$5,237,584 THE CITY OF CHARLESTON,
WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS,
SERIES 1997 B

Closing: October 7, 1997

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TRANSCRIPT OF PROCEEDINGS

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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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The closing of the sale of $5,237,584 in aggregate principal amount of The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 B (the "Bonds"), will take place at the office of Jackson & Kelly, Charleston, West Virginia, at 10:00 a.m. prevailing time on October 7, 1997. 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.

104205

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 1997 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 **Sixth** *day of* **October** *19* **97**

Ken Hechler

Secretary of State

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

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

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

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

☐ For disconnection from sanitary district.

☐ Against disconnection from sanitary district.

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

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

ARTICLE 13.

SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND SANITARY DISTRICTS.

Sec.

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

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

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16-13-23a. Additional powers of municipality upon receipt of order to cease pollution.
16-13-24. Article to be construed liberally.

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

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

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

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

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

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

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

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

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

Any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to own, acquire, construct, equip, operate and maintain within and/or without the corporate limits of such municipal corporation, a sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and

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

Sections read together. — This section should be read and construed with former § 8-4-20 and §§ 16-13-2, 16-13-16, 24-1-1, 24-2-1, and 24-2-3. Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

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

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

Cited in City of Beckley v. Craighead, 125 W. Va. 484, 24 S.E.2d 908 (1943).

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

The construction, acquisition, improvement, equipment, custody, operation and maintenance of any such works for the collection, treatment or disposal of sewage and the collection of revenues therefrom for the service rendered thereby, shall be under the supervision and control of a sanitary board appointed by the governing body as set forth in section eighteen [§ 16-13-18] of this article. The term "works" as used in this article shall be construed to mean and include a works for the collection and/or treatment, purification and disposal of sewage, in its entirety or any integral part thereof. The term "municipality" as used in this article shall be construed to mean any municipal corporation, incorporated city, town, village or sanitary district in the State of West Virginia. The term "governing body" as used in this article shall be construed to mean the mayor and council or other legally constituted governing body of any municipality. The term "board" when hereinafter used in this article shall be construed to mean the sanitary board as set up in section eighteen of this article. (1933, Ex. Sess., c. 25, § 2.)

Sections read together. — This section should be read and construed with former § 8-4-20 and §§ 16-13-1, 16-13-16, 24-1-1, 24-2-1 and 24-2-3. Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

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

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

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

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

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

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

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

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

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

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

And may obtain advances by any procedure it may see fit to adopt. — Money used in preliminary engineering work prior to actually beginning construction of a sewage disposal system need not be handled by the sani-

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

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

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

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

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

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

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

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

however, That if at such a hearing written protest is filed by thirty percent or more of the owners of real estate situate in said municipality, then the governing body of said municipality shall not take further action unless four fifths of the qualified members of the said governing body assent thereto. (1933, Ex. Sess., c. 25, § 6; 1967, c. 105; 1981, 1st Ex. Sess., c. 2.)

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

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

§ 16-13-8. Cost of works.

The cost of the works shall be deemed to include the cost of acquisition or construction thereof, the cost of all property, rights, easements, and franchises deemed necessary or convenient therefor and for the improvements determined upon as provided in this article; interest upon bonds prior to and during

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

All moneys received from any bonds issued pursuant to this article, after reimbursements and repayment to said municipality of all amounts advanced for preliminary expenses as provided in section four [§ 16-13-4] of this article, shall be applied solely to the payment of the cost of the work, extensions, improvements or betterments, or to the appurtenant sinking fund and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the holders of the bonds or the trustees hereinafter provided for. (1933, Ex. Sess., c. 25, § 13.)

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

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

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

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

At or before the issuance of any such bonds the governing body shall by said ordinance create a sinking fund, to be remitted to and administered by the West Virginia municipal bond commission, for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to mean the revenues of the works remaining after the payment of the reasonable expense of operation, repair and maintenance, such amount to be paid by the board into said sinking fund at intervals to be determined by ordinance prior to issuance of the bonds, for: (a) The interest upon such bonds as such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the payment of the bonds as they fall due, or, if

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

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

The governing body shall have power, and it shall be its duty, by ordinance, to establish and maintain just and equitable rates or charges for the use of and the service rendered by such works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the municipality, or that in any way uses or is served by such works, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of the works and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be deemed the revenues of the works. No such rates or charges shall be established until after a public hearing, at which all

the users of the works and owners of property served or to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates or charges. After introduction of the ordinance fixing such rates or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates or charges, shall be given by publication as a Class II-0 legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed in such notice for the hearing. After such hearing, which may be adjourned from time to time, the ordinance establishing rates or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided: Provided, however, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments. All such rates or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate or charge so established shall not be paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: Provided, however, That where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof. Whenever any rates, rentals or charges for services or facilities furnished shall remain unpaid for a period of thirty days after same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. The board collecting such charges shall be obligated under reasonable rules and regulations, to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities, or both, and shall not restore either water facilities or sewer facilities to any delinquent user of either until all delinquent charges for both water facilities and sewer facilities, including reasonable interest and penalty charges, have been paid in full. (1933, Ex. Sess., c. 25, § 16; 1933, 2nd Ex. Sess., c. 48; 1959, c. 125; 1967, c. 105.)

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

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

Sections read together. — This section should be read and construed with former § 8-4-20 and §§ 16-13-1, 16-13-2, 24-1-1, 24-2-1, and 24-2-3. Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

Municipal sewer system is subject to jurisdiction of public service commission. 45 Op. Att'y Gen. 642 (1954).

Hence, municipality is required to file its rates with the commission for approval in accordance with § 24-2-1 et seq. 45 Op. Att'y Gen. 642 (1954).

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

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

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

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

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

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

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

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

The governing body shall provide by ordinance the organization of the board, and that the custody, administration, operation and maintenance of such works shall be under the supervision and control of a sanitary board, created as herein provided. Such sanitary board shall be composed of either the mayor of the municipality, or the city manager thereof, if said municipality shall have a city manager form of government, and two persons appointed by the governing body: Provided, That, in the event of an acquisition or merger of an existing sewage works, the governing body may increase the membership to a maximum of four members in addition to the mayor or city manager of the municipality served by the board. During the construction period one of the members must be a registered professional engineer. The engineer member of the board need not be a resident of said municipality. After the construction of the plant has been completed, the engineer member may be succeeded by a

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

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

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

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

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

Public service commission may order extension of service. — A public utility is under a duty to make reasonable extensions of its services in accordance with its franchise and charter obligations and the needs of the inhabitants within the territory covered by its franchise; and a public service commission may, where its action is not unlawful, arbitrary, or capricious, order an extension of service for the inhabitants of such territory. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

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

Member of city council may not serve as consulting engineer to the sanitary board on

city sewer project. 49 Op. Att'y Gen. 60 (1961).

Mayor and city manager may not both be appointed to municipal sanitary board. — When a municipal corporation has a city manager form of government, the municipality's governing board has the option of appointing either its mayor or its city manager (but not both) to the municipal sanitary board. 52 Op. Att'y Gen. 217 (1967).

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

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

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

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

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

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

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

Any municipality operating a sewage collecting system and/or a sewage disposal plant or plants as defined in this article, or which as herein provided has ordered the construction or acquisition of such works (in this section called the owner), is hereby authorized to contract with one or more other municipal corporations or political subdivisions within the State (in this section called the

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

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

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

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

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

Any holder of any such certificates or any of the coupons attached thereto, and the trustee, if any, except to the extent the rights herein given may be restricted by said ordinance authorizing issuance of the bonds or by the trust indenture, may either at law or in equity, by suit, action, mandamus or other proceeding protect and enforce any and all rights granted hereunder or under such ordinance or trust indenture, and may enforce and compel performance of all duties required by this article or by such ordinance or trust indenture to be performed by the municipality issuing the bonds or by the board or any officer,

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including the making and collecting of reasonable and sufficient charges and rates for service rendered by the works. If there be any failure to pay the principal or interest of any of the bonds on the date therein named for such payment, any court having jurisdiction of the action may appoint a receiver to administer the works on behalf of the municipality and the bondholders and/or trustee, except as so restricted, with power to charge and collect rates sufficient to provide for the payment of the expenses of operation, repair and maintenance and also to pay any bonds and interest outstanding and to apply the revenues in conformity with this article and the said ordinance and/or trust indenture. (1933, Ex. Sess., c. 25, § 21.)

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

As to receivers, see Rule 66.

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

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

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

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

Any municipality is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of acquisition or construction of said sewage works and the construction of betterments and improvements thereto, and for the other purposes herein authorized, from any authorized agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of bonds authorized to be issued under the provisions of this article, the revenues of the said sewage works or grants to the municipality from any agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any agency of the state, the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

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

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

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

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

§ 16-13-22c. Refunding bonds.

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

§ 16-13-22d. Subordination of bonds.

Notwithstanding any other provisions to the contrary in this article, any municipality authorizing the issuance of bonds under this article in an effort to aid in the abatement or reduction of the pollution of any waters or streams may provide in the ordinance authorizing the issuance of the bonds and in any trust indenture pertaining thereto that such bonds, or any additional bonds that may thereafter be issued to extend or improve the works, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to the payment of principal and interest and the security thereof, to such other bonds as are designated in the ordinance. (1949, c. 93.)

§ 16-13-22e. Operating contract.

Any such municipality may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the facilities and properties of said sewerage system, or any part thereof, for such

period of time and under such terms and conditions as shall be agreed upon between such municipality and such persons, firms or corporations. Such municipality shall have power to provide in the resolution authorizing the issuance of bonds hereunder, or in any trust indenture, securing such bonds, that such contracts or agreements shall be valid and binding upon the municipality as long as any of said bonds, or interest thereon, are outstanding and unpaid. (1955, c. 132.)

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

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

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

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

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

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

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

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

(e) Limitations or restrictions upon the issuance of additional bonds or other obligations payable from the revenue of such sewerage system, and the rank or

priority, as to lien and source and security for payment from the revenues of such sewerage system, between bonds payable from such revenues;

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

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

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

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

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

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

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

by this article, any provisions of other statutes of the State to the contrary notwithstanding: Provided, however, That all functions, powers and duties of the state department of health shall remain unaffected by this article. (1933, Ex. Sess., c. 25, § 23.)

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

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

Notwithstanding any other provision contained in this article, and in addition thereto, the governing body of any municipal corporation which has received or which hereafter receives an order issued by the director of the division of environmental protection or the environmental quality board requiring such municipal corporation to cease the pollution of any stream or waters, is hereby authorized and empowered to fix, establish and maintain, by ordinance, just and equitable rates or charges for the use of the services and facilities of the existing sewer system of such municipal corporation, and/or for the use of the services and facilities to be rendered upon completion of any works and system necessary by virtue of said order, to be paid by the owner, tenant or occupant of each and every lot or parcel of real estate or building that is connected with and uses any part of such sewer system, or that in any way uses or is served thereby, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient for the payment of all the proper and reasonable costs and expenses of the acquisition and construction of plants, machinery and works for the collection and/or treatment, purification and disposal of sewage, and the repair, alteration and extension of existing sewer facilities, as may be necessary to comply with such order of the director of the division of environmental protection or the environmental quality board, and for the operation, maintenance and repair of the entire works and system; and the governing body shall create, by ordinance, a sinking fund to accumulate and hold any part or all of the proceeds derived from rates or charges until completion of said construction, to be remitted to and administered by the municipal bond commission by expending and paying said costs and expenses of construction and operation in the manner as provided by said ordinance; and after the completion of the construction such rates or charges shall be sufficient in each year for the payment of the proper and reasonable costs and expenses of operation, maintenance, repair, replacement and extension from time to time, of the entire sewer and works. No such rates or charges shall be established until after a public hearing, at which all the potential users of the works and owners of property served or to be served thereby and others shall have had an opportunity to be heard concerning the proposed rates or charges. After introduction of the ordinance fixing such rates or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates or charges, shall be given by publication of such notice as a Class II-0 legal advertisement in compliance with the provisions of article three

[§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication is the municipality. The first publication shall be made at least ten days before the date fixed therein for the hearing. After such hearing, which may be adjourned from time to time, the ordinance establishing the rates or charges, either as originally introduced or as modified and amended, may be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the sanitary board having charge of the construction and operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided: Provided, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice is required. If any rate or charge so established is not paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the sanitary board of such municipal corporation in a civil action in the name of the municipality. Any municipal corporation exercising the powers given herein has authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery, or works necessary to comply with such order of the director of the division of environmental protection or the environmental quality board, and the authority provided herein to establish, maintain and collect rates or charges is an additional and alternative method of financing such works and matters, and is independent of any other provision of this article insofar as such article provides for or requires the issuance of revenue bonds or the imposition of rates and charges in connection with such bonds: Provided, however, That except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the director of the division of environmental protection or the environmental quality board, and the rights, powers, and duties of such municipal corporation and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article. (1955, c. 135; 1967, c. 105; 1994, c. 61.)

Effect of amendment of 1994. — The amendment substituted "director of the division of environmental protection or the environmental quality board" for "chief of the division of water resources or the state water resources board" twice preceding the two provisos and for "state water resources board" once in each proviso; substituted "municipal bond commission" for "state sinking fund commission"; deleted "however" in the first proviso; and made other minor changes.

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.
16-13A-4. Board chairman; members' compensation; procedure; district name.
16-13A-5. General manager of board.
16-13A-6. Employees of board.
16-13A-7. Acquisition and operation of district properties.
16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.
16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
16-13A-9a. Limitations with respect to foreclosure.
16-13A-10. Budget.
16-13A-11. Accounts; audit.
16-13A-12. Disbursement of district funds.
16-13A-13. Revenue bonds.
16-13A-14. Items included in cost of properties.
16-13A-15. Bonds may be secured by trust indenture.
16-13A-16. Sinking fund for revenue bonds.
16-13A-17. Collection, etc., of revenues and enforcement of covenants; default; suit, etc., by bondholder or trustee to compel performance of duties; appointment and powers of receiver.
16-13A-18. Operating contracts.
16-13A-18a. Sale, lease or rental of water, sewer or gas system by district; distribution of proceeds.
16-13A-19. Statutory mortgage lien created; foreclosure thereof.
16-13A-20. Refunding revenue bonds.
16-13A-21. Complete authority of article; liberal construction; district to be public instrumentality; tax exemption.
16-13A-22. Validation of prior acts and proceedings of county courts for creation of districts, inclusion of additional territory, and appointment of members of district boards.
16-13A-23. Validation of acts and proceedings of public service boards.
16-13A-24. Acceptance of loans, grants or temporary advances.
16-13A-25. Borrowing and bond issuance; procedure.

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

Textbooks. — Instructions for Virginia and West Virginia (3rd ed.), § 24-128.10.

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).

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§ 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 commission 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.)

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 8, 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.

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

§ 52. Collection of taxes.

§ 53. Powers of collector.

§ 54. Distress for collection of taxes.

§ 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 (Muni. 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 (Muni. 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-

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

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 (Mun. 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-

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 police-men as council by ordinance may direct. All the officers named in this and the

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 (Muni. 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 (Muni. 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. 587 (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. 668, 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. 734, 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. 458, 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 (Muni. 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 (Muni. 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 which he offer to vote) shall be entitled to vote at all elections held in said ci by or under the authority and control thereof. (Acts 1929 (Muni. ch.), ch. § 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, § 3-5-13. 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, § 3-5-13. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. ch.), ch. 4, § 23.)

For state law as to contested municipal county and district elections, see W. Va. Code, §§ 3-7-8 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, respectivelys; 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 as declared herein, shall 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 (Muni. 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 (Muni. 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 (Muni. 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, or 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 (Muni. 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 (Muni. 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, agents, assignees, 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 responsible 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 (Muni. 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 liens 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 (Muni. 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 (Muni. 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, § 3-5-14.

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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. ch.), ch. 3, § 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. ch.), ch. 4, § 76.)

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

Editor's note.--The text of these sections, being Acts 1929 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Munl. 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 (Muni. 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 (Muni. 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 (Muni. 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., §§ 81 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 (Muni. 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 (Muni. 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 qualified 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Muni. 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 (Munl. ch.), ch. 4, § 102-e, ¶ 2.)

Sec. 25-23. Obstruction.

No person shall obstruct, impede or cause to be impeded or obstructed the flow of any public sewer, nor interfere with the free discharge or ventilation thereof, nor clog up such sewer or any appurtenance thereof. (Code 19 pt. 9, art. 25, § 8.)

Sec. 25-24. License required to engage in business of laying or constructing sewers or drainways.

It shall be unlawful for any person to engage in the business of laying or constructing sewers or drainways in, under or upon any of the streets, side walks or public highways of the city without having first annually secured fro the sanitary board a license therefor, paying for such license the sum of twenty five dollars.

No such license shall be issued until the sanitary board is satisfied of the reliability and capacity of the applicant to do and perform in a good and workmanlike manner the particular form, class or kind of work that shall be specified in the application for license for any or all of the purposes set forth in this section, and until the applicant shall also have given any bond required by any other ordinance of the city in relation to such matters. (Code 1957, pt. 9, art. 1, § 3.)

Article II. Sanitary Board.

For a case holding that the ordinance codified in this article is valid and constitutional, and that a contract between the sanitary board created by such ordinance and a construction company in furtherance of the provisions of the ordinance was valid, see West Va. Water Service Co. v. Cunningham, 143 W. Va. 1, 98 S.E. 2d 891 (1957).

As to sewerage service charges when water from commercial wells is discharged from premises into city sewers, see § 32-30 of this Code.

Sec. 25-25. Created; powers and duties; composition; appointment and term of members.

There is hereby created in and for the city a sanitary board, which shall be charged with the custody, supervision, control, administration, operation and maintenance of the municipal sewage system, all as permitted and provided by article 13 of chapter 16 of the Code of West Virginia. The sanitary board shall be composed of the mayor and two persons appointed by the city council, one of whom shall be a registered professional engineer; provided, that when

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 18, 1973 and every three years thereafter, and one such vacancy occurs March 18, 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.)

SANITARY BOARD
CITY OF CHARLESTON
P.O. BOX 1026
CHARLESTON, WV 25324

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

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

WHEREAS, by Resolution No. 575-95 adopted November 18, 1996, the Council of the City of Charleston advanced its support for the development of a composting facility at Copenhaver Park to be financed within the Sanitary Board's current approved rates;

WHEREAS, pursuant to a Policy Statement dated May 6, 1997, and supplemental correspondence dated May 9, 1997, the West Virginia Division of Environmental Protection supported the development of composting facilities by the City of Charleston (copies attached);

WHEREAS, the bids received for belt press improvements to the System, the estimates for the actual composting facility, the funding for the required reserve accounts and the cost of issuance of the bonds total approximately $8,000,000;

WHEREAS, the revenues generated by the System are sufficient to operate and maintain the System and pay the debt service on all existing bonds and the bonds proposed to acquire and construct the belt press and the composting facility; and

WHEREAS, a rate increase is not required to finance the proposed improvements and the immediate construction of the belt press will generate savings to the Sanitary Board.

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, as supplemented by Ordinance on May 3, 1993, and September 3, 1996 (collectively, 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 Thomas

A. Boyd, P.E., and O'Brien & Gere Engineers, Inc., the engineers chosen by the Sanitary Board (the "Consulting Engineers");

(b) set forth the Cost of the Project (which includes funding the required reserve accounts and cost of issuance) estimated by the Consulting Engineers, being approximately $8,000,000;

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

(d) authorize the issuance of one or more series of sewer revenue bonds in an amount not to exceed $8,000,000 and a revolving interim financing line of credit not to exceed $1,000,000; and

(e) 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 13th day of May, 1997.

THE SANITARY BOARD OF THE CITY OF CHARLESTON, WEST VIRGINIA

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

_____
Member

_____ PE
Engineer-Member

CHASFS3:96393

EXHIBIT A

Phase I - Belt Press

The project consists of installing a new 2.2 meter high solids belt filter press, two progressive cavity sludge feed pumps, a wet/dry polymer unit, a sludge screw conveyor, a washwater booster pump, a plant effluent water strainer, two magnetic flow meters and the necessary piping in the existing dewatering building at the wastewater treatment plant.

Phase II - Compost Facility

The project involves the construction of a 55 tons per day compost facility to compost bio-solids from the wastewater treatment plant with yard waste. The composting facility will be constructed at Copenhaver Park in the "North Charleston" area of the City at the head of Hanna Drive.

Major components of the Project are: a 75 foot x 321 foot pre-engineered steel building containing the office, electrical and mechanical equipment rooms, the mixing room, and the composting room; a five bay concrete composting system with mixers and aeration system; a 9,000 square foot bio-filter; a yard waste storage area; a compost curing area; a tub grinder; a finished product screen; and site grading and paving.

CHASFS3:96393

DIVISION OF ENVIRONMENTAL PROTECTION
1356 Hansford Street
Charleston, WV 25301-1401

CECIL H. UNDERWOOD
GOVERNOR

JOHN E. CAFFREY
DIRECTOR

Effective Date:
May 6, 1997

POLICY STATEMENT

TO: Landfill Operators
Composting Facilities
Solid Waste Authorities
Solid Waste Haulers
Municipalities

FROM: John E. Caffrey, Director
Division of Environmental Protection

RE: Reasonable and Necessary Exceptions to the Prohibition on Disposal of Yard Waste in Landfills.

As you should know, West Virginia Code §20-11-8 provides that effective January 1, 1997, it is unlawful to deposit yard waste, including grass clippings and leaves, in a solid waste facility in West Virginia. During the 1997 Regular Session of the West Virginia Legislature, the Legislature reauthorized the Yard Waste Composting Rule, 33 CSR 3 (formerly 47 CSR 38E), to provide for reasonable and necessary exceptions to the prohibition of disposing yard waste in landfills.

For the purpose of the code section, "yard waste" means grass clippings, weeds, leaves, brush, garden waste, shrub or tree prunnings and other living or dead plant tissues, except that, such materials which, due to inadvertent contamination or mixture with other substances which render the waste unsuitable for composting, shall not be considered to be yard waste.

For the purpose of understanding, "domestic yard waste" as defined in the reauthorized rule means yard wastes generated in small quantities by the resident or tenant of residential property. Please note that the emphasis is yard waste generated by the resident or tenant of residential property.

In promulgating the amended rule, the Legislature required that the Division of Environmental Protection shall provide for disposal of yard waste in a publicly or privately operated commercial or noncommercial composting facility; composting on the property from which domestic yard waste is generated or on adjoining property or neighborhood property if consent is obtained from the owner of the adjoining or neighborhood property; by open burning to the extent permitted by law; **(and disposal in a publicly or privately operated landfill, only where none of the foregoing options are available)**. Such disposal will involve only domestic yard waste generated from the property of the participating resident or tenant.

The amended rule expands upon these exceptions and provides further, that domestic yard waste, may be disposed of in a publicly or privately operated landfill when the Director determines that none of the other options are practical, or when the Director determines that it is not reasonable to separately collect domestic yard waste generated by residents or tenants.

Whereas, the other options are not always practical, the Director has determined that solid waste landfills in West Virginia may accept and dispose of domestic yard waste delivered to the facility by a municipality, solid waste hauler, resident or tenant. The Director has further determined that in some circumstances, it is recognized that it is not practicable to collect yard waste separately from municipal solid waste. Therefore, when municipalities or solid waste haulers believe that such circumstances are justified or required, domestic yard waste may be commingled with municipal solid waste for collection and lawful disposal in landfills. Domestic yard waste disposed in landfills is subject to the solid waste assessment fee as provided by W. Va. Code §22-15-11.

However, landfill operators, municipalities, solid waste haulers, solid waste authorities, residents and tenants are strongly encouraged to seek out and utilize yard waste composting facilities. Please make every reasonable effort to divert yard waste from the municipal solid waste stream and from disposal in solid waste landfills.

Educational brochures and other information on Yard Waste Composting can be obtained from the WV Solid Waste Management Board, 1615 Washington Street, East, Charleston, WV 25301 or by calling (304) 558-0844. I encourage each landfill, solid waste hauler, solid waste authority and municipality to obtain and disseminate this information to your customers.

If you have questions or need further clarification on this "Policy Statement", please contact Mr. Richard P. Cooke, Assistant Chief, Office of Waste Management at (304) 558-6350.

John E. Caffrey, Director

DIVISION OF ENVIRONMENTAL PROTECTION
1356 Hansford Street
Charleston, WV 25301-1401

CECIL H. UNDERWOOD
GOVERNOR

JOHN E. CAFFREY
DIRECTOR

May 9, 1997

Mr. Mark D. Holstine, P.E.
Director of Public Works
City of Charleston
Charleston, WV 25330

Dear Mr. Holstine:

As you know, yesterday I faxed a copy of the Yard Waste Policy Statement to the City Manger. It serves as a response to your February 10, 1997 request letter for a limited waiver.

This policy statement specifically addresses your concerns for the approximately two hundred (200) tons of yard waste generated annually at the eleven hundred (1,100) homes on the one hundred and eleven (111) narrow streets in Charleston as explained in your letter.

However, I hope you realize that this policy does not in any way authorize the city to alter its' progress of diverting approximately four thousand (4,000) tons of yard waste annually from disposal in the city landfill.

Your efforts in this endeavor are commendable and I trust that the City of Charleston will continue to lead by example in encouraging yard waste composting.

If you have any questions or need further assistance, please call me.

With kindest regard,

Richard P. Cooke, Assistant Chief
Solid Waste Management Section
Office of Waste Management

RPC:gr

cc: Bill Kenny, City Manager
Linda Nielsen, Chairperson, Environmental Comm.
Dan Halloran, General Manager, Sanitary Board
Cubert Smith, Director of Recycling

OFFICER'S OATH

(Sec. 24, City Charter)

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

I, G. Kemp Mealton, WHO HAS BEEN DULY ~~APPOINTED~~ 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.

G. Kemp Mealton

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Notary Public in and ~~for the State of West Virginia~~ CHIEF JUSTICE SUPREME COURT OF APPEALS OF WEST VIRGINIA

~~My commission expires~~ THIS 1ST day of MAY, 95.

OFFICER'S OATH

(Sec. 24. City Charter)

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

I, J.E. "Skeeter" Barron, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Councilman of 1st 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.

J.E. "Skeeter" Barron

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
VICKIE L. YOUNG
216 Brooks Street, Suite 301
Charleston, West Virginia 25301
My Commission Expires April 29, 2002

Vickie L. Young
Notary Public in and for the State of West Virginia

My commission expires on the 22nd day of April, 2002.

OFFICER'S OATH

(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 2nd Ward 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 1st day of May, 1995.

Vickie L. Young

Notary Public in and for the State of West Virginia

My commission expires on the 29th day of April, 2002.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
VICKIE L. YOUNG
216 Brooks Street, Suite 301
Charleston, West Virginia 25301
My Commission Expires April 29, 2002

OFFICER'S OATH

(Sec. 24, City Charter)

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

I, James E. Lanham, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Councilman Third 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.

James E. Lanham

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 301 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24. City Charter)

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

I, Robert C. Redman Jr., WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City 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.

Robert C. Redman Jr.

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 331 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24. City Charter)

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

I, Ernest A. Layne, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Council 5th 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.

Ernest A. Layne

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICER'S OATH

(Sec. 24. City Charter)

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

I, Ivalou Barth, WHO HAS BEFN DULY ELECTED TO THE OFFICE OF COUNCILMAN OF THE SIXTH 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.

Ivalou H. Barth

Ivalou H. Barth

Subscribed and sworn to before me the undersigned authority, this 3rd day of June, 1996.

Patricia L. Crouse

Notary Public in and for the State of West Virginia

My commission expires on the 3rd day of June, 1996.
5th April 2006

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA L. CROUSE
Office of City Clerk
Rm. 201, City Hall, P.O. Box 2749
Charleston, WV 25330
My Commission Expires April 5, 2006

OFFICER'S OATH

(Sec. 24, City Charter)

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

I, Clyde W Ransom Jr, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF Council member 7th 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.

