing to be held in Council Chambers at eight o'clock (8:00) p.m. on Monday, November 15, 1993; and

WHEREAS, the Council of the City deems it essential and desirable that this resolution (the "Public Hearing and Supplemental Resolution"), be adopted and that the Ordinance be put into effect.

Now, Therefore, Be it Resolved by the Council of the City of Charleston, West Virginia:

Section 1. It is hereby found and determined:

(A) That the Abstract and Notice were duly published in the Charleston Daily Mail and the Charleston Gazette, two newspapers of opposite political faith and general circulation in the City of Charleston, with the first publication thereof being on November 4, 1993, which first publication date was not less than ten (10) dyas before the date set by the Resolution and the Notice for the public hearing at which interested persons might appear before the Council of the City and present protests, and with the last publication thereof being on November 11, 1993, which last publication date was prior to said date set by the Resolution and the Notice for the public hearing, and a copy of the affidavit of publication reflecting such publication shall be attached hereto and incorporated herein;

(B) That, in accordance with the Resolution and the Notice, the City Clerk has maintained in his office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office;

(C) That, in Council Chambers in the City Building, Virginia Street, East, on November 15, 1993, at eight o'clock (8:00) p.m., in accordance with the Resolution and the Notice, the Council of the City met for the purpose of hearing all objections and suggestions regarding whether the Ordinance should be put into effect, and heard all objections and suggestions with regard thereto;

(D) That, at said public hearing, no significant reasons were presented that could require modification or amendment of the Ordinance, and no written protest with regard thereto was filed by thirty percent (30%) or more of the owners of real estate situate in the City; and

(E) That the Ordinance shall be put into effect as of the date hereof and that the Note contemplated thereby shall be issued under the conditions provided therefor.

Section 2. Pursuant to the Ordinance and the Act, this Public Hearing and Supplemental Resolution is adopted and there is hereby authorized and ordered to be issued the Sewer Revenue Note, in the aggregate principal amount of $800,000 (the "Note"), all in the form set forth in the Ordinance.

Section 3. The Note shall be in substantially the form provided in the Ordinance with such changes, insertions and omissions as may be approved by the Mayor of the City. The execution of the Note by the Mayor shall be conclusive evidence of such approval.

Section 4. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Note hereby and by the Ordinance approved and provided for.

Section 5. The City does hereby find and determine that the amount of bonds and notes, other than private activity bonds which it anticipates issuing during calendar year 1993 shall not exceed $10,000,000 and therefore the City hereby designates the Note as "qualified-tax-exempt obligations" for purposes of Section 265(b) of the Code.

Section 6. This Public Hearing and Supplemental Resolution shall be effective immediately upon adoption.

The question being on the adoption of the resolution a roll call was taken and there were--yeas 24, nays 2, absent 0, present not voting 1 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt and Mayor Hall.

NAYS: None.

PRESENT NOT VOTING: Huffman, Wampler and Wright.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 740-93 adopted.

3. Your Committee on Finance has had under consideration Resolution No. 741-93, finding that the Council of the City of Charleston, West Virginia, adopted Ordinance No. 4954 on May 3, 1993, all as more fully set out therein; providing for the date, maturity, interest rate, principal payment schedule, sale price and other terms of the $773,237 The City of Charleston Sewerage System Revenue Bonds, Series 1993A, of the City of Charleston; authorizing and approving the sale and delivery of such bonds to the West Virginia Water Development Authority; designating a Registrar, Paying Agent and Depository Bank; and making other provisions as to the Bonds.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 741-93--"Finding that the Council of the City of Charleston, West Virginia, adopted Ordinance No. 4954 on May 3, 1993, all as more fully set out therein; providing for the date, maturity, interest rate, principal payment schedule, sale price and other terms of the $773,237 The City of Charleston Sewerage System Revenue Bonds, Series 1993 A, of the City of Charleston; authorizing and approving the sale and delivery of such bonds to the West virginia Water Development Authority; designating a Registar, Paying Agent and Depository Bank; and making other provisions as to the Bonds."

WHEREAS, the Council of the City of Charleston, West Virginia (the "Council"), on May 3, 1993, adopted Ordinance No. 4954, all as more fully set out therein; (said Ordinance is hereinafter referred to as the "Ordinance"); and

WHEREAS, the Ordinance provides for the issuance of the City of Charleston Sewerage System Revenue Bonds, of the City (the "Bonds"), in the aggregate principal amount not to exceed $2,500,000, in one or more series, and has authorized the execution and delivery of a loan agreement relating to the Bonds, including all amendments and supplements (collectively, the "Loan Agreement"), by and among the City, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection (the "DEP"), all in accordance with Chapter 16, Article 13 of the West Virginia Code of 1991, as amended (the "Act"); and in the Ordinance it is provided that the exact principal amounts, maturity dates, interest rates, interest and principal payment dates, sale prices and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for; and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Ordinance; and

WHEREAS, the Council deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the exact principal amount, the price, the maturity dates, the redemption provision, the interest rates and the interest and principal payment dates of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, be it resolved by the Council of the City of Charleston, 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 City of Charleston Sewerage System Revenue Bonds, of the City, originally represented by a single Bond, designated Series 1993 A, numbered AR-1, in the principal amount of $773,237. The Bonds shall be dated the date of delivery thereof,

shall finally mature March 1, 2014, and shall bear interest at the rate of 3.0% per annum. The BOnds shall not bear interest during construction of the 1993 Project. Both principal of and interest on the Bonds are payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 1994. The Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Bonds, and shall be payable in installments of principal and interest in the amounts as set forth in "Schedule Y", attached thereto and to the Loan Agreement and incorporated therein by reference.

The proceeds of the Series 1993 A Bonds shall be applied to the cost of acquisition and construction of the 1993 Project described in Exhibit A(a) and (b) attached to the Ordinance.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Ordinance.

Section 3. The City does hereby ratify the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery by the Mayor of the Loan Agreement, and the performance of the obligations contained therein, on behalf of the City are hereby authorized, directed, ratified and approved. Teh City hereby affirms all covenants and representations made in the Loan Agreement, dated October 12, 1993, and in the Application to the DEP and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds will be advanced from time to time as requisitioned by the City.

Section 4. The City does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, as Registrar (the "Registrar") for the Bonds and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the City and the Registrar, in substantially the form attached hereto, and the execution and delivery by the Mayor of the Registrar's Agreement, and the performance of the obligations contained therein, on behalf of the City are hereby authorized, approved and directed.

Section 5. The City does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds.

Section 6. The City does hereby appoint Commerce Bank, Charleston, National Association, Charleston, West Virginia, as Depository Bank for the Revenue Fund under the Ordinance.

Section 7. The City hereby appoints and designates One Valley Bank, National Association, Charleston, West Virginia as the Depository Bank for the Bond Construction Trust Fund.

Section 8. Series 1993 A Bonds proceeds in the amount not to exceed $52,176 shall be deposited in the Series 1993 A Bonds Reserve Account.

Section 9. The proceeds of the Bonds, as advanced from time to time, shall be deposited in or credited to the Bond Construction Trust Fund, as received from time to time for payment of Costs of the Project, including costs of issuance of the Bonds.

Section 10. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Ordinance approved and provided for, to the end that the Bonds may be delivered on or about December 2, 1992, to the Authority pursuant to the Loan Agreement.

Section 11. The financing of the Project in part with proceeds of the Bonds is in the public interest, serves a public purpose of the City and will promote the health, welfare and safety of the residents of the City.

Section 12. The City hereby determines to invest all moneys in the funds and accounts established by the Ordinance held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the City hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such money market accounts until further directed in writing by the City. Moneys in the Series 1993 A Bonds Sinking Fund, including the Reserve Account therein, shall be invested by the Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 13. 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 Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The City will take all actions necessary to compli with the Code and Treasury Regulations to be promulgated thereunder.

Section 14. This Supplemental Resolution shall be effective immediately following adoption hereof.

The question being on the adoption of the resolution a roll call was taken and there were--yeas 25, nays 0, absent 0, present not voting 2 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

PRESENT NOT VOTING: Huffman and Wampler.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 741-93 adopted.

4. Your Committee on Finance has had under consideration Resolution No. 693-93, authorizing the Finance Director to make revisions to the 1993-94 Parking System budget as follows:

85-571-0-0-0-099	Contingency	($35,070)
85-571-0-0-4-059	Capital Outlay/Equipment	35,070

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 693-93--"Authorizing the Finance Director to make revisions to the 1993-94 Parking System budget."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Finance Director is hereby authorized and directed to make revisions to the 1993-94 Parking System budget as follows:

85-571-0-0-0-099	Contingency	($35,070)
85-571-0-0-4-059	Capital Outlay/Equipment	35,070

and be it

FURTHER RESOLVED that this budgetary revision is being made prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists.

The question being on the adoption of the resolution a roll call was taken and there were--yeas 26, nays 0, absent 0 and present not voting 1 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

PRESENT NOT VOTING: Wampler.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 693-93 adopted.

5. Your Committee on Finance has had under consideration Resolution No. 742-93, authorizing the Finance Director to make payment to Kathryn A. Erskine and her attorney, E. William Harvit, in the amount of $30,000 in exchange for a full and complete release of all claims against the City of Charleston; to be charged to Account No. 01-417-0-0-2-29, City Attorney--Court Costs and Damages.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 742-93--"Authorizing the Finance Director to make payment to Kathryn A. Erskine and her attorney, E. William Harvit, in the amount of $30,000 in exchange for a full and complete release of all claims against the City of Charleston."

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Finance Director is hereby authorized and directed to make payment to Kathryn A. Erskine and here attorney, E. William Harvit, in the amount of Thirty Thousand Dollars ($30,000) in exchange for a full and complete release of all claims against the City of Charleston.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 742-93 adopted.

6. Your Committee on Finance has had under consideration bid submitted by Baker Equipment Engineering Company, in the amount of $69,335, for purchase of one (1) truck with aerial lift device to be used by the Traffic Engineering Department; to be charged to Account No. 01-573-0-0-4-61, Traffic Engineering--Capital Outlay, Lease/Purchase.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

7. Your Committee on Finance has had under consideration proposal submitted by P.R. Harrison, Stone Contractor, in the amount of $3,900, for installation of a retaining wall at Vandalia Recreation Center; to be charged to Account No. 25-09-00-059, CDBG--Parks/Recreation Facilities.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wrigh and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared the committee report adopted.

8. Your Committee on Finance has had under consideration purchase of traffic control signs from Interstate Traffic Control, Inc., in the amount of $4,030, to be installed in the Washington Street, East area, in conjunction with the City's Curb and Gutter Program; to be charged to Account No. 25-093-00-032, CDBG--Curbs/Sidewalks/Gutters.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wrigh and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared the committee report adopted.

9. Your Committee on Finance has had under consideration bid submitted by Jefferds Corporation, in the amount of $35,070, for purchase of three (3) Cushman 474 3-wheel utility vehicles to be used by the Parking System; to be charged to Account No. 85-571-0-0-4-59, Parking System--Capital Outlay, Equipment.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

10. Your Committee on Finance has had under consideration authorizing the Charleston Housing Improvements Program to charge Account No. 25-093-00-014 in the amount of $13,170.41 for rehabilitation of two projects and two change orders approved by the CHIP Loan Review Committee at a meeting held on November 3, 1993; to be charged to Account No. 25-093-00-014, CHIP--Rehabilitation.

And reports the same to Council with the recommendation that the committee report be adopted.

CONTRACTOR:	Telco Construction
PROJECT ADDRESS:	203 Russell Street
TOTAL ESTIMATED COST:	$ 5,187.50
RECORDING FEES:	2.50
TOTAL LOAN:	$ 5,190.00

CONTRACTOR:	Lowe's Contracting Service
PROJECT ADDRESS:	1620 Pansey Drive
TOTAL ESTIMATED COST:	$ 6,773.00
RECORDING FEES:	2.50
TOTAL LOAN:	$ 6,775.50

CONTRACTOR:	Lowe's Contracting Service
PROJECT ADDRESS:	1031 Beech Avenue
TOTAL ESTIMATED COST:	$ 178.12
TOTAL LOAN:	$ 178.12

CONTRACTOR:	Telco Construction
PROJECT ADDRESS:	1533 Second Avenue
TOTAL ESTIMATED COST:	$ 1,026.79
TOTAL LOAN:	$ 1,026.79

The question being on the adoption of the committee report a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wrigh and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared the committee report adopted.

11. Your Committee on Finance has had under consideration authorizing the Charleston Housing Improvements Program to commit $17,395.50 of Cash Management Rental Rehabilitation funds for rehabilitation of rental units approved by CHIP Loan Review Committee at a meeting held on November 3, 1993.

And reports the same to Council with the recommendation that the committee report be adopted.

RENTAL PROPERTY OWNER:	Thomas Walker
CONTRACTOR:	Owner
PROJECT ADDRESS:	206-208 Buchannon Street
TOTAL ESTIMATED COST:	$ 25,021.00
CONSTRUCTION FUNDS PROVIDED BY THE CITY:	17,000.00
LEGAL FEES:	392.50
RECORDING FEES:	3.00
TOTAL LOAN:	$ 17,395.50

The question being on the adoption of the committee report a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared the committee report adopted.

12. Your Committee on Finance has had under consideration payment of an invoice from Safety-Kleen Corporation, in the amount of $2,575, for disposal of hazardous waste materials at the Traffic Engineering Sign Shop; to be charged to Account No. 01-573-0-0-2-30, Traffic Engineering--Contracted Services.

And reports the same to Council with the recommendation that the committee report be adopted.

13. Your Committee on Finance has had under consideration payment of an invoice from West Virginia Air and Hydraulics, in the amount of $2,114.84, for replacement of the transmission on the Elign street sweeper; to be charged to Account No. 01-570-0-0-2-16, Street--Maintenance & Repair/Equipment.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

14. Your Committee on Finance has had under consideration payment of an invoice from Dansco, in the amount of $3,600, for auctioneer services rendered during the City's Auction of Surplus Property held on Saturday, October 30, 1993; to be charged to Account No. 01-412-0-0-2-30, City Manager--Contracted Services.

And reports the same to Council with the recommendation that the committee report be adopted.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared the committee report adopted.

Councilwoman Holt, Chairman of the Council Committee on Streets and Traffic, submitted the following reports:

1. Your Committee on Streets and Traffic has had under consideration Bill No. 5043.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 5043--A Bill to establish a 2 way stop intersection on Garden Street at Mathews Avenue, and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Be it Ordained by the Council of the City of Charleston, West Virginia:

Section 1. A 2 way stop intersection on Garden Street at Mathews Avenue, is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are amended to conform to this ordinance.

The question being on the passage of the bill a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 5043 passed.

2. Your Committee on Streets and Traffic has had under consideration Bill No. 5046.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 5046--A Bill to establish a stop intersection on Sixth Street at Elm Street, and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Be it Ordained by the Council of the City of Charleston, West Virginia:

Section 1. A stop intersection on Sixth Street at Elm Street, is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are amended to conform to this ordinance.

The question being on the passage of the bill a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 5046 passed.

3. Your Committee on Finance has had under consideration Bill No. 5053.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 5053--A Bill to establish a no parking tow-away zone from 7 a.m. to 3 p.m. on the southerly side on Second Avenue from Florida Street to the CSX Railroad trestle east of Florida Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Be it Ordained by the Council of the City of Charleston, West Virginia:

Section 1. No parking tow-away zone from 7 a.m. to 3 p.m. on the southerly side on Second Avenue from Florida Street to the CSX Railroad trestle east of Florida Stteet is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are amended to conform to this ordinance.

The question being on the passage of the bill a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No.5053 passed.

4. Your Committee on Streets and Traffic has had under consideration Bill No. 5054.

And reports the same to Council with the recommendation that the bill be amended on line 1 and line 11 by adding words, "tow away" after hours, and recommends passage of the bill as amended.

The question being on the adoption of the amendments a vote was taken. There being no dissent the Mayor declared the amendments adopted.

Bill No. 5054, as amended--A Bill to prohibit the parking of vehicles in excess of 24 hours tow away at the Fort Hill Park and Ride, and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith.

Be it Ordained by the Council of the City of Charleston, West Virginia:

Section 1. Parking of vehicles in excess of 24 hours tow away at the Fort Hill Park and Ride is prohibited and is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are amended to conform to this ordinance.

The question being on the passage of the bill a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 5054, as amended, passed.

5. Your Committee on Streets and Traffic has had under consideration Bill No. 5055.

And reports the same to Council with the recommendation that the bill be amended on line 1 and line 11 after the word Bill with the words "to allow parking of passenger vehicles only, tow away", and recommends bill be passed as amended.

The question being on the adoption of the amendments a vote was taken. There being no dissent the Mayor declared the amendments adopted.

Bill no. 5055, as amended--A Bill to allow parking of passenger vehicles only, tow away, at the For Hill Park and Ride, and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three to conform therewith.

Be it Ordained by the Council of the City of Charleston, West Virginia:

Section 1. A Bill to allow parking of passenger vehicles only, tow away at the Fort Hill Park and Ride, is hereby established.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, shall be and hereby are amended to conform to this ordinance.

The question being on the passage of the bill a roll call was taken and there were--yeas 27, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Hicks, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 5055, as amended, passed.

REPORTS OF OFFICERS

1. Finance Information--Municipal Court Revenue and Cases; received and filed.

2. Application to operate a private club located at 6515 MacCorkle Avenue; received and filed.

3. Application to operate a private club located at 1402 4th Avenue; received and filed.

4. Report of the Charleston Building Department dated October, 1993; received and filed.

5. City Treasurer's Report dated month ending October, 1993; received and filed.

6. Financial statements for the three months ended September 30, 1993; received and filed.

NEW BILLS INTRODUCED

Introduced by Councilwoman Nielsen--November 15, 1993
Bill No. 5056--A Bill fixing boundaries of voting precincts within the City of Charleston respecting the conduct of municipal elections, and repealing Bill no. 5019, passed by Council September 20, 1993; referred to Council Committee on Realignment.

Introduced by Councilwoman Nielsen--November 15, 1993
Bill No. 5057--A Bill fixing boundaries of Wards within the City of Charleston respecting the conduct of municipal elections, and repealing Bill No. 5020, passed by Council September 20, 1993; referred to Council Committee on Realignment.

Introduced by Councilwoman Dodson--November 15, 1993
Bill No. 5058--A Bill to establish one hour parking on the westerly side of 43rd Street from a point 40 feet north of MacCorkle Avenue to a point 160 feet north of MacCorkle Avenue and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, one thousand nine hundred seventy-five, as amended, Traffic Law, Chapter thirty-one, Article three, to conform therewith; referred to Council Committee on Streets and Traffic.

Introduced by Councilman McMillen--November 15, 1993
Bill No. 5059--A Bill amending and reenacting Chapter Thirteen, Article Two, Section Thirty-one, of the Garbage, Refuse, Weeds and Recycling Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, as it relates to the disposition of charges for refuse service; referred to Council Committee on Finance.

Introduced by Councilman McMillen--November 15, 1993
Bill No. 5060--A Bill amending and reenacting Chapter Thirteen, Article Two, Section Twenty-two of the Garbage, Refuse, Weeds and Recycling Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, as it relates to refuse disposal fees and charges; referred to Council Committee on Finance.

Introduced by Councilman McMillen--November 15, 1993
Bill No. 5061--An Ordinance to amend and reenact Section 25-7 of Article 1, of the Code of the City of Charleston, as amended, establishing a schedule of just and equitable rates or charges for the use of and services rendered by the sewer system of the City of Charleston, by increasing the rates and charges in all blocks by 26.2%, adding a pretreatment charge for pretreatment customers of $2500.00 per year, and by eliminating the late payment penalty, as hereinafter stated, all as provided for by Chapter 16, Article 13, and Chapter 24, Article 2, Section 4b of the Code of West Virginia, 1931, as amended; referred to Council Committee on Finance.

UNFINISHED BUSINESS

Councilwoman Connell moved to remove from the table Bill No. 5045.

The question being on Councilwoman Connell's motion a vote was taken. There being no dissent the Mayor declared the motion adopted and asked the Clerk to read Bill No. 5045.

Bill No. 5045--A Bill to amend and reenact Chapter Eleven of the Emergency Ambulance Service Department Law of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, by adding thereto a new section pertaining to uncollectible accounts for ambulance related services; and authority of City Collector.

Councilman Lane moved for passage of the bill.

The question being on the passage of the bill a roll call was taken and there were--yeas 26, nays 0 and absent 0 as follows:

YEAS: Armbrecht, Broady, Brown, Cary, Connell, Dodson, Holt, Horan, Huffman, Lane, Layne, Londeree, McClaskie, McMillen, Mohler, Monroe, Morrison, Nielsen, Quick, Robinson, Snodgrass, Thompson, Vanderwilt, Wampler, Wright and Mayor Hall.
NAYS: Hicks.
ABSENT: None.

So, all members present and voting with the majority having voted in the affirmative the Mayor declared Bill No. 5045 passed.

At 1030 p.m., on motion of Councilman Brown, Council adjourned until Monday, December 6, 1993.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

I, HOWARD M. CUNNINGHAM, Executive Secretary of the Public Service Commission of West Virginia, certify that the attached is a true and complete copy of an Order entered on September 30, 1993, in Case No. 93-0531-S-CN, The City of Charleston, a municipal Corporation, which became the final order of the Commission on October 6, 1993 by order entered October 1, 1993, as the same appears on file and of record in my office.

Given under my hand and the seal of The Public Service Commission of West Virginia, in the City of Charleston, this 23rd day of November, 1993.

Howard M. Cunningham
HOWARD M. CUNNINGHAM
Executive Secretary

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
10-6-93 by Commission Order entered 10/1/93

Entered: September 30, 1993

CASE NO. 93-0531-S-CN

THE CITY OF CHARLESTON, a municipal corporation, Kanawha County.
Application for a certificate of convenience and necessity to make certain improvements to its sewerage system in Kanawha County, and for approval of financing incidental thereto.

RECOMMENDED DECISION

On June 10, 1993, The City of Charleston, a municipal corporation, acting by its Sanitary Board, filed an application for a Certificate of Convenience and Necessity to construct and operate an extension of its municipal sewer collection system in the areas of the Trojan Steel Corporation and Parkwood Road in the City of Charleston, Kanawha County, West Virginia. The Applicant had informed the Commission of its intent to file the application by a prefiling recorded April 19, 1993.

By a Notice of Filing entered on June 11, 1993, the Public Service Commission required the Applicant to give public legal notice of said filing by publishing a copy of the Notice once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in the City of Charleston, making due return to the Commission of proper certification of publication immediately after publication. The Notice made provision for the filing of written protests or objections with the Commission, within thirty (30) days after publication, and for the summary disposition of the application without further notice or hearing in the absence of written protest.

This matter was referred to the Division of Administrative Law Judges for further proceedings with a decision due date of January 6, 1994, by Procedural Order entered June 29, 1993.

On July 6, 1993, the Applicant filed an Affidavit of Publication demonstrating publication of the Notice of Filing on June 17, 1993, in the Charleston Daily Mail, all in compliance with the Commission's Order of June 11, 1993. As of the date of this recommended decision, no protests, objections or requests for hearing have been filed in this matter.

By Final Joint Staff Memorandum filed August 1, 1993, the Staff of the Public Service Commission filed its analysis of the application in

FINDINGS OF FACT

1. On June 10, 1993, The City of Charleston, a municipal corporation, acting by its Sanitary Board, filed an application for a Certificate of Convenience and Necessity to construct and operate an extension of its municipal sewer collection system in the areas of the Trojan Steel Corporation and Parkwood Road in the City of Charleston, Kanawha County, West Virginia. (See Application filed June 10, 1993).