Clyde W Ransom Jr

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 301 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(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 Councilman - 8th 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.

George W. McCloskie

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Vickie L. Young

Notary Public in and for the State of West Virginia

My commission expires on the 29th day of April, 2002.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
VICKIE L. YOUNG
216 Brooks Street, Suite 301
Charleston, West Virginia 25301
My Commission Expires April 29, 2002

OFFICER'S OATH

(Sec. 24. City Charter)

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

I, Betty Morton (Councilperson), WHO HAVE ~~HAS~~ BEEN DULY ELECTED TO THE OFFICE OF COUNCILMAN OF THE SIXTH 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.

Betty Morton

Subscribed and sworn to before me the undersigned authority, this 1st day of July 1996.

Patricia L. Crouse
Notary Public in and for the State of West Virginia

My commission expires on the 5th day of April 2006.

OFFICER'S OATH

(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 10th Ward Charleston City 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 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 301 City Hall
Charleston, West Virginia 25339
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24. City Charter)

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

I, Fred Snuffer, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Council 11th 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.

Fred Snuffer

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia A. Brown
Notary Public in and for the State of West Virginia

My commission expires on the 5th day of April 2006.

OFFICER'S OATH

(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 City Council 12th 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.

Joyce J. Horan

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E LUCAS
Office of City Clerk Rm 301 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(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 Ward 13 Councilman 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 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 301 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24, City Charter)

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

I, Frances Jody Driver, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF CITY 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.

Frances Jody Driver

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 331 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24. City Charter)

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

I, Lawrence J. Malone, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF 15th Ward 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.

Lawrence J. Malone

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
VICKIE L. YOUNG
220 Brooks Street, Suite 301
Charleston, West Virginia 25301
My Commission Expires April 29, 2002

Vickie L. Young
Notary Public in and for the State of West Virginia

My commission expires on the 22nd day of April, 2002.

OFFICER'S OATH

(Sec. 24, City Charter)

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

I, William Ward Huffman, II, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Council 16th 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.

William Ward Huffman II

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA L. CROUSE
Office of City Clerk
Rm. 301, City Hall, P.O. Box 2749
Charleston, WV 25330
My Commission Expires April 5, 2006

Patricia L. Crouse
Notary Public in and for the State of West Virginia

My commission expires on the 5th day of April, 2006.

OFFICER'S OATH

(Sec. 24. City Charter)

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

I, BRENDAN S. LEARY, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Council 17th 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.

Brendan S. Leary

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia F. Lucas

Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
PATRICIA F. LUCAS

OFFICER'S OATH

(Sec. 24, City Charter)

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

I, William R. Kimberling, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF 18th Ward 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 R. Kimberling

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Vickie L. Young

Notary Public in and for the State of West Virginia

My commission expires on the 29th day of April, 2002.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
VICKIE L. YOUNG
215 Brooks Street, Suite 301
Charleston, West Virginia 25301
My Commission Expires April 29, 2002

OFFICER'S OATH

(Sec. 24. City Charter)

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

I, Loren E. Swiger SWHO 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.

Loren E. Swiger

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 301 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24. City Charter)

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

I, David J. Hardy, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF Council Member 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 J. Hardy

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 301 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24, City Charter)

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

I, Sam Haddad, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Council at Large 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.

Sam Haddad

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 201 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24, City Charter)

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

I, J. Thomas Law, 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 Law

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Rm. 731 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24, City Charter)

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

I, Charles W. Loeb, Jr., WHO HAS BEEN DULY ELECTED TO THE OFFICE OF Council At Large 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.

Charles W. Loeb, Jr.

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
VICKIE L. YOUNG
216 Brooks Street, Suite 301
Charleston, West Virginia 25301
My Commission Expires April 29, 2002

Vickie L. Young
Notary Public in and for the State of West Virginia

My commission expires on the 29th day of April, 2002.

OFFICER'S OATH

(Sec. 24, City Charter)

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

I, Mary Jane Lopez, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF City Council at Large 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 Lopez

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E. Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 301 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(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 APPOINTED TO THE OFFICE OF COUNCILMAN-AT-LARGE 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 DISCHARGOE 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 1st day of May, 1995.

Patricia Lucas
Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk Rm. 301 City Hall
Charleston, West Virginia 25330
My Commission Expires March 12, 1996

OFFICER'S OATH

(Sec. 24, City Charter)

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

I, Chris Smith, WHO HAS BEEN DULY ELECTED TO THE OFFICE OF Council At Large 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.

Chris Smith

Subscribed and sworn to before me the undersigned authority, this 1st day of May, 1995.

Patricia E Lucas

Notary Public in and for the State of West Virginia

My commission expires on the 12th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PATRICIA E. LUCAS
Office of City Clerk, Rm. 301 City Hall
Charleston, West Virginia 25323
My Commission Expires March 12, 1996

"Bill No. 4852

Introduced in Council

June 15, 1992

Passed by Council

July 6, 1992

Introduced by

Dennis A. McMillen

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."

J O U R N A L

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

May 19, 1997

The Council met in its Chamber in the City Building at 8:00 p.m. for the third meeting in the month of April and was called to order by the Mayor, the Honorable G. Kemp Melton.

Prayer was offered by the Honorable Ernest A. Layne, Councilman for the Fifth Ward.

The Clerk called the roll and the following members answered to their names:

Barron	Kimberling	Morton
Barth	Lane	Nielsen
Connell	Lanham	Quick
Gilmer	Layne	Redman
Haddad	Leary	Smith
Hardy	Loeb	Snodgrass
Hicks	Lopez	Snuffer
Horan	Malone	
Huffman	McClaskie	Mayor Melton

Twenty-six members being present, one being absent, Councilman Thompson, 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

1. A Claim of Shelley Bostic; 696 Gordon Drive; alleges damage to property; referred to City Solicitor.

2. A Claim of John Pauley; 11 Bridlewood Road; alleges damage to property; referred to City Solicitor.

COMMISSION REPORT

Honorable G. Kemp Melton
and Members of City Council
Charleston, WV 25301

Dear Mayor and Councilmembers:

The Municipal Planning Commission met on May 7, 1997 and considered the following cases:

Special Permit No. 809 - Application of Corotoman, Inc. requesting permission to construct a nursing home on Strader Road, Northgate Business Park. The Planning Commission voted to recommend approval of the special permit, subject to approval by the State Health Department; referred to Council Committee on Planning.

Bill No. 6323 - Petition of Rodger Monk and J. D. Stricklen, contract purchasers, requesting the rezoning from R-2 and R-4 (low-density residential) districts to an R-6 (medium density residential) district the 9 acre, more or less, tract of land east of an adjacent to the Greenbrier Pool on the south side of Chesterfield Avenue, Charleston, WV. The Planning Commission recommended passage of the bill; referred to Council Committee on Planning.

Bill No. 6327 - Petition of Mounir M. Ghareeb requesting a rezoning from a C-6 (community commercial) district to a C-10 (general commercial) district the two vacant lots at 2386 Sissonville Drive, Charleston, WV. The Planning Commission recommended rejection of the bill; referred to Council Committee on Planning.

REPORTS OF STANDING COMMITTEES

Councilman Hardy, Chairman of the Council Committee on Finance, submitted the following reports:

1. Your Committee on Finance has had under consideration purchase of various chemical supplies used in City swimming pools from the following vendors:

PB&S Chemical Company	
Chlorine Tablets	$140.00/100 lb. container
Calcium Chloride	16.50/50 lb. bag
Liquid Chlorine	2.00/gal.
Sodium Bicarbonate	21.00/50 lb. bag
Leslie's Swimming Pool Supplies	
Stabilizer	$103.00/100 lb. container
Granular Chlorine	120.00/100 lb. container
Diatomaceous Earth	13.99/50 lb. bag

The chemical supplies will be purchased on an as-needed basis.

To be charged to Account No. 01-540-49-0-3-41, P&R - Swimming Pools/Materials & 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 to rescind the purchase of a lap top computer from Computer Care, Inc., in the amount of $2,347, approved by the Finance Committee and Council on April 7, 1997, to be used by the domestic violence coordinator in the Police Department; to be deducted from Account No. 01-170-0, Police Violent Crime Grant.

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 proposal submitted by Commercial Business Systems, in the amount of $2,556, for a computer and related software to be used by the domestic violence coordinator in the Police Department; to be charged to Account No. 01-170-0, Police - Violent Crime Grant.

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 Resolution No. 683-97, authorizing the Finance Director to make revisions to the 1996-97 General Fund budget.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 683-97 - "Authorizing the Finance Director to make revisions to the 1996-97 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 1996-97 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.

Account No.	Dept.	Description		Amount
01-409-00-0-2-026	Mayors Office	Insurance-WC and UC		2,150.00
01-410-00-0-2-026	City Council			894.00
01-412-00-0-2-026	City Manager			2,203.00
01-413-00-0-2-026	City Treasurer			897.00
01-414-00-0-2-026	City Collector			4,542.00
01-415-00-0-2-026	City Clerk			908.00
01-416-00-0-2-026	Municipal Court			1,307.00
01-417-00-0-2-026	Legal			1,409.00
01-418-00-0-2-026	Accounting			2,001.00
01-419-00-0-2-026	Internal Audit			256.00
01-420-00-0-2-026	Engineering			2,998.00
01-421-00-0-2-026	MOECD			3,575.00
01-422-00-0-2-026	Human Resources			1,411.00
01-425-00-0-2-026	Public Works			1,480.00
01-431-00-0-2-026	Mail Room			736.00
01-436-00-0-2-026	Building Commission			2,744.00
01-437-00-0-2-026	Planning			2,080.00
01-439-00-0-2-026	Information Systems			775.00
01-440-00-0-2-026	Building Maintenance			1,708.00
01-444-00-0-2-026	Municipal Auditorium			634.00
01-448-00-0-2-026	Emer Ambulance Service			19,196.00
01-455-00-0-2-026	Police-Uniform			75,852.00
01-456-00-0-2-026	Police-Civilian			9,563.00
01-500-00-0-2-026	Fire-Uniform			62,201.00
01-501-00-0-2-026	Fire-Civilian			1,270.00
01-530-00-0-2-026	Refuse & Recycling			20,636.00
01-531-00-0-2-026	Environ. & Beautification			933.00
01-540-00-0-2-026	Parks & Recreation			3,309.00
01-540-31-0-2-026				1,296.00
01-540-32-0-2-026				1,266.00
01-540-33-0-2-026				1,421.00
01-540-34-0-2-026				1,953.00
01-540-36-0-2-026				1,181.00
01-540-44-0-2-026				1,779.00
01-540-45-0-2-026				745.00
01-540-47-0-2-026				644.00
01-540-49-0-2-026				1,125.00
01-540-50-0-2-026				312.00
01-540-79-0-2-026				4,549.00
01-570-00-0-2-026	Street			17,318.00
01-573-00-0-2-026	Traffic Engineering			3,913.00
01-576-00-0-2-026	Equipment Maintenance			5,472.00
01-580-00-0-2-026	Spring Hill Cemetery			2,517.00
01-595-00-0-2-026	C-K Emergency Service			46.00
01-603-00-0-2-026	Human Rights			979.00
01-711-00-0-2-026	Communications Center			10,570.00
01-716-00-0-2-026	Consumer Protection			246.00
01-999-00-0-5-098	Contingency			(285,000.00)
			Total	0.00

To provide funds to cover expenditures for the balance of fiscal year.

01-412-00-0-4-061	City Manager	Capital Outlay-Lease Purchase		(20,328.00)
01-448-00-0-4-061	Emer Ambulance Service			(17,534.00)
01-455-00-0-4-061	Police-Uniform			(26,052.00)
01-530-00-0-4-061	Refuse			(25,687.00)
01-540-00-0-4-061	Parks & Recreation			(4,967.00)
01-540-79-0-4-061	Parks & Recreation			(3,898.00)
01-570-00-0-4-061	Street			(42,755.00)
01-573-00-0-4-061	Traffic Engineering			(6,016.00)
01-580-00-0-4-061	Spring Hill Cemetery			(1,885.00)
01-711-00-0-4-061	Communication Center			(1,718.00)
01-999-00-0-5-098	Contingency			150,840.00
Transfer excess funds to Contingency			Total	0.00

01-436-00-0-2-014	Building Commission	Travel		(1,500.00)
01-436-00-0-2-023		Professional Services		(400.00)
01-436-00-0-2-030		Contracted Services		(5,600.00)
01-436-00-0-3-041		Materials & Supplies		2,300.00
01-436-00-0-3-047		Resale Merchandise		2,100.00
01-436-00-0-4-059		Capital Outlay-Equipment		3,100.00
			Total	0.00

To provide funds to cover overexpenditures and expenditures for balance of fiscal year.
Contracted Services credited for reimbursement from MOECD (10,896.50).

01-530-00-0-4-059	Refuse	Capital Outlay-Equipment	50,000.00
01-999-00-0-5-098	Contingency		(50,000.00)

To correct Budget Amendment No. 18 which inadvertently eliminated the direct purchase of low entry cab and chassis which was in fact a lease purchase item.

01-576-00-0-2-030	Equipment Maintenance	Contracted Services	(16,500.00)
01-576-00-0-3-043		Gas, Oil & Tires	16,500.00

To transfer monies within the department to cover expenditures for Gas, Oil & Tires

01-580-00-0-3-054	Spring Hill Cemetery	Commissions	15,000.00
01-311-00-0000	Revenue	Cemetery Revenues	(15,000.00)

To provide funds to cover expenditures for balance of fiscal year

01-317-00-0000	Revenue	Sale of Fixed Assets	(70,000.00)
01-368-00-0000		Franchise Fees	(30,000.00)
01-999-00-0-5-098	Contingency		100,000.00

To provide additional funds for above exenditures for balance of fiscal year.

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: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 683-97 adopted.

5. Your committee on Finance has had under consideration Resolution No. 684-97, authorizing the Finance Director to make corrections to the 1997-98 Official Municipal Budget Document.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 684-97 - "Authorizing the Finance Director to make corrections to the 1997-98 Official Municipal Budget Document 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 corrections to the 1997-98 Official Municipal Budget Document as indicated on the attached list of accounts.

Unencumbered balance at July 1, 1997	Add	$50,000.00
Convention and Visitors Bureau	Add	50,000.00

to adjust to fifty percent of Hotel Occupancy Tax revenue as required.

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: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 684-97 adopted.

6. Your Committee on Finance has had under consideration Resolution No. 685-97, authorizing approval of the 1997-98 Civic Center budget.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 685-97 - "Authorizing approval of the 1997-98 Civic Center Budget as indicated on the attached list of accounts."

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

That the 1997-98 Civic Center Budget, as indicated on the attached list of accounts, is hereby approved.

Charleston Civic Center
Projected Revenues 1997-98
Revised 4/2/97

		Budget 1997-98
302	Rent	650,000
304	Commissions	90,000
307	Surface Parking	115,000
309	Ice Arena	106,000
310	Tel / Comm	5,000
311	Catering	293,000
312	Patron Service	55,000
313	Security	10,000
314	Advertising	2,000
315	Spot Light Rental	5,000
316	Power Usage	23,000
317	Table covers / drapes	34,000
318	Rental P.A. System	5,000
319	Staging Rental	5,000
320	Booth Rental	47,000
321	Interest	7,000
322	Piano Rental	3,000
323	Table Rental	34,000
324	Miscellaneous	25,000
325	Building Damages	1,000
326	Telephone Rental	15,000
328	Teletix	4,000
329	Carpet Rental	20,000
331	Drayage	6,500
341	Transfers from General Fund	420,351
	TOTAL - CIVIC CENTER REVENUE	1,980,851

Charleston Civic Center
Projected Expenditures 1997-98
Revised 4/2/97

1-003	Salaries & Wages	675,273
1-004	FICA	51,658
1-005	Medical & Life Insurance	91,300
1-006	Retirement	58,573
1-008	Dental/Optical Insurance	5,500
1-009	Insurance - Payroll Deduction	(21,580)
2-011	Telephone	32,000
2-012	Printing	3,200
2-013	Utilities	439,000
2-014	Travel	4,250
2-015	Maintenance & Repair - Bldg/Ground	95,000
2-016	Maintenance & Repair - Equipment	55,954
2-018	Postage	600
2-019	Bldg and Equip Rents	2,100
2-020	Advertising	15,250
2-021	Training	2,700
2-022	Dues & Subscriptions	1,625
2-024	Audit Costs	1,000
2-026	Insurance - WC and UC	32,648
2-027	Insurance	20,000
2-030	Contracted Services	291,000
3-041	Materials & Supplies	65,000
3-043	Gas, Oil, and Tires	500
3-045	Uniforms	5,100
3-047	Resale Merchandise	2,200
4-058	Capital Outlay - Special Projects	0
4-059 *	Capital Outlay - Equipment	51,000
5-071	Principal Maturities - Bonds	0
5-072	Interest on Bonds	0
5-098	Contingency	0
	TOTAL - CIVIC CENTER EXPENDITURES	1,980,851

*Capital Outlay - Equipment

Domestic Hot Water Boiler	16,000
Exhibit Carpet	20,000
Vehicle	15,000
	51,000

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: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 685-97 adopted.

7. Your Committee on Finance has had under consideration Resolution No. 686-97, as amended, authorizing the Mayor to enter into a contract with General Window Cleaning, in the amount of $1,950 per cleaning, for window cleaning and related services at City Hall ($450) and Municipal Parking Buildings No. 1, 2, 3 and 4 ($1,500); to be charged to the following accounts:

$ 450.00	01-440-0-0-2-15, Building Maintenance - Maintenance & Repair/Buildings & Grounds
$1,500.00	85-571-0-0-15, Parking System - Maintenance & Repair Buildings and Grounds

And reports the same to Council with the recommendation that the committee report be adopted.

Councilman Hicks moved to amend by limiting the number of cleanings to no more than 6 times in one year.

The question being on the adoption of the amendment a vote was taken. There being no dissent the Mayor declared the amendment adopted.

Resolution No. 686-97, as amended - "Authorizing the Mayor to enter into a contract with General Window Cleaning, in the amount of $1,950 per cleaning, for window cleaning and related services at City Hall ($450) and Municipal Parking Buildings No. 1, 2, 3 and 4 ($1,500), limited to six (6) per year.

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 General Window Cleaning, in the amount of One Thousand Nine Hundred Fifty Dollars ($1,950) per cleaning, for window cleaning and related services at City Hall ($450) and Municipal Parking Buildings No. 1, 2, 3 and 4 ($1,500), limited to six (6) per year.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 686-97 adopted.

8. Your Committee on Finance has had under consideration Resolution No. 687-97, as amended, authorizing the Mayor to enter into a contract with Commercial & High Rise Window Cleaners, Inc., in the amount of $885 per cleaning, for window cleaning and related services at Municipal Parking Buildings No. 5 ($490) and No. 6 ($395); to be charged to Account No. 85-571-0-0-15, Parking System - Maintenance & Repair/Buildings & Grounds.

And reports the same to Council with the recommendation that the committee report be adopted.

Councilman Hicks moved to amend by limiting the number of cleanings to no more than 6 times in one year.

The question being on Councilman Hicks' motion a vote was taken. There being no dissent the Mayor declared the amendment adopted.

Resolution No. 687-97, as amended - "Authorizing the Mayor to enter into a contract with Commercial & High Rise Window Cleaners, Inc., in the amount of $885 per cleaning, for window cleaning and related services at Municipal Parking Buildings No. 5 ($490) and No. 6 ($395), limited to six (6) per year."

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 Commercial & High Rise Window Cleaners, Inc., in the amount of Eight Hundred Eighty-five Dollars ($885) per cleaning, for window and related services at Municipal Parking Buildings No. 5 ($490) and No. 6 ($395), limited to six (6) per year.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 687-97 adopted.

9. Your Committee on Finance has had under consideration Resolution No. 688-97, authorizing the Mayor to enter into a contract with Multi-CAP, Inc., in the amount of approximately $9,780.84, for a Summer Food Service Program for children participating in activities at neighborhood centers throughout the City during the period June 23 to August 8, 1997. The City will be reimbursed by the State of West Virginia for actual meals served; to be charged to Account No. 01-540-0-50-3-50, P&R - Food Reimbursement.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 688-97 - "Authorizing the Mayor to enter into a contract with Multi-CAP, Inc., in the amount of approximately $9,780.84, for a Summer Food Service Program for children participating in activities at neighborhood centers throughout the City for the period June 23 to August 8, 1997. The City will be reimbursed by the State of West Virginia for actual meals served."

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 Multi-CAP, Inc., in the amount of approximately Nine Thousand Seven Hundred Eighty Dollars and Eight-four Cents ($9,780.84), for a Summer Food Service Program for children participating in activities at neighborhood centers throughout the City for the period June 23 to August 8, 1997. The City will be reimbursed by the State of West Virginia for actual meals served.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 688-97 adopted.

10. Your Committee on Finance has had under consideration Resolution No. 690-97, authorizing the Mayor to enter into a contract with Elco Mechanical Contractors, in the amount of $14,427, for purchase and installation of a rooftop heating and air conditioning unit for the North Charleston Community Center; to be charged to Account No. 01-540-0-0-4-59, P&R/Public Grounds - Capital Outlay, Equipment.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 690-97 - "Authorizing the Mayor to enter into a contract with Elco Mechanical Contractors, in the amount of $14,427, for purchase and installation of a rooftop heating and air conditioning unit for the North Charleston Community Center."

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 Elco Mechanical Contractors, in the amount of Fourteen Thousand Four Hundred Twenty-seven Dollars ($14,427), for purchase and installation of a rooftop heating and air conditioning unit for the North Charleston Community Center.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 690-97 adopted.

11. Your Committee on Finance has had under consideration Resolution No. 691-97, authorizing the Mayor to enter into a contract with Electronic Communications of West Virginia, Inc., in the amount of $60,113.55, for purchase and installation of a voting receiver system for the Police and Fire/EMS departments at five (5) designated sites; to be charged to the following accounts:
$55,000.00 - 01-455-0-0-4-61, Police - Capital Outlay, Lease/Purchase
$ 1,704.51 - 01-455-0-0-4-59, Police - Capital Outlay, Equipment
$ 1,704.52 - 01-500-0-0-2-16, Fire - Maintenance & Repair/Equip
$ 1,704.52 - 01-448-0-0-3-41, EMS - Materials & Supplies

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 691-97 - "Authorizing the Mayor to enter into a contract with Electronic Communications of West Virginia, Inc., in the amount of $60,113.55, for purchase and installation of a voting receiver system for the Police and Fire/EMS departments at five (5) designated sites."

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 Electronic Communications of West Virginia, Inc., in the amount of Sixty Thousand One Hundred Thirteen Dollars and Fifty-five Cents ($60,113.55), for purchase and installation of a voting receiver system for the Police and Fire/EMS departments at five (5) designated sites.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 691-97 adopted.

12. Your Committee on Finance has had under consideration Resolution No. 692-97, authorizing the Mayor to enter into a contract with West Virginia Paving, Inc., in the amount of $530,711.52, for Resurfacing Various City Streets and Other Paving Projects; to be charged to the following accounts:
$433,870.74 - 01-425-0-0-4-58, Public Works - Capital Outlay/Special Projects
$ 96,840.78 - 25-096-00-029, CDBG - Street Improvements

And reports the same to Council with the recommendation that the committee report be adopted.

Councilman Hicks moved to table Resolution No. 692-97.

The question being on the adoption of the motion a vote was taken. The majority of members present and voting having voted in the negative the Mayor declared the motion failed.

Resolution No. 692-97 - "Authorizing the Mayor to enter into a contract with West Virginia Paving, Inc., in the amount of $530,711.52, for Resurfacing Various City Streets and Other Paving Projects."

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 West Virginia Paving, Inc., in the amount of Five Hundred Thirty Thousand Seven Hundred Eleven Dollars and Fifty-two Cents ($530,711.52), for Resurfacing Various City Streets and Other Paving Projects.

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: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 692-97 adopted.

13. Your Committee on Finance has had under consideration Resolution No. 693-97, authorizing the Mayor to enter into a contract with Garcie R. Marker & Sons, Inc., in the amount of $272,165, for curb/gutter & sidewalk restoration at various locations throughout the City; to be charged to the following accounts:

$ 16,790.27 - 25-094-00-032, CDBG - Sidewalks/Steps
$ 53,519.81 - 25-095-00-032, CDBG - Sidewalks/Steps
$201,854.92 - 25-096-00-032, CDBG - Sidewalks/Steps

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 693-97 - "Authorizing the Mayor to enter into a contract with Garcie R. Marker & Sons, Inc., in the amount of $272,165, for Curb/Gutter and Sidewalk Restoration at various locations throughout the City."

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 Two Hundred Seventy-two Thousand One Hundred Sixty-five Dollars ($272,165), for Curb/Gutter and Sidewalk Restoration at various locations throughout the City.

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: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 693-97 adopted.

14. Your Committee on Finance has had under consideration Resolution No. 694-97, authorizing Crews and Associates, an investment banking firm with offices in Charleston, West Virginia, to prepare and present a bond refunding program with respect to mortgage revenue bonds issued in 1985 through the City of Charleston and other West Virginia local and county governments to finance home loans to West Virginia families for purchase of their first home.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 694-97 - "Authorizing Crews & Associates, an investment banking firm with offices in Charleston, West Virginia, to prepare and present a bond refunding program with respect to mortgage revenue bonds issued in 1985 through the City of Charleston and other West Virginia local and county governments to finance home loans to West Virginia families for purchase of their first home."

WHEREAS, in 1985, the Council of the City of Charleston joined with other West Virginia local and county governments to issue mortgage revenue bonds to finance home loans; and

WHEREAS, Crews & Associates has advised Council that it may be feasible to refund the outstanding mortgage revenue bonds with benefits to the City and its citizens; and

WHEREAS, Crews & Associates is requesting authorization from Council to present a bond refunding program in May 1997 which identifies the terms, features and benefits of such a refunding program; now, therefore

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

1) That Crews & Associates is hereby authorized and directed to determine the feasibility and benefits of refunding the mortgage revenue bonds issued by this Council and to present a refunding program, including all terms, and features and benefits for further

consideration by Council; and

2) That a report specifying the terms, features and benefits of a bond refunding program shall be presented to Council not later than May 30, 1997; and

3) That all expense incurred by Crews & Associates in the preparation of said bond refunding program is being undertaken without financial obligation or liability to Council or the officers or employees of the City; and

4) That a copy of this resolution, as adopted this 19th day of May 1997, shall be forwarded to Crews & Associates, Incorporated.

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: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 694-97 adopted.

15. Your Committee on Finance has had under consideration Resolution No. 695-97, authorizing the Mayor to sign the subcontract agreement with the South Charleston Area Development Corporation for the administration of a $100,000 West Virginia Small Business Development Center Microloan Program.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 695-97 - "Authorizing the Mayor to sign the subcontract agreement with the South Charleston Area Development Corporation for the administration of a $100,000 West Virginia Small Business Development Center Microloan Program."

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

That the Mayor is hereby authorized and directed to sign the subcontract agreement with the South Charleston Area Development Corporation for the administration of a One Hundred Thousand Dollar ($100,000) Small Business Development Center Microloan Program.

AGREEMENT

THIS AGREEMENT, made and entered into this_____ day of _____, 199__, by and between the South Charleston Area Development Corporation, a non-profit corporation organized pursuant to Chapter 8, Article 32, Section 2 of the West Virginia Code, as amended, (sometimes hereinafter referred to as "SCADC"), party of the first part and the City of Charleston Mayor's Office of Economic and Community Development, a division of a municipal corporation organized under the laws of the State of West Virginia (sometimes hereinafter referred to as "MOECD"), party of the second part.

WHEREAS, both parties are organized for the purpose of providing economic development to their prospective cities; and

WHEREAS, both parties are involved in the promotion of activities and programs that result in the creation, retention or expansion of micro-size or very small businesses; and

WHEREAS, the South Charleston Area Development Corporation and the City of Charleston Mayor's Office of Economic and Community Development desire to enter into an agreement whereby the City of Charleston Mayor's Office of Economic and Community Development provides shared administrative and management services for a "Microloan" lending program,

NOW, THEREFORE, the parties agree as follows:

1. This agreement shall be effective for the period of time beginning May 1, 1997, through April 30, 1999.

2. The SCADC hereby agrees to engage the MOECD for the purpose of administering, on a shared basis, a "microloan" lending program for the purpose of aiding in the growth and development of "micro-enterprises" or very small businesses.

3. The SCADC agrees that it will provide the following as its share of the administration; (a) a representative who will be a liaison to the MOECD and who will participate in any loan review activity as required by the established loan procedures guidelines, (b) $100,000.00 plus accrued interest in microloan funding as provided by the Small Business Development Center program of the State of West Virginia, (c) administrative assistance as agreed upon by both parties.

4. The MOECD will form a "loan review committee" consisting of no more than seven (7) and no less than three (3) members, thirty-three percent (33%) of which will be from South Charleston.

5. The MOECD agrees to provide the following for the purpose of administration of the microloan program; (a) program administration on a daily basis to include management, (b) staff support, (c) client interface, (d) application issuance, (e) packaging of loan request information, (f) loan review, and (g) loan administration.

6. Due to the nature of the SCADC's contractual and fiduciary responsibility with the State of West Virginia as regards the funding of this program, MOECD agrees to allow an agreed upon representative from the SCADC access to all financial records regarding the microloan program on a quarterly basis.

7. The MOECD agrees to retain five percent (5%) of the $100,000.00 or five thousand dollars ($5,000.00) solely for use against any costs incurred in actions or activities undertaken to recover debts resulting from defaults on microloans made.

8. This contract can be terminated by either party on thirty (30) day written notice.

9. Should MOECD decide to terminate this contract, all microloan program related funds and proceeds to include but not necessarily limited to, interest earned, penalties levied, liens, etc. will automatically revert to the SCADC.

IN WITNESS WHEREOF, the parties have executed this agreement on this _____ day of _____, 1997.

South Charleston Area Development Corporation

By:_____
Stephen Weir, President

City of Charleston

By:_____
G. Kemp Melton, Mayor

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: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 695-97 adopted.

16. Your Committee on Finance has had under consideration Resolution No. 696-97, authorizing the Mayor to enter into a contract with Green Lights Recycling, Inc., for recycling of assorted light bulbs and ballasts at prices indicated on the attached bid sheet; to be charged to the following accounts:

01-440-0-0-2-30, Building Maintenance - Contracted Services
01-425-0-0-2-30, Public Works - Contracted Services
81-443-0-0-2-30, Civic Center - Contracted Services
85-571-0-0-30, Parking System - Contracted Services

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 696-97 - "Authorizing the Mayor to enter into a contract with Green Lights Recycling, Inc., for recycling of assorted light bulbs and ballasts at prices indicated on the attached bid sheet."

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 Green Lights Recycling, Inc., for recycling of assorted light bulbs and ballasts at prices indicated on the attached bid sheet.

BID: Recycling Light Bulbs
and Fluorescent Lamps
BID OPENING: 11:00 a.m.
Tuesday, May 6, 1997

Green Lights Recycling Inc.
[illegible] Box 35
Ken[illegible], WV 25248

CITY OF CHARLESTON

RECYCLING OF LIGHT BULBS, FLUORESCENT LAMPS, AND BALLASTS

Bulb Type	Quantity	Price Each
4 Foot Fluorescent and under	any	.38
	any	.38
5 Foot Fluorescent and over (includes circular, shielded, and U shaped)	any	.65
	any	.65
H.I.D. Lamps (includes high pressure sodium, metal halide and mercury vapor)	any	2.15
Broken or Crushed Bulbs	Per Pound	1.75
Ballasts	Each Perpound	1.19

All pricing assumes the following:

Includes freight and transportation costs.

Broken and crushed bulbs will be sealed by the City of Charleston in drums, barrels or durable corrugated boxes that are properly sealed and marked.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 696-97 adopted.

17. Your Committee on Finance has had under consideration payment of an invoice from West Virginia University Extension Service, in the amount of $18,750, for management of the Charleston K-6 Program for the period April 1, 1997 to June 30, 1997; to be charged to Account No. 01-540-0-0-2-30, P&R/Public Grounds - 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.

18. Your Committee on Finance has had under consideration payment of an invoice from The Physical Company, Inc., in the amount of $3,892, for physical examinations for 14 new recruits in the Fire/EMS Department; to be charged to Account No. 01-500-0-0-2-23, Fire/EMS Department - 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.

Councilman Snodgrass, 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. 6326.

And reports the same to Council with the recommendation that the bill be rejected.

Bill No. 6326 - A Bill to amend and re-enact Ordinance No. 2884, as amended, to establish one way traffic in a westerly direction on Pennsylvania Avenue North from the intersection of Ash Street and Pennsylvania Avenue North and 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.

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

Section 1. One way traffic is hereby established in a westerly direction on Pennsylvania Avenue North from the intersection of Ash Street and Pennsylvania Avenue North to the intersection of Pennsylvania Avenue North and Spring Street.

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. All prior ordinances, inconsistent with this ordinance are hereby repealed to the extent of said inconsistency.

The question being on the passage of the bill a roll call was taken and there were - yeas 14, nays 10, abstentions 2 and absent 1 as follows:

YEAS: Barron, Gilmer, Haddad, Hicks, Huffman, Lane, Lanham, Layne, Leary, Lopez, McClaskie, Quick, Smith and Mayor Melton.

NAYS: Barth, Connell, Horan, Kimberling, Malone, Morton, Nielsen, Redman, Snodgrass and Snuffer.

ABSTENTION: Hardy and Loeb.

ABSENT: Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 6326 passed.

2. Your Committee on Streets and Traffic has had under consideration Bill No. 6328.

And reports the same to Council with the recommendation that the bill be rejected.

Bill No. 6328 - A Bill to establish a no parking anytime tow-away zone on the easterly side of Ash Street from Pennsylvania Avenue North to Bigley 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 no parking anytime tow-away zone on the easterly side of Ash Street from Pennsylvania Avenue North to Bigley 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 22, nays 1, abstentions 2 and absent 2 as follows:

YEAS: Barron, Connell, Gilmer, Haddad, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snuffer and Mayor Melton.
NAYS: Snodgrass.
ABSTENTION: Hardy and Loeb.
ABSENT: Barth and Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 6328 passed.

3. Your Committee on Streets and Traffic has had under consideration Bill No. 6332.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 6332 - A Bill to establish a No Parking Anytime Tow-Away zone on the easterly side of 22nd Street from MacCorkle Avenue to Cherokee 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 No Parking Anytime Tow-Away zone on the easterly side of 22nd Street from MacCorkle Avenue to Cherokee 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 25, nays 0 and absent 2 as follows:

YEAS: Barron, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.
NAYS: None.
ABSENT: Barth and Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 6332 passed.

4. Your Committee on Streets and Traffic has had under consideration Bill No. 6333.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 6333 - A Bill to establish a 15 mile per hour speed limit on Iris 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. A 15 mile per hour speed limit on Iris 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 25, nays 0 and absent 2 as follows:

YEAS: Barron, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Barth and Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 6333 passed.

5. Your Committee on Streets and Traffic has had under consideration Bill No. 6334.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 6334 - A Bill to establish a 15 mile per hour speed limit on Daisy 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. A 15 mile per hour speed limit on Daisy 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 25, nays 0 and absent 2 as follows:

YEAS: Barron, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Barth and Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 6334 passed.

6. Your Committee on Streets and Traffic has had under consideration Bill No. 6335.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 6335 - A Bill to establish a 15 mile per hour speed limit on Cosmos 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. A 15 mile per hour speed limit on Cosmos 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 25, nays 0 and absent 2 as follows:

YEAS: Barron, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.
ABSENT: Barth and Thompson.
So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 6335 passed.

7. Your Committee on Streets and Traffic has had under consideration Bill No. 6336.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 6336 - A Bill to establish a 15 mile per hour speed limit on Pansy 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. A 15 mile per hour speed limit on Pansy 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 25, nays 0 and absent 2 as follows:
YEAS: Barron, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.
NAYS: None.
ABSENT: Barth and Thompson.
So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 6336 passed.

8. Your Committee on Streets and Traffic has had under consideration Bill No. 6337.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 6337 - A Bill to establish a 15 mile per hour speed limit on Kearse 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. A 15 mile per hour speed limit on Kearse 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 25, nays 0 and absent 2 as follows:

YEAS: Barron, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Barth and Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 6337 passed.

9. Your Committee on Streets and Traffic has had under consideration Bill No. 6339.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 6339 - A Bill to establish a 4-way stop intersection at 3rd Avenue and Stockton 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 4 way stop intersection at 3rd Avenue and Stockton 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 25, nays 0 and absent 2 as follows:

YEAS: Barron, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.
NAYS: None.
ABSENT: Barth and Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 6339 passed.

10. Your Committee on Streets and Traffic has had under consideration Bill No. 6340.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 6340 - A Bill to establish a stop intersection on Teter Road at Presidential 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, 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 25, nays 0 and absent 2 as follows:

YEAS: Barron, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.
NAYS: None.
ABSENT: Barth and Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 6340 passed.

11. Your Committee on Streets and Traffic has had under consideration Bill No. 6341.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 6341 - A Bill to establish a no parking on pavement tow-away zone on Kidd 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. A no parking on pavement tow-away zone on Kidd Road 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 25, nays 0 and absent 2 as follows:

YEAS: Barron, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Barth and Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 6341 passed.

12. Your Committee on Streets and Traffic has had under consideration Bill No. 6342.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 6342 - A Bill to establish a no parking anytime tow-away zone on the westerly side of Michigan Avenue from Washington Street to the northerly end of Michigan 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 no parking anytime tow-away zone on the westerly side of Michigan Avenue from Washington Street to the northerly end of Michigan 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.

Section 3. All prior ordinances, inconsistent with this ordinance are hereby repealed to the extent of said inconsistency.

The question being on the passage of the bill a roll call was taken and there were - yeas 25, nays 0 and absent 2 as follows:

YEAS: Barron, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: None.

ABSENT: Barth and Thompson.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 6342 passed.

REPORTS OF OFFICERS

1. Finance Information/Municipal Court Revenue and Cases for April 1997; received and filed.

2. City Treasurer's Report for month ending April 1997; received and filed.

3. Report of the Charleston Building Department; received and filed.

NEW BILLS INTRODUCED

Introduced by Councilman Snodgrass - May 19, 1997
Bill No. 6343 - 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 a C-6 district a portion of the 20 acres + tract of land on the southerly side of the 6500 block of Chesterfield Avenue, Charleston, West Virginia; referred to Municipal Planning Commission.

Introduced by Councilmembers McClaskie and Gilmer - May 19, 1997
Bill No. 6344 - A Bill closing, abandoning and discontinuing as a public street that portion of Mary Street lying between the south line of Pennsylvania Avenue and the Elk River; referred to Municipal Planning Commission.

Introduced by Councilman Hardy - May 19, 1997
Bill No. 6345 - A Bill closing, abandoning and discontinuing as a public road all that portion of Flintlock Road extending south of the southerly property line of Lot 1-C, Section 1, Southpointe Village Subdivision (212 Flintlock Road) Charleston, West Virginia; referred to Municipal Planning Commission.

Introduced by Councilwoman Connell - May 19, 1997
Bill No. 6346 - A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March 1983, as amended, by amending Section 11-4(e), the special permit uses section of the C-6 district regulations by adding the new use "mini-storage facility"; Section 18-3 by adding said new use and the restrictions and conditions related thereto; and amending the Table of Permitted Uses to conform therewith; referred to Municipal Planning Commission.

Introduced by Councilman Hardy - May 19, 1997
Bill No. 6347 - A Bill to establish a 20 mile per hour speed limit on Carriage 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 Councilman Hardy - May 19, 1997
Bill No. 6349 - A Bill supplementing Ordinance No. 4828, 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; referred to Council Committee on Finance.

Introduced by Councilman Hardy - May 19, 1997
Bill No. 6350 - A Bill designating a Business Improvement District in downtown Charleston, West Virginia as authorized by the West Virginia State Code, Chapter 8, Article 13A; referred to Council Committee on Finance.

At 10:00 p.m., on motion of Councilman Quick, Council adjourned until Monday, June 2, 1997.

G. Kemp Melton

G. Kemp Melton, Mayor

Patricia A. Crane

~~Fred M. Frisk, Jr.~~, City Clerk
Deputy

THE CITY OF CHARLESTON

SEWERAGE SYSTEM
BOND AND LINE OF CREDIT SUPPLEMENTAL ORDINANCE
(SRF)

THE CITY OF CHARLESTON

SEWERAGE SYSTEM
BOND AND LINE OF CREDIT SUPPLEMENTAL ORDINANCE

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Bill No. 6349

Ordinance No. _____

Introduced in Council:

May 19, 1997

Introduced by:

Dave Hardy Jr.

Referred to:

Council Committee on Finance

Passed by Council:

June 2, 1997

A Bill supplementing Ordinance No. 4828 passed by the Council of The City of Charleston, West Virginia, on April 20, 1992, as supplemented by Ordinance No. 4954, passed by the Council on May 3, 1993, as supplemented by Ordinance No. 6276, passed by the Council on September 3, 1996, 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 certain extensions, additions, betterments and improvements to the sewerage system of The City of Charleston; authorizing the issuance of not more than $8,000,000 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 and to pay other costs in connection therewith; authorizing an interim financing line of credit and a note to evidence the line of credit in an amount not to exceed $1,000,000; 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 as a supplement to Ordinance No. 4828, passed by the Council of The City of Charleston (the "Council") on the 20th day of April, 1992, as supplemented by Ordinance No. 4954, passed by the Council on May 3, 1993, as supplemented by Ordinance No. 6276, passed by the Council on September 3, 1996.

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 the Project as more fully described on Exhibit A, enactment of this Ordinance and the issuance of the Bonds and the Note. The City anticipates that the Project will be financed and constructed in two phases as more fully described on Exhibit A.

D. The estimated maximum cost of construction of the Project is $8,000,000, 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 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 Sewerage System Refunding Revenue Bonds, Series 1992A, and the $6,670,000 The City of Charleston Sewerage System Refunding and Improvement Revenue Bonds, Series 1992B (the "1992 Bonds"), the $773,237 The City of Charleston Sewerage System Revenue Bonds, 1993 Series A (the "1993 Bonds"), the $2,671,058 The City of Charleston Sewerage System Revenue Bonds, Series 1996 A and the $395,299 The City of Charleston Sewerage System Revenue Bonds, Series 1996 B (the "1996 Bonds") (the 1993 Bonds and the 1996 Bonds collectively with the WDA First Lien Bonds and the 1992 Bonds, are hereinafter called the "Prior Bonds"). The Prior Bonds are equally and ratably secured under the provisions of Ordinance No. 4828 passed by Council of the City on April 20, 1992, as supplemented by Ordinance No. 4954 passed by Council on May 3, 1993, as supplemented by Ordinance No. 6276 passed by the Council on September 3, 1996 (collectively, 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 approximate aggregate principal amount of $15,318,038, and the WDA Subordinate Bonds are currently outstanding in the aggregate principal amount of $343,939.

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 "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 "1997 Bonds") in the aggregate principal amount not to exceed $8,000,000.

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 1997 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 and the interest on any outstanding advances of principal of the Note, reflected on the Record of Advances and Payments attached thereto, and reserve payments provided therefor.

J. The 1997 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 1997 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 1997 Bonds, will be timely done and duly performed.

L. The enactment of this Ordinance, and the execution and issuance of the 1997 Bonds and Note, 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 which has general taxing powers to finance operations of or facilities of the nature of the Project and the System; 95% or more of the Net Proceeds of the Series 1997 Bonds are to be used for local government activities of the City (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the City).

N. It is deemed necessary for the City to issue its 1997 Bonds in the aggregate principal amount of not more than $8,000,000 to finance the costs of acquisition and construction of the 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 Project, if any; 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 1997 Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the City for any amounts expended by it for allowable costs prior to the issuance of the 1997 Bonds or

the repayment of the indebtedness incurred by the City for such purposes shall be deemed part of the Cost of the Project.

O. It is in the best interests of the City that its 1997 Bonds be sold to the West Virginia Water Development Authority pursuant to the terms and provisions of one or more Loan Agreements by and among the Authority, the DEP and the City.

P. Prior to closing on any series of bonds, the City shall receive a certificate from an independent certified public accountant that it meets the parity test established in the Prior Ordinance. The 1997 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 1997 Bonds shall be senior and superior to the lien of the registered owners of the WDA Subordinate Bonds.

Q. It is in the best interests of the City to complete the acquisition and construction of the Project as authorized by this Ordinance which Project will be permanently financed by sewer revenue bonds issued pursuant to the SRF Program as provided in this Ordinance. The SRF Program bond proceeds are advanced to the City as costs are incurred, however, the time between the receipt of the construction invoices and the receipt of the SRF Program moneys may exceed the payment requirements under the construction contracts. The City hereby finds and determines that an interim financing source is essential to the orderly completion of the Project.

R. The Sanitary Board will solicit proposals from banks in the City for a line of credit to be entered into under the Line of Credit Agreement in an amount not to exceed $1,000,000.

S. It is in the best interests of the City to obtain the Line of Credit as provided in the Line of Credit Agreement in order to provide temporary funds for the completion of the Project; to enter into the Line of Credit Agreement with the Bank; to issue the Note to evidence any draw upon the Line of Credit; and subsequently to apply the Bonds proceeds or other funds available therefor to the payment of the principal of and interest on the Note on or prior to the maturity thereof.

T. The interest on the Note will be paid solely from the Net Revenues derived from the operation of the System, but such payment shall be subordinate to the payment of the principal and interest on the Prior Debt and the principal of the Note shall be paid from the Bond proceeds with respect to the Project and provided, however, that the obligations of the City under the Note shall not in any respect be a corporate indebtedness of the City within the meaning of any statutory or constitutional provisions or limitations.

U. The City and all subordinate issuers do not reasonably expect to issue more than $10,000,000 of tax-exempt obligations during calendar year 1997, and the City hereby designates the Note as "qualified tax-exempt obligations" as defined in Section 265(b)(3)(B) of the Code.

V. 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 1997 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.

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

X. The Project has been approved by the West Virginia Infrastructure and Jobs Development Council as required under Chapter 31, Article 15A of the West Virginia Code of 1931, as amended.

Section 1.03. Ordinance Constitutes Contract. In consideration of the acceptance of the 1997 Bonds and Note 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 Noteholders, 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 1997 Bonds and Notes, as the case may be, issued hereunder, all of which shall be of equal rank and without preference, priority or distinction between any one 1997 Bond and any other 1997 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 Supplemental Ordinance have the meanings set forth in the Prior Ordinance, as supplemented by this Supplemental Ordinance, unless the context expressly requires otherwise.

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

"Authority" shall mean the West Virginia Water Development Authority, which is expected to be the original purchaser of the 1997 Bonds on behalf of the Program, or any other agency of the State of West Virginia that succeeds to the function of the Authority.

"Bank" shall mean the bank named in the Supplemental Resolution which will extend the Line of Credit.

"Bond Construction Trust Fund" shall mean the fund created by Section 4.01(D) hereof.

"Bondholder" or "Owner of the 1997 Bonds" or "Registered Owner" or any similar term shall mean any person who shall be the registered owner of any Outstanding Bond as hereinafter defined.

"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 1997 Bonds for the proceeds or a portion of the proceeds representing the purchase of the 1997 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 Thomas A. Boyd, P.E., Charleston, West Virginia, and/or O'Brien & Gere Engineers, Inc., Landover, Maryland, 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 Project" shall mean those costs described in Section 1.02(N) hereof to be a part of the cost of the acquisition and construction of the 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 1997 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.

"Line of Credit" shall meant the irrevocable line of credit established by the Bank in the amount of $1,000,000.

"Line of Credit Agreement" shall mean the agreement between the City and the Bank, in substantially the form attached as Exhibit D hereto and incorporated herein by reference, establishing the Line of Credit.

"Loan Agreement" shall mean the Water Pollution Control Revolving Fund Loan Agreement(s) by and among the Authority, the DEP and the City providing for the purchase of the 1997 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.

"Note" shall mean the sewer revenue note in the stated principal amount of $1,000,000 authorized by Section 5.01 hereof to evidence any draw or draws under the Line of Credit.

"1997 Bonds" or "Bonds originally authorized hereby" or similar phrases shall mean the not more then $8,000,000 in aggregate principal amount of Sewerage System Revenue Bonds issued in one or more series for the purpose of paying a portion of the Costs of the Project and for such other purposes permitted hereby and authorized by a resolution supplemental hereto.

"Ordinance" shall mean the Prior Ordinance, as hereinafter defined, as supplemented by this Supplemental Ordinance and as further amended or supplemented. Unless the context clearly requires a different meaning, reference to "this Ordinance" in the Prior Ordinance shall mean the Ordinance.

"Outstanding" when used with reference to 1997 Bonds, as of any particular date, describes all such 1997 Bonds theretofore and thereupon being authenticated and delivered except (i) any such 1997 Bond cancelled by the Registrar, at or prior to said date; (ii) any such 1997 Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such 1997 Bond, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any such 1997 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 1997 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" or "SRF 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.

"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.

"Regulations" shall mean the regulations promulgated under the Code.

"Registrar" shall mean the entity named as such in the Supplemental Resolution.

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

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

"State" shall mean the State of West Virginia.

"Supplemental Ordinance" or "this Ordinance" shall mean this ordinance as hereafter amended or supplemented.

"Supplemental Resolution" shall mean any resolution, ordinance or order of the City supplementing or amending this Ordinance and, when preceded by the article "the", refers specifically to the supplemental resolutions authorizing the sale of one or more series of the 1997 Bonds or the Note; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the 1997 Bonds or the Note and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" shall mean the Net Revenues not required by the Prior Ordinance and this Ordinance, as supplemented and amended, to be set aside and held in, including but not limited to, sinking funds, the reserve accounts and the renewal and replacement funds.

"System" shall mean the complete existing sewerage system now owned by the City and managed by the Sanitary Board, consisting of a sewerage treatment and collection system, and shall include any extensions, additions, betterments and improvements thereto, including the 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 Project in accordance with plans and specifications therefor prepared by the Consulting Engineers is hereby authorized.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF 1997 BONDS

Section 3.01. Authorization and Terms of 1997 Bonds. For the purposes of capitalizing interest on the 1997 Bonds, if any, funding the Reserve Account(s), paying costs of issuance and financing a portion of the Costs of the Project not otherwise provided for, there shall be issued the 1997 Bonds of the City. The 1997 Bonds shall be issued in one or more series with the first series to be designated 1997 Series A, the second series as 1997 Series B, and so on, of "Sewerage System Revenue Bonds" in an aggregate principal amount of not more than $8,000,000. Each series of 1997 Bonds shall be dated as of the date of delivery of each series thereof, shall bear such interest not to exceed the legal interest rate (12%), shall mature at such times, not to exceed forty years, and in such amount as shall be set out in Schedule X to the Loan Agreement and in the Supplemental Resolution. The 1997 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 1997 Bonds shall be as set forth on Schedule Y to the Loan Agreement. The 1997 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 1997 Bonds.

The 1997 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 1997 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 1997 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 1997 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 1997 Bonds shall be exchangeable at the option and expense of the Bondholder for other fully registered 1997 Bonds in aggregate principal amount equal to the amount of said 1997 Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said 1997 Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of 1997 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 1997 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 1997 Bonds. The text of the 1997 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 1997 Bonds; Execution of Loan Agreement. Each series of 1997 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 1997 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. 1997 Bonds are Issued as Parity Bonds. The 1997 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 1997 Bonds, the following must occur:

A. The City must receive the written approval of the Authority for the issuance of 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 Project not later than simultaneously with the delivery of the 1997 Bonds.

D. The 1997 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 1997 Bonds.

Section 3.05. Certificate of Consulting Engineers. Prior to the issuance of the 1997 Bonds, the City must obtain the certificate of the Consulting Engineers in the form attached to the Loan Agreement 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 DEP and the Authority, the 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 Project.

ARTICLE IV

APPLICATION OF 1997 BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. Application of 1997 Bond Proceeds. From the moneys received from time to time from the sale of any or all or any series of the 1997 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 1997 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 Project.

B. Next, from the proceeds of the 1997 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 1997 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 Project and until so transferred or expended, are hereby pledged as additional security for the 1997 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 1997 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the 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 Project and constitutes a Cost of the Project;

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

(D) That payment for each of the items proposed is then due and owing.

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.

Section 4.03. Funds and Accounts. The funds and accounts established by the Prior Ordinance are hereby continued. In addition to the funds and accounts established by the Prior Ordinance, there is hereby created at the Commission a sinking fund and a reserve account with respect to each series of 1997 Bonds. Following the monthly payment of operation and maintenance expense, the City shall make monthly payments to the Commission of the debt service on the Prior Debt and the 1997 Bonds.

Simultaneously with the transfers made pursuant to Section 4.02A(2) of the Prior Ordinance with respect to the Prior Bonds, the City shall simultaneously deposit on the first day of each month a sum equal to one-third of the amount of interest which will become due on the 1997 Bonds on the next ensuing quarterly interest payment date and shall simultaneously deposit with the Commission on the first of each month beginning on the first day of the month which is four months prior to the first principal payment date of the 1997 Bonds a sum equal to one-third of the principal which will mature or become due on the 1997 Bonds on the next ensuing principal payment date.

To the extent not funded with proceeds of the Bonds or otherwise previously funded, the City shall simultaneously with the payments required under Section 4.02A(3) of the Prior Ordinance deposit with the Commission an amount equal to one and one hundred twentieth of the reserve account requirement to the respective reserve account.

Except as provided above, all sinking fund, reserve, and renewal and replacement payments shall remain as governed by Section 4.02 of the Prior Ordinance.

Simultaneously with the payments required above, the City shall remit to the Commission the SRF Administrative Fee as required under the Loan Agreement. Additionally, at such time as required by the Authority and DEP, the City shall make its debt service payments to the Commission through automatic debit or other automatic bank transfer.

ARTICLE V

AUTHORIZATION OF LINE OF CREDIT

Section 5.01. Authorization of Line of Credit. For the purpose of providing funds for the completion of the construction and acquisition of the Projects to the extent other funds are not available therefor, the Mayor of the City is hereby authorized and directed to execute the Line of Credit Agreement in substantially the form attached as Exhibit D hereto, but with such modifications, additions and deletions therein as the Mayor shall determine to be necessary or advisable, such determination to be witnessed conclusively by his execution thereof.

Section 5.02. Authorization of Note. For the purpose of evidencing any draw upon the Line of Credit and thus, of financing a portion of the cost of acquisition and construction of the Projects, there shall be issued the Note of the City, in the stated principal amount not to exceed $1,000,000. The Note shall be issued in single, fully registered form, without coupons, and shall be dated as of the date of delivery thereof. There shall be attached to the Note a Record of Advances and Payments, upon which the date and principal amount of any draw upon the Line of Credit, the date and amount of any payment of principal of the Note and the amount of the Note outstanding after either of such transactions shall be recorded. Anything to the contrary herein, in the Line of Credit Agreement or in the Note notwithstanding, the Note shall evidence only the outstanding indebtedness recorded on the Record of Advances and Payments attached thereto, and interest shall accrue only on the outstanding indebtedness amount of the actual date of each advance or payment, as the case may be, as listed on said Record of Advances and Payments, provided that the Note shall reflect the Project for which each advance and each payment is made. Each such advance shall bear interest, payable at such times and at such interest rate (not to exceed 12 percent per annum), and shall mature on such date as is set forth in the Supplemental Resolution. Interest shall cease to accrue on the amount of the Note outstanding, or portions

Agreement. Notwithstanding the foregoing, the terms of the Note, other than the principal amount thereof, may be modified by resolution supplemental and amendatory hereto, subject to the limits of the Act. The principal amount outstanding under the Note with respect to the Project shall never exceed the amount available to be advanced for the Project as determined by a validly executed loan agreement with the SRF Program.