2. This application had been properly prefiled with the Commission on April 19, 1993. (See Letter filed April 19, 1993).

3. Pursuant to a Notice of Filing entered June 11, 1993, this matter was properly published for public legal notice on June 17, 1993, in the Charleston Daily Mail, a newspaper, duly qualified by the Secretary of State, published and of general circulation in the City of Charleston. (See Affidavit of Publication filed July 6, 1993).

4. The construction contemplated by this application will provide public sewer service to a previously unsewered area, and will renovate an existing collection subsystem, eliminating five pump stations and is a logical and beneficial evolution of the City's system which will reduce overall operating costs. (See Final Joint Staff Memorandum filed August 1, 1993).

5. Actual construction bids were opened on August 31, 1993, and appear to be within total project estimates filed with this application. (See Letter and Bid Tabulations filed September 3, 1993).

6. The plans and specifications for this proposed construction have been reviewed and approved by the State's Department of Environmental Protection. (See Letters filed September 15, 1993).

7. The agreement between the Applicant and the City of South Charleston, under which the sewerage collected from that part of this project in and around Trojan Steel will be transported to and treated by the City of South Charleston, is sufficient, reasonable, fair, and an efficient, practical solution for the sewer needs of the area. (See Application filed June 10, 1993; Commission's case file generally).

8. The proposed method of financing this project and the resulting debt service and operational expenses are reasonable and will not result in a rate increase due to sufficiency of current revenues. (See Final Joint Staff Memorandum filed August 2, 1993).

CONCLUSIONS OF LAW

1. Under the facts and circumstances of this case, as reflected by, and detailed in, the application of the City of Charleston and the recommendations of Commission Staff, and in the absence of public protest, this project is determined to be reasonable and economically feasible, convenient and necessary and will be approved.

$773,237 THE CITY OF CHARLESTON, WEST VIRGINIA SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

CERTIFICATE OF:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES
6. PUBLIC SERVICE COMMISSION ORDER; RATES
7. INCUMBENCY AND OFFICIAL NAME
8. LAND AND RIGHTS-OF-WAY
9. MEETINGS
10. LOAN AGREEMENT
11. TRUTH AND ACCURACY
12. SPECIMEN BONDS
13. BOND PROCEEDS
14. PRIVATE USE OF FACILITIES
15. NO FEDERAL GUARANTY
16. IRS INFORMATION RETURN
17. CONFLICT OF INTEREST
18. CLEAN WATER ACT
19. COUNTERPARTS

We, the undersigned MAYOR and the undersigned CITY CLERK of the City of Charleston, West Virginia (herein called the "City"), and the undersigned ATTORNEY for the City, hereby certify in connection with the single, fully registered The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1993 Series A, numbered AR-1, dated the date hereof, in the principal amount of $773,237 and bearing interest at the rate of 3% percent per annum (the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this Certificate and not otherwise defined shall have the same meaning as in the Amendatory and Supplemental Sewerage System Bond Ordinance duly passed by the Council (the "Council") of the City on May 3, 1993, effective May 17, 1993, and the Supplemental Resolution adopted November 15, 1993, relating to the Bonds (collectively, the "Ordinance"), and the Loan Agreement (the "Loan Agreement") entered into among the City, the Division of Environmental Protection ("DEP") and the West Virginia Water Development Authority (the "Authority"), dated October 12, 1993.

2. NO LITIGATION: No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting the

issuance and delivery of the Bonds; nor questioning the proceedings and authority by which the Council of the City authorized the issuance and sale of the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the City or the title of the members or officers of the City or of the Council thereof to their respective offices; nor questioning the construction and acquisition of extensions, improvements or betterments to the existing sewerage portion of the sewerage system of the City financed in part by the proceeds of sale of the Bonds (herein called the "Project"), nor operation by the City of the Project (the Project and any further extensions, additions, improvements or betterments thereto, herein collectively called the "System"), nor challenging the collection or use of the revenues of the System or the pledge of the revenues to the Bonds.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals and certificates required by law for the construction and acquisition of the Project, operation of the System, and issuance of the Bonds have been duly and timely obtained and remain in full force and effect, and competitive bids for construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1, of the Code of West Virginia, 1931, as amended, which bids remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the City since October 12, 1993. The City has met the parity test requirements of the Prior Ordinance and the Bonds are issued on a parity with the Subordinate Bonds, with respect to liens, pledge and source of and security for payment and in all other respects and senior to the Supplemental Bonds with respect to the liens, pledge and source of and security for payment. Other than the Prior Bonds, there are no outstanding bonds or obligations of the City which are secured by revenues or assets of the System. The City is in compliance with all terms and provisions set forth in the Prior Bonds and the Prior Ordinance authorizing issuance of the Prior Bonds and in all documentation relating thereto.

5. SIGNATURES: The undersigned Mayor and City Clerk are the duly elected or appointed, qualified and serving officers of the City as indicated by the official titles opposite their signatures below, and were duly authorized to execute and seal the Bonds for the City. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the City.

6. PUBLIC SERVICE COMMISSION ORDER; RATES: The undersigned Attorney hereby covenants that the law firm of Kauffelt & Kauffelt has filed all information with the Public Service Commission of West Virginia (the "Commission") and taken actions required to maintain the Public Service Commission order dated

October 6, 1993, in full force and effect. The appeal period has expired. The rates were enacted by ordinance enacted on July 6, 1992, and the City has complied with all requirements of the Public Service Commission to make the rates valid and effective and such rates are in full force and effect. The time for appeal of such Ordinance has expired and there has been no appeal thereof.

7. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the City is "City of Charleston", and it is a municipal corporation of the State of West Virginia in Kanawha County of said State. The names and dates of commencement and termination of current terms of office of the Mayor, City Clerk, members of Council and the Sanitary Board are as follows:

City Council

Name	Title	Date of Commencement Of Term	Date of Expiration Of Term
Kent Strange Hall	Mayor	May 1, 1991	April 30, 1995
James C. Stucky	City Clerk	May 18, 1992	April 30, 1995
Edward C. Armbrecht, Jr.	Council Member	May 1, 1991	April 30, 1995
Stephen V. Brown	Council Member	May 1, 1991	April 30, 1995
Jody Connell	Council Member	May 1, 1991	April 30, 1995
Carl Hicks	Council Member	May 1, 1991	April 30, 1995
Joyce Horan	Council Member	May 1, 1991	April 30, 1995
J. Thomas Lane	Council Member	May 1, 1991	April 30, 1995
Jean S. Londeree	Council Member	May 1, 1991	April 30, 1995
Linda M. Nielsen	Council Member	May 1, 1991	April 30, 1995
Chester F. Thompson	Council Member	May 1, 1991	April 30, 1995
Braxton Broady	Council Member	May 1, 1991	April 30, 1995
Barbara Cary	Council Member	May 1, 1991	April 30, 1995
Nancy Stabins Dodson	Council Member	May 1, 1991	April 30, 1995
Jean S. Holt	Council Member	May 1, 1991	April 30, 1995
William W. Huffman, II	Council Member	May 1, 1991	April 30, 1995
Ernest A. "Ernie" Layne	Council Member	May 1, 1991	April 30, 1995
George McClaskie	Council Member	May 1, 1991	April 30, 1995
Y. Howard Quick, Jr.	Council Member	May 1, 1991	April 30, 1995
Mary Jane Vanderwilt	Council Member	May 1, 1991	April 30, 1995
Betty Lee Wampler	Council Member	May 1, 1991	April 30, 1995
Paul Wright	Council Member	May 1, 1991	April 30, 1995
Arlie E. Robinson	Council Member	May 1, 1991	April 30, 1995
Loren Snodgrass	Council Member	May 1, 1991	April 30, 1995
James Monroe	Council Member	May 1, 1991	April 30, 1995
Marvin Morrison	Council Member	May 1, 1991	April 30, 1995
Dennis A. McMillen	Council Member	May 1, 1991	April 30, 1995
David A. Mohler	Council Member	May 1, 1991	April 30, 1995

Sanitary Board

Kent Strange Hall	Ex-Officio Chairman	April 30, 1995
John Tinney	Secretary/Treasurer	March 31, 1994
David Brown	Member	March 16, 1993

The duly appointed and acting Attorney for the City is Thomas Hayes, Esquire, of Charleston, West Virginia. The duly appointed and acting Attorneys for the Sanitary Board are Kauffelt & Kauffelt, Charleston, West Virginia.

8. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the construction of the Project and the operation and maintenance of the System have been acquired or can and will be acquired by purchase or, if necessary, by condemnation by the City, and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions that would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties that may have to be acquired by condemnation are, in the opinion of all the undersigned, within the ability of the City to pay for the same without jeopardizing the security of or payments on the Bonds.

9. MEETINGS: All actions, ordinances, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the City in any way connected with the construction, acquisition, operation and financing of the Project were authorized or adopted at meetings of the Council duly and regularly or specifically called and held pursuant to all applicable statutes and the rules of procedure of Council, and a quorum of duly appointed, qualified and acting members of the 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.

10. LOAN AGREEMENT: As of the date hereof, (i) the representations of the City contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the City has occurred since the date of the Loan Agreement which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading; and (iv) the City is in compliance with the Loan Agreement.

11. TRUTH AND ACCURACY: As of the date hereof, Kent Strange Hall, Mayor and James C. Stucky, City Clerk hereby certify that the copies of documents previously or on the date hereof certified by them as being true and accurate are true and accurate as of the date hereof and that none of such documents has been repealed, rescinded, amended or otherwise modified.

12. SPECIMEN BONDS: Attached hereto as Exhibit A is a specimen of the Bonds which, except as to execution and authentication, is identical in all respects with such Bond this day delivered to the Authority and being substantially in the form prescribed in the Ordinance.

13. BOND PROCEEDS: On the date hereof, the City received $97,544 from the Authority and the DEP, being a portion of the principal amount of the Bonds and more than a de minimus amount of the proceeds of the Bonds. The balance of the principal amount of the Bonds will be advanced to the City as acquisition and construction of the Project progresses.

14. PRIVATE USE OF FACILITIES: The City shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Bonds and the interest thereon. Less than 10% of the proceeds of the Bonds will be used, directly or indirectly, for any private business use, and less than 10% of the payment of principal of, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, payments in respect of such property, or to be derived from payments (whether or not to the City) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Bonds, including the disproportionate related business use of the proceeds of the Bonds, and none of the payment of principal on, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the City) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Bonds. None of the proceeds of the issue of the Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person, including related persons, other than a governmental unit or other than use as a member of the general public. All of the foregoing shall be

determined in accordance with and within the meaning of the Internal Revenue Code of 1986, as amended, including any successor provisions and rules and regulations thereunder (the "Code").

15. NO FEDERAL GUARANTY: The Bonds are not and will be, in whole or part, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

16. IRS INFORMATION RETURN: On the date hereof, the undersigned Mayor did officially sign a properly completed IRS Form 8038-G and will cause such executed Form 8038-G to be filed in a timely manner with the Internal Revenue Service Center, Philadelphia, Pennsylvania.

17. CONFLICT OF INTEREST: No officer or employee of the City has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the City or in the sale of any land, materials, supplies or services to the City or to any contractor supplying the City, relating to the Bonds, the Ordinance, and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

18. CLEAN WATER ACT: The project as described in the Ordinance complies with Sections 208 and 303(e) of the Clean Water Act.

19. COUNTERPARTS: This Certificate may be executed in counterpart and such parts shall be deemed to be the Certificate.

WITNESS our signatures and the official corporate seal of The City of Charleston, West Virginia on this 2nd day of December, 1993.

[SEAL]

Signature	Official Title
	Mayor
	City Clerk
	City Attorney

ABB048DC

EXHIBIT A

AR-1

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

No. AR-1 $773,237

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF CHARLESTON, a municipal corporation of the State of West Virginia, in Kanawha County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority "), or registered assigns, the sum of Seven Hundred Seventy-Three Thousand, Two Hundred Thirty-Seven Dollars ($773,237), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in installments on the 1st day of March, the 1st day of June, the 1st day of September, and the 1st day of December in each year beginning June 1, 1994, as set forth on the "Schedule of Annual Debt Service" attached as Exhibit B hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said Exhibit B.