The Note shall be payable as to principal upon surrender at the principal office of the Registrar, as hereinafter defined, in any coin or currency which on the date of payment of principal is legal tender for the payment of public and private debts under the laws of the United States of America; provided, that any partial payment of principal prior to the final maturity of the Note shall be recorded on the Record of Advances and Payments attached to the Note, and the Note shall be returned to the Owner. Interest on the Note shall be paid by check or draft mailed to the Owner thereof at the address as it appears on the books of said Registrar; provided, that, at the option of the Owner, such payment may be made by wire transfer or such other method as shall be agreeable to the Owner, the City, the Commission (as hereinafter defined) and said Registrar.

Section 5.03. Execution of Note. The Note shall be executed in the name of the City by the signature of its Mayor, and the seal of the City shall be affixed thereto and attested by the signature of the City Clerk. Any Note may be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Note shall hold the proper office of the City, although at the date of such Note such person may not have held such office or may not have been so authorized.

Section 5.04. Negotiability, Transfer and Registration. Subject to the restrictions on transfer set forth below, the Note shall be and have all of the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State, and each successive Owner, in accepting the Note, shall be conclusively deemed to have agreed that said Note shall be incontestable in the hands of a bona fide holder for value.

So long as the Note or any portion thereof remains Outstanding, the Bank shall keep and maintain books for the registration and transfer of the Note. The Note shall be transferable only upon the books of the City which shall be kept for that purpose at the office of the Bank (in such capacity and in the capacities of authenticating agent and paying agent as hereinafter provided, the "Registrar") by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney. Upon the transfer of the Note, there shall be issued at the option of the Owner or the transferee another Note or Notes of the aggregate stated principal amount equal to the stated principal amount of such transferred Note not paid as reflected on the Record of Advances and Payments attached thereto and outstanding in the aggregate principal amount equal to the advanced but unpaid amount of the transferred Note as reflected on the Record of Advances and Payments attached thereto.

In all cases in which the privilege of transferring the Note is exercised, Notes shall only be issued in accordance with the provisions of this Ordinance. All Notes surrendered in any such transfers shall forthwith be cancelled by the Registrar. For every such transfer of Notes, the Registrar may make a change sufficient to reimburse its office for any tax, fee or other governmental charge required to be paid with respect to such transfer and the cost of preparing each Note upon each transfer, and any other expenses of the Registrar incurred in connection therewith, which sum or sums shall be paid by the person requesting such transfer as a condition precedent to the exercise of the privilege of making such transfer. The Registrar shall not be obliged to make any such transfer of Notes during the ten (10) days preceding an interest payment date on the Notes or after notice of any prepayment of the Notes has been given.

Section 5.05. Form of Note. The text of the Note shall be in substantially the form attached as Exhibit II to the Line of Credit Agreement, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Ordinance or any supplemental resolution or ordinance adopted or enacted prior to the issuance thereof. The Note shall not become valid until authenticated by the Registrar.

Section 5.06. Security for the Note. The principal of the Note is payable solely from and secured by the Bond Proceeds and such other sources as are hereinafter set forth. The interest on the Note is payable from and secured by, the Net Revenues derived from the operation of the System; provided, that such lien on the Revenues is junior, inferior and subordinate in all respects to the lien thereon of the Holders of the Prior Debt.

Section 5.07. Note Debt Service Fund. There is hereby created and established with the West Virginia Municipal Bond Commission (the "Commission") a special fund, to be designated the Note Debt Service Fund. Deposits for the payment of principal of and interest and fiscal agency or other charges on the Note shall be made as hereinafter provided. Any moneys in the Note Debt Service Fund shall be invested in investments authorized by the Prior Ordinance, maturing or subject to redemption at the option of the holder, when needed as hereinafter provided. Any such investment earnings shall be credited against the deposit for interest or principal next due.

Section 5.08. Payment of Interest. On the first day of each month, beginning with the first day of the month next succeeding the month in which the first advance under the Line of Credit, if any, is made, the Registrar shall notify the Board and the Commission in writing, or by telephone, confirmed in writing as soon as practicable thereafter, of the interest accrued on the Note for the preceding month. No later than the fourth day of such next succeeding month, and after those deposits required by the Prior Ordinance and this Ordinance, as amended, are made, the City shall deposit in the Note Debt Service Fund the amount needed to pay the interest so accrued. The Commission shall transfer to the Registrar a sum equal to such interest payment then due, and the Registrar shall make such interest payment, in the manner described by Section 5.02, on the fifth day of such month.

Section 5.09. Payment of Principal. At least one day prior to the maturity of the Note, there shall be deposited in the Note Debt Service Fund, Bond Proceeds or other moneys needed to pay the principal of the Note at maturity. The City may at any time, upon two (2) days' written notice to the Owner (or telephone notice, confirmed in writing as soon as practicable), prepay all or any portion of the Note Outstanding. Notice of any prepayment of all the Note Outstanding may include a direction by the City that the Note must be surrendered for such payment; otherwise, the Registrar shall record the prepayment on the Record of Advances and Payments attached to the Note and return the Note to the Owner. The Commission shall transfer any such principal payment, whether at maturity or prepayment, or whether in whole or part, to the Registrar for payment, and the Registrar shall make such payment in the manner hereinabove and in Section 5.02 described.

Section 5.10. Construction Trust Fund. There is hereby created and established with the Bank (in such capacity, the "Depository") a special fund, to be designated the "Construction Trust Fund". Any draws under the Line of Credit shall be deposited in the Construction Trust Fund and shall be kept separate and apart from all other funds of the City or the Depository (and the Bank) and expended solely for the purposes hereinafter provided. Expenditures may be made from the Construction Trust Fund for paying the costs of acquisition and construction of the Projects; provided, that no expenditures shall be made from said fund, without the approval of the Board and the Consulting Engineers. The balance of any such deposit in the Construction Trust Fund, in excess of the amount secured by the Federal Deposit Insurance Corporation, shall at all times be secured to the full extent thereof by direct obligations of the United States of America, or such other obligations as shall be eligible as security for deposits of state and municipal funds under the laws of the State of West Virginia. Any balance in the Construction Trust Fund after the completion of the Project shall be deposited in the Note Debt Service Fund and used only for the payment of the Note as provided in this Ordinance or, if the Note is no longer Outstanding, deposited as provided in the Prior Ordinance, 1993 Ordinance and this Ordinance. Pending the authorized use thereof, moneys in the Construction Trust Fund shall be invested in investments authorized under the Prior Ordinance.

ARTICLE VI

ADDITIONAL COVENANTS OF THE CITY

All the covenants, agreements and provisions of the Prior Ordinance shall remain in full force and effect as long as the Prior Debt and the 1997 Bonds are outstanding and shall apply to the 1997 Bonds as if fully set out herein. The following covenants are supplemental and in addition to the covenants set forth in the Prior Ordinance.

Section 6.01. Completion of Project; Schedule of Cost. The City will expeditiously complete the Project. Upon completion of the 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 Project and sources of funds therefor.

Section 6.02. 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 1997 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 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 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 Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract.

Section 6.03. 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 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 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 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 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 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 6.04. 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 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 6.05. Records and Reports. The City shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The City shall permit the Authority and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The 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 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 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 Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The 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 1997 Bond or 1997 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 1997 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 1997 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 1997 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 Project and for two years following the completion of the 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 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 Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction of the 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 6.06. 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 6.07. Tax Covenants. The City hereby further covenants and agrees as follows:

A. PUBLIC PURPOSE BONDS. The City shall use the 1997 Bond and Note proceeds solely for the Project and as otherwise set forth herein, and the 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 1997 Bonds, the Note or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the 1997 Bonds or Note from the treatment afforded by Section 103(a) of the Code by reason of the classification of the 1997 Bonds or Note 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 1997 Bonds or Note.

C. PRIVATE LOAN LIMITATION. The City shall assure that not in excess of 5% of the Net Proceeds of the 1997 Bonds and Note 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 1997 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 1997 Bonds and Note, 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 1997 Bonds and Note will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those determined by the Authority) which would adversely affect such exclusion.

Section 6.08. Rebate Covenant. The City is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the Project and the System. As covenanted above, the 1997 Bonds and Note 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 1997 Bonds and Note will be used for local governmental activities of the City. The City reasonably expects to expend the proceeds of the 1997 Bonds and Note 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 1997 Bonds and Note.

Section 6.09. Arbitrage. The City covenants that (i) it will restrict the use of the proceeds of the 1997 Bonds and Note 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 1997 Bonds and Note, so that the 1997 Bonds and Note 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 1997 Bonds and Note so that the interest on the 1997 Bonds and Note will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 6.10. 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 1997 Bonds and Note. In addition, the City covenants to comply with all regulations from time to time in effect and applicable to the 1997 Bonds and Note as may be necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on the 1997 Bonds and Note 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 1997 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 state nents 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 1997 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 1997 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 1997 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 1997 Bonds (as that term is defined in the Code) from time to time as the Authority may request.

Section 6.11. Securities Laws Compliance. The City will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17CFR Part 240).

ARTICLE VII

MISCELLANEOUS

Section 7.01. 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 1997 Bonds then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any 1997 Bond or 1997 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 1997 Bonds required for consent to the above permitted amendments or modifications.

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

Section 7.03. Repeal of Conflicting Ordinances. All ordinances, resolutions and orders, or parts thereof, other than the Prior Ordinance, in conflict with this Ordinance are to the extent of such conflict repealed.

Section 7.04. Covenant of Due Procedure. The City covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the City 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 7.05. Effective Date. This Ordinance shall take effect after passage, public hearing and otherwise in the manner prescribed by law.

EXHIBIT A

Phase I - Belt Press

The project consists of installing a new 2.2 meter high solids belt filter press, two progressive cavity sludge feed pumps, a wet/dry polymer unit, a sludge screw conveyor, a washwater booster pump, a plant effluent water strainer, two magnetic flow meters and the necessary piping in the existing dewatering building at the wastewater treatment plant.

Phase II - Compost Facility

The project involves the construction of a 55 tons per day compost facility to compost bio-solids from the wastewater treatment plant with yard waste. The composting facility will be constructed at Copenhaver Park in the "North Charleston" area of the City at the head of Hanna Drive.

Major components of the Project are: a 75 foot x 321 foot pre-engineered steel building containing the office, electrical and mechanical equipment rooms, the mixing room, and the composting room; a five bay concrete composting system with mixers and aeration system; a 9,000 square foot bio-filter; a yard waste storage area; a compost curing area; a tub grinder; a finished product screen; and site grading and paving.

EXHIBIT B

[FORM OF THE 1997 BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, 1997 SERIES ____

No. R-__ $_____

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 "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 _____ ($___ _____), 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 March 1, June 1, September 1, and December 1 commencing _____, 199__, 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 of _____ percent (___%) per annum as set forth on said Exhibit B. The interest and the SRF Administrative Fee (as defined in the hereinafter described Ordinance), shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 199__, as set forth on EXHIBIT B attached hereto.

Principal installments of this 1997 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 1997 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 1997 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 1997 Bond is issued (i) to pay costs of acquisition and construction of a [a belt press] compost facility constituting improvements, additions, extensions and betterments to the existing sewerage system of the City (the "Project"), (ii) to fund a reserve

account therefor and (iii) to pay certain costs of issuance hereof and related costs. This 1997 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, as amended, Ordinance No.4954 enacted by the City on the 3rd day of May, 1993, Ordinance No. 6276 enacted by the City on the 3rd day of September, 1996, Ordinance No. _____ enacted by the City on the ___ day of _____, 1997, and a Supplemental Resolution adopted by the City on the __ day of _____, 1997 (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 1997 Bonds under the Ordinance.

This 1997 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 1997 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 1997 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 1997 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 1997 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 1997 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 1997 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 1997 Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the 1997 Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This 1997 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 1997 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 1997 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 1997 Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Ordinance or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this 1997 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 1997 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 1997 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 1997 Bond.

All provisions of the Ordinance, resolutions and statutes under which this 1997 Bond is issued shall be deemed to be a part of the contract evidenced by this 1997 Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, THE CITY OF CHARLESTON has caused this 1997 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 1997 Bond to be dated ___ ___, 1997.

[SEAL]

_____
Mayor

ATTEST:

_____
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This 1997 Bond is one of the 1997 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

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$		(11)	$	
(2)	$		(12)	$	
(3)	$		(13)	$	
(4)	$		(14)	$	
(5)	$		(15)	$	
(6)	$		(16)	$	
(7)	$		(17)	$	
(8)	$		(18)	$	
(9)	$		(19)	$	
(10)	$		(20)	$	

Total $_____

SCHEDULE B

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

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

_____

_____

_____

_____

_____

the within 1997 Bond and does hereby irrevocably constitute and appoint _____ _____, Attorney to transfer the said 1997 Bond on the books kept for registration of the within 1997 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]

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	MONTH	YEAR TO DATE	CURRENT 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 Engineer, _____, _____, 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]

EXHIBIT D

_____, 19__

The City of Charleston
City Hall
Charleston, West Virginia 25301

Re: $_____ Irrevocable Revolving Line of Credit

Ladies and Gentlemen:

At your request and on your instruction, we, the undersigned bank (the "Bank"), hereby establish in your favor the irrevocable revolving line of credit in the amount of $_____ (the "Stated Amount"). You may draw upon such line of credit from time to time as hereinafter set forth, but the aggregate amount outstanding at any time may not exceed the Stated Amount.

This line of credit is extended to you for the purpose of providing funds for the completion of the Projects to the extent Bond Proceeds or other funds are not timely available therefor. It is our understanding that this line of credit was authorized by Ordinance No. _____ passed by the Council of the City of Charleston on _____, 1997 (the "LOC Ordinance"). Capitalized terms used and not otherwise defined in this letter shall have the respective meanings given them in the LOC Ordinance.

This line of credit is irrevocable to the extent set forth herein. Subject to the further provisions of this letter, a draw upon the line of credit may be made by you on or after _____, 199__, but prior to the expiration date hereof, in the event and to the extent funds are needed for the completion of the construction of the Projects and are not otherwise timely available therefor. On or after such date and in such event, a draw upon the line of credit may be made by you by presentation to the Bank at _____ _____, of your certificate, on your letterhead and signed by your authorized officer, in the form of Exhibit I attached hereto and incorporated herein by reference, duly completed. In accordance with said Exhibit I, such draw shall be in the amount demanded; provided, that the aggregate principal amount of draws, including such draw, shall not, at any one time, exceed the Stated Amount.

Draws upon the line of credit may be made by you on or after _____, 1997, and prior to the expiration hereof at any time during the Bank's business hours at its address set forth above on a Business Day (as hereinafter defined). As used herein, the term "Business Day" means a day on which the Bank is open for the purpose of conducting a commercial banking business. If demand for a draw upon the line of credit is made by you at or prior to 10:00 a.m., prevailing time, on a Business Day, and provided that such demand and the documents presented in connection therewith conform to the terms

and conditions hereof, payment shall be made to you of the amount demanded, in immediately available funds, not later than 2:00 p.m., prevailing time, on the Business Day next succeeding the date of said demand. If demand for a draw upon the line of credit is made by you hereunder after 10:00 a.m., prevailing time, on a Business Day, and provided such demand for payment and the documents presented in connection therewith conform to the terms and conditions hereof, payment shall be made to you of the amount demanded, in immediately available funds, not later than 2:00 p.m., prevailing time, on the second (2nd) Business Day next succeeding the date of said demand. If the demand for a draw upon the line of credit made by you does not, in any instance, conform to the terms and conditions of this letter, the Bank shall give you prompt notice that the draw was not effected in accordance with the terms and conditions of this letter, stating the reasons therefor and that the Bank is holding any documents at your disposal or is returning the same to you, as the Bank may elect. Upon being notified that the draw was not effected in accordance with this letter, you may attempt to correct any such nonconforming demand for a draw upon the line of credit if, and to the extent that, you are entitled (without regard to the provisions of this sentence) and able to do so.

Unless the Bank is then in default hereunder by reason of its having wrongfully failed to honor a demand for a draw upon the line of credit, such line of credit shall expire on the earlier to occur of (i) the Bank's close of business at its address set forth above on _____, 199__, (ii) receipt by the Bank of a notice of prepayment in whole by the City, requiring that the Note, as hereinafter described, be surrendered in connection with such prepayment, or (iii) receipt by the Bank of a certificate from the City and the Consulting Engineers that the Projects have been completed and payment therefor fully made, provided, that, if any of said dates shall not be a Business Day, the line of credit shall expire on the close of business at such address on the first Business Day next succeeding said date. The agreement set forth by this letter shall terminate upon expiration of the line of credit without a draw thereunder or upon payment to the Bank of all principal of and interest on the Note, as hereinafter described, as such outstanding principal is reflected, from time to time, on the Record of Advances and Payments attached thereto.

The City's obligation to repay the Bank for any draw upon the line of credit shall be evidenced by its sewer revenue note (the "Note") in the stated principal amount of $_____, in substantially the form attached as Exhibit II hereto. Notwithstanding said stated principal amount, the Note shall evidence only the outstanding indebtedness reflected on the Record of Advances and Payments attached hereto. Each advance shall bear interest at such rate, payable at such times, and the Note shall mature and be subject to prepayment and such other terms and provisions, as shall be described in Exhibit II.

All documents presented to us in connection with any demand for a draw upon the line of credit, as well as all notices and other communications to us in respect of this letter or the line of credit, shall be in writing and addressed and presented to us at our above address. Such documents, notices and other communications shall be personally delivered to us.

This letter sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any other document, instrument or agreement except only Exhibits I and II hereto and the LOC Ordinance. Upon execution by the Mayor of the City of the duplicate letter attached hereto and return of such letter to us, and the Note, this letter shall become an agreement between the Bank and the City, governed by the laws of the State of West Virginia.

Very truly yours,

_____

_____

By:_____

Its:_____

Accepted this _____ day of _____, 19__.

THE CITY OF CHARLESTON, WEST VIRGINIA

By: _____

, Mayor

EXHIBIT I

[LETTERHEAD OF CITY]

_____, 19__

_____
_____
_____

Attention:

Re: $_____ Irrevocable Line of Credit

Gentlemen:

We refer to our letter agreement dated as of _____, 19__ (the "Line of Agreement"), with respect to the above-referenced line of credit (the "Line of Credit"). Terms defined in the Letter Agreement have the same meanings when used herein.

1. We hereby make demand for a draw upon the Line of Credit to pay a portion of the costs of the Project.

2. There are not available Bond Proceeds or other funds to pay such costs, currently due and owing.

3. The balance of available SRF Program moneys with respect to the Project is $_____. A copy of an executed SRF Loan Agreement is attached.

4. The principal amount of the Note outstanding, as evidenced by the Record of Advances and Payments, aggregates $_____.

5. Accordingly, $_____ of the Stated Amount is available to be drawn.

6. A draw upon the Line of Credit is hereby demanded in the following amount, as expressed in words and figures:

_____ DOLLARS ($_____).

Please deposit the amount hereby demanded in our Construction Trust Fund (account number _____) with you.

THE CITY OF CHARLESTON, WEST VIRGINIA

By_____
Authorized Officer

EXHIBIT II

United States of America
State of West Virginia
The City of Charleston
Sewer Revenue Note
Series 1997
Number R-1
$_____

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, but only from the special funds provided therefor, as hereinafter set forth, to _____ _____ (the "Owner"), or registered assigns, the sum of _____ Dollars ($_____), or such lesser sum as shall be reflected by the Record of Advances and Payments attached hereto, on _____ 1, 199__. Notwithstanding any provision of this Note to the contrary, this Note shall evidence only the indebtedness reflected as outstanding on the Record of Advances and Payments attached hereto, provided that the Record of Advances and Payments shall reflect the specific Project for which each advance or payment is made. Interest shall accrue only on the amount of the outstanding indebtedness from the actual date of each advance or payment, as the case may be, as listed on said Record of Advances and Payments and shall cease to accrue on the amount hereof outstanding, or portions thereof, as the same are paid, as reflected by said Record of Advances and Payments. Such interest shall be at the rate _____ but not to exceed twelve percent (12%) per annum. Said interest shall be based upon a year of 360 days and shall be paid in arrears on the fifth day of each month, beginning with the fifth day of the month next succeeding the month in which the first advance, if any, under the Line of Credit, as hereinafter defined, is made. The Registrar, as hereinafter defined, shall notify the Sanitary Board of the City of the amount of interest so accrued. Interest is payable, only from special funds as hereinafter described, by check or draft mailed to the Owner at the address as it appears on the books of Registrar, as hereinafter defined, or by wire transfer or other mutually agreeable method. This Note shall be payable as to principal upon surrender at the principal office of _____, Charleston, West Virginia, as registrar and paying agent (the "Registrar"), in any coin or currency which on the date of payment of principal is legal tender for the payment of public and private debts under the laws of the United States of America; provided, that, except in the case all the Note outstanding is being prepaid and either (i) the City's notice of prepayment requires surrender or (ii) the Line of Credit, as hereinafter defined, has expired any payment of principal prior to the maturity of this Note as provided by the Ordinance, as hereinafter defined, shall be recorded on the Record of Advances and Payments attached hereto, and this Note shall be returned to the Owner. Prepayments of the principal of this Note may be made upon two (2) days' notice

to the Owner. Any such prepayment shall also be reflected on the Record of Advances and Payments attached hereto, and interest shall cease to accrue thereon.

This Note is issued pursuant to Ordinance No. ____ passed by the Council of the City on _____, 1997 (the "LOC Ordinance"), to evidence the City's obligation to repay any draw upon a line of credit (the "Line of Credit") by the City from _____ (the "Bank"). This Note was issued to provide funds for the completion of the construction of certain extensions, betterments and improvements to the existing sewerage system of the City to the extent bond proceeds and other funds are not timely available therefor.

This Note is issued, in addition to the Ordinance, under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended (the "Act"), and is subject to all the terms and provisions of said Ordinance and said Act. The principal of this Note is payable from Bond Proceeds. The interest on this Note is payable from and secured by a lien on, the revenues derived from the operation of the sewerage system of the City; provided, that such lien on the revenues is junior, subordinate and inferior to the lien on such net revenues created on behalf of the Prior Debt of the City outstanding on the date hereof as defined and set forth in the LOC Ordinance.

This Note does not constitute a corporate indebtedness of the City within the meaning of any constitutional, statutory or charter provisions or limitations, nor shall the City be obligated to pay the same or the interest hereon except from the special fund provided from the grant receipts, the net revenues derived from the operation of said sewerage system and the net proceeds of said bonds. Under the Ordinance, the City has entered into certain covenants with the Owner, for the terms of which reference is made to said Ordinance. Remedies provided the Owner are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

Subject to the requirements for transfer set forth below, this Note is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia. This Note is transferable, as provided in the Ordinance, only upon the books of the City at the office of the Registrar by the Owner in person or by his attorney duly authorized in writing, upon surrender hereof, together with a written instrument of transfer satisfactory to said Registrar duly executed by the Owner or his duly authorized attorney. Upon transfer hereof, there shall be issued another fully registered Note or fully registered Notes of the aggregate stated principal amount equal to the stated principal amount thereof but evidencing only the indebtedness reflected on the Record of Advances and Payments attached hereto and outstanding in the aggregate principal amount equal to the advanced but unpaid amount hereof as reflected on the Record of Advances and Payments attached hereto.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the

issuance of this Note exist, have happened and have been performed in due time, form and manner as required by law, and that this Note, 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 grant receipts, bond proceeds and the net revenues of the sewerage system of the City have been pledged to and will be set aside into a special fund by the City for, and will be sufficient for, the payment of the principal and interest on this Note.

All provisions of the Ordinance and the statues under which this Note is issued shall be deemed to be a part of the contract evidenced by this Note to the same extent as if written fully herein.

IN WITNESS WHEREOF, the City of Charleston, West Virginia, has caused this Note to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by the City Clerk, all as of the ___ day of _____, 19__.

_____
Mayor

[SEAL]

Attest:

_____
City Clerk

CERTIFICATE OF AUTHENTICATION

The undersigned, as Registrar for this Note, hereby certifies that this Note is one of the Notes described in the above-mentioned Ordinance and was duly registered in the name set forth above on the date set forth below.

Date: _____

_____,
as Registrar

By_____
Its Authorized Officer

RECORD OF ADVANCES AND PAYMENTS*

Date	Amount Advanced	Principal Payment	Project	Outstanding** Balance	Authorized Officer

* To be completed upon each draw upon or repayment on the Line of Credit, with the specific project for which the advance or payment is being made being noted

** Not to exceed $_____ at any one time.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto _____ the Sewer Revenue Note, Series 1997, dated _____, 1997, of the City of Charleston, West Virginia, and does hereby irrevocably constitute and appoint _____, attorney to transfer said Note on the books of said City with full power of substitution in the premises.

_____

DATED: _____

IN THE PRESENCE OF: _____

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as City Clerk of The City of Charleston, Kanawha 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 _____, 1997.

_____
City Clerk

[SEAL]

CHASES\96351

J O U R N A L

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

June 2, 1997

The Council met in its Chamber in the City Building at 8:00 p.m. for the first meeting in the month of June and was called to order by the Mayor, the Honorable G. Kemp Melton.

Prayer was offered by the Honorable Ernest A. Layne, Councilman for the Fifth Ward.

The Clerk called the roll and the following members answered to their names:

Barron	Kimberling	Morton
Barth	Lane	Nielsen
	Lanham	Quick
Gilmer	Layne	Redman
Haddad	Leary	Smith
Hardy	Loeb	Snodgrass
Hicks	Lopez	Snuffer
Horan	Malone	Thompson
Huffman	McClaskie	Mayor Melton

Twenty-six members being present, one being absent, Councilwoman Connell, 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

1. A Claim of Tonya f. Bowman; Comfort, WV; alleges damage to vehicle; referred to City Solicitor.

2. A Claim of Mary K. Russell; 2615 Virginia Avenue, SE; alleges damage to vehicle; referred to City Solicitor.

REPORTS OF STANDING COMMITTEES

Councilman Hardy, Chairman of the Council Committee on Finance, submitted the following reports:

1. Your Committee on Finance has had under consideration proposal submitted by Capital Business Interiors, in the amount of $2,309.61, for purchase and installation of new carpet for the VIP room on the first floor of the Charleston Civic Center; to be charged to Account No. 81-443-0-0-16, 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.

2. Your Committee on Finance has had under consideration bid submitted by West Virginia Uniforms, Inc., in the amount of $10,950, for fifteen (15) surveillance type outer-wear body armor vests ($730 each) to be used by the Charleston Police Department; to be charged to Account No. 01-173-1, Police - MDENT Grant.

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 proposal submitted by Channing L. Bete, in the amount of approximately $35,000, for purchase of 154,000+ DUI information/awareness booklets at .22 each to be distributed by the Police Department within the Charleston area and to highway safety programs throughout the State; to be charged to Account No. 01-175-2, Police - Highway Safety Grant.

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 Bill No. 6349, authorizing the issuance of not more than $8,000,000 in aggregate principal amount of Sewerage System Revenue Bonds issued in one or more series for the acquisition and construction of certain extensions, additions, betterments and improvements to the sewerage system of The City of Charleston; and further authorizing an interim financing line of credit and a not to evidence the line of credit in an amount not to exceed $1,000,000; and adopting other provisions related thereto.

And reports the same to Council with the recommendation that the bill pass.

The question being on the passage of the bill a roll call was taken and there were - yeas 23, nays 0, abstentions 2 and absent 2 as follows:

YEAS: Barron, Barth, Gilmer, Haddad, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Lopez, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer, Thompson and Mayor Melton.

NAYS: None.

ABSTENTION: Hardy and Loeb.

ABSENT: Connell and Malone.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Bill No. 6349 passed.

5. Your Committee on Finance has had under consideration Resolution No. 697-97, authorizing the Finance Director to make revisions to the 1996-97 General Fund budget.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 697-97 - "Authorizing the Finance Director to make revisions to the 1996-97 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 Mayor is hereby authorized and directed to make revisions to the 1996-97 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.