Interest on this 1993 Series A Bond shall be zero (0%) percent from the date hereof until the Date of Completion of the 1993 A Project, and after such date interest shall be payable on the 1st day of March, the 1st day of June, the 1st day of September, and the 1st day of December in each year beginning June 1, 1994, at the rate of three percent (3%) per annum. Principal installments of this 1993 Series A Bond are 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 Paying Agent. The interest on this 1993 Series A Bond is payable by check or draft mailed to the Payee at the address as it appears on the books of the Registrar on the 15th day of the month preceding an interest payment date or by such other method as shall be mutually agreeable so long as the Authority is registered owner hereof.

This 1993 Series A Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and DEP and as otherwise provided by the Loan Agreement dated October 12, 1993, among the Authority, the DEP and the Issuer.

This 1993 Series A Bond is issued (i) to pay costs of acquisition and construction of a wastewater treatment facility constituting improvements, additions, extensions and betterments to the existing sewerage system of the Issuer (the "1993 Project"), (ii) to fund a reserve account therefor and (iii) to pay certain costs of issuance hereof and related costs. This 1993 Series A Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), Ordinance No. 4954 enacted by

the Issuer on the 3rd day of May, 1993, effective May 17, 1993, and a Supplemental Resolution adopted by the Issuer on the 15th day of November, 1993 (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 1993 Series A Bonds under the Ordinance.

THIS 1993 SERIES A BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE PRIOR BONDS AND SENIOR TO THE WDA SUBORDINATE BONDS, AS BOTH ARE DEFINED IN THE ORDINANCE.

This 1993 Series A Bond is payable only from and secured by a pledge of a first lien on the Net Revenues as defined in the Ordinance, to be derived from the operation of the System, moneys in the Reserve Account created under the Ordinance and unexpended proceeds of the 1993 Series A Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This 1993 Series A Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended 1993 Series A Bond proceeds. Pursuant to the Ordinance, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with or prior to the 1993 Series A Bonds, payable from such revenues, provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the 1993 Series A Bonds and any bonds on a parity therewith in any succeeding fiscal year and in each of the reserve accounts for the Prior Bonds, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the 1993 Series A Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the 1993 Series A Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This 1993 Series A Bond is transferable, as provided in the Ordinance, only upon the books of the Registrar, kept for that purpose at the office of the Registrar, by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this 1993 Series A Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

This 1993 Series A Bond, under the provision of the Act is, and has provided 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 1993 Series A 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 1993 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 owner of this 1993 Series A Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this 1993 Series A

©LITHO BORDER ONLY BY MIDWEST BANK NOTE CO.—PLYMOUTH, MICH.

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 1993 Series A Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this 1993 Series A Bond.

All provisions of the Ordinance, resolutions and statutes under which this 1993 Series A Bond is issued shall be deemed to be a part of the contract evidenced by this 1993 Series A Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, THE CITY OF CHARLESTON has caused this 1993 Series A Bond to be signed by its Mayor and its corporate seal to be hereunto affixed hereon and attested by its Clerk, and has caused this 1993 Series A Bond to be dated December 2, 1993.

Mayor

[SEAL]

ATTEST:

City Clerk

AR-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This 1993 Series A Bond is one of the 1993 Series A Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

ONE VALLEY BANK, NATIONAL ASSOCIATION,
as Registrar

By _____
Its Authorized Officer

Dated: 12-2-93

EXHIBIT A

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$		(7)	$	
(2)	$		(8)	$	
(3)	$		(9)	$	
(4)	$		(10)	$	
(5)	$		(11)	$	
(6)	$		(12)	$	

TOTAL $_____

AR-1

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

City of Charleston
SRF

DEBT SERVICE SCHEDULE

DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
3/01/1994	-	-	-	-
6/01/1994	7,089.00	3.00000%	5,799.28	12,888.28
9/01/1994	7,142.00	3.00000%	5,746.11	12,888.11
12/01/1994	7,196.00	3.00000%	5,692.55	12,888.55
3/01/1995	7,250.00	3.00000%	5,638.58	12,888.58
6/01/1995	7,304.00	3.00000%	5,584.20	12,888.20
9/01/1995	7,359.00	3.00000%	5,529.42	12,888.42
12/01/1995	7,414.00	3.00000%	5,474.23	12,888.23
3/01/1996	7,470.00	3.00000%	5,418.62	12,888.62
6/01/1996	7,526.00	3.00000%	5,362.60	12,888.60
9/01/1996	7,582.00	3.00000%	5,306.15	12,888.15
12/01/1996	7,639.00	3.00000%	5,249.29	12,888.29
3/01/1997	7,696.00	3.00000%	5,192.00	12,888.00
6/01/1997	7,754.00	3.00000%	5,134.28	12,888.28
9/01/1997	7,812.00	3.00000%	5,076.12	12,888.12
12/01/1997	7,871.00	3.00000%	5,017.53	12,888.53
3/01/1998	7,930.00	3.00000%	4,958.50	12,888.50
6/01/1998	7,989.00	3.00000%	4,899.02	12,888.02
9/01/1998	8,049.00	3.00000%	4,839.11	12,888.11
12/01/1998	8,110.00	3.00000%	4,778.74	12,888.74
3/01/1999	8,171.00	3.00000%	4,717.91	12,888.91
6/01/1999	8,232.00	3.00000%	4,656.63	12,888.63
9/01/1999	8,294.00	3.00000%	4,594.89	12,888.89
12/01/1999	8,356.00	3.00000%	4,532.69	12,888.69
3/01/2000	8,418.00	3.00000%	4,470.02	12,888.02
6/01/2000	8,482.00	3.00000%	4,406.88	12,888.88
9/01/2000	8,545.00	3.00000%	4,343.27	12,888.27
12/01/2000	8,609.00	3.00000%	4,279.18	12,888.18
3/01/2001	8,674.00	3.00000%	4,214.61	12,888.61
6/01/2001	8,739.00	3.00000%	4,149.56	12,888.56
9/01/2001	8,804.00	3.00000%	4,084.01	12,888.01
12/01/2001	8,871.00	3.00000%	4,017.98	12,888.98
3/01/2002	8,937.00	3.00000%	3,951.45	12,888.45
6/01/2002	9,004.00	3.00000%	3,884.42	12,888.42
9/01/2002	9,072.00	3.00000%	3,816.89	12,888.89
12/01/2002	9,140.00	3.00000%	3,748.85	12,888.85
3/01/2003	9,208.00	3.00000%	3,680.30	12,888.30
6/01/2003	9,277.00	3.00000%	3,611.24	12,888.24
9/01/2003	9,347.00	3.00000%	3,541.67	12,888.67
12/01/2003	9,417.00	3.00000%	3,471.56	12,888.56
3/01/2004	9,488.00	3.00000%	3,400.94	12,888.94
6/01/2004	9,559.00	3.00000%	3,329.78	12,888.78
9/01/2004	9,630.00	3.00000%	3,258.08	12,888.08
12/01/2004	9,703.00	3.00000%	3,185.86	12,888.86
3/01/2005	9,775.00	3.00000%	3,113.09	12,888.09
6/01/2005	9,849.00	3.00000%	3,039.77	12,888.77
9/01/2005	9,923.00	3.00000%	2,965.91	12,888.91
12/01/2005	9,997.00	3.00000%	2,891.48	12,888.48
3/01/2006	10,072.00	3.00000%	2,816.51	12,888.51
6/01/2006	10,148.00	3.00000%	2,740.97	12,888.97
9/01/2006	10,224.00	3.00000%	2,664.86	12,888.86
12/01/2006	10,300.00	3.00000%	2,588.18	12,888.18
3/01/2007	10,378.00	3.00000%	2,510.93	12,888.93
6/01/2007	10,455.00	3.00000%	2,433.09	12,888.09
9/01/2007	10,534.00	3.00000%	2,354.68	12,888.68
12/01/2007	10,613.00	3.00000%	2,275.67	12,888.67
3/01/2008	10,692.00	3.00000%	2,196.08	12,888.08
6/01/2008	10,773.00	3.00000%	2,115.89	12,888.89
9/01/2008	10,853.00	3.00000%	2,035.09	12,888.09
12/01/2008	10,935.00	3.00000%	1,953.69	12,888.69
3/01/2009	11,017.00	3.00000%	1,871.68	12,888.68
6/01/2009	11,099.00	3.00000%	1,789.05	12,888.05
9/01/2009	11,183.00	3.00000%	1,705.81	12,888.81
12/01/2009	11,267.00	3.00000%	1,621.94	12,888.94
3/01/2010	11,351.00	3.00000%	1,537.43	12,888.43
6/01/2010	11,436.00	3.00000%	1,452.30	12,888.30
9/01/2010	11,522.00	3.00000%	1,366.53	12,888.53
12/01/2010	11,608.00	3.00000%	1,280.12	12,888.12
3/01/2011	11,695.00	3.00000%	1,193.06	12,888.06
6/01/2011	11,783.00	3.00000%	1,105.34	12,888.34
9/01/2011	11,871.00	3.00000%	1,016.97	12,887.97
12/01/2011	11,961.00	3.00000%	927.94	12,888.94
3/01/2012	12,050.00	3.00000%	838.23	12,888.23
6/01/2012	12,141.00	3.00000%	747.86	12,888.86
9/01/2012	12,232.00	3.00000%	656.80	12,888.80
12/01/2012	12,323.00	3.00000%	565.06	12,888.06
3/01/2013	12,416.00	3.00000%	472.64	12,888.64
6/01/2013	12,509.00	3.00000%	379.52	12,888.52
9/01/2013	12,603.00	3.00000%	285.70	12,888.70
12/01/2013	12,697.00	3.00000%	191.18	12,888.18
3/01/2014	12,793.00	3.00000%	95.95	12,888.95
TOTAL	773,237.00	-	257,842.00	1,031,079.00

©LITHO BORDER ONLY BY MIDWEST BANK NOTE CO.-PLYMOUTH MICH

AR-1

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____
_____
_____
_____
_____
the within 1993 Series A Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said 1993 Series A Bond on the books kept for registration of the within 1993 Series A Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

ABB048D8

$773,237 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

CERTIFICATE OF CITY CLERK AS TO TRUTH
AND ACCURACY OF DOCUMENTS DELIVERED

I, the undersigned James C. Stucky, the duly elected City Clerk of The City of Charleston, West Virginia (the "City"), hereby certify that the copies of the following documents being delivered in connection with the closing of the sale of the $773,237 The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1993 Series A (the "Bonds"), are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the City and delivered in the transcript of proceedings, and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. Charter of the City.

2. Oaths of Office of the Mayor, City Clerk, and members of Council.

3. Rate Ordinance.

4. Amendatory and Supplemental Sewerage System Bond Ordinance No. 4954 (the "Ordinance") passed by Council on May 3, 1993.

5. Resolution No. 621-93 adopted by Council on May 3, 1993, authorizing publication of an abstract of the Ordinance and notice of the public hearing.

6. Minutes of the May 3, 1993, meeting of Council wherein the Ordinance and Resolution Authorizing Publication of an Abstract of Ordinance and Notice of Public Hearing were adopted.

7. Affidavits of publication of the abstract of the Ordinance and notice of the public hearing published in the Charleston Daily Mail and The Charleston Gazette.

8. Resolution No. 629-93 adopted by Council on May 17, 1993, putting Ordinance into effect.

9. Minutes of the May 17, 1993, meeting of council wherein the Resolution putting Ordinance into effect was adopted.

10. Supplemental Resolution No. 741-93 adopted by Council on November 15, 1993, authorizing the sale of the Bonds.

11. Minutes of the November 15, 1993, meeting of Council wherein the Supplemental Resolution was adopted.

12. Loan Agreement dated October 12, 1993.

WITNESS my signature and the official seal of The City of Charleston, West Virginia as of the 2nd day of December, 1993.

James C Stuckey

City Clerk
The City of Charleston, West Virginia

(SEAL)

ABB04879

$773,237 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

CERTIFICATE AS TO NON-ARBITRAGE

I, Kent Strange Hall, Mayor of The City of Charleston, West Virginia (the "City"), being one of the officials of the City duly charged with the responsibility for the issuance of $773,237 aggregate principal amount of Sewerage System Revenue Bonds, 1993 Series A, of The City of Charleston, West Virginia, dated December 2, 1993 (the "Bonds"), hereby certify as follows:

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986, as amended, and applicable regulations (the "Code"). I am one of the officers of the City charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and am duly authorized to execute and deliver this certificate on behalf of the City.

2. This certificate may be relied upon as the certificate of the City.

3. The City has not been notified by the Internal Revenue Service of any listing or proposed listing of it as an issuer and certification of which may not be relied upon by holders of obligations of the City or that there is any disqualification of the City by the Internal Revenue Service because a certification made by the City contains a material misrepresentation.

4. This certificate is based upon facts, circumstances, estimates and expectations of the City in existence on December 2, 1993, the date on which the Bonds are to be physically delivered in exchange for the issue price thereof, and to the best of my knowledge and belief, the expectations of the City set forth herein are reasonable.

5. In the Amendatory and Supplemental Sewerage System Bond Ordinance (the "Ordinance") pursuant to which the Bonds are issued, the City has covenanted to make no use of the proceeds of the Bonds which would cause the Bonds to be "arbitrage bonds" within the meaning of the Code.

6. The Bonds were sold on December 2, 1993, to the West Virginia Water Development Authority (the "Authority") pursuant to a loan agreement dated October 12, 1993, by and among the City, the Authority and the West Virginia Division of Environmental Protection (the "DEP") for an aggregate purchase price of $773,237 (100% of the principal amount thereof) of which $97,544 will be

advanced at the closing and the remainder to be advanced from time to time as Project costs are incurred.

7. The Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying costs, not otherwise provided, of acquisition and construction of certain extensions, improvements and betterments to the existing public sewage portion of the combined waterworks and sewerage system of the City (the "Project"), (ii) funding a debt service reserve fund and (iii) paying costs of issuance and other costs in connection therewith.

8. The City shall, within 30 days following delivery of the Bonds, enter into agreements which require the City to expend in excess of $710,000 on the Project constituting a substantial binding commitment or has already done so. Acquisition, construction and equipping of the Project will proceed with due diligence to completion, and, with the exception of proceeds deposited in a reserve account for the Bonds, if any, all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, with the exception of the reserve account deposits, if any, will be expended for payment of Costs of the Project on or before April 1, 1994. Construction of the Project is expected to be completed by April 1, 1994.

9. The total cost of the Project is estimated at $773,237. Sources and uses of funds for the Project are as follows:

SOURCES	
Bond Proceeds	$ 773,237
Total Sources	$ 773,237
USES	
Acquisition and Construction of Project	$ 709,681
Reserve Fund Deposit	51,556
Costs of Issuance	$ 12,000
Total Uses	$ 773,237

The amount of Project costs not expected to be reimbursed by the grants set forth above is estimated to be at least equal to the gross proceeds of the Bonds. Except for the proceeds of the Bonds, the grant proceeds and as otherwise provided in the Ordinance, no other funds of the City will be available to meet costs of the Project, and no balances are available to meet such costs in any account which may, without legislative or judicial action, be

invaded to pay such expenditures without a legislative, judicial or contractual requirement that such account be reimbursed.

10. Pursuant to Article V of the Ordinance, the following special funds or accounts have been continued or created:

The following special funds or accounts are created with and shall be held by, the Depository Bank:

(1) Revenue Fund;

(2) Renewal and Replacement Fund; and

(3) Bond Construction Trust Fund.

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

(1) Sinking Fund; and

(a) Within the Sinking Fund, the Reserve Account.

11. Pursuant to Article VI of the Ordinance, the proceeds of the Bonds will be deposited as follows:

(1) Bond proceeds in the amount of $51,556 will be deposited with the Municipal Bond Commission in the Reserve Account.

(2) The balance of the proceeds of the Bonds will be deposited as received from time to time in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project including but not limited to payment of cost of issuance.

12. Moneys held in the Sinking Fund will be used solely to pay principal of and interest on the Bonds as the same shall become due. Moneys in the Reserve Account in the Sinking Fund shall be used only for the purpose of paying principal of and interest on the Bonds, as the same shall become due, when other moneys in the Sinking Fund are insufficient therefor, and for no other purpose. All investment earnings on moneys in the Sinking Fund and Reserve Account shall be transferred, not less than once each year to the Bond Construction Trust Fund prior to completion of the Project, and thereafter into the Revenue Fund.

13. Except for the Sinking Fund and the Reserve Account, there are no other funds or accounts established or held by the City which are reasonably expected to be used to pay debt service on the Bonds, or which are pledged as collateral for Bonds, and for which there is a reasonable assurance that amounts therein will be available to pay debt service on the Bonds, if the City encounters financial difficulties. The City does not expect that moneys in

the Renewal and Replacement Fund will be used or needed for payments upon the Bonds. Except as provided herein, no funds which have been or will be used to acquire directly or indirectly securities, obligations, annuity contracts or other investment-type property producing a yield in excess of the yield on the Bonds, have been or will be pledged to payment of the Bonds. Less than 10% of the proceeds of the Bonds will be deposited in the Reserve Account or any other reserve or replacement fund. The amounts deposited in the Reserve Account from time to time by the City will not exceed the maximum annual principal and interest on the Bonds and will not exceed 125% of average annual principal and interest on the Bonds. Amounts in the Reserve Account, not to exceed 10% of the proceeds of the Bonds, if invested, will be invested without yield limitation. The establishment of the Reserve Account is required by the Authority, is vital to its purchase of the Bonds and is reasonably required to assure payments of debt service on the Bonds. The establishment of the Sinking Fund is required by the Authority and the West Virginia Division of Environmental Protection, is vital to their purchase of the Bonds and is reasonably required to assure payments of debt service on the Bonds.

14. Work with respect to the construction of the Project will proceed with due diligence to completion. Construction is expected to be completed within three years.

15. The City will comply with the provisions of the Code, for which the effective date precedes the date of delivery of its Bonds to the Authority.

16. All of the proceeds of the Bonds deposited in the Bond Construction Trust Fund will be expended on the Project within 13 months from the date of issuance thereof but in any event not later than two years from the date hereof.

17. Any money deposited in the Sinking Fund for payment of the principal and interest on the Bonds (other than the Reserve Account therein) will be spent within a 13-month period beginning on the date of receipt and any moneys received from the investment of amounts held in the Sinking Fund (other than in the Reserve Account therein) will be spent within a 1-year period beginning the date of receipt.

18. 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.

19. All property financed with the proceeds of the Bonds will be held for Federal income tax purposes by (or on behalf of) a qualified governmental unit.

20. The City shall file Form 8038-G in a timely fashion with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255.

21. No more than 10% of the proceeds of the Bonds will be used (directly or indirectly) in any trade or business carried on by, and less than 5% of the proceeds of the Bonds have been or will be used to make or finance loans to, any person who is not a governmental unit.

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

23. The City shall use the proceeds of the Bonds solely for the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the City.

24. 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 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 City will take all actions and refrain from taking such actions as shall be necessary to comply with the Code in order to ensure the interest on the Bonds is excludable from gross income for Federal income tax purposes.

25. The Bonds, in whole or in part, are not and will not be, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

26. The City 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 City fails to make such rebates as required, the City shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

27. The City has retained the right to amend or supplement its authorizing documents if such amendment or supplement is necessary to preserve the exclusion of the interest on the Bonds from gross income for Federal income tax purposes.

28. The City shall comply with the yield restriction on the proceeds of the Bonds as set forth in the Code.

29. The City has either (a) funded the Reserve Account at the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Reserve Account

which will be funded with equal payments on a monthly basis over a 10 year period until such Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year. Moneys in the Reserve Account and the Sinking Fund (established for the annual payment of principal and interest) will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

30. The City shall submit to the Authority within thirty (30) days following the end of the City's bond year a certified copy of its rebate calculation or if the City qualifies for the small governmental issuer exception to rebate, then the City shall submit to the Authority a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the bond year which would make the Bonds subject to rebate.

31. The City expects that no part of the Project financed by the Bonds will be sold or otherwise disposed of prior to the last maturity date of the Bonds.

32. The City 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.

33. Jackson & Kelly is entitled to rely upon the representations, expectations, covenants, certifications and statements contained herein in rendering its opinions regarding the tax-exempt status of interest on the Bonds.

34. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

IN WITNESS WHEREOF, I have set my hand this 2nd day of December, 1993.

THE CITY OF CHARLESTON, WEST VIRGINIA

By _____
Mayor

ABB048E2

$773,237 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

CERTIFICATE OF CONSULTING ENGINEER

I, Joseph F. Dunn, Registered Professional Engineer, West Virginia License No. 4492, of Dunn Engineers, Inc., Consulting Engineers, Charleston, West Virginia, hereby certify that my firm is engineer for the acquisition and construction of the Trojan Steel extension project in which certain additions, improvements and betterments to the existing sewerage facilities of the sewerage system (herein called the "Trojan Steel Project") of the City of Charleston (the "Issuer") to be constructed primarily in Kanawha County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the Ordinance passed by the Council of the Issuer on May 3, 1993, effective May 17, 1993, and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated October 12, 1993.

1. The undersigned hereby certifies that (i) the Trojan Steel Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Trojan Steel Project is adequate for the purpose for which it was designed and has an estimated useful life of at least twenty years, (iii) the Issuer has received bids for the construction of the Trojan Steel Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Trojan Steel Project, (v) the rates and charges for the System as adopted by the Council of the Issuer are sufficient to comply with the provisions of Subsection 4.1(b) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and acquisition of the Trojan Steel Project as set forth in the Application, and (vii) attached hereto as

Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Trojan Steel Project.

WITNESS my signature on this 2nd day of December, 1993.

DUNN ENGINEERS, INC.

By _____
Joseph F. Dunn
West Virginia License No. 4492

[SEAL]

ABB04947

SCHEDULE A

NAME OF GOVERNMENTAL AGENCY: City of Charleston

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

A. Cost of Project

1. Construction	$ 567,249.50 (R - 441,787.00, T - 125,462.50)**	
2. Technical Services	$ 75,771.00 (R - 57,571.00, T - 18,200.00)**	
3. Legal and Fiscal	$ 10,000.00	
4. Administrative	$ 0.00	
* 5. Site and Other Lands	$	
* 6. Step I and/or Step II (Design) or Other Loan Repayment (Specify Type: _____)	$ 0.00	
7. Interim Financing Costs	$ 0.00	
8. Contingency	$ 56,041.18	
9. Total of Lines 1 Through 8	$ 709,061.68	
		$ 709,061.68

B. Sources of Funds

10. Federal Grants:[1]		$ 0.00	
(Specify Sources)		$ 0.00	
11. State Grants:[1]		$ 0.00	
(Specify Sources)		$ 0.00	
		$ 0.00	
		$ 0.00	
12. Other Grants:[1]		$ 0.00	
(Specify Sources)		$ 0.00	
13. Any Other Source[2]		$ 0.00	
(Specify)		$ 0.00	
14. Total of Lines 10 Through 13			$ 0.00
15. Net Proceeds Required from Bond Issue (Line 9 Less than 14)			$ 709,061.68

C. Cost of Financing

16. Capitalized Interest (Construction period plus six months)	$ 0.00	
17. Funded Reserve Account:[3]	$ 52,175.32	
18. Other Costs:[4] Bond Counsel	$ 12,000.00	
	$ 0.00	
19. Total Cost of Financing (lines 16 through 18)		$ 64,175.32
20. Size of Bond Issue (Line 15 plus Line 19)		$ 773,237.00

* not allowable for State Revolving Fund Assistance

** R - Ruthdale, T - Trojan Steel

$773,237 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

CERTIFICATE OF CONSULTING ENGINEER

I, DeLane Randolph, Registered Professional Engineer, West Virginia License No. 6049, of Kelley, Gidley, Blair & Wolfe, Inc., Consulting Engineers, Charleston, West Virginia, hereby certify that my firm is engineer for the acquisition and construction of the Ruthdale area sanitary sewer extension upgrade project in which certain additions, improvements and betterments to the existing sewerage facilities of the sewerage system (herein called the "Parkwood Road Project") of the City of Charleston (the "Issuer") to be constructed primarily in Kanawha County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the Ordinance passed by the Council of the Issuer on May 3, 1993, effective May 17, 1993, and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated October 12, 1993.