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: Barron, Barth, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer, Thompson and Mayor Melton.

NAYS: None.

ABSENT: Connell.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 697-97 adopted.

6. Your Committee on Finance has had under consideration Resolution No. 698-97, authorizing the Mayor to enter into an agreement with the Office of Justice Programs, Violence Against Women Grants Office, to receive and administer grant funds in the amount of $149,634.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 698-97 - "Authorizing the Mayor to enter into an agreement with the Office of Justice Programs, Violence Against Women Grants Office, to receive and administer grant funds in the amount of $149,634."

Be it Resolved 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 Office of Justice Programs, Violence Against Women Grants Office, to receive and administer grant funds in the amount of One Hundred Forty-nine Thousand Six Hundred Thirty-four Dollars ($149,634).

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 698-97 adopted.

7. Your Committee on Finance has had under consideration Resolution No. 699-97, authorizing the Mayor to enter into an agreement with the State of West Virginia Office of Criminal Justice and Highway Safety to receive and administer grant funds in the amount of $90,520, as approved under the STOP Violence Against Women Grant Application.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 699-97 - "Authorizing the Mayor to enter into an agreement with the State of West Virginia Office of Criminal

Justice and Highway Safety to receive and administer grant funds in the amount of $90,520, as approved under the STOP Violence Against Women Grant Application."

Be it Resolved 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 State of West Virginia Office of Criminal Justice and Highway Safety to receive and administer grant funds in the amount of Ninety Thousand Five Hundred Twenty Dollars ($90,520), as approved under the STOP Violence Against Women Grant Application.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 699-97 adopted.

8. Your Committee on Finance has had under consideration Resolution No. 700-97, authorizing the Mayor to enter into a renewal agreement with the U.S. Department of Justice to receive and administer grant funds in the amount of $20,043, as approved under the COPS MORE extension guidelines.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 700-97 - "Authorizing the Mayor to enter into a renewal agreement with the U.S. Department of Justice to receive and administer grant funds in the amount of $20,043, as approved under the COPS MORE extension guidelines."

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 renewal agreement with the U.S. Department of Justice to receive and administer grant funds in the amount of Twenty Thousand Forty-Three Dollars ($20,043), as approved under the COPS MORE extension guidelines.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 700-97 adopted.

9. Your Committee on Finance has had under consideration Resolution No. 702-97, authorizing the Mayor to enter into a contract with General Truck Sales Corporation, for sandblasting and painting of City dump truck bodies for the Public Works Department at a cost of $895 each; to be charged to Account No. 01-576-0-0-2-30, Equipment Maintenance - Contracted Services.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 702-97 - "Authorizing the Mayor to enter into a contract with General Truck Sales Corporation for sandblasting and painting of City dump truck bodies for the Public Works Department at a cost of $895 each."

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 General Truck Sales Corporation for sandblasting and painting of City dump truck bodies for the Public Works Department at a cost of Eight Hundred Ninety-five Dollars ($895) each.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 702-97 adopted.

10. Your Committee on Finance has had under consideration Resolution No. 703-97, authorizing the Mayor to enter into a Disclosure and Confidentiality Agreement with Adkins Design for 30 sheets of digital mapping to assist Adkins in developing base mapping for architectural projects for the Charleston Housing Authority.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 703-97 - "Authorizing the Mayor to enter into a Disclosure and Confidentiality Agreement with Adkins Design for 30 sheets of digital mapping to assist Adkins in developing base mapping for architectural projects for the Charleston Housing Authority."

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 Disclosure and Confidentiality Agreement with Adkins Design for 30 sheets of digital mapping to assist Adkins in developing base mapping for architectural projects for the Charleston Housing Authority. The digital mapping sheets to be disclosed are: G11, G12, G13, G14, H12, H13, H14, H15, I13, I14, I15, I16, J14, J15, J16, J17, K14, K15, K16, K17, K18, L14, L15, L16, L17, L18, M18, M19 and N19.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 703-97 adopted.

11. Your Committee on Finance has had under consideration Resolution No. 704-97, authorizing the Mayor to enter into a Disclosure and Confidentiality Agreement with E.L. Robinson Engineering Company, Inc. for one sheet of digital mapping, specifically Sheet J22, to be used by ELREC in developing or completing detailed mapping and plans for engineering purposes, at a cost of $304.47.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 704-97 - "Authorizing the Mayor to enter into a Disclosure and Confidentiality Agreement with E.L. Robinson Engineering Company, Inc. for one sheet of digital mapping, specifically Sheet J22, to be used by ELREC in developing or completing detailed mapping and plans for engineering purposes, at a cost of $304.47."

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 Disclosure and Confidentiality Agreement with E. L. Robinson Engineering Company, Inc. for one sheet of digital mapping, specifically Sheet J22, to be used by ELREC in developing or completing detailed mapping and plans for engineering purposes, at a cost of Three Hundred Four Dollars and Forty-seven Cents ($304.47).

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 704-97 adopted.

12. Your Committee on Finance has had under consideration Resolution No. 705-97, authorizing the Mayor to enter into a Disclosure and confidentiality Agreement with E. L. Robinson Engineering Company, Inc., for two sheets of digital mapping, specifically Sheet M20 and Sheet N20, to be used by ELREC in developing or completing detailed mapping and plans for engineering purposes, at a cost of $608.94 ($304.47 each).

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 705-97 - "Authorizing the Mayor to enter into a Disclosure and Confidentiality Agreement with E.L. Robinson Company, Inc. for two sheets of digital mapping, specifically Sheet

M20 and Sheet N20, to be used by ELREC in developing or completing detailed mapping and plans for engineering purposes, at a cost of $608.94 ($304.47 each)."

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 Disclosure and Confidentiality Agreement with E.L. Robinson Engineering Company, Inc. for two sheets of digital mapping, specifically Sheet M20 and Sheet N20, to be used by ELREC in developing or completing detailed mapping and plans for engineering purposes, at a cost of Six Hundred Eight Dollars and Ninety-four Cents ($608.94, or $304.47 each).

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 705-97 adopted.

13. Your Committee on Finance has had under consideration Resolution No. 706-97, authorizing the Mayor to enter into a contract with Better Foods, Inc., dba Gino's/Tudor's Biscuit World, to operate the concessions and sell refreshments at Cato Park Pool from May 24, 1997 through September 1, 1997, with the Concessionaire paying 10% of gross sales to the City of Charleston.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 706-97 - "Authorizing the Mayor to enter into a contract with Better Foods, Inc., dba Gino's/Tudor's Biscuit World, to operate the concessions and sell refreshments at Cato Park Pool from May 24, 1997 through September 1, 1997, with the Concessionaire paying Ten Percent (10%) of gross sales to the City of Charleston."

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 Better Foods, Inc., dba Gino's/Tudor's Biscuit World, to operate the concessions and sell refreshments at Cato Park Pool from May 24, 1997 through September 1, 1997, with the Concessionaire paying Ten Percent (10%) of gross sales to 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. 706-97 adopted.

14. Your Committee on Finance has had under consideration Resolution No. 707-97, authorizing the Mayor to execute a loan agreement in connection with the proposed Sewerage System Revenue Bonds. Said Agreement to be entered into with the West Virginia Water Development Authority and the West Virginia Division of Environmental Protection with respect to the belt press phase of the Project as described under the proposed "The City of Charleston Sewer System Revenue Bonds and Line of Credit Supplemental Ordinance".

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 707-97 - "Authorizing the Mayor of the City of Charleston to execute a loan agreement in connection with the proposed Sewerage System Revenue Bonds."

WHEREAS, the Council (the "Council") of the City of Charleston (the "City") has received a loan agreement (the "Loan Agreement") to be entered into with respect to the belt press phase of the Project as described under the proposed "The City of Charleston Sewerage System Revenue Bonds and Line of Credit Supplemental Ordinance (SRF)" (the "Ordinance"); and

WHEREAS, the Council of the City has reviewed the loan agreement to be entered into among the City, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection.

WHEREAS, it is in the best interest of the City and its residents to expedite the belt press phase of the Project and enter into the Loan Agreement.

Now, therefore, be it Resolved by the Council of the City of Charleston, West Virginia:

1. That the Mayor is hereby authorized and directed to execute the Loan Agreement and the City Clerk is directed to affix the seal, attest the same and deliver the Loan Agreement to the Authority.

2. The Bonds referred to in the Loan Agreement shall be issued only if Council shall enact its proposed "The City of Charleston Sewerage System Revenue Bonds and Line of Credit Supplemental Ordinance (SRF)."

3. This Resolution shall become effective immediately upon adoption.

The question being on the adoption of the resolution a roll call was taken and there were - yeas 24, nays 0, abstention 2 and absent 1 as follows:

YEAS: Barron, Barth, Gilmer, Haddad, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer, Thompson and Mayor Melton.

NAYS: None.

ABSTENTIONS: Hardy and Loeb.

ABSENT: Connell.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 707-97 adopted.

15. Your Committee on Finance has had under consideration Resolution No. 708-97, stating the reasonable expectation of The City of Charleston, West Virginia, to reimburse the City for capital expenditures in connection with the acquisition, construction and equipping of a belt pres, compost facility and all appurtenant facilities to the Municipal Sewerage System Facilities made prior to the issuance of tax-exempt revenue bonds, which are estimated not to exceed $8,000,000.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 708-97 - Resolution Stating The Reasonable Expectation of The City of Charleston, West Virginia, to Reimburse The City For Capital Expenditures in Connection With The Acquisition, Construction and Equipping of Certain Extensions And Additions to the Municipal Sewerage System Facilities Made Prior to The Issuance of Tax-exempt Revenue Bonds.

WHEREAS, the City of Charleston (the "City"), a municipal corporation and political subdivision of the State of West Virginia, owns and operates a municipal sewerage system (the "System") which is under control of the Sanitary Board (the "Sanitary Board") and has determined that certain improvements must be made to the System;

WHEREAS, the City thereby determines that it is necessary to move forward with the acquisition, construction and equipping of certain improvements, extensions and additions to the System, consisting of the acquisition and construction of a belt press, compost facility and all appurtenant facilities (the "Project") at an estimated cost not to exceed $8,000.000;

WHEREAS, the Sanitary Board, acting on behalf of the City, has filed an Application for Certificate of Convenience and Necessity for the Project with the Public Service Commission of West Virginia.

WHEREAS, prior to obtaining financing through the issuance of tax-exempt revenue bonds of the City (the "Bonds"), the City anticipates expending funds for the acquisition, construction and equipping of the Project, certain engineering, environmental and other studies and certain architectural, regulatory approval and other activities, all of which capital expenditures will initially be paid from the Sanitary Board's "Operating Account";

WHEREAS, the City reasonably expects to reimburse the Operating Account for such pre-issuance capital expenditures, which are estimated not to exceed $8,000,000 from the proceeds of the sale of the Bonds;

Now, Therefore, Be it Resolved by the Council of the City of Charleston, West Virginia:

Section 1. The City reasonably expects to reimburse itself for capital expenditures made in connection with the acquisition, construction and equipping of the Project, including expenditures for engineering, environmental and other studies, architectural, regulatory approval and other activities prior to the execution and delivery of the Bonds, from the proceeds of the Bonds, which are reasonable expected to be executed and delivered within one year from the later of (i) the expenditures for payment of said costs or (ii) placing of the Project in service.

Section 2. This Resolution is intended to constitute a "declaration of official intent" pursuant to Section 1.150-2 of the Treasury Regulations promulgated under the Internal Revenue Code of 1986, as amended (the "Reimbursement Regulations").

Section 3. The source of payment for such capital expenditures will be the Sanitary Board's Operating Account and upon issuance of the Bonds, proceeds thereof not to exceed the amount of such capital expenditures will be applied to reimbursement of the Sanitary Board's Operating Account.

Section 4. The maximum amount of such reimbursement is $8,000,000 and the maximum principal amount of Bonds to be issued for acquisition, construction and equipping of the Project is $8,000,000.

Section 5. This Resolution shall become effective on the date of its adoption.

The question being on the adoption of the resolution a roll call was taken and there were - yeas 24, nays 0, abstention 2 and absent 1 as follows:

YEAS: Barron, Barth, Gilmer, Haddad, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Lopez, Malone, McClaskie, Morton, Nielsen, Quick,

Redman, Smith, Snodgrass, Snuffer, Thompson and Mayor Melton.
NAYS: None.
ABSTENTIONS: Hardy and Loeb.
ABSENT: Connell.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 708-97 adopted.

16. Your Committee on Finance has had under consideration Resolution No. 709-97, adopting Bill No. 6349 authorizing the issuance of The City of Charleston Sewerage System Revenue bonds in an aggregate principal amount not to exceed $8,000,000, in one or more additional series as may be required, to finance the cost of the acquisition and construction of certain extensions, additions, betterments and improvements to the sewerage system of the City, to fund reserve accounts for such bonds and to pay other costs in connection therewith; authorizing an interim financing line of credit and a note to evidence the line of credit in an amount not to exceed $1,000,000, and adopting other provisions related thereto, all as more fully set out in the Ordinance; and directing the publication of the Abstract, together with the Notice, calling for a public hearing at 8:00 p.m. on Monday, June 16, 1997.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 709-97 - A resolution finding that Ordinance No. 6349 (the "Ordinance") "An Ordinance supplementing an Ordinance 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 certain extensions, additions, betterments and improvements to the sewerage system of The City of Charleston; authorizing the issuance of not more than $8,000,000 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 and to pay other costs in connection therewith; authorizing an interim financing line of credit and a note to evidence the line of credit in an amount not to exceed $1,000,000; and adopting other provisions related thereto was passed by The City of Charleston, West Virginia, on June 2, 1997; finding that an abstract of said ordinance, together with the notice that said ordinance has been adopted, that The City of Charleston contemplates the issuance of the Sewerage System Revenue Bonds and the Note 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 of the City of Charleston, West Virginia (the "City"), this day adopted the Ordinance, which Ordinance authorized the issuance of The City of Charleston Sewerage System Revenue Bonds in an aggregate principal amount not to exceed $8,000,000 to presently finance the long-term cost of the acquisition and construction of certain extensions, additions betterments and improvements to the sewerage system of the City; and a line of credit in an amount not to exceed $1,000,000 to temporarily finance such costs, all as more fully set out 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 Bonds and Line of Credit described in the Ordinance and that any person interested may appear before the Council of the City 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 of the City to contain sufficient information as to give notice of the contents of such 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 City Council of the City of Charleston, West Virginia:

(1) It is hereby found and determined that the Ordinance was duly adopted by the Council of the City at a regular meeting on June 2, 1997 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:

The City of Charleston, West Virginia
Notice of Public Hearing
and Abstract of Ordinance

Notice is hereby give to any person interested that on June 2, 1997, the Council of the City of Charleston, West Virginia (the "City") enacted Ordinance No. 6349 (the "Ordinance") which:

1. Authorized the acquisition and construction of certain extensions, additions, betterments and improvements (the "Projects") to the existing sewerage system ("System") of the City and the financing of the permanent cost, not otherwise provided, thereof through the issuance of not more than $8,000,000 in aggregate principal amount of Sewerage System Revenue Bonds (the "1997 Bonds") at an interest rate not to exceed twelve percent (12%) and a term of not more than twenty-one years and the interim financing line of credit and a not to evidence the line of credit in an amount not to exceed $1,000,000 at an interest rate not to exceed twelve percent (12%).

2. Pledged rates and charges from the System sufficient to pay for the operating expenses, principal and interest on all outstanding bonds the 1997 Bonds and the Note and all reserve, renewal and replacement requirements.

3. Directed the continuation of the Revenue Fund and the disposition of the System revenues; provided for the payment of operating and maintenance expenses; provided for the monthly payment of principal and interest on all outstanding bonds and the 1997 Bonds authorized to be issued pursuant to the Ordinance and all sinking fund, reserve account and other payments provided for the in Ordinance and the interest on any outstanding advances of principal of the Note and reserve payments provided therefor; and provided for the use of excess funds of the System.

The City contemplates the issuance of the 1997 Bonds and the Note 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 regular meeting thereof at 8:00 p.m. on Monday, June 16, 1997 at the City Hall, 501 Virginia Street, Charleston, and present protest and be heard as to whether the above described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of the City on June 2, 1997, is on file in the Office of the City Clerk for review by interested persons during the regular office of such office, to-wit: 8:00 a.m. to 4:00 p.m. Mondays through Fridays.

Clerk - 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 or her 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 Monday, June 16, 1997, at 8:00 p.m. in the Council Chambers in the City Hall for the purpose of hearing all protests 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 Daily Mail, newspapers of general circulation of 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 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 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 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 roll call was taken and there were - yeas 24, nays 0, abstentions 2 and absent 1 as follows:

YEAS: Barron, Barth, Gilmer, Haddad, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer, Thompson and Mayor Melton.

NAYS: None.

ABSTENTION: Hardy and Loeb.

ABSENT: Connell.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 709-97 adopted.

17. Your Committee on Finance has had under consideration payment of an invoice from West Virginia Tractor Company, in the amount of $2,131.54, for repair of engine in Unit No. 68 (paver) used by the Street Department; to be charged to Account No. 01-576-0-0-3-41, Equipment Maintenance - Materials & 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.

18. Your Committee on Finance has had under consideration payment of an invoice from Royal Oldsmobile-Jeep-Eagle, in the amount of $2,420.31, for repairs made to Car No. 102 used by the Charleston Police Department; to be charged to Account No. 01-455-0-0-2-17, Police - Maintenance & Repair, Auto/Truck.

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.

Councilman Kimberling, acting Chairman of the Council Committee on Planning, submitted the following reports:

1. Your Committee on Planning has had under consideration Bill No. 6327.

Your Committee finds that the bill should be amended to restrict the property to mini-storage as the only permitted C-10 use and permit all C-6 uses. With these restrictions there should be little, if any, adverse impact on the neighborhood.

Your Committee finds further that in order to incorporate these restrictions the bill should be amended as follows:

Page 1, line 21, by adding a new section "1.1" to read:

"1.1 The use of the above-described parcel of land is hereby restricted to permit a mini-storage facility as the only C-10 use and all permitted C-6 uses."

And reports the same to Council with the recommendation that the bill, as amended, pass.

Councilman Kimberling moved to table Bill No. 6327.

The question being on Councilman Kimberling's motion a vote was taken. There being no dissent, with the exception of Councilman Thompson, the Mayor declared Bill No. 6327 tabled.

2. Your Committee on Planning has had under consideration Special Permit No. 809.

Your Committee concurs with the findings of the Municipal Planning Commission that: (1) The modern facility to replace the Capitol City Nursing Home will be a major improvement; and (2) There should be little, if any, adverse effects on the neighborhood.

And reports the same to Council with the recommendation that the special permit be approved.

The question being on the approval of the special permit a vote was taken. There being no dissent, with the exception of Councilmembers Loeb and Lane's abstention, the Mayor declared Special Permit No. 809 approved.

REPORTS OF OFFICERS

1. Financial Statements for the ten months ended April 30, 1997; received and filed.

NEW BILLS INTRODUCED

Introduced by Councilman Thompson - June 2, 1997
Bill No. 6351 - A Bill to establish a 15 minute parking tow-away zone on the northerly side of Smith Street from a point 66 feet east of Shrewsbury Street to a point 297 feet east of Shrewsbury 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 Thompson - June 2, 1997
Bill No. 6352 - A Bill to repeal Ordinance No. 2290, passed by Council on September 18, 1978, relating to no parking on the northerly side of Smith Street between Capitol Street and Broad 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 Thompson - June 2, 1997
Bill No. 6353 - A Bill to establish a bus and cab parking stand/zone, for two buses, on the northerly side of Smith Street from a point 116 feet east of the easterly curb line of Shrewsbury Street to a point 231 feet east of the easterly curb line of Shrewsbury 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.

At 9:10 p.m., on motion of Councilman Quick, Council adjourned until Monday, June 16, 1997.

G. Kemp Melton, Mayor

~~Fred M. Frisk, Jr.~~, City Clerk
acting

THE CITY OF CHARLESTON

SEWERAGE SYSTEM
BOND AND LINE OF CREDIT SUPPLEMENTAL ORDINANCE
(SRF)

THE CITY OF CHARLESTON

SEWERAGE SYSTEM
BOND AND LINE OF CREDIT SUPPLEMENTAL ORDINANCE

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Bill No. 6349

Ordinance No. _____

Introduced in Council:

May 19, 1997

Introduced by:

Referred to:

Council Committee on Finance

Passed by Council:

A Bill supplementing Ordinance No. 4828 passed by the Council of The City of Charleston, West Virginia, on April 20, 1992, as supplemented by Ordinance No. 4954, passed by the Council on May 3, 1993, as supplemented by Ordinance No. 6276, passed by the Council on September 3, 1996, 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 certain extensions, additions, betterments and improvements to the sewerage system of The City of Charleston; authorizing the issuance of not more than $8,000,000 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 and to pay other costs in connection therewith; authorizing an interim financing line of credit and a note to evidence the line of credit in an amount not to exceed $1,000,000; 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 as a supplement to Ordinance No. 4828, passed by the Council of The City of Charleston (the "Council") on the 20th day of April, 1992, as supplemented by Ordinance No. 4954, passed by the Council on May 3, 1993, as supplemented by Ordinance No. 6276, passed by the Council on September 3, 1996.

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 the Project as more fully described on Exhibit A, enactment of this Ordinance and the issuance of the Bonds and the Note. The City anticipates that the Project will be financed and constructed in two phases as more fully described on Exhibit A.

D. The estimated maximum cost of construction of the Project is $8,000,000, 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 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 Sewerage System Refunding Revenue Bonds, Series 1992A, and the $6,670,000 The City of Charleston Sewerage System Refunding and Improvement Revenue Bonds, Series 1992B (the "1992 Bonds"), the $773,237 The City of Charleston Sewerage System Revenue Bonds, 1993 Series A (the "1993 Bonds"), the $2,671,058 The City of Charleston Sewerage System Revenue Bonds, Series 1996 A and the $395,299 The City of Charleston Sewerage System Revenue Bonds, Series 1996 B (the "1996 Bonds") (the 1993 Bonds and the 1996 Bonds collectively with the WDA First Lien Bonds and the 1992 Bonds, are hereinafter called the "Prior Bonds"). The Prior Bonds are equally and ratably secured under the provisions of Ordinance No. 4828 passed by Council of the City on April 20, 1992, as supplemented by Ordinance No. 4954 passed by Council on May 3, 1993, as supplemented by Ordinance No. 6276 passed by the Council on September 3, 1996 (collectively, 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 approximate aggregate principal amount of $15,318,038, and the WDA Subordinate Bonds are currently outstanding in the aggregate principal amount of $343,939.

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 "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 "1997 Bonds") in the aggregate principal amount not to exceed $8,000,000.

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 1997 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 and the interest on any outstanding advances of principal of the Note, reflected on the Record of Advances and Payments attached thereto, and reserve payments provided therefor.

J. The 1997 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 1997 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 1997 Bonds, will be timely done and duly performed.

L. The enactment of this Ordinance, and the execution and issuance of the 1997 Bonds and Note, 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 which has general taxing powers to finance operations of or facilities of the nature of the Project and the System; 95% or more of the Net Proceeds of the Series 1997 Bonds are to be used for local government activities of the City (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the City).

N. It is deemed necessary for the City to issue its 1997 Bonds in the aggregate principal amount of not more than $8,000,000 to finance the costs of acquisition and construction of the 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 Project, if any; 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 1997 Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the City for any amounts expended by it for allowable costs prior to the issuance of the 1997 Bonds or

the repayment of the indebtedness incurred by the City for such purposes shall be deemed part of the Cost of the Project.

O. It is in the best interests of the City that its 1997 Bonds be sold to the West Virginia Water Development Authority pursuant to the terms and provisions of one or more Loan Agreements by and among the Authority, the DEP and the City.

P. Prior to closing on any series of bonds, the City shall receive a certificate from an independent certified public accountant that it meets the parity test established in the Prior Ordinance. The 1997 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 1997 Bonds shall be senior and superior to the lien of the registered owners of the WDA Subordinate Bonds.

Q. It is in the best interests of the City to complete the acquisition and construction of the Project as authorized by this Ordinance which Project will be permanently financed by sewer revenue bonds issued pursuant to the SRF Program as provided in this Ordinance. The SRF Program bond proceeds are advanced to the City as costs are incurred, however, the time between the receipt of the construction invoices and the receipt of the SRF Program moneys may exceed the payment requirements under the construction contracts. The City hereby finds and determines that an interim financing source is essential to the orderly completion of the Project.

R. The Sanitary Board will solicit proposals from banks in the City for a line of credit to be entered into under the Line of Credit Agreement in an amount not to exceed $1,000,000.

S. It is in the best interests of the City to obtain the Line of Credit as provided in the Line of Credit Agreement in order to provide temporary funds for the completion of the Project; to enter into the Line of Credit Agreement with the Bank; to issue the Note to evidence any draw upon the Line of Credit; and subsequently to apply the Bonds proceeds or other funds available therefor to the payment of the principal of and interest on the Note on or prior to the maturity thereof.

T. The interest on the Note will be paid solely from the Net Revenues derived from the operation of the System, but such payment shall be subordinate to the payment of the principal and interest on the Prior Debt and the principal of the Note shall be paid from the Bond proceeds with respect to the Project and provided, however, that the obligations of the City under the Note shall not in any respect be a corporate indebtedness of the City within the meaning of any statutory or constitutional provisions or limitations.

U. The City and all subordinate issuers do not reasonably expect to issue more than $10,000,000 of tax-exempt obligations during calendar year 1997, and the City hereby designates the Note as "qualified tax-exempt obligations" as defined in Section 265(b)(3)(B) of the Code.

V. 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 1997 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.

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

X. The Project has been approved by the West Virginia Infrastructure and Jobs Development Council as required under Chapter 31, Article 15A of the West Virginia Code of 1931, as amended.

Section 1.03. Ordinance Constitutes Contract. In consideration of the acceptance of the 1997 Bonds and Note 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 Noteholders, 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 1997 Bonds and Notes, as the case may be, issued hereunder, all of which shall be of equal rank and without preference, priority or distinction between any one 1997 Bond and any other 1997 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 Supplemental Ordinance have the meanings set forth in the Prior Ordinance, as supplemented by this Supplemental Ordinance, unless the context expressly requires otherwise.

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

"Authority" shall mean the West Virginia Water Development Authority, which is expected to be the original purchaser of the 1997 Bonds on behalf of the Program, or any other agency of the State of West Virginia that succeeds to the function of the Authority.

"Bank" shall mean the bank named in the Supplemental Resolution which will extend the Line of Credit.

"Bond Construction Trust Fund" shall mean the fund created by Section 4.01(D) hereof.

"Bondholder" or "Owner of the 1997 Bonds" or "Registered Owner" or any similar term shall mean any person who shall be the registered owner of any Outstanding Bond as hereinafter defined.

"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 1997 Bonds for the proceeds or a portion of the proceeds representing the purchase of the 1997 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 Thomas A. Boyd, P.E., Charleston, West Virginia, and/or O'Brien & Gere Engineers, Inc., Landover, Maryland, 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 Project" shall mean those costs described in Section 1.02(N) hereof to be a part of the cost of the acquisition and construction of the 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 1997 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.

"Line of Credit" shall meant the irrevocable line of credit established by the Bank in the amount of $1,000,000.

"Line of Credit Agreement" shall mean the agreement between the City and the Bank, in substantially the form attached as Exhibit D hereto and incorporated herein by reference, establishing the Line of Credit.

"Loan Agreement" shall mean the Water Pollution Control Revolving Fund Loan Agreement(s) by and among the Authority, the DEP and the City providing for the purchase of the 1997 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.

"Note" shall mean the sewer revenue note in the stated principal amount of $1,000,000 authorized by Section 5.01 hereof to evidence any draw or draws under the Line of Credit.