1. The undersigned hereby certifies that (i) the Parkwood Road Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Parkwood Road Project is adequate for the purpose for which it was designed and has an estimated useful life of at least twenty years, (iii) the Issuer has received bids for the construction of the Parkwood Road Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Parkwood Road Project, (v) the rates and charges for the System as adopted by the Council of the Issuer are sufficient to comply with the provisions of Subsection 4.1(b) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and acquisition of the Parkwood Road Project as set forth in the Application, and (vii) attached

hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Parkwood Road Project.

WITNESS my signature on this 2nd day of December, 1993.

KELLEY, GIDLEY, BLAIR & WOLFE, INC.

By G. DeLane Randolph, P.E.
DeLane Randolph
West Virginia License No. 6049

[SEAL]

ABB04945

G. DeLANE RANDOLPH
REGISTERED
6049
STATE OF
WEST VIRGINIA
PROFESSIONAL ENGINEER

SCHEDULE A

NAME OF GOVERNMENTAL AGENCY: City of Charleston

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

A. Cost of Project

1. Construction	$ 567,249.50 (R - 441,787.00, T - 125,462.50)**	
2. Technical Services	$ 75,771.00 (R - 57,571.00, T - 18,200.00)**	
3. Legal and Fiscal	$ 10,000.00	
4. Administrative	$ 0.00	
* 5. Site and Other Lands	$	
* 6. Step I and/or Step II (Design) or Other Loan Repayment (Specify Type:)	$ 0.00	
7. Interim Financing Costs	$ 0.00	
8. Contingency	$ 56,041.18	
9. Total of Lines 1 Through 8	$ 709,061.68	
		$ 709,061.68

B. Sources of Funds

10. Federal Grants:[1]	$ 0.00	
(Specify Sources)	$ 0.00	
11. State Grants:[1]	$ 0.00	
(Specify Sources)	$ 0.00	
	$ 0.00	
	$ 0.00	
12. Other Grants:[1]	$ 0.00	
(Specify Sources)	$ 0.00	
13. Any Other Source[2]	$ 0.00	
(Specify)	$ 0.00	
14. Total of Lines 10 Through 13		$ 0.00
15. Net Proceeds Required from Bond Issue (Line 9 Less than 14)		$ 709,061.68

C. Cost of Financing

16. Capitalized Interest (Construction period plus six months)	$ 0.00	
17. Funded Reserve Account:[1]	$ 52,175.32	
18. Other Costs:[4] Bond Counsel	$ 12,000.00	
	$ 0.00	
19. Total Cost of Financing (lines 16 through 18)		$ 64,175.32
20. Size of Bond Issue (Line 15 plus Line 19)		$ 773,237.00

* not allowable for State Revolving Fund Assistance

** R - Ruthdale, T - Trojan Steel

T | W
& | P

TRAINER, WRIGHT & PATERNO

CERTIFIED PUBLIC ACCOUNTANTS

608 TENNESSEE AVENUE
P. O. BOX 1191
CHARLESTON, WV 25324
(304) 343-5511
FAX: (304) 343-5514

$773,237 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

CERTIFICATE OF ACCOUNTANT AS TO COVERAGE

Trainer, Wright and Paterno, Certified Public Accountants, have reviewed the sewer rates of The City of Charleston, West Virginia (the "City") and the customer usage projection prepared by Dunn Engineers and Kelly, Gidley, Blair & Wolfe, Inc., as Consulting Engineers for the City. It is our opinion that those rates are adequate to pay operation and maintenance expenses, and to meet the debt service coverage requirements of the Sewerage System Revenue Bonds, 1993 Series A and the Amendatory and Supplemental Sewerage System Bond Ordinance adopted by the Council on May 3, 1993, effective May 17, 1993, and a Supplemental Resolution subsequently adopted by the Council on November 15, 1993, and are sufficient to comply with the provisions of the Loan Agreement entered into by and among the City, the West Virginia Division of Environmental Protection, and the West Virginia Water Development Authority on October 12, 1993.

WITNESS our signature as of this 2nd day of December, 1993.

TRAINER, WRIGHT & PATERNO

By: _____
Certified Public Accountant

MEMBERS OF AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS: DIVISION FOR CPA FIRMS PRIVATE COMPANIES PRACTICE SECTION • WEST VIRGINIA AND OHIO SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS • CONTINENTAL ASSOCIATION OF CPA FIRMS, INC. AND INTERCONTINENTAL ACCOUNTING ASSOCIATES WITH OFFICES IN PRINCIPAL U.S. AND INTERNATIONAL CITIES

$773,237 THE CITY OF CHARLESTON, WEST VIRGINIA SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 2nd day of December, 1993, by and between THE CITY OF CHARLESTON, WEST VIRGINIA, a municipal corporation (the "Governmental Agency"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, Charleston, West Virginia (the "Registrar").

WHEREAS, the Governmental Agency has, contemporaneously with the execution hereof, issued and sold its $773,237 The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1993 Series A (the "Bonds"), in the form of one bond, numbered AR-1, in fully registered form pursuant to an Amendatory and Supplemental Sewerage System Bond Ordinance duly passed May 3, 1993, effective May 17, 1993, and a Supplemental Resolution adopted November 15, 1993 (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 Governmental Agency of a Registrar for the Bonds; and

WHEREAS, the Governmental Agency 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 Governmental Agency 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 on the Primary 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 Governmental Agency advises it of and with generally

accepted industry standards.

2. The Registrar agrees to furnish the Governmental Agency with appropriate records of all transactions carried out by it as Registrar and to furnish the Governmental Agency 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 Governmental Agency 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 Governmental Agency.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Governmental Agency hereby agrees to pay to the Registrar, from time to time, the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection with this Registrar's Agreement.

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 Governmental Agency 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:

GOVERNMENTAL AGENCY:

City of Charleston
City Hall
P. O. Box 2749
Charleston, WV 25330
Attention: Mayor

REGISTRAR:

One Valley Bank, National Association
P. O. Box 1793
Charleston, West Virginia 25326
Attention: Corporate Trust

The Governmental Agency 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.

IN WITNESS WHEREOF, THE CITY OF CHARLESTON, WEST VIRGINIA and ONE VALLEY BANK, NATIONAL ASSOCIATION, have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

THE CITY OF CHARLESTON, WEST VIRGINIA

By _____
Mayor

ONE VALLEY BANK, NATIONAL ASSOCIATION

By: _____
Authorized Officer

ABB04878

EXHIBIT A

See Bond Ordinance (Tab No. 8)

$773,237 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

ACCEPTANCE OF DUTIES OF DEPOSITORY BANK
FOR THE BOND CONSTRUCTION TRUST FUND

One Valley Bank, National Association, with its principal office in Charleston, West Virginia, hereby accepts appointment as Depository Bank for the Bond Construction Trust Fund in connection with an Amendatory and Supplemental Sewerage System Bond Ordinance of The City of Charleston, West Virginia duly passed on May 3, 1993, effective May 17, 1993, and the Supplemental Resolution adopted November 15, 1993 (collectively, the "Ordinance"), authorizing issuance of The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1993 Series A, dated December 2, 1993, in the aggregate principal amount of $773,237 (the "Bonds") and agrees to perform all duties of Depository Bank for the Bond Construction Trust Fund, all as set forth in said Ordinance.

Witness my signature as of the 2nd day of December, 1993.

ONE VALLEY BANK, NATIONAL ASSOCIATION

By: _____
Authorized Officer

ABB049C3

$773,237 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

ACCEPTANCE OF DUTIES OF DEPOSITORY BANK
FOR THE REVENUE FUND

Commerce Bank, Charleston, National Association, with its principal office in Charleston, West Virginia, hereby accepts appointment as Depository Bank for the Revenue Fund in connection with an Amendatory and Supplemental Sewerage System Bond Ordinance of The City of Charleston, West Virginia duly passed on May 3, 1993, effective May 17, 1993, and the Supplemental Resolution adopted November 15, 1993 (collectively, the "Ordinance"), authorizing issuance of The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1993 Series A, dated December 2, 1993, in the aggregate principal amount of $773,237 (the "Bonds") and agrees to perform all duties of Depository Bank for the Revenue Fund, all as set forth in said Ordinance.

Witness my signature as of the 2nd day of December, 1993.

COMMERCE BANK, CHARLESTON, NATIONAL ASSOCIATION

By: Matthew D. Sutton, AVP
Authorized Officer

ABB049D8

$773,237 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

REQUEST AND AUTHORIZATION AS TO AUTHENTICATION
AND DELIVERY OF THE BONDS

December 2, 1993

One Valley Bank, National Association
P. O. Box 1793
Charleston, West Virginia 25326

Ladies and Gentlemen:

We herewith hand to you, duly executed, $773,237 The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1993 Series A, in the form of one bond numbered AR-1 (the "Bonds") of the City of Charleston, West Virginia (the "City"), authorized to be issued under and pursuant to the Amendatory and Supplemental Sewerage System Bond Ordinance, duly passed by the Council of the City on May 3, 1993, effective May 17, 1993, and a Supplemental Resolution adopted by the Council on November 15, 1993 (collectively, the "Ordinance").

You are hereby requested and authorized to register, authenticate and deliver the Bonds on behalf of the City to the West Virginia Water Development Authority.

THE CITY OF CHARLESTON, WEST VIRGINIA

By _____
Mayor

(SEAL)

Attest:

_____
City Clerk

ABB048E1

$773,237 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

CERTIFICATE OF REGISTRATION OF BONDS

The undersigned authorized officer of One Valley Bank, National Association, Charleston, West Virginia, as Registrar (the "Registrar"), hereby certify that on the 2nd day of December, 1993, the bonds of The City of Charleston, West Virginia in the principal amount of $773,237 designated the "The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1993 Series A" and numbered AR-1, dated as of the date hereof, was registered as to principal and interest in the name of "West Virginia Water Development Authority" in the books of the City kept for that purpose at our office, by a duly authorized officer on behalf of One Valley Bank, National Association, Charleston, West Virginia, as Registrar.

WITNESS my signature as of the 2nd day of December, 1993.

ONE VALLEY BANK, NATIONAL ASSOCIATION, as Registrar

By _____
Authorized Officer

ABB04876

$773,237 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

RECEIPT FOR BONDS

The undersigned, Barbara B. Meadows, Secretary-Treasurer of the West Virginia Water Development Authority, for and on behalf of the West Virginia Water Development Authority (the "Authority"), hereby certifies as follows:

1. On the 2nd day of December, 1993, in Dunbar, West Virginia, the Authority received the entire original issue of $773,237 in aggregate principal amount of The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1993 Series A (the "Bonds"), said Bond being dated the 2nd day of December, 1993; and issued in the form of one bond, fully registered to the Authority, and numbered AR-1.

2. At the time of receipt of such Bonds, it had been executed by Kent Strange Hall, as Mayor of the City of Charleston, by manual signature, and attested by James C. Stucky as City Clerk of the City of Charleston, by manual signature, and the official seal of said City had been impressed upon each Bond.

IN WITNESS WHEREOF, Barbara B. Meadows duly signed and delivered this receipt on behalf of the West Virginia Water Development Authority on the 2nd day of December, 1993.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

By Barbara B Meadows
Secretary-Treasurer

ABB048E0

$773,237 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

RECEIPT FOR BOND PROCEEDS

The undersigned Kent Strange Hall, Mayor of The City of Charleston, West Virginia (the "City"), hereby certifies as follows:

The City has received and hereby acknowledges receipt from the West Virginia Water Development Authority (the "Authority"), as original purchaser of The City of Charleston, West Virginia $773,237 Sewerage System Revenue Bonds, 1993 Series A, $97,544 being the first advance under the above-referenced bond with the remainder to be advanced from time to time as costs are incurred up to $773,237 (100% of par value) and with no interest having been accrued thereon.

IN WITNESS WHEREOF, The City of Charleston has caused this receipt to be executed by the Mayor of The City of Charleston on this 2nd day of December, 1993.

THE CITY OF CHARLESTON, WEST VIRGINIA

By: Kent Strange Hall
MAYOR

ABB04883

AGENCY: ENVIRONMENTAL PROTECTION
TOTAL: $97,544.00

WARRANT #: 8-0450269
DATE: 11/29/93

TRANSACTION ID	INVOICE NUMBER	INVOICE DATE	PURCHASE ORDER	AMOUNT
I000584401 1		11/10/93		$97,544.00

REMOVE DOCUMENT ALONG THIS PERFORATION

CTL# 0033036

VOID UNLESS PRESENTED FOR PAYMENT WITHIN SIX MONTHS

State of West Virginia

STATE CAPITOL, CHARLESTON

WARRANT # **8-0450269**

PAY TO THE ORDER OF THE SANITARY BD CITY OF C

NOVEMBER 29, 1993

8-0450269

**********$97,544.00**

Larrie Bailey
STATE TREASURER

Glen B Gainer III
AUDITOR

WEST VIRGINIA TREASURY
⑈8045026 9⑈ ⑆051902322⑆ 02⑈095⑈9⑈

2.12

DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
1201 Greenbrier Street
Charleston, WV 25311-1088

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

September 21, 1992

R. Dan Halloran, General Manager
City of Charleston, Sanitary Board
P. O. Box 1026
Charleston, WV 25324

CERTIFIED RETURN RECEIPT REQUESTED

Re: WV/NPDES Permit No. WV0023205
Modification No. 2

Dear Mr. Halloran:

This letter serves as Modification No. 2 of your existing WV/NPDES Water Pollution Control Permit No. WV0023205, issued the 22nd day of August 1990.

After review and consideration of the information submitted on and with Permit Modification Application No. WV0023205-B, dated the 3rd day of June 1992, the plans and specifications and other relevant information, the subject permit is hereby modified to acquire, construct, install, operate and maintain a wastewater collection system to be comprised of approximately 24,300 linear feet of six(6) inch diameter gravity sewer line, 39,840 linear feet of eight(8) inch diameter gravity sewer line, 18,650 linear feet of 12 inch diameter gravity sewer line, 1,100 linear feet of 16 inch diameter gravity sewer line, 478 manholes, 115 cleanouts, 20 grinder stations, two(2) duplex lift stations, one(1) triplex lift station, 5,280 linear feet of one and one-half(1 1/2) diameter force main, 6,170 linear feet of two(2) diameter force main, 680 linear feet of two and one-half(2 1/2) diameter force main, 3,700 linear feet of four(4) diameter force main, 6,690 linear feet of 10 diameter force main, and all requisite appurtenances.

These facilities are to serve a population equivalent of approximately 5,486 persons in the Ruthdale service area and convey wastewater to the City's wastewater treatment plant for subsequent treatment and discharge to the Kanawha River at Mile Point 55.6. The additional wastewater flow to be generated is anticipated to be approximately 384,000 gallons per day.

The wastewater collection facilities shall be constructed in accordance with the plans and specifications, approved the 26th day of May 1992, prepared by Dunn Engineers, Inc., 701 Virginia Street, West, Charleston, WV 25302 and entitled "City of Charleston, Sanitary Board, Ruthdale Service Area, Wastewater Collection Facilities, Contracts A, B, C and D, EPA Project No. C-540731."

Enclosed is revised page 3 of 9. A schedule relative to the implementation of this project has been incorporated. This document shall supersede the one currently in your possession and should be incorporated into your existing permit.

The portion of the wastewater collection system being acquired, constructed, and installed to serve the Schenley Park and Forest Edge subdivisions shall convey wastewater to the City of South Charleston's wastewater treatment plant for subsequent treatment and discharge and shall be operated and maintained by the City of South Charleston, Sanitary Board.

All other terms and conditions of the subject permit shall remain in effect and unchanged.

Very truly yours,

OFFICE OF WATER RESOURCES

Laidley Eli McCoy, Ph. D.
Chief

LEM:jdm

Attachments

Form **8038-G** (Rev. May 1993) Department of the Treasury Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

▶ Under Internal Revenue Code section 149(e)

▶ See separate Instructions.

(Use Form 8038-GC if the issue price is under $100,000.)

OMB No. 1545-0720

Part I Reporting Authority

If Amended Return, check here ▶ ☐

1 Issuer's name: City of Charleston, West Virginia

2 Issuer's employer identification number: 55 6000610

3 Number and street (or P.O. box if mail is not delivered to street address): City Hall, Court and Virginia Streets

Room/suite:

4 Report number: G19 93 - 3

5 City, town, state, and ZIP code: Charleston, West Virginia 25301

6 Date of issue: 12/2/93

7 Name of Issue: $773,237 The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1993 Series A

8 CUSIP Number: NONE

Part II Type of Issue (check applicable box(es) and enter the issue price)

		Issue price
9	☐ Education (attach schedule–see instructions)	$
10	☐ Health and hospital (attach schedule–see instructions)	
11	☐ Transportation	
12	☐ Public safety	
13	☒ Environment (including sewage bonds)	773,237
14	☐ Housing	
15	☐ Utilities	
16	☐ Other. Describe (see Instructions) ▶	
17	If obligations are tax or other revenue anticipation bonds, check box ▶ ☐	
18	If obligations are in the form of a lease or installment sale, check box ▶ ☐	

Part III Description of Obligations

	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
19 Final maturity	3/1/2014	3.0 %	12,793	12,793			
20 Entire issue			773,237	773,237	11.115 years	3.0112 %	3.000 %

Part IV Uses of Original Proceeds of Bond Issue (including underwriters' discount)

21	Proceeds used for accrued interest		21 -0-
22	Issue price of entire issue (enter amount from line 20, column (c))		22 773,237
23	Proceeds used for bond issuance costs (including underwriters' discount)	23 $12,000	
24	Proceeds used for credit enhancement	24 0	
25	Proceeds allocated to reasonably required reserve or replacement fund	25 $51,556	
26	Proceeds used to refund prior issues	26 0	
27	Total (add lines 23 through 26)		27 $63,556
28	Nonrefunding proceeds of the issue (subtract line 27 from line 22 and enter amount here)		28 $709,681

Part V Description of Refunded Bonds (complete this part only for refunding bonds)

29 Enter the remaining weighted average maturity of the bonds to be refunded ▶ N/A years

30 Enter the last date on which the refunded bonds will be called ▶ N/A

31 Enter the date(s) the refunded bonds were issued ▶ N/A

Part VI Miscellaneous

32 Enter the amount of the state volume cap allocated to the issue ▶ N/A

33 Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(III) (small issuer exception) ▶ N/A

34 Pooled financings:

a Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units ▶ N/A

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ ☐ and enter the name of the issuer ▶ _____ and the date of the issue ▶ N/A

35 If the issuer has elected to pay a penalty in lieu of rebate, check box ▶ ☐

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Please Sign Here

▶ Kent Strange Hall 12/2/93 ▶ Kent Strange Hall, Mayor

Signature of officer — Date — Type or print name and title

For Paperwork Reduction Act Notice, see page 1 of the Instructions.

Cat. No. 63773S Form **8038-G** (Rev. 5-93)

*U.S. Government Printing Office: 1993 — 343-034/80150

WV MUNICIPAL BOND COMMISSION
Suite 337 Building 3
1800 Washington St. E
State Capitol Complex
Charleston, WV 25305
(304) 348-3971

NEW ISSUE REPORT FORM

Date of Report: December 2, 1993

(See Reverse for Instructions)

ISSUE: $773,237 City of Charleston, Sewerage System Revenue Bonds, Series 1993 A

ADDRESS: City Hall, Court and Virginia Streets, Charleston, WV 25301 **COUNTY:** Kanawha

PURPOSE OF ISSUE: New Money X Refunding ___ **Refunds issue(s) dated:** ___

ISSUE DATE: December 2, 1993 **CLOSING DATE:** December 2, 1993

ISSUE AMOUNT: $ 773,237 **RATE:** 3%

1st DEBT SERVICE DUE: June 1, 1994 **1st PRINCIPAL DUE:** June 1, 1994

1st DEBT SERVICE AMOUNT: $12,888.28 **PAYING AGENT:** WV Municipal Bond Commission

ISSUERS

BOND COUNSEL: Jackson & Kelly
Contact Person: Samme L. Gee
Phone: (304) 340-1318

DEPOSITORY
CLOSING BANK: One Valley Bank, Nat. Assoc.
Contact Person: Charlotte S. Morgan
Phone: (304) 348-7239

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Bill Collison
Position: Sanitary Board
Phone: (304) 348-8134

UNDERWRITERS
BOND COUNSEL: N/A
Contact Person: ___
Phone: ___

ESCROW TRUSTEE: N/A
Contact Person: ___
Phone: ___

OTHER: West Virginia Water Development Authority
Contact Person: Daniel B. Yonkosky
Function: Director
Phone: (304) 558-3612

DEPOSITS TO MBC AT CLOSE:
By ___ Wire
X Check

___ Accrued Interest: $ ___
___ Capitalized Interest: $ ___
X Reserve Account: $ 51,556
___ Other: ___ $ ___

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By ___ Wire
___ Check
___ IGT

___ To Escrow Trustee: $ ___
___ To Issuer: $ ___
___ To Cons. Invest. Fund: $ ___
___ To Other: ___ $ ___

NOTES: ___

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED: ___
TRANSFERS REQUIRED: ___

$773,237
THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

CONSENT OF THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

I, Daniel B. Yonkosky, Director of the West Virginia Water Development Authority (the "WDA"), registered owner of The City of Charleston, West Virginia (the "City") $1,912,194 Sewer Revenue Bonds, Series 1989, and $829,856 Sewer Revenue Bonds, Series 1989B (collectively, the "WDA Bonds") do hereby consent to the issuance of The City of Charleston, West Virginia, Sewerage System Revenue Bonds, 1993 Series A (the "Series 1993 A Bonds"), with a lien on a parity with the lien of the WDA Bonds.

WITNESS my signature this 2nd day of December, 1993.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: Daniel B. Yonkosky
Daniel B. Yonkosky, Director

ABB0493A

T W & P TRAINER, WRIGHT & PATERNO
CERTIFIED PUBLIC ACCOUNTANTS

608 TENNESSEE AVENUE
P. O. BOX 1191
CHARLESTON, WV 25324
(304) 343-5511
FAX: (304) 343-5514

December 2, 1993

Sanitary Board of The City
of Charleston
City Building
Charleston, West Virginia

We have been asked to determine if the Sanitary Board of The City of Charleston has achieved sufficient coverage of its existing and proposed debt service prior to the issuance of additional parity bonds. The prior Ordinances require the annual net revenue for the twelve month period prior to the issuance of additional parity bonds to be at least 115% of the total maximum amount of principal and interest falling due in any one subsequent year on the bonds currently outstanding and on the proposed bonds.

The City currently has outstanding its $1,912,194 Sewer Revenue Bonds, Series 1989 dated March 21, 1989 and The City of Charleston $829,858 Sewer Revenue Bonds, Series 1989B dated November 21, 1989 (the "WDA First Lien Bonds"), the $2,955,000 The City of Charleston, West Virginia Sewerage System Refunding Revenue Bonds, Series 1992A, and the $6,670,000 The City of Charleston, West Virginia Sewerage System Refunding and Improvement Revenue Bonds, Series 1992B (the "1992 Bonds" and collectively with the WDA First Lien Bonds, the "Prior Bonds"). The City intends to issue $773,237 in Sewerage System Revenue Bonds, 1993 Series A on December 2, 1993 on a parity with the Prior Bonds.

Based upon the above assumptions, we certify the Sanitary Board's annual net revenues at June 30, 1993, are at least 115% of the total maximum amount of existing and proposed interest and principal that will become due in any one subsequent year of the currently outstanding or proposed issues.