"1997 Bonds" or "Bonds originally authorized hereby" or similar phrases shall mean the not more then $8,000,000 in aggregate principal amount of Sewerage System Revenue Bonds issued in one or more series for the purpose of paying a portion of the Costs of the Project and for such other purposes permitted hereby and authorized by a resolution supplemental hereto.

"Ordinance" shall mean the Prior Ordinance, as hereinafter defined, as supplemented by this Supplemental Ordinance and as further amended or supplemented. Unless the context clearly requires a different meaning, reference to "this Ordinance" in the Prior Ordinance shall mean the Ordinance.

"Outstanding" when used with reference to 1997 Bonds, as of any particular date, describes all such 1997 Bonds theretofore and thereupon being authenticated and delivered except (i) any such 1997 Bond cancelled by the Registrar, at or prior to said date; (ii) any such 1997 Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such 1997 Bond, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any such 1997 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 1997 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" or "SRF 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.

"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.

"Regulations" shall mean the regulations promulgated under the Code.

"Registrar" shall mean the entity named as such in the Supplemental Resolution.

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

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

"State" shall mean the State of West Virginia.

"Supplemental Ordinance" or "this Ordinance" shall mean this ordinance as hereafter amended or supplemented.

"Supplemental Resolution" shall mean any resolution, ordinance or order of the City supplementing or amending this Ordinance and, when preceded by the article "the", refers specifically to the supplemental resolutions authorizing the sale of one or more series of the 1997 Bonds or the Note; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the 1997 Bonds or the Note and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" shall mean the Net Revenues not required by the Prior Ordinance and this Ordinance, as supplemented and amended, to be set aside and held in, including but not limited to, sinking funds, the reserve accounts and the renewal and replacement funds.

"System" shall mean the complete existing sewerage system now owned by the City and managed by the Sanitary Board, consisting of a sewerage treatment and collection system, and shall include any extensions, additions, betterments and improvements thereto, including the 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 Project in accordance with plans and specifications therefor prepared by the Consulting Engineers is hereby authorized.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF 1997 BONDS

Section 3.01. Authorization and Terms of 1997 Bonds. For the purposes of capitalizing interest on the 1997 Bonds, if any, funding the Reserve Account(s), paying costs of issuance and financing a portion of the Costs of the Project not otherwise provided for, there shall be issued the 1997 Bonds of the City. The 1997 Bonds shall be issued in one or more series with the first series to be designated 1997 Series A, the second series as 1997 Series B, and so on, of "Sewerage System Revenue Bonds" in an aggregate principal amount of not more than $8,000,000. Each series of 1997 Bonds shall be dated as of the date of delivery of each series thereof, shall bear such interest not to exceed the legal interest rate (12%), shall mature at such times, not to exceed forty years, and in such amount as shall be set out in Schedule X to the Loan Agreement and in the Supplemental Resolution. The 1997 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 1997 Bonds shall be as set forth on Schedule Y to the Loan Agreement. The 1997 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 1997 Bonds.

The 1997 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 1997 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 1997 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 1997 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 1997 Bonds shall be exchangeable at the option and expense of the Bondholder for other fully registered 1997 Bonds in aggregate principal amount equal to the amount of said 1997 Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said 1997 Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of 1997 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 1997 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 1997 Bonds. The text of the 1997 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 1997 Bonds; Execution of Loan Agreement. Each series of 1997 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 1997 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. 1997 Bonds are Issued as Parity Bonds. The 1997 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 1997 Bonds, the following must occur:

A. The City must receive the written approval of the Authority for the issuance of 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 Project not later than simultaneously with the delivery of the 1997 Bonds.

D. The 1997 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 1997 Bonds.

Section 3.05. Certificate of Consulting Engineers. Prior to the issuance of the 1997 Bonds, the City must obtain the certificate of the Consulting Engineers in the form attached to the Loan Agreement 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 DEP and the Authority, the 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 Project.

ARTICLE IV

APPLICATION OF 1997 BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. Application of 1997 Bond Proceeds. From the moneys received from time to time from the sale of any or all or any series of the 1997 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 1997 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 Project.

B. Next, from the proceeds of the 1997 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 1997 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 Project and until so transferred or expended, are hereby pledged as additional security for the 1997 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 1997 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the 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 Project and constitutes a Cost of the Project;

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

(D) That payment for each of the items proposed is then due and owing.

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.

Section 4.03. Funds and Accounts. The funds and accounts established by the Prior Ordinance are hereby continued. In addition to the funds and accounts established by the Prior Ordinance, there is hereby created at the Commission a sinking fund and a reserve account with respect to each series of 1997 Bonds. Following the monthly payment of operation and maintenance expense, the City shall make monthly payments to the Commission of the debt service on the Prior Debt and the 1997 Bonds.

Simultaneously with the transfers made pursuant to Section 4.02A(2) of the Prior Ordinance with respect to the Prior Bonds, the City shall simultaneously deposit on the first day of each month a sum equal to one-third of the amount of interest which will become due on the 1997 Bonds on the next ensuing quarterly interest payment date and shall simultaneously deposit with the Commission on the first of each month beginning on the first day of the month which is four months prior to the first principal payment date of the 1997 Bonds a sum equal to one-third of the principal which will mature or become due on the 1997 Bonds on the next ensuing principal payment date.

To the extent not funded with proceeds of the Bonds or otherwise previously funded, the City shall simultaneously with the payments required under Section 4.02A(3) of the Prior Ordinance deposit with the Commission an amount equal to one and one hundred twentieth of the reserve account requirement to the respective reserve account.

Except as provided above, all sinking fund, reserve, and renewal and replacement payments shall remain as governed by Section 4.02 of the Prior Ordinance.

Simultaneously with the payments required above, the City shall remit to the Commission the SRF Administrative Fee as required under the Loan Agreement. Additionally, at such time as required by the Authority and DEP, the City shall make its debt service payments to the Commission through automatic debit or other automatic bank transfer.

ARTICLE V

AUTHORIZATION OF LINE OF CREDIT

Section 5.01. Authorization of Line of Credit. For the purpose of providing funds for the completion of the construction and acquisition of the Projects to the extent other funds are not available therefor, the Mayor of the City is hereby authorized and directed to execute the Line of Credit Agreement in substantially the form attached as Exhibit D hereto, but with such modifications, additions and deletions therein as the Mayor shall determine to be necessary or advisable, such determination to be witnessed conclusively by his execution thereof.

Section 5.02. Authorization of Note. For the purpose of evidencing any draw upon the Line of Credit and thus, of financing a portion of the cost of acquisition and construction of the Projects, there shall be issued the Note of the City, in the stated principal amount not to exceed $1,000,000. The Note shall be issued in single, fully registered form, without coupons, and shall be dated as of the date of delivery thereof. There shall be attached to the Note a Record of Advances and Payments, upon which the date and principal amount of any draw upon the Line of Credit, the date and amount of any payment of principal of the Note and the amount of the Note outstanding after either of such transactions shall be recorded. Anything to the contrary herein, in the Line of Credit Agreement or in the Note notwithstanding, the Note shall evidence only the outstanding indebtedness recorded on the Record of Advances and Payments attached thereto, and interest shall accrue only on the outstanding indebtedness amount of the actual date of each advance or payment, as the case may be, as listed on said Record of Advances and Payments, provided that the Note shall reflect the Project for which each advance and each payment is made. Each such advance shall bear interest, payable at such times and at such interest rate (not to exceed 12 percent per annum), and shall mature on such date as is set forth in the Supplemental Resolution. Interest shall cease to accrue on the amount of the Note outstanding, or portions

Agreement. Notwithstanding the foregoing, the terms of the Note, other than the principal amount thereof, may be modified by resolution supplemental and amendatory hereto, subject to the limits of the Act. The principal amount outstanding under the Note with respect to the Project shall never exceed the amount available to be advanced for the Project as determined by a validly executed loan agreement with the SRF Program.

The Note shall be payable as to principal upon surrender at the principal office of the Registrar, as hereinafter defined, in any coin or currency which on the date of payment of principal is legal tender for the payment of public and private debts under the laws of the United States of America; provided, that any partial payment of principal prior to the final maturity of the Note shall be recorded on the Record of Advances and Payments attached to the Note, and the Note shall be returned to the Owner. Interest on the Note shall be paid by check or draft mailed to the Owner thereof at the address as it appears on the books of said Registrar; provided, that, at the option of the Owner, such payment may be made by wire transfer or such other method as shall be agreeable to the Owner, the City, the Commission (as hereinafter defined) and said Registrar.

Section 5.03. Execution of Note. The Note shall be executed in the name of the City by the signature of its Mayor, and the seal of the City shall be affixed thereto and attested by the signature of the City Clerk. Any Note may be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Note shall hold the proper office of the City, although at the date of such Note such person may not have held such office or may not have been so authorized.

Section 5.04. Negotiability, Transfer and Registration. Subject to the restrictions on transfer set forth below, the Note shall be and have all of the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State, and each successive Owner, in accepting the Note, shall be conclusively deemed to have agreed that said Note shall be incontestable in the hands of a bona fide holder for value.

So long as the Note or any portion thereof remains Outstanding, the Bank shall keep and maintain books for the registration and transfer of the Note. The Note shall be transferable only upon the books of the City which shall be kept for that purpose at the office of the Bank (in such capacity and in the capacities of authenticating agent and paying agent as hereinafter provided, the "Registrar") by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney. Upon the transfer of the Note, there shall be issued at the option of the Owner or the transferee another Note or Notes of the aggregate stated principal amount equal to the stated principal amount of such transferred Note not paid as reflected on the Record of Advances and Payments attached thereto and outstanding in the aggregate principal amount equal to the advanced but unpaid amount of the transferred Note as reflected on the Record of Advances and Payments attached thereto.

In all cases in which the privilege of transferring the Note is exercised, Notes shall only be issued in accordance with the provisions of this Ordinance. All Notes surrendered in any such transfers shall forthwith be cancelled by the Registrar. For every such transfer of Notes, the Registrar may make a change sufficient to reimburse its office for any tax, fee or other governmental charge required to be paid with respect to such transfer and the cost of preparing each Note upon each transfer, and any other expenses of the Registrar incurred in connection therewith, which sum or sums shall be paid by the person requesting such transfer as a condition precedent to the exercise of the privilege of making such transfer. The Registrar shall not be obliged to make any such transfer of Notes during the ten (10) days preceding an interest payment date on the Notes or after notice of any prepayment of the Notes has been given.

Section 5.05. Form of Note. The text of the Note shall be in substantially the form attached as Exhibit II to the Line of Credit Agreement, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Ordinance or any supplemental resolution or ordinance adopted or enacted prior to the issuance thereof. The Note shall not become valid until authenticated by the Registrar.

Section 5.06. Security for the Note. The principal of the Note is payable solely from and secured by the Bond Proceeds and such other sources as are hereinafter set forth. The interest on the Note is payable from and secured by, the Net Revenues derived from the operation of the System; provided, that such lien on the Revenues is junior, inferior and subordinate in all respects to the lien thereon of the Holders of the Prior Debt.

Section 5.07. Note Debt Service Fund. There is hereby created and established with the West Virginia Municipal Bond Commission (the "Commission") a special fund, to be designated the Note Debt Service Fund. Deposits for the payment of principal of and interest and fiscal agency or other charges on the Note shall be made as hereinafter provided. Any moneys in the Note Debt Service Fund shall be invested in investments authorized by the Prior Ordinance, maturing or subject to redemption at the option of the holder, when needed as hereinafter provided. Any such investment earnings shall be credited against the deposit for interest or principal next due.

Section 5.08. Payment of Interest. On the first day of each month, beginning with the first day of the month next succeeding the month in which the first advance under the Line of Credit, if any, is made, the Registrar shall notify the Board and the Commission in writing, or by telephone, confirmed in writing as soon as practicable thereafter, of the interest accrued on the Note for the preceding month. No later than the fourth day of such next succeeding month, and after those deposits required by the Prior Ordinance and this Ordinance, as amended, are made, the City shall deposit in the Note Debt Service Fund the amount needed to pay the interest so accrued. The Commission shall transfer to the Registrar a sum equal to such interest payment then due, and the Registrar shall make such interest payment, in the manner described by Section 5.02, on the fifth day of such month.

Section 5.09. Payment of Principal. At least one day prior to the maturity of the Note, there shall be deposited in the Note Debt Service Fund, Bond Proceeds or other moneys needed to pay the principal of the Note at maturity. The City may at any time, upon two (2) days' written notice to the Owner (or telephone notice, confirmed in writing as soon as practicable), prepay all or any portion of the Note Outstanding. Notice of any prepayment of all the Note Outstanding may include a direction by the City that the Note must be surrendered for such payment; otherwise, the Registrar shall record the prepayment on the Record of Advances and Payments attached to the Note and return the Note to the Owner. The Commission shall transfer any such principal payment, whether at maturity or prepayment, or whether in whole or part, to the Registrar for payment, and the Registrar shall make such payment in the manner hereinabove and in Section 5.02 described.

Section 5.10. Construction Trust Fund. There is hereby created and established with the Bank (in such capacity, the "Depository") a special fund, to be designated the "Construction Trust Fund". Any draws under the Line of Credit shall be deposited in the Construction Trust Fund and shall be kept separate and apart from all other funds of the City or the Depository (and the Bank) and expended solely for the purposes hereinafter provided. Expenditures may be made from the Construction Trust Fund for paying the costs of acquisition and construction of the Projects; provided, that no expenditures shall be made from said fund, without the approval of the Board and the Consulting Engineers. The balance of any such deposit in the Construction Trust Fund, in excess of the amount secured by the Federal Deposit Insurance Corporation, shall at all times be secured to the full extent thereof by direct obligations of the United States of America, or such other obligations as shall be eligible as security for deposits of state and municipal funds under the laws of the State of West Virginia. Any balance in the Construction Trust Fund after the completion of the Project shall be deposited in the Note Debt Service Fund and used only for the payment of the Note as provided in this Ordinance or, if the Note is no longer Outstanding, deposited as provided in the Prior Ordinance, 1993 Ordinance and this Ordinance. Pending the authorized use thereof, moneys in the Construction Trust Fund shall be invested in investments authorized under the Prior Ordinance.

ARTICLE VI

ADDITIONAL COVENANTS OF THE CITY

All the covenants, agreements and provisions of the Prior Ordinance shall remain in full force and effect as long as the Prior Debt and the 1997 Bonds are outstanding and shall apply to the 1997 Bonds as if fully set out herein. The following covenants are supplemental and in addition to the covenants set forth in the Prior Ordinance.

Section 6.01. Completion of Project; Schedule of Cost. The City will expeditiously complete the Project. Upon completion of the 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 Project and sources of funds therefor.

Section 6.02. 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 1997 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 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 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 Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract.

Section 6.03. 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 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 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 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 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 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 6.04. 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 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 6.05. Records and Reports. The City shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The City shall permit the Authority and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The 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 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 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 Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The 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 1997 Bond or 1997 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 1997 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 1997 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 1997 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 Project and for two years following the completion of the 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 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 Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction of the 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 6.06. 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 6.07. Tax Covenants. The City hereby further covenants and agrees as follows:

A. PUBLIC PURPOSE BONDS. The City shall use the 1997 Bond and Note proceeds solely for the Project and as otherwise set forth herein, and the 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 1997 Bonds, the Note or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the 1997 Bonds or Note from the treatment afforded by Section 103(a) of the Code by reason of the classification of the 1997 Bonds or Note 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 1997 Bonds or Note.

C. PRIVATE LOAN LIMITATION. The City shall assure that not in excess of 5% of the Net Proceeds of the 1997 Bonds and Note 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 1997 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 1997 Bonds and Note, 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 1997 Bonds and Note will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those determined by the Authority) which would adversely affect such exclusion.

Section 6.08. Rebate Covenant. The City is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the Project and the System. As covenanted above, the 1997 Bonds and Note 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 1997 Bonds and Note will be used for local governmental activities of the City. The City reasonably expects to expend the proceeds of the 1997 Bonds and Note 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 1997 Bonds and Note.

Section 6.09. Arbitrage. The City covenants that (i) it will restrict the use of the proceeds of the 1997 Bonds and Note 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 1997 Bonds and Note, so that the 1997 Bonds and Note 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 1997 Bonds and Note so that the interest on the 1997 Bonds and Note will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 6.10. 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 1997 Bonds and Note. In addition, the City covenants to comply with all regulations from time to time in effect and applicable to the 1997 Bonds and Note as may be necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on the 1997 Bonds and Note 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 1997 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 1997 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 1997 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 1997 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 1997 Bonds (as that term is defined in the Code) from time to time as the Authority may request.

Section 6.11. Securities Laws Compliance. The City will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17CFR Part 240).

ARTICLE VII

MISCELLANEOUS

Section 7.01. 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 1997 Bonds then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any 1997 Bond or 1997 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 1997 Bonds required for consent to the above permitted amendments or modifications.

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

Section 7.03. Repeal of Conflicting Ordinances. All ordinances, resolutions and orders, or parts thereof, other than the Prior Ordinance, in conflict with this Ordinance are to the extent of such conflict repealed.

Section 7.04. Covenant of Due Procedure. The City covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the City 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 7.05. Effective Date. This Ordinance shall take effect after passage, public hearing and otherwise in the manner prescribed by law.

EXHIBIT A

Phase I - Belt Press

The project consists of installing a new 2.2 meter high solids belt filter press, two progressive cavity sludge feed pumps, a wet/dry polymer unit, a sludge screw conveyor, a washwater booster pump, a plant effluent water strainer, two magnetic flow meters and the necessary piping in the existing dewatering building at the wastewater treatment plant.

Phase II - Compost Facility

The project involves the construction of a 55 tons per day compost facility to compost bio-solids from the wastewater treatment plant with yard waste. The composting facility will be constructed at Copenhaver Park in the "North Charleston" area of the City at the head of Hanna Drive.

Major components of the Project are: a 75 foot x 321 foot pre-engineered steel building containing the office, electrical and mechanical equipment rooms, the mixing room, and the composting room; a five bay concrete composting system with mixers and aeration system; a 9,000 square foot bio-filter; a yard waste storage area; a compost curing area; a tub grinder; a finished product screen; and site grading and paving.

EXHIBIT B

[FORM OF THE 1997 BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, 1997 SERIES ____

No. R-__ $_____

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 "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 _____ ($___ _____), 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 March 1, June 1, September 1, and December 1 commencing _____, 199__, 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 of _____ percent (___%) per annum as set forth on said Exhibit B. The interest and the SRF Administrative Fee (as defined in the hereinafter described Ordinance), shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 199__, as set forth on EXHIBIT B attached hereto.

Principal installments of this 1997 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 1997 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 1997 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 1997 Bond is issued (i) to pay costs of acquisition and construction of a [a belt press] compost facility constituting improvements, additions, extensions and betterments to the existing sewerage system of the City (the "Project"), (ii) to fund a reserve

account therefor and (iii) to pay certain costs of issuance hereof and related costs. This 1997 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, as amended, Ordinance No.4954 enacted by the City on the 3rd day of May, 1993, Ordinance No. 6276 enacted by the City on the 3rd day of September, 1996, Ordinance No. _____ enacted by the City on the ___ day of _____, 1997, and a Supplemental Resolution adopted by the City on the __ day of _____, 1997 (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 1997 Bonds under the Ordinance.

This 1997 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 1997 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 1997 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 1997 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 1997 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 1997 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 1997 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 1997 Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the 1997 Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This 1997 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 1997 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 1997 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 1997 Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Ordinance or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this 1997 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 1997 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 1997 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 1997 Bond.

All provisions of the Ordinance, resolutions and statutes under which this 1997 Bond is issued shall be deemed to be a part of the contract evidenced by this 1997 Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, THE CITY OF CHARLESTON has caused this 1997 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 1997 Bond to be dated ___ __, 1997.

[SEAL]

_____
Mayor

ATTEST:

_____
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This 1997 Bond is one of the 1997 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

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$		(11)	$	
(2)	$		(12)	$	
(3)	$		(13)	$	
(4)	$		(14)	$	
(5)	$		(15)	$	
(6)	$		(16)	$	
(7)	$		(17)	$	
(8)	$		(18)	$	
(9)	$		(19)	$	
(10)	$		(20)	$	

Total $_____

SCHEDULE B

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

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

_____

_____

_____

_____

_____

the within 1997 Bond and does hereby irrevocably constitute and appoint _____ ____, Attorney to transfer the said 1997 Bond on the books kept for registration of the within 1997 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]

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)

WITNESSETH:

WHEREAS, the United States Congress under Title VI of the federal Clean Water Act, as amended (the "Clean Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining state water pollution control revolving funds for the 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	MONTH	YEAR TO DATE	CURRENT 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]

EXHIBIT D

_____, 19__

The City of Charleston
City Hall
Charleston, West Virginia 25301

Re: $_____ Irrevocable Revolving Line of Credit

Ladies and Gentlemen:

At your request and on your instruction, we, the undersigned bank (the "Bank"), hereby establish in your favor the irrevocable revolving line of credit in the amount of $_____ (the "Stated Amount"). You may draw upon such line of credit from time to time as hereinafter set forth, but the aggregate amount outstanding at any time may not exceed the Stated Amount.

This line of credit is extended to you for the purpose of providing funds for the completion of the Projects to the extent Bond Proceeds or other funds are not timely available therefor. It is our understanding that this line of credit was authorized by Ordinance No. _____ passed by the Council of the City of Charleston on _____, 1997 (the "LOC Ordinance"). Capitalized terms used and not otherwise defined in this letter shall have the respective meanings given them in the LOC Ordinance.

This line of credit is irrevocable to the extent set forth herein. Subject to the further provisions of this letter, a draw upon the line of credit may be made by you on or after _____, 199__, but prior to the expiration date hereof, in the event and to the extent funds are needed for the completion of the construction of the Projects and are not otherwise timely available therefor. On or after such date and in such event, a draw upon the line of credit may be made by you by presentation to the Bank at _____ _____, of your certificate, on your letterhead and signed by your authorized officer, in the form of Exhibit I attached hereto and incorporated herein by reference, duly completed. In accordance with said Exhibit I, such draw shall be in the amount demanded; provided, that the aggregate principal amount of draws, including such draw, shall not, at any one time, exceed the Stated Amount.

Draws upon the line of credit may be made by you on or after _____, 1997, and prior to the expiration hereof at any time during the Bank's business hours at its address set forth above on a Business Day (as hereinafter defined). As used herein, the term "Business Day" means a day on which the Bank is open for the purpose of conducting a commercial banking business. If demand for a draw upon the line of credit is made by you at or prior to 10:00 a.m., prevailing time, on a Business Day, and provided that such demand and the documents presented in connection therewith conform to the terms

and conditions hereof, payment shall be made to you of the amount demanded, in immediately available funds, not later than 2:00 p.m., prevailing time, on the Business Day next succeeding the date of said demand. If demand for a draw upon the line of credit is made by you hereunder after 10:00 a.m., prevailing time, on a Business Day, and provided such demand for payment and the documents presented in connection therewith conform to the terms and conditions hereof, payment shall be made to you of the amount demanded, in immediately available funds, not later than 2:00 p.m., prevailing time, on the second (2nd) Business Day next succeeding the date of said demand. If the demand for a draw upon the line of credit made by you does not, in any instance, conform to the terms and conditions of this letter, the Bank shall give you prompt notice that the draw was not effected in accordance with the terms and conditions of this letter, stating the reasons therefor and that the Bank is holding any documents at your disposal or is returning the same to you, as the Bank may elect. Upon being notified that the draw was not effected in accordance with this letter, you may attempt to correct any such nonconforming demand for a draw upon the line of credit if, and to the extent that, you are entitled (without regard to the provisions of this sentence) and able to do so.

Unless the Bank is then in default hereunder by reason of its having wrongfully failed to honor a demand for a draw upon the line of credit, such line of credit shall expire on the earlier to occur of (i) the Bank's close of business at its address set forth above on _____, 199__, (ii) receipt by the Bank of a notice of prepayment in whole by the City, requiring that the Note, as hereinafter described, be surrendered in connection with such prepayment, or (iii) receipt by the Bank of a certificate from the City and the Consulting Engineers that the Projects have been completed and payment therefor fully made, provided, that, if any of said dates shall not be a Business Day, the line of credit shall expire on the close of business at such address on the first Business Day next succeeding said date. The agreement set forth by this letter shall terminate upon expiration of the line of credit without a draw thereunder or upon payment to the Bank of all principal of and interest on the Note, as hereinafter described, as such outstanding principal is reflected, from time to time, on the Record of Advances and Payments attached thereto.

The City's obligation to repay the Bank for any draw upon the line of credit shall be evidenced by its sewer revenue note (the "Note") in the stated principal amount of $_____, in substantially the form attached as Exhibit II hereto. Notwithstanding said stated principal amount, the Note shall evidence only the outstanding indebtedness reflected on the Record of Advances and Payments attached hereto. Each advance shall bear interest at such rate, payable at such times, and the Note shall mature and be subject to prepayment and such other terms and provisions, as shall be described in Exhibit II.

All documents presented to us in connection with any demand for a draw upon the line of credit, as well as all notices and other communications to us in respect of this letter or the line of credit, shall be in writing and addressed and presented to us at our above address. Such documents, notices and other communications shall be personally delivered to us.

This letter sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any other document, instrument or agreement except only Exhibits I and II hereto and the LOC Ordinance. Upon execution by the Mayor of the City of the duplicate letter attached hereto and return of such letter to us, and the Note, this letter shall become an agreement between the Bank and the City, governed by the laws of the State of West Virginia.

Very truly yours,

_____

_____

By:_____

Its:_____

Accepted this _____ day of _____, 19__.

THE CITY OF CHARLESTON, WEST VIRGINIA

By: _____

, Mayor

EXHIBIT I

[LETTERHEAD OF CITY]

_____, 19__

_____
_____
_____

Attention:

Re: $_____ Irrevocable Line of Credit

Gentlemen:

We refer to our letter agreement dated as of _____, 19__ (the "Line of Agreement"), with respect to the above-referenced line of credit (the "Line of Credit"). Terms defined in the Letter Agreement have the same meanings when used herein.

1. We hereby make demand for a draw upon the Line of Credit to pay a portion of the costs of the Project.

2. There are not available Bond Proceeds or other funds to pay such costs, currently due and owing.

3. The balance of available SRF Program moneys with respect to the Project is $_____. A copy of an executed SRF Loan Agreement is attached.

4. The principal amount of the Note outstanding, as evidenced by the Record of Advances and Payments, aggregates $_____.

5. Accordingly, $_____ of the Stated Amount is available to be drawn.

6. A draw upon the Line of Credit is hereby demanded in the following amount, as expressed in words and figures:

_____ DOLLARS ($_____).

Please deposit the amount hereby demanded in our Construction Trust Fund (account number _____) with you.

THE CITY OF CHARLESTON, WEST VIRGINIA

By_____
Authorized Officer

EXHIBIT II

United States of America
State of West Virginia
The City of Charleston
Sewer Revenue Note
Series 1997
Number R-1
$_____

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, but only from the special funds provided therefor, as hereinafter set forth, to _____ (the "Owner"), or registered assigns, the sum of _____ Dollars ($_____), or such lesser sum as shall be reflected by the Record of Advances and Payments attached hereto, on _____ 1, 199__. Notwithstanding any provision of this Note to the contrary, this Note shall evidence only the indebtedness reflected as outstanding on the Record of Advances and Payments attached hereto, provided that the Record of Advances and Payments shall reflect the specific Project for which each advance or payment is made. Interest shall accrue only on the amount of the outstanding indebtedness from the actual date of each advance or payment, as the case may be, as listed on said Record of Advances and Payments and shall cease to accrue on the amount hereof outstanding, or portions thereof, as the same are paid, as reflected by said Record of Advances and Payments. Such interest shall be at the rate _____ but not to exceed twelve percent (12%) per annum. Said interest shall be based upon a year of 360 days and shall be paid in arrears on the fifth day of each month, beginning with the fifth day of the month next succeeding the month in which the first advance, if any, under the Line of Credit, as hereinafter defined, is made. The Registrar, as hereinafter defined, shall notify the Sanitary Board of the City of the amount of interest so accrued. Interest is payable, only from special funds as hereinafter described, by check or draft mailed to the Owner at the address as it appears on the books of Registrar, as hereinafter defined, or by wire transfer or other mutually agreeable method. This Note shall be payable as to principal upon surrender at the principal office of _____, Charleston, West Virginia, as registrar and paying agent (the "Registrar"), in any coin or currency which on the date of payment of principal is legal tender for the payment of public and private debts under the laws of the United States of America; provided, that, except in the case all the Note outstanding is being prepaid and either (i) the City's notice of prepayment requires surrender or (ii) the Line of Credit, as hereinafter defined, has expired any payment of principal prior to the maturity of this Note as provided by the Ordinance, as hereinafter defined, shall be recorded on the Record of Advances and Payments attached hereto, and this Note shall be returned to the Owner. Prepayments of the principal of this Note may be made upon two (2) days' notice

to the Owner. Any such prepayment shall also be reflected on the Record of Advances and Payments attached hereto, and interest shall cease to accrue thereon.