Very truly yours,

TRAINER, WRIGHT & PATERNO

Trainer Wright & Paterno

MEMBERS OF AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS: DIVISION FOR CPA FIRMS PRIVATE COMPANIES PRACTICE SECTION • WEST VIRGINIA AND OHIO SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS • CONTINENTAL ASSOCIATION OF CPA FIRMS, INC. AND INTERCONTINENTAL ACCOUNTING ASSOCIATES WITH OFFICES IN PRINCIPAL U.S. AND INTERNATIONAL CITIES

$773,237 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, 1993 SERIES A

CITY'S CERTIFICATE WITH RESPECT TO PARITY BONDS

Pursuant to requirements of Section 6.08 of the Prior Ordinance, the undersigned Mayor and City Clerk of The City of Charleston, West Virginia (the "City") hereby certify:

1. The City of Charleston Sewerage System Revenue Bonds, 1993 Series A (the "Bonds") are being issued for the purpose of financing the cost of the construction of extensions, improvements, betterments to the System.

2. The City has received the Certificate of an Independent Accountant with respect to additional parity bonds as required by Section 6.08.

3. The City has entered into contracts for the construction of the projects to be financed with the proceeds of the Bonds.

4. The City has funded the Reserve Fund for the Bonds simultaneously with the issuance of the Bonds.

WITNESS our signatures as of this 2nd day of December, 1993.

THE CITY OF CHARLESTON, WEST VIRGINIA

Mayor

[SEAL]

Clerk

ABB04AAC

DISBURSEMENT REQUEST FORM

One Valley Bank, National Association
P. O. Box 1793
Charleston, WV 25326
Attention: Corporate Trust

Re: $773,237 The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1993 Series A

Ladies and Gentlemen:

You are authorized, on behalf of The City of Charleston, West Virginia to make the following disbursements from the Bond Construction Trust Fund:

The expenses listed above have been incurred as Costs of the Project that have not been the basis of any previous disbursement. A copy of the Bond Ordinance of the City of Charleston authorizing the disbursements is attached hereto.

Very truly yours,

THE CITY OF CHARLESTON, WEST VIRGINIA

By _____
Authorized Officer

_____

By _____
Consulting Engineer

Date: _____

ABB04884

JACKSON & KELLY
ATTORNEYS AT LAW
1600 LAIDLEY TOWER
P. O. BOX 553
CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000 TELECOPIER 304-340-1130

300 FOXCROFT AVENUE
MARTINSBURG, WEST VIRGINIA 25401
TELEPHONE 304-263-8800

6000 HAMPTON CENTER
MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE 304-599-3000

256 RUSSELL AVENUE
NEW MARTINSVILLE, WEST VIRGINIA 26155
TELEPHONE 304-455-1751

700 EAST WASHINGTON STREET
CHARLES TOWN, WEST VIRGINIA 25414
TELEPHONE 304-728-6088

300 WEST MAIN STREET
CLARKSBURG, WEST VIRGINIA 26302
TELEPHONE 304-623-3002

175 EAST MAIN STREET
LEXINGTON, KENTUCKY 40595
TELEPHONE 606-255-9500

202 WEST MAIN STREET
FRANKFORT, KENTUCKY 40601
TELEPHONE 502-227-4000

2401 PENNSYLVANIA AVENUE N.W.
WASHINGTON, D.C. 20037
TELEPHONE 202-973-0200

1660 LINCOLN STREET
DENVER, COLORADO 80264
TELEPHONE 303-837-0003

3.1

December 2, 1993

WRITER'S DIRECT DIAL NO.

West Virginia Division of Environmental
Protection
Division of Water Resources
617 Broad Street
Charleston, WV 25301

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

Re: $773,237 The City of Charleston, West Virginia
Sewerage System Revenue Bonds, 1993 Series A

Gentlemen:

We are bond counsel to The City of Charleston, West Virginia, (the "Local Government"), a municipal corporation.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated October 12, 1993, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among the Local Government, the West Virginia Division of Environmental Protection and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Local Government, dated December 2, 1993 (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $773,237, issued in the form of one bond registered as to principal and interest to the Authority, with both principal and interest payable March 1, June 1, September 1, and December 1 of each year, beginning June 1, 1994, at the rate of three percent (3%) per annum and as set forth in "Schedule Y," attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds bear no interest during the construction period.

The Local Bonds are issued for the purpose of paying a portion of the costs of acquisition and construction of additions,

betterments and improvements for the existing public sewerage facilities of the sewerage system of the Local Government (the "Project"), funding a reserve fund, and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond ordinance duly enacted by the Local Government on May 17, 1993 as supplemented on November 15, 1993 (the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

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

3. The Local Government is a duly organized and presently existing municipal corporation of the State of West Virginia, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary resolutions in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Local Government, payable from the net revenues of the System referred to in the Local Act and secured by a first lien on and pledge of the net revenues of said System, on a parity, with respect to liens, pledge and source of and security for payment with the Local Government's outstanding Prior Bonds and senior to the WDA Subordinate Bonds, as both are defined in the Ordinance, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

6. The Governmental Agency has reserved the right to issue additional bonds ranking on a parity with the Local Bond, as provided in the Local Act.

7. The interest on the Local Bond is excludable from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, it should be noted that with respect to corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on such corporations. The opinion set forth in the preceding sentence is subject to the condition that the Governmental Agency comply with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to the issuance of the Local Bond in order that interest thereon be (or continue to be) excludable from gross income for federal income tax purposes. Failure to comply with such requirements could cause the interest on the Local Bond to be includable in gross income retroactive to the date of issuance of the Local Bond. The Governmental Agency has covenanted to comply with all such requirements. We express no opinion regarding other federal tax consequences with respect to the Local Bond.

8. The Local Bonds and the interest thereon are, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision, or agency thereof.

It is to be understood that the rights of the holders of the Bond and the enforceability of the Bond and the Local Act may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or

hereafter enacted to the extent constitutionally applicable and that such enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

We have examined executed and authenticated Local 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

ABB048D5

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3.2
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TELEPHONE 606-255-9500

202 WEST MAIN STREET
FRANKFORT, KENTUCKY 40601
TELEPHONE 502-227-4000

2401 PENNSYLVANIA AVENUE N.W.
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TELEPHONE 202-973-0200

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DENVER, COLORADO 80264
TELEPHONE 303-837-0003

WRITER'S DIRECT DIAL NO.

December 2, 1993

The City of Charleston
City Hall
P. O. Box 2749
Charleston, WV 25330

Re: $773,237 The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1993 Series A

Ladies and Gentlemen:

We have examined a record of proceedings relating to the issuance of the $773,237 in aggregate principal amount of The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1993 Series A (the "Bonds"), issued by The City of Charleston (the "City"), a municipal corporation and a Certificate as to Non-Arbitrage executed by Kent Strange Hall, Mayor of The City of Charleston on this date.

We are of the opinion that the facts, estimates and circumstances set forth in the Certificate as to Non-Arbitrage are sufficient to satisfy the requirements of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") to support the conclusion that the Bonds are not "arbitrage bonds" as therein defined.

While we have undertaken no independent verification or investigation of the certifications, statements, expectations or representations set forth in such Certificate as to Non-Arbitrage, no matters have come to our attention which in our opinion make unreasonable or incorrect the representations made in such certification.

Accordingly, it is our opinion that, under existing statutes, regulations, rulings and court decisions, the Bonds are not "arbitrate bonds" as so defined. It is our further opinion, based upon such Certificate as to Non-Arbitrage and under existing statutes, regulations, rulings and court decisions, that proceeds

of the Bonds are not subject to the arbitrage rebate requirements set forth in Section 148(f) of the Code.

Please be advised that this opinion is subject to the condition that the City comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Bonds in order that the Bonds not be "arbitrage bonds." Failure to comply with certain of such requirements may cause the interest on the Bonds to be includable in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds. The City has covenanted to comply with all such requirements.

Very truly yours,

Jackson + Kelly

ABB04874

CITY OF CHARLESTON
P.O. BOX 2749
CHARLESTON, WEST VIRGINIA
25330

KENT STRANGE HALL, MAYOR

3.3

December 2, 1993

West Virginia Division of
Environmental Protection
Division of Water Resources
617 Broad Street
Charleston, WV 25301

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

Jackson & Kelly
P. O. Box 553
Charleston, WV 25322

Re: $773,237 The City of Charleston, West Virginia Sewerage System Revenue Bonds, 1993 Series A

Ladies and Gentlemen:

I am City Attorney for The City of Charleston, West Virginia (the "City"). As such City Attorney, I have examined copies of the approving opinion of Jackson & Kelly, as bond counsel, relating to the above-captioned bonds of the City (the "Bonds"), the Loan Agreement by and among the West Virginia Water Development Authority (the "Authority"), the West Virginia Division of Environmental Protection (the "DEP"), and the City, dated October 12, 1993, and an Amendatory and Supplemental Sewerage System Bond Ordinance duly passed by the Council (the "Council") of the City on May 3, 1993, effective May 17, 1993, as supplemented by a Supplemental Resolution adopted November 15, 1993, (collectively, the "Ordinance"), and other documents relating to the Bonds. Terms used in said opinions, the Loan Agreement, and Ordinance and not otherwise defined herein have the same meanings herein.

I am of the opinion that:

1. The Loan Agreement has been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by the Authority and DEP, constitutes a valid and binding agreement of City in accordance with its terms.

2. The members of the Council were duly and properly elected or appointed and are thereby authorized to act on behalf of the City.

3. The Ordinance has been duly enacted by the Council of the City and is in full force and effect.

4. The City has received all permits, licenses, approvals and authorizations necessary for the issuance of the Bonds, construction of the Project, operation of the System and imposition of rates and charges, including, without limitation, the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia (the "PSC"), and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges. The time for appeal of such rate ordinance has expired prior to the date hereof without any appeal. The time for appeal of the Final Order of the Public Service Commission of West Virginia entered October 6, 1993, (Case No. 93-0531-S-CN), granting to the City a Certificate of Convenience and Necessity with respect to the Project has expired prior to the date hereof.

5. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Loan Agreement, and the carrying out of the terms thereof, do not and will not in any material respect conflict with or constitute on the part of the City a breach of or default under any agreement or other instrument to which the City is a party or any existing law, regulation, court order or consent decree to which the City is subject.

6. The City has received all the necessary permits, licenses, approvals and authorizations that are presently obtainable to construct the Project.

7. To the best of my knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public council or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by or the validity of the Bonds, the construction of the Projects, or the collection or pledge of the Net Revenues therefor.

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,

City Attorney

ABB048DD

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December 2, 1993

The City of Charleston
City Hall
Charleston, WV 25301

Jackson & Kelly
P. O. Box 553
Charleston, WV 25322-0553

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

State of West Virginia
Division of Environmental Protection
Office of Water Resources
617 Broad Street
Charleston, WV 25301-1218

Re: $773,237 The City of Charleston, West Virginia
Sewerage System Revenue Bonds, 1993 Series A

Ladies and Gentlemen:

We have served as counsel to the City of Charleston (the "Issuer") in regard to certain matters concerning the Public Service Commission of West Virginia. In our role as special counsel, we were active in obtaining the Issuer's Certificate of Public Convenience and Necessity granted by Final Order on October 1, 1993. Pursuant to the above, I am of the opinion as follows:

1. The Issuer has received a Certificate of Convenience and Necessity and approval of financing, including the above-referenced Bonds, from the Public Service Commission of West Virginia and said Certificate is in full force and effect and the appeal period has expired therefrom without appeal.

2. The rates enacted by the Issuer on July 6, 1992, were duly adopted by the Council of the Issuer and are in full force and effect. It should be noted that a rate increase is now pending before City Council, and is expected to pass on December 6, 1993.

This opinion may be relied upon as if addressed to all counsel.

Very truly yours,

T. D. Kauffelt

T. D. Kauffelt
Counsel for Public Service
Commission Matters

TDK:nlr