This Note is issued pursuant to Ordinance No. ____ passed by the Council of the City on _____, 1997 (the "LOC Ordinance"), to evidence the City's obligation to repay any draw upon a line of credit (the "Line of Credit") by the City from _____ (the "Bank"). This Note was issued to provide funds for the completion of the construction of certain extensions, betterments and improvements to the existing sewerage system of the City to the extent bond proceeds and other funds are not timely available therefor.

This Note is issued, in addition to the Ordinance, under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended (the "Act"), and is subject to all the terms and provisions of said Ordinance and said Act. The principal of this Note is payable from Bond Proceeds. The interest on this Note is payable from and secured by a lien on, the revenues derived from the operation of the sewerage system of the City; provided, that such lien on the revenues is junior, subordinate and inferior to the lien on such net revenues created on behalf of the Prior Debt of the City outstanding on the date hereof as defined and set forth in the LOC Ordinance.

This Note does not constitute a corporate indebtedness of the City within the meaning of any constitutional, statutory or charter provisions or limitations, nor shall the City be obligated to pay the same or the interest hereon except from the special fund provided from the grant receipts, the net revenues derived from the operation of said sewerage system and the net proceeds of said bonds. Under the Ordinance, the City has entered into certain covenants with the Owner, for the terms of which reference is made to said Ordinance. Remedies provided the Owner are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

Subject to the requirements for transfer set forth below, this Note is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia. This Note is transferable, as provided in the Ordinance, only upon the books of the City at the office of the Registrar by the Owner in person or by his attorney duly authorized in writing, upon surrender hereof, together with a written instrument of transfer satisfactory to said Registrar duly executed by the Owner or his duly authorized attorney. Upon transfer hereof, there shall be issued another fully registered Note or fully registered Notes of the aggregate stated principal amount equal to the stated principal amount thereof but evidencing only the indebtedness reflected on the Record of Advances and Payments attached hereto and outstanding in the aggregate principal amount equal to the advanced but unpaid amount hereof as reflected on the Record of Advances and Payments attached hereto.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the

issuance of this Note exist, have happened and have been performed in due time, form and manner as required by law, and that this Note, 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 grant receipts, bond proceeds and the net revenues of the sewerage system of the City have been pledged to and will be set aside into a special fund by the City for, and will be sufficient for, the payment of the principal and interest on this Note.

All provisions of the Ordinance and the statues under which this Note is issued shall be deemed to be a part of the contract evidenced by this Note to the same extent as if written fully herein.

IN WITNESS WHEREOF, the City of Charleston, West Virginia, has caused this Note to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by the City Clerk, all as of the ___ day of _____, 19__.

_____
Mayor

[SEAL]

Attest:

_____
City Clerk

CERTIFICATE OF AUTHENTICATION

The undersigned, as Registrar for this Note, hereby certifies that this Note is one of the Notes described in the above-mentioned Ordinance and was duly registered in the name set forth above on the date set forth below.

Date: _____

_____,
as Registrar

By_____
Its Authorized Officer

RECORD OF ADVANCES AND PAYMENTS*

Date	Amount Advanced	Principal Payment	Project	Outstanding** Balance	Authorized Officer

* To be completed upon each draw upon or repayment on the Line of Credit, with the specific project for which the advance or payment is being made being noted

** Not to exceed $_____ at any one time.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto _____ the Sewer Revenue Note, Series 1997, dated _____, 1997, of the City of Charleston, West Virginia, and does hereby irrevocably constitute and appoint _____, attorney to transfer said Note on the books of said City with full power of substitution in the premises.

_____

DATED: _____

IN THE PRESENCE OF: _____

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as City Clerk of The City of Charleston, Kanawha 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 _____, 1997.

_____
City Clerk

[SEAL]

CHASES3 96351

01-455-00-0-1-003	Police-Uniform	Salaries & Wages		317,000.00
01-455-00-0-1-004		FICA		6,000.00
01-455-00-0-1-005		Medical & Life Insurance		32,000.00
01-455-00-0-1-008		Dental/Optical Insurance		21,000.00
01-455-00-0-4-059		Capital Outlay-Equipment		(2,000.00)
01-456-00-0-1-003	Police-Civilian	Salaries & Wages		(80,000.00)
01-456-00-0-1-004		FICA		(8,000.00)
01-456-00-0-1-005		Medical & Life Insurance		(14,000.00)
01-456-00-0-1-006		Retirement		(6,000.00)
01-456-00-0-3-041		Materials & Supplies		(1,000.00)
01-347-00-0000		Police Fines		(50,000.00)
01-372-00-0028		Reimbursements		(215,000.00)
			Total	0.00

To provide funds to cover expenditures for the balance of the fiscal year.

$422,000

$370,000

Resolution No. 709-97

Introduced in Council

June 2, 1997

Adopted by Council

June 2, 1997

Introduced by:

David Hardy, Jr.

A resolution finding that Ordinance No. 6349 (the "Ordinance") "An Ordinance supplementing an Ordinance 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 certain extensions, additions, betterments and improvements to the sewerage system of The City of Charleston; authorizing the issuance of not more than $8,000,000 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 and to pay other costs in connection therewith; authorizing an interim financing line of credit and a note to evidence

the line of credit in an amount not to exceed $1,000,000; and adopting other provisions related thereto was passed by The City of Charleston, West Virginia, on June 2, 1997; finding that an abstract of said ordinance, together with the notice that said ordinance has been adopted, that The City of Charleston contemplates the issuance of the Sewerage System Revenue Bonds and the Note 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 of The City of Charleston, West Virginia (the "City"), this day adopted the Ordinance, which Ordinance authorized the issuance of The City of Charleston Sewerage System Revenue Bonds in an aggregate principal amount not to exceed $8,000,000 to presently finance the long-term cost of the acquisition and construction of certain extensions, additions, betterments and improvements to the sewerage system of the City; and a line of credit in an amount not to exceed $1,000,000 to temporarily finance such costs, all as more fully set out 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 Bonds and Line of Credit described in the Ordinance and that any person interested may appear before the Council of the City 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 of the City to contain sufficient information as to give notice of the contents of such 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 CITY 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 of the City at a regular meeting on June 2, 1997 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:

The City of Charleston, West Virginia
Notice of Public Hearing
and Abstract of Ordinance

Notice is hereby given to any person interested that on June 2, 1997, the Council of The City of Charleston, West Virginia (the "City") enacted Ordinance No. 6349 (the "Ordinance") which:

1. Authorized the acquisition and construction of certain extensions, additions, betterments and improvements (the "Projects") to the existing sewerage system ("System") of the City and the financing of the permanent cost, not otherwise provided, thereof through the issuance of not more than $8,000,000 in aggregate principal amount of Sewerage System Revenue Bonds (the "1997 Bonds") at an interest rate not to exceed twelve percent (12%) and a term of not more than twenty-one years and the interim financing line of credit and a note to evidence the line of credit in an amount not to exceed $1,000,000 at an interest rate not to exceed twelve percent (12%).

2. Pledged rates and charges from the System sufficient to pay for the operating expenses, principal and interest on all outstanding bonds, the 1997 Bonds and the Note and all reserve, renewal and replacement requirements.

3. Directed the continuation of the Revenue Fund and the disposition of the System revenues; provided for the payment of operating and maintenance expenses; provided for the monthly payment of principal and interest on all outstanding bonds and the 1997 Bonds authorized to be issued pursuant to the Ordinance and all sinking fund, reserve account and other payments provided for in the Ordinance and the interest on any outstanding advances of principal of the Note and reserve payments provided therefor; and provided for the use of excess funds of the System.

The City contemplates the issuance of the 1997 Bonds and the Note 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 regular

meeting thereof at 8:00 p.m. on Monday, June 16, 1997 at the City Hall, 501 Virginia Street, Charleston, and present protest and be heard as to whether the above described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of City on June 2, 1997, is on file in the Office of the City Clerk for review by interested persons during the regular office of such office, to-wit: 8:00 a.m. to 4:00 p.m. Mondays through Fridays.

Clerk - 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 or her 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 Monday, June 16, 1997, at 8:00 p.m. in the Council Chambers in the City Hall for the purpose of hearing all protests 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 Daily Mail, newspapers of general circulation of 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 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 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 qualified members of said Council assent thereto.

(7) This resolution shall take effect immediately upon adoption.

CHASFS3:47601

Resolution No. 715-97

Introduced in Council

June 16, 1997

Introduced By:

David Hardy jpw

Adopted by Council

June 16, 1997

Resolution No. 715-97--Finding that the Council of The City of Charleston, West Virginia, adopted Ordinance No. 6349 on June 2, 1997, all as more fully set out therein; finding that notice was given of a public hearing to be held with regard to placing Ordinance No. 6349 into effect; finding that the public hearing on Ordinance No. 6349 was held and that no significant protest was made; finding that Ordinance No. 6349 should be placed into effect; providing for the dates, maturities, interest rates, principal payment schedules, sale prices and other terms of The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 A; designating a registrar, paying agent and depository bank, approving the sale of the Series 1997 A Bonds pursuant to a Loan Agreement; and making other provisions as to the Series 1997 A Bonds.

WHEREAS, the Council of The City of Charleston, West Virginia (the "Council"), on June 2, 1997, adopted Ordinance No. 6349, all as more fully set out therein (said Ordinance is hereinafter referred to as the "Ordinance");

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Ordinance;

WHEREAS, the Council of the City, on June 2, 1997, 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 1997 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");

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;

WHEREAS, the Resolution and the Notice provided for a public hearing to be held at 8:00 p.m., prevailing time, on June 16, 1997, in Council Chambers in City Hall;

WHEREAS, the Ordinance provides for the issuance of The City of Charleston, West Virginia, Sewerage System Revenue Bonds, in an aggregate principal amount not to exceed $8,000,000, in one or more series of bonds, all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and the terms of the Loan Agreement entered into between the Council, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment (the "DEP"), dated May 15, 1997 (the "Loan Agreement") and further provides that the dates, interest rates, maturities, sale prices and other terms of and matters relating to, the Series 1997 A Bonds should be established by a supplemental resolution; and

WHEREAS, the Series 1997 A Bonds are being issued to finance the cost of acquisition and construction of the Belt Press Project, to fund the reserve account, and to pay other costs in connection therewith; and

WHEREAS, it is in the best interests of the City to issue the Series 1997 A Bonds; and

WHEREAS, the Council of the City deems it essential and desirable that this resolution (the "Supplemental Resolution"), be adopted and that the prices, the maturity dates, the redemption provisions, the interest rates, and the interest and principal payment dates of the Series 1997 A Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Series 1996 7 Bonds be herein provided for.

NOW, THEREFORE, be it resolved by the Council of The City of Charleston, West Virginia, as follows:

Section 1. It is hereby found and determined:

(A) That the Abstract and Notice were duly published in the Charleston Gazette and The Daily Mail, newspapers of general circulation in the City of Charleston with the first publication thereof being on June 5, 1997, which first publications were not less than ten (10) days before the day set by the Resolution and Notice for the public hearing at which interested persons might appear before the Council of the City and present protests and suggestions and with the last publications thereof being on June 12, 1997, which last publication dates were prior to said date set by the Resolution and Notice for the public hearing, and a copy of the Affidavit of Publications reflecting such publications are attached hereto and incorporated herein;

(B) That in accordance with the Resolution and the Notice, the Clerk of the City 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, at Council Chambers, City Hall, Charleston, West Virginia on Monday, June 16, 1997, at 8:00 p.m. prevailing time, in accordance with the Resolution and Notice, the Council met for the purpose of hearing protests and suggestions regarding whether the Ordinance should be put into effect and heard all protests and suggestions with regard thereto;

(D) That, at the 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 30 percent or more of the freeholders of the City; and

(E) The Ordinance shall be put into effect as of the date hereof and the Series 1997 Bonds and Line of Credit contemplated thereby shall be issued, all as provided in the Ordinance, this Supplemental Resolution and any future Supplemental Resolution.

Section 2. There are hereby authorized and ordered to be issued The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 A, all as set forth in the Ordinance:

(A) The first series of bonds of the City shall be issued originally represented by a single bond, designated "Sewerage System Revenue Bonds, Series 1997 A", numbered R-1, and shall be in the aggregate principal amount of $732,688. The Series 1997 A Bonds shall be dated the date of delivery thereof, and shall finally mature on June 1, 2018, and shall bear interest at the rate of two percent (2%) per annum, commencing September 1, 1998. Both principal and interest are payable quarterly on each September 1, December 1, March 1 and June 1 of each year in the amounts as set forth in Schedule Y attached to the Loan Agreement and incorporated herein. The Bond 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 Bond. The Sanitary Board shall pay, quarterly, the 1% Administrative Fee as provided in the Ordinance and the Loan Agreement.

(B) The proceeds of the Series 1997 A Bonds shall be deposited, as received from time to time, as follows:

(1) $44,541 shall be deposited into the Reserve Account established for the Series 1997 A Bonds; and

(2) $688,146 of such proceeds shall be deposited into the Bond Construction Trust Fund.

(C) The sale of the Series 1997 A Bonds to the Authority is hereby approved. The Mayor is hereby authorized and directed to execute the Bonds by his manual signature and attested by the Clerk of the City by his manual signature and the seal of the City shall be impressed thereon.

Section 3. All other provisions relating to the Series 1997 A Bonds shall be as provided in the Ordinance, and the Series 1997 A Bonds shall be in substantially the form provided in the Ordinance with such changes, insertions and omissions as may be approved by the Mayor of the City. The execution of the Series 1997 A Bonds by the Mayor shall be conclusive evidence of such approval.

Section 4. The City hereby appoints and designates One Valley Bank, National Association, Charleston, West Virginia, as Registrar for the Series 1997 A Bonds.

Section 5. The City hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia, as Paying Agent for the Series 1997 A Bonds.

Section 6. The City hereby affirms all covenants and representations made in the Loan Agreement in the Application to the Authority. The price of the Series 1997 A Bonds shall be 100% of par value, provided that the proceeds will be advanced from time to time as requisitioned by the City.

Section 7. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates, including the Registrar's Agreement, required or desirable in connection with the Series 1997 A Bonds in order for the Series 1997 A Bonds to be delivered on or about July 22, 1997.

Section 8. The City shall not permit at any time or times any of the proceeds of the Series 1997 A Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code, by reason of the classification of the Series 1997 A Bonds as "private activity bonds" within the meaning of the Code. It will take all actions necessary to comply with the Code, including the Treasury Regulations promulgated thereunder.

Section 9. The City does hereby reaffirm Huntington National Bank West Virginia, Charleston, West Virginia, as Depository Bank for the Revenue Fund under the Ordinance.

Section 10. 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 11. The City hereby determines to invest all moneys in the funds and accounts established by the Ordinance held by the Depository Banks until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the City hereby directs the Depository Banks 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 1997 A Bonds Sinking Fund, including the Reserve

Account therein, shall be invested by the Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 12. The financing of the Project with proceeds of the Series 1997 A 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 13. This Supplemental Resolution shall be effective immediately upon adoption.

96434

J O U R N A L

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

June 16, 1997

The Council met in its Chamber in the City Building at 8:00 p.m. for the second meeting in the month of June and was called to order by the Mayor, the Honorable G. Kemp Melton.

Prayer was offered by the Honorable Y. Howard Quick, Jr., Councilman at Large.

The Clerk called the roll and the following members answered to their names:

Barron	Kimberling	Morton
Barth	Lane	Nielsen
Connell	Lanham	Quick
Gilmer	Layne	Redman
Haddad	Leary	Smith
Hardy		Snodgrass
Hicks	Lopez	Snuffer
Horan	Malone	Thompson
Huffman	McClaskie	Mayor Melton

Twenty-six members being present, one being absent, Councilman Loeb, 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.

PUBLIC HEARING

Pursuant to Chapter 8, Article 18, Section 18 of the West Virginia Code, I now declare the floor open for a public hearing on Bill No. 6349.

The Chair saw no one from the public, the Chair heard no one from the public, the Chair declared the public hearing closed.

CLAIMS

1. A Claim of Alecia Hudson; Rt. 1 Box 559F, Sod, WV; alleges damage to vehicle; referred to City Solicitor.

2. A Claim of James B. Bennett; 1008 Louden Heights Road; alleges damage to property; referred to City Solicitor.

3. A Claim of Phyllis K. Romeo; 921 Sunset Drive, St. Albans; alleges damage to vehicle; referred to City Solicitor.

4. A Claim of Dale R. Akers; 824 Hanna Drive; alleges damage to property; referred to City Solicitor.

5. A Claim of Frank T. Litton; 522 South Fort Circle; alleges damage to property; referred to City Solicitor.

6. A Claim of Lena Maynor; Box 201, Matheny, WV; alleges injury; referred to City Solicitor.

7. A Claim of Marie A. Scott; 3412 Chesterfield Avenue; alleges damage to vehicle; referred to City Solicitor.

APPOINTMENTS

TO: Fred M. Frisk, Jr., City Clerk
FROM: G. Kemp Melton, Mayor
SUBJECT: Charleston Building Commission
DATE: June 16, 1997

I am aware of the expiration of the term of Walter Dial, a Republican as a member of the Charleston Building Commission.

I am recommending the following:

The reappointment of Walter Dial as a member whose new term will expire July 20, 2002.

I respectfully request City Council approval of this recommendation.

The question being on the confirmation of the reappointment a vote was taken. There being no dissent the Mayor declared the reappointment confirmed.

COMMISSION REPORTS

June 13, 1997

Honorable G. Kemp Melton
and Members of City Council
Charleston, WV 25301

Dear Mayor and Councilmembers:

The Municipal Planning Commission met on June 4, 1997, and considered the following cases:

Bill No. 6343 - Petition of Mitchell and Catherine Pozega requesting the rezoning from an R-6 (medium-density residential) district to a C-6 (community commercial) district the front portion of their 20 acre, more or less, tract of land extending back 330', the land being situate on the southerly side of the 6500 block of Chesterfield Avenue, Charleston, WV. The Commission voted to amend the bill to delete the requested C-6 and substitute R-8 and recommend passage of the bill as amended, subject to compliance with all city departments; referred to Council Committee on Planning.

Bill No. 6344 - Petition of the West Virginia-American Water Company requesting the closing, abandonment and discontinuance of the portion of Mary Street which runs from Pennsylvania Avenue to the Elk River, Charleston, WV. The Commission voted to recommend passage of the bill, subject to a 20' easement being reserved for emergency vehicle access to the rear of existing structures; referred to Council Committee on Planning.

Bill No. 6345 - Petition of Sloan's Department Stores, Inc. requesting the closing, abandonment and discontinuance of the portion of Flintlock Road which lies south of Lot 1-C, Section I of Southpointe Village Subdivision, Charleston, WV. The Commission voted to recommend passage of the bill, subject to a new cul-de-sac being built that is large enough for a fire apparatus to turn around; referred to Council Committee on Planning.

Bill No. 6346 - Petition of the Charleston Municipal Planning Commission requesting amendments of the Zoning Ordinance in order to permit mini-storage facilities by special permit in C-6 districts in the City of Charleston, WV. The Commission voted to recommend passage of the bill; referred to Council Committee on Planning.

REPORTS OF STANDING COMMITTEES

Councilman Hardy, Chairman of the Council Committee on Finance, submitted the following reports:

1. Your Committee on Finance has had under consideration bid submitted by Cairns & Brother, Inc., in the amount of $25,350, for one helmet-mounted thermal imaging system to be used by the Charleston Fire Department; Funds for the system were donated by WSAZ-TV; charged to Account No. 01-322-00-0042, Transfers - Emergency 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.

2. Your Committee on Finance has had under consideration bid submitted by Dill's Fire & Safety Equipment Co., in the amount of $13,770, for 15 sets of bunker gear ($918 each set) to be used by the Charleston Fire Department's new recruits; to be charged to the following accounts:

$ 1,500 - 01-448-0-0-3-45, EAS - Uniforms
$12,270 - 01-500-0-0-3-45, Fire - 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.

3. Your Committee on Finance has had under consideration bid submitted by Digital Objectives, in the amount of $21,654, for six (6) handheld "Pen Based" computers with related accessories, to be used by the EMS Division of the Fire Department; to be charged as follows:

$20,000 - Grant from the State of West Virginia
$ 1,654 - 01-500-0-0-4-61, Fire/EMS - 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.

4. Your Committee on Finance has had under consideration proposal submitted by Digital Controls Corporation, in the amount of $6,300,

to upgrade the City's NCR 3430 Computer System to the latest version of NCR's UNIX operating system software to handle the expanding user base from 32 to 64, and to have the version of the operating system that will be year 2000 compliant by the end of 1997; to be charged to Account No. 01-439-0-0-4-59, Information Systems - Capitol 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.

5. Your Committee on Finance has had under consideration proposal submitted by Computers Plus, Inc., in the amount of $5,182, for purchase of two computers for the Public Works Department ($3,148); and one computer for the Accounting Office ($2,034). The systems are within the scope of the Computerization Master Plan; to be charged to Account No. 01-439-0-0-4-59, Information Systems - 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.

6. Your committee on Finance has had under consideration proposal submitted by Capitol Business Interiors, in the amount of $5,422.01, for purchase of furniture for the City Attorney's offices to be located on the 4th floor of City Hall; to be charged to Account No. 01-440-0-0-4-57, Building Maintenance - Capital Outlay/Building.

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 Resolution No. 711-97, authorizing the Finance Director to make revisions to the 1996-97 General Fund budget.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 711-97 - "Authorizing the Finance Director to make revisions to the 1996-97 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 1996-97 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.

General Fund 1996-97 Budget Amendment No. 24 - June 16, 1997

01-420-00-0-2-023	Engineering	Professional Services	(1,500.00)
01-420-00-0-3-041		Materials & Supplies	1,500.00
01-425-00-0-2-013	Public Works	Utilities	20,000.00
01-576-00-0-3-041	Equipment Maintenance	Materials & Supplies	(20,000.00)
01-431-00-0-2-018	Mail Room	Postage	10,000.00
01-436-00-0-2-030	Building Commission	Contracted Services	(6,000.00)
01-436-00-0-3-041		Materials & Supplies	6,000.00
01-438-00-0-2-030	Municipal Election Costs	Contracted Services	3,000.00
01-438-00-0-3-041		Materials & Supplies	(3,000.00)
01-440-00-0-2-011	Building Maintenance	Telephone	6,000.00
01-440-00-0-2-013		Utilities	10,000.00
01-576-00-0-2-016	Equipment Maintenance	M&R-Equipment	8,000.00
01-576-00-0-3-041		Materials & Supplies	(8,000.00)
01-409-00-0-1-005	Mayors Office	Medical & Life Insurance	754.00
01-410-00-0-1-005	City Council		314.00
01-412-00-0-1-005	City Manager		773.00
01-413-00-0-1-005	City Treasurer		315.00
01-414-00-0-1-005	City Collector		1,594.00
01-415-00-0-1-005	City Clerk		319.00
01-416-00-0-1-005	Municipal Court		459.00
01-417-00-0-1-005	Legal		494.00
01-418-00-0-1-005	Accounting		702.00
01-419-00-0-1-005	Internal Audit		90.00
01-420-00-0-1-005	Engineering		1,052.00
01-421-00-0-1-005	MOECD		1,254.00
01-422-00-0-1-005	Human Resources		495.00
01-425-00-0-1-005	Public Works		519.00
01-431-00-0-1-005	Mail Room		258.00
01-436-00-0-1-005	Building Commission		963.00
01-437-00-0-1-005	Planning		730.00
01-439-00-0-1-005	Information Systems		272.00
01-440-00-0-1-005	Building Maintenance		599.00
01-444-00-0-1-005	Municipal Auditorium		222.00
01-448-00-0-1-005	Emer Ambulance Service		6,735.00
01-455-00-0-1-005	Police-Uniform		26,617.00
01-456-00-0-1-005	Police-Civilian		3,355.00
01-500-00-0-1-005	Fire-Uniform		21,825.00
01-501-00-0-1-005	Fire-Civilian		446.00
01-530-00-0-1-005	Refuse & Recycling		7,241.00
01-531-00-0-1-005	Environ. & Beautification		327.00
01-540-00-0-1-005	Parks & Recreation		1,161.00
01-540-31-0-1-005			455.00
01-540-32-0-1-005			444.00
01-540-33-0-1-005			499.00
01-540-34-0-1-005			685.00
01-540-36-0-1-005			414.00
01-540-44-0-1-005			624.00
01-540-45-0-1-005			261.00
01-540-47-0-1-005			226.00
01-540-49-0-1-005			395.00
01-540-50-0-1-005			109.00
01-540-79-0-1-005			1,596.00
01-570-00-0-1-005	Street		6,076.00
01-573-00-0-1-005	Traffic Engineering		1,373.00
01-576-00-0-1-005	Equipment Maintenance		1,920.00
01-580-00-0-1-005	Spring Hill Cemetery		883.00
01-595-00-0-1-005	C-K Emergency Service		16.00
01-603-00-0-1-005	Human Rights		344.00
01-711-00-0-1-005	Communications Center		3,709.00
01-716-00-0-1-005	Consumer Protection		86.00
01-993-00-0-1-005	Regular Retirees	Medical & Life Insurance	70,000.00
01-994-00-0-1-005	Regular Retirees		10,000.00
01-997-00-0-1-005	Fire Pension		20,000.00
01-999-00-0-5-098	Contingency		(63,500.00)
01-322-00-0082	Revenue	Transfers/Inc Fd	(62,500.00)
01-338-00-0000		Consumer Sales Tax-Liquor	(100,000.00)
		Grand Total	0.00

The question being on the adoption of the resolution a roll call was taken and there were - yeas 24, nays 3 and absent 0 as follows:

YEAS: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: Hicks, Redman and Thompson.

ABSENT: None.

So, all members present and voting, with the majority having voted in the affirmative, the Mayor declared Resolution No. 711-97 adopted.

8. Your Committee on Finance has had under consideration Resolution No. 712-97, as amended, authorizing the Finance Director to make revisions to the 1997-98 General Fund budget.

Councilman Hardy moved to amend the resolution by adding:

FURTHER RESOLVED that the Chief of Police be directed to require such employee to acknowledge in writing that the employment will be for a period of eighteen (18) months and no longer.

The question being on the adoption of the amendment a vote was taken. There being no dissent the Mayor declared the amendment adopted.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 712-97, as amended - "Authorizing the Finance Director to make revisions to the 1997-98 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 1997-98 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.

FURTHER RESOLVED that the Chief of Police be directed to require such employee to acknowledge in writing that the employment will be for a period of eighteen (18) months and no longer.

01-456-00-0-1-003	Police-Civilian	Salaries & Wages		44,489.00
01-456-00-0-1-004		FICA		3,403.00
01-456-00-0-1-005		Medical & Life Insurance		4,150.00
01-456-00-0-1-006		Retirement		4,226.00
01-456-00-0-1-008		Dental/Optical Insurance		225.00
01-456-00-0-1-009		Insurance-Payroll Deduction		(1,557.00)
01-456-00-0-2-026		Insurance-WC and UC		1,484.00
01-372-00-0028	Revenue	Reimburse Police Wages		(56,420.00)
			Total	0.00

To create the position of "Information Systems Specialist" (G-8) to be staffed for 18 months and which will be totally reimbursed from the Federal Government, Violence Against Women Grant.

The question being on the adoption of the resolution, as amended, a roll call was taken and there were - yeas 26, nays 1 and absent 0 as follows:

YEAS: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: Thompson.

ABSENT: None.

So, all members present and voting, with the majority having voted in the affirmative the Mayor declared Resolution No. 712-97, as amended, adopted.

9. Your Committee on Finance has had under consideration Resolution No. 713-97, authorizing the Finance Director to allocate HOME Program funds in the amount of $68,000 for acquisition of four (4) single family structures as follows:

1434 Second Avenue	$ 9,000
1337 Stuart Street	16,000
1820 Cliffview Avenue	24,000
1312 Elmwood Avenue	19,000

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 713-97 - "Authorizing the Finance Director to allocate HOME Program funds in the amount of $68,000 for acquisition of four (4) single family structures."

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

That the Finance Director is hereby authorized and directed to allocate HOME Program funds in the amount of Sixty-eight Thousand Dollars ($68,000) for acquisition of four (4) single family structures as follows:

1434 Second Avenue	$ 9,000
1337 Stuart Street	16,000
1820 Cliffview Avenue	24,000
1312 Elmwood Avenue	19,000

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: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer, Thompson and Mayor Melton.

NAYS: None.
ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Resolution No. 713-97 adopted.

10. Your Committee on Finance has had under consideration Resolution No. 714-97, authorizing the Mayor to enter into an Agreement with City Park Associates Limited Partnership, doing business as Spring Hill Apartments, for providing police patrol to the Spring Hill Apartment complex for one year at a rate of $22.00 per hour, and providing that City Park Associates Limited Partnership make additional payments of $3,500 per month on past due amounts existing prior to this Agreement, said amounts equaling $54,687.50.

And reports the same to Council with the recommendation that the committee report be adopted.

Councilman Malone moved to amend the resolution by requiring City Park Associates to furnish financial statements for first quarter of 1997.

The question being on the adoption of the amendment a roll call was taken and there were - yeas 13, nays 14, and absent 0 as follows:

YEAS: Barron, Barth, Hicks, Horan, Huffman, Layne, Leary, Malone, McClaskie, Morton, Redman, Smith and Snuffer.

NAYS: Connell, Gilmer, Haddad, Hardy, Kimberling, Lane, Lanham, Loeb, Lopez, Nielsen, Quick, Snodgrass, Thompson and Mayor Melton.

ABSENT: None.

So, all members present and voting with the majority having voted in the negative, the Mayor declared the amendment failed.

Resolution No. 714-97 - "Authorizing the Mayor to enter into an Agreement with City Park Associates Limited Partnership, doing business as Spring Hill Apartments, for providing police patrol to the Spring Hill Apartment complex for one year at a rate of Twenty-Two Dollars ($22.00) per hour and providing that City Park Associates Limited Partnership make additional payments of Three Thousand Five Hundred ($3,500.00) per month on past due amounts existing prior to this Agreement said amounts equaling Fifty Four Thousand Six Hundred Eighty Seven Dollars and Fifty Cents ($54,687.50)."

WHEREAS, Charleston City Police Officers are presently patrolling the Spring Hill Apartment Complex and the owners of Spring Hill Apartment Complex, City Park Associates Limited Partnership, desire to enter into a new contract with the City for this service; and

WHEREAS, City Park Associates Limited Partnership is in arrears in meeting the terms of the expired contract with the City and said arrearage amounts of Fifty Four Thousand Six Hundred Eighty Seven Dollars and Fifty Cents ($54,687.50) and this amount is due and payable to the City, and pursuant to this Agreement, shall be paid in payments of Three Thousand Five Hundred Dollars ($3,500.00) per month until the amount in arrears is paid in full; 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 an Agreement with City Park Associates Limited Partnership, doing business as Spring Hill Apartments for providing Charleston City Police patrols for the Spring Hill Apartments for a one year period at the rate of $22.00 per hour, and that the amounts in arrears shall be paid to the City of Charleston Police Department in monthly payments of $3,500.00 due the first of each and every month after the execution of this Agreement until the amount of $54,687.50 is paid in full.

AGREEMENT

This Agreement, made this ___ day of _____, 1997, by and between the City of Charleston, West Virginia, a municipal corporation, (CITY), and City Park Associates Limited Partnership, doing business as Spring Hill Apartments (Spring Hill).

WHEREAS, Spring Hill owns an apartment complex in Charleston, West Virginia known as Spring Hill Apartments, and desires City of Charleston Police Officers to provide security to its apartment complex:

WHEREAS, the City is willing to provide police officers to patrol the area and perform their normal duties in order to provide stability in the aforesaid apartment complex and to provide service to the community therein and to the public.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That, for and in consideration of the mutual promises of the parties hereto and other good and valuable considerations, the receipt of all of which is hereby acknowledged, the parties hereto agree as follow:

1. The City hereby authorizes its Chief of Police to designate City of Charleston Police officers to serve as security personnel at Spring Hill; said authority may be delegated to appropriate staff within the Office of the Chief of Police for the City of Charleston; said authority by the Chief permits an Officer while on assignment to Spring Hill to wear his official uniform, badge, service revolver and to use a police motor vehicle, or cruiser as determined appropriate by the Chief.

2. The parties agree and it is understood to be the intent of this Agreement that the police officers on assignment to Spring Hill remain police officers employed by the City of Charleston and are not employees of Spring Hill, but independent contractors of City Park Associates Limited Partnership, d.b.a. as Spring Hill Apartments.

3. Each party to this Agreement agrees to be responsible for the negligence of their own agents and further agrees to hold the other party harmless, for any and all liability, losses, or damages, including attorney's fees resulting from any claims or cause of action for personal injury or property damages, which might arise from the negligence of its own agents.

4. TERM OF AGREEMENT. Subject to the provision for Termination as hereinafter provided, the term of this agreement shall begin on the ___ day of _____, 1997, and shall terminate on the ____ day of _____, 19____.

5. TERMINATION. Without cause Spring Hill may terminate this Agreement any time upon ten (10) days written notice to the City. In such event, the City, if requested by Spring Hill, shall continue to render the services as set forth herein and shall be paid regular compensation up to the date of termination. Without cause the City may terminate this Agreement upon ten (10) days written notice to Spring Hill. In such event, the City of Charleston shall be paid their regular compensation up to the date of termination. In either event, no severance allowance shall be paid to the city.

6. COMPENSATION.

6.1. For all services rendered by police officers under this Agreement, Spring shall pay to the City of Charleston on a monthly basis an amount equal to the number of hours worked in the preceding month times $22.00 per hour.

6.2. On all invoices for services rendered by the City pursuant to this Agreement which are thirty (30) days past due, a one-time penalty of ten percent (10%) of the amount due and owing shall be assessed against Spring Hill. This penalty will only apply to any thirty (30) day past due amounts which are due and owing subsequent to this Agreement.

6.3. On all past due amounts that exist prior to this Agreement, Spring Hill agrees to make monthly payments of Three Thousand Five Hundred Dollars ($3,500.00) to the City until said past due amounts are paid in full. The first payment of Three Thousand five Hundred dollars ($3,500.00) will be paid on the first (1st) of the monthly subsequent to the signing of this Agreement and shall be due on each subsequent first of the month thereafter until the amount in arrears is paid in full.

7. The parties agree that the police officers working pursuant to this Agreement shall provide armed security in the Spring Hill Apartments and general vicinity.

8. The parties agree that the hours of duty shall be mutually agreed upon by the Chief of Police and Spring Hill. However, the parties also agree as follows:

8.1. The officers shall have a set number of billable hours. Specifically Sunday through Thursday of each week, the officers shall work varied hours but with a ten (10) hour per night limit. On Friday and Saturday of each week the officers will also work varied hours but with a twelve (12) hour per night limit for a total not to exceed fifty six (56) working hours per week.

8.2. The officers will patrol the hallways in the highrise and the garden located on the property of spring Hill.

8.3. While on duty at Spring Hill, the officer will report to the site Manager or Assistant Manager.

8.4. The parties agree that any officer assigned to Spring Hill through this Agreement shall not leave the designated area during their shifts.

8.5. The parties agree that should a citizen or resident of Spring Hill need assistance and cannot immediately contact an officer, the procedure is as follows: The citizen or resident will call 911.

9. NOTICE. Any written notice required pursuant to this Agreement shall be mailed by the party required to give notice to the other party at the following address:

Arnold Karp
City Park Associates Limited Parnership d.b.a.
Spring Hill Apartments 12250 Rockville Pike
Suite 200
Rockville, MD 20852

This Agreement constitutes the entire Agreement between the parties with respect to the subject matter hereof and shall not be modified except by a writing, duly executed by the parties hereto.

IN WITNESS WHEREOF, the City of Charleston, West Virginia, a municipal corporation, has caused its corporation name to be signed hereto by G. Kemp Melton, Mayor of the said City, thereunto duly authorized and Spring Hill has caused its name to be signed hereto by Arnold L. Karp, the general Partner of Spring Hill, thereunto duly authorized.

THE CITY OF CHARLESTON, WEST VIRGINIA
a municipal corporation,

By_____
G. Kemp Melton, Mayor

CITY PARK ASSOCIATES LIMITED PARTNERSHIP, d.b.a.
SPRING HILL APARTMENTS, a corporation,

By Arnold L. Karp
Arnold Karp, General Partner

The question being on the adoption of the resolution a roll call was taken and there were - yeas 23, nays 4 and absent 0 as follows:

YEAS: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: Hicks, Horan, Malone and Thompson.

ABSENT: None.

So, all members present and voting with the majority having voted in the affirmative the Mayor declared Resolution No. 714-97 adopted.

11. Your Committee on Finance has had under consideration Resolution No. 715-97, finding that the Council of the City of Charleston, West Virginia, adopted Ordinance No. 6349 on June 2, 1997, all as more fully set out therein; finding that notice was given of a public hearing to be held with regard to placing Ordinance No. 6349 into effect; finding that the public hearing on Ordinance No. 6349 was held and that no significant protest was made; finding that Ordinance No. 6349 should be placed into effect; providing for the dates, maturities, interest rates, principal payment schedules, sale prices and other terms of the City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 A; designating a registrar, paying agent and depository bank, approving the sale of the Series 1997 A Bonds pursuant to a Loan Agreement; and making other provisions as to the Series 1997 A Bonds. This Supplemental Resolution shall be effective immediately upon adoption.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 715-97 - Finding that the Council of the City of Charleston, West Virginia, adopted Ordinance No. 6349 on June 2, 1997, all as more fully set out therein; finding that notice was given of a public hearing to be held with regard to placing Ordinance No. 6349 into effect; finding that the public hearing on Ordinance No. 6349 was held and that no significant protest was made; finding that Ordinance No. 6349 should be placed into effect; providing for the dates, maturities, interest rates, principal payment schedules, sale prices and other terms of The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 A; designating a registrar, paying agent and depository bank, approving the sale of the Series 1997 A Bonds pursuant to a Loan Agreement; and making other provisions as to the Series 1997 A Bonds.

WHEREAS, the Council of the City of Charleston, West Virginia (the "Council"), on June 2, 1997, adopted Ordinance No. 6349, all as more fully set out therein (said Ordinance is hereinafter referred to as the "Ordinance");

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Ordinance;

WHEREAS, the Council of the City, on June 2, 1997, 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 1997 Bonds as described in the Ordinance and that any person interested may appear before the Council upon a certain day and present prctests (the 'Notice");

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;

WHEREAS, the Resolution and the Notice provided for a public hearing to be held at 8:00 p.m., prevailing time, on June 16, 1997, in Council Chambers in City Hall;

WHEREAS, the Ordinance provides for the issuance of the City of Charleston, West Virginia, Sewerage System Revenue Bonds, in an aggregate principal amount not to exceed $8,000,000, in one or more series of bonds, all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and the terms of the Loan Agreement entered into between the Council, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment (the "DEP"), dated May 15, 1997 (the "Loan Agreement") and further provides that the dates, interest rates, maturities, sale prices and other terms of and matters relating to, the Series 1997 A Bonds should be established by a supplemental resolution; and

WHEREAS, the Series 1997A Bonds are being issued to finance the cost of acquisition and construction of the Belt Press Project, to fund the reserve amount, and to pay other costs in connection therewith; and

WHEREAS, it is in the best interests of the City to issue the Series 1997A Bonds; and

WHEREAS, the Council of the City deems it essential and desirable that this resolution (the "Supplemental Resolution"), be adopted and that the prices, the maturity dates, the redemption provisions, the interest rates, and the interest and principal

payment dates of the Series 1997A Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Series 1996 7 Bonds be herein provided for.

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 Gazette and The Daily Mail, newspapers of general circulation in the City of Charleston with the first publication thereof being on June 5, 1997, which first publications were not less than ten (10) days before the day set by the Resolution and Notice for the public hearing at which interested persons might appear before the Council of the City of Charleston and present protests and suggestions and with the last publications thereof being on June 12, 1997, which last publication dates were prior to said date set by the Resolution and Notice for the public hearing, and a copy of the Affidavit of Publications reflecting such publications are attached hereto and incorporated herein;

(B) That in accordance with the Resolution and the Notice, the Clerk of the City 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, at Council Chambers, City Hall, Charleston, West Virginia on Monday, June 16, 1997, at 8:00 p.m. prevailing time, in accordance with the Resolution and Notice, the Council met for the purpose of hearing protests and suggestions regarding whether the Ordinance should be put into effect and heard all protests and suggestions with regard thereto;

(D) That, at the 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 30 percent or more of the freeholders of the City; and

(E) The Ordinance shall be put into effect as of the date hereof and the Series 1997 Bonds and Line of Credit contemplated thereby shall be issued, all as provided in the Ordinance, this Supplemental Resolution and any future Supplemental Resolution.

Section 2. There are hereby authorized and ordered to be issued The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 A, all as set forth in the Ordinance:

(A) The first series of bonds of the City shall be issued originally represented by a single bond, designated "Sewerage System Revenue Bonds, Series 1997 A", numbered R-1, and shall be in the aggregate principal amount of $732,688. The Series 1997 A Bonds shall be dated the date of delivery thereof, and shall finally mature on June 1, 2018, and shall bear interest at the rate of two percent (2%) per annum, commencing September 1, 1998. Both principal and interest are payable quarterly on each September 1, December 1, March 1 and June 1 of each year in the amounts as set forth in Schedule Y attached to the Loan Agreement and incorporated herein. The Bond 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 Bond. The Sanitary Board shall pay, quarterly, the 1% Administrative Fee as provided in the Ordinance and the Loan Agreement.

(B) The proceeds of the Series 1997 A Bonds shall be deposited, as received from time to time, as follows:

(1) $44,541 shall be deposited into the Reserve Account established for the Series 1997 A Bonds; and

(2) $688,146 of such proceeds shall be deposited into the Bond Construction Trust Fund.

(C) The sale of the Series 1997 A Bonds to the Authority is hereby approved. The Mayor is hereby authorized and directed to execute the Bonds by his manual signature and attested by the Clerk of the City by his manual signature and the seal of the City shall be impressed thereon.

Section 3. All other provisions relating to the Series 1997 A Bonds shall be as provided in the Ordinance and the Series 1997 A Bonds shall be in substantially the form provided in the Ordinance with such changes, insertions and omissions as may be approved by the Mayor of the City. The execution of the Series 1997 A Bonds by the Mayor shall be conclusive evidence of such approval.

Section 4. The City hereby appoints and designates One Valley Bank, National Association, Charleston, West Virginia, as Registrar for the Series 1997 A Bonds.

Section 5. The City hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia, as Paying Agent for the Series 1997 A Bonds.

Section 6. The City hereby affirms all covenants and representations made in the Loan Agreement in the Application to the Authority. The price of the Series 1997 A Bonds shall be 100% of par value, provided that the proceeds will be advanced from time to time as requisitioned by the City.

Section 7. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates, including the Registrar's Agreement, required or desirable in connection with the Series 1997 A Bonds in order for the Series 1997 A Bonds to be delivered on or about July 22, 1997.

Section 8. The City shall not permit at any time or times any of the proceeds of the Series 1997 A Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code, by reason of the classification of the Series 1997 A Bonds as "private activity bonds" within the meaning of the Code. It will take all actions necessary to comply with the Code, including the Treasury Regulations promulgated thereunder.

Section 9. The City does hereby reaffirm Huntington National Bank West Virginia, Charleston, West Virginia, as Depository Bank for the Revenue Fund under the Ordinance.

Section 10. 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 11. The City hereby determines to invest all moneys in the funds and accounts established by the Ordinance held by the Depository Banks until expended, in money market accounts secured by a pledge of Government of Obligations, and therefore, the City hereby directs the Depository Banks 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 1997 A Bonds Sinking Fund, including the Reserve Account therein, shall be invested by the Municipal Bond Commission in the West Virginia consolidated Fund.

Section 12. The financing of the Project with proceeds of the Series 1997 A 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 13. This 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 0, absent 1 and abstentions 2 as follows:

YEAS: Barron, Barth, Connell, Haddad, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer, Thompson and Mayor Melton.
NAYS: None.
ABSENT: Gilmer.
ABSTENTION: Hardy and Loeb.

So, a majority of members present and voting having voted in the affirmative the Mayor declared Resolution No. 715-97 adopted.

12. Your Committee on Finance has had under consideration Resolution No. 710-97, authorizing approval of the 1997-98 Parking System Budget.

And reports the same to Council with the recommendation that the committee report be adopted.

Councilman Hicks moved to have an audit report provided the Council by the next meeting.

The question being on Councilman Hicks' motion a vote was taken. With the majority of members present and voting having voted in the negative the Mayor declared the motion failed.

Resolution No. 710-97 - "Authorizing approval of the 1997-98 Parking System Budget as indicated on the attached list of accounts."

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

That the 1997-98 Parking System Budget, as indicated on the attached list of accounts, is hereby approved.

Position/Expenditure	Grade/ Class	Maximum Annual Comp	1996-97 Budget # Emp	1996-97 Budget Amount	1997-98 Requested # Emp	1997-98 Requested Amount	1997-98 Finance # Emp	1997-98 Finance Amount
Parking System								
Manager	G-6	36,934	1	36,934	1	36,934	1	38,042
Asst Manager-Operations	G-3	27,759	1	27,759	1	27,759	1	28,592
Assistant Manager	G-1	24,093	1	24,093	1	24,093	1	24,816
Accounting Clerk Sr	C-3	19,619	1	19,619	1	19,619	1	20,208
Accounting Clerk	C-1	18,450	1	18,450	1	18,450	1	19,004
Bldg Maint. & Security Supvr	PG-6	21,637	1	21,637		0		0
Maintenance Supervisor	PG-6	21,637	1	21,637	1	21,637	1	22,286
Maintenance	PG-5	20,813	2	41,626	2	41,626	2	42,875
Meter Attendant	PG-5	20,813	1	20,813	1	20,813	1	21,437
Head Cashier	PG-5	20,813			3	62,439	3	64,312
Cashiers	PG-3	19,159	12	229,908	10	191,590	10	197,338
Meter Maids	PG-2	18,366	4	73,464	4	73,464	4	75,668
Asst Meter Man	R-PT		1	6,133	1	6,000	1	6,180
Civic Center Parking	R-PT		2	12,265	2	12,265	2	12,633
Civic Center Parking	IR-PT			18,398		18,398		18,398
Floaters	IR-PT					18,000		18,000
Overtime & Holiday				33,939		12,135		12,500
Total			29	606,675	29	605,222	29	622,288

CAPITAL EXPENDITURES

Card Readers	5,000
Cargo Van	17,000
~~Contingency for Parking Meters~~	~~41,866~~
Total	~~63,866~~ 22000

CITY OF CHARLESTON
EXPENDITURE PREPARATION WORKSHEET

85 PARKING SYSTEM REV FD

		1995-96 EXPENDED	1996-97 TOTAL BDGT	1996-97 EXPEND YTD (THRU MAY)	1997-98 DEPT REQ.	
000-00	ADMINISTRATIVE					
000-00-000-0-000	PARKING SYSTEM REV FD					
	*** TITLE NOT ON FILE ***					
571	PARKING SYSTEM					
571-00	ADMINISTRATIVE					
571-00-000-0-040	CASH OVER (SHORT)	200				
571-00-000-1-003	SALARIES & WAGES	568,021	606,676	567,059	622,288	
571-00-000-1-004	FICA	41,736	46,411	41,944	47,605	
571-00-000-1-005	MEDICAL & LIFE INSURAN	173,359	114,405	133,248	120,350	
571-00-000-1-006	RETIREMENT	52,022	55,887	50,018	55,660	
571-00-000-1-007	CONTRIB TO PENSION FUN		17,072-			
571-00-000-1-008	DENTAL/OPTICAL INSURAN	5,723	6,293	4,244	6,525	
571-00-000-1-009	INSURANCE-PAYROLL DED	~~14,950-~~	~~7,093-~~	~~17,820-~~	~~20,506-~~	
571-00-000-2-011	TELEPHONE	14,933	3,500	6,364	4,200	
571-00-000-2-013	UTILITIES	156,617	147,000	133,059	145,000	
571-00-000-2-015	MAINT & REP-BLDG/GROUN	33,481	50,000	19,882	45,000	
571-00-000-2-016	MAINT & REP-EQUIPMENT	34,211	45,000	30,622	32,000	
571-00-000-2-017	MAINT & REP-AUTO/TRUCK	6,249	3,000	2,106	5,000	
571-00-000-2-018	POSTAGE	4,822	5,500	5,761	1,000	
571-00-000-2-020	ADVERTISING/LEGAL PUB	475	500		500	
571-00-000-2-022	DUES AND SUBSCRIPTIONS	106	150	70	150	
571-00-000-2-024	AUDIT COSTS		1,500			
571-00-000-2-026	INSURANCE - WC AND UC	10,647	28,211	70,481	32,480	
571-00-000-2-027	INSURANCE	12,200	50,000		50,000	
571-00-000-2-030	CONTRACTED SERVICES	153,087	150,000	178,056	150,000	
571-00-000-3-041	MATERIALS & SUPPLIES	100,063	68,000	64,428	68,000	
571-00-000-3-045	UNIFORMS	5,977	2,400	1,635	4,000	
571-00-000-4-059	CAPITAL OUTLAY-EQUIPME	28,127	69,000	32,472	~~63,866~~	22,000
571-00-000-4-065	DEPRECIATION	612,000	1,060,877	972,466	1,067,873	
571-00-000-5-066	CONTRIB TO OTHER FUNDS	100,000				
571-00-000-5-071	PRINC MATURITIES-BONDS		447,867		480,000	
571-00-000-5-072	INTEREST ON BONDS	827,043	1,180,175	1,501,411	1,134,363	
571-00-000-5-074	BOND SERVICE CHARGE		6,000		6,000	
571-00-000-5-097	BAD DEBTS		5,000	294	2,000	
571-00-000-5-099	OTHER		52,919		~~50,000~~	91,866
	*** TITLE NOT ON FILE ***	2,926,154	4,182,106	3,797,800	4,173,354	
	PARKING SYSTEM REV FD	2,926,154	4,182,106	3,797,800	4,173,354	

CITY OF CHARLESTON
REVENUE PREPARATION WORKSHEET

85 PARKING SYSTEM REV FD

		1995-96 RECEIVED	1996-97 TOTAL BUDGET	1996-97 RECVD YTD (THRU JUN)	1997-98 DEPT EST.
304	COMMISSIONS				
304-00-0000	COMMISSIONS	470			
	COMMISSIONS	470			
342	PARKING METER REVENUES				
342-00-0000	PARKING METER REVENUES	268,250	377,000	322,916	380,000
342-10-0000	COUPONS				
342-11-0000	AUDITORIUM PARKING LOT				
	PARKING METER REVENUES	268,250	377,000	322,916	380,000
343	OFF STREET PARKING				
343-01-0801	DAILY	78,347	90,000	63,212	60,000
343-01-0802	MONTHLY	317,998	330,000	256,875	225,000
343-01-0805	RENT - COMMERCIAL	142,267	160,000	123,578	190,000
343-02-0801	DAILY	105,976	140,000	91,608	100,000
343-02-0802	MONTHLY	266,111	264,000	245,431	215,000
343-02-0803	THEATRE	24,707	18,000	15,000	15,000
343-02-0805	RENT - COMMERCIAL	85,510	93,000	86,832	90,000
343-02-0807	THEATRE OVERRIDE	35,138	45,000	36,280	45,000
343-03-0804	EVENT	9,553	10,000	10,935	10,000
343-03-0805	RENT - COMMERCIAL	5,969	6,000	5,470	6,000
343-04-0801	DAILY	4,712			
343-04-0804	EVENT	30,263	55,000	44,025	55,000
343-05-0801	DAILY	103,051	170,000	194,241	170,000
343-05-0802	MONTHLY	179,441	300,000	238,681	300,000
343-06-0801	DAILY	24,483	80,000	79,885	135,000
343-06-0802	MONTHLY	82,695	300,000	267,842	300,000
343-10-0000	COUPONS	3,354	6,000	4,275	8,000
343-11-0000	AUDITORIUM PARKING LOT	4,910	20,600	7,031	25,000
343-12-0000	PA AVENUE PARKING LOT	1,144		3,876	5,000
343-15-0000	WATT POWELL PARKING	9,292	9,000	6,961	9,000
343-99-0801	DAILY	2,098		360	
343-99-0802	MONTHLY	52,477	72,000	55,375	60,000
	OFF STREET PARKING	1,569,496	2,168,600	1,837,773	2,023,000
344	INTEREST ON INVESTMENTS				
344-00-0000	INTEREST ON INVESTMENTS	94,697	6,000	5,937	60,000
344-00-0001	INT MUN BOND COMM		100,000	102,363	100,000
	INTEREST ON INVESTMENTS	94,697	106,000	108,300	160,000
345	RENTS, CONC., LEASES				
345-00-0000	RENTS/CONCESSIONS/LEASES	36,792	35,000	33,726	35,000
	RENTS, CONC., LEASES	36,792	35,000	33,726	35,000
346-00-0000	MONTHLY PENALTY FEE				
	*** TITLE NOT ON FILE ***				
347	POLICE FINES/COURT COSTS				

(continued on next page)

CITY OF CHARLESTON
REVENUE PREPARATION WORKSHEET

85 PARKING SYSTEM REV FD

		1995-96 RECEIVED	1996-97 TOTAL BUDGET	1996-97 RECVD YTD (THRU JUN)	1997-98 DEPT EST.
347-00-0000	POLICE FINES/COURT COSTS	10,475	10,000	13,601	12,000
	POLICE FINES/COURT COSTS	10,475	10,000	13,601	12,000
348	PARKING VIOLATIONS				
348-21-0000	PARK.NG VIOLATIONS	188,732	265,335	320,560	350,000
348-22-0000	OTHER NON MOVING	187,547	270,000	184,805	225,000
	PARKING VIOLATIONS	376,279	535,335	505,365	575,000
372	REIMBURSEMENTS				
372-00-0000	REIMBURSEMENTS	34,822	25,000	13,105	12,000
	REIMBURSEMENTS	34,822	25,000	13,105	12,000
399	MISCELLANEOUS REVENUE				
399-00-0000	MISCELLANEOUS REVENUE	3,699	5,000	15,031	10,000
	MISCELLANEOUS REVENUE	3,699	5,000	15,031	10,000
	PARKING SYSTEM REV FD	2,394,980	3,261,935	2,849,817	3,207,000

The question being on the adoption of the resolution a roll call was taken and there were - yeas 24, nays 3 and absent 0 as follows:

YEAS: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Smith, Snodgrass, Snuffer and Mayor Melton.

NAYS: Hicks, Redman and Thompson.

So, all members present and voting having voted in the affirmative the Mayor declared Resolution No. 710-97 adopted.

13. Your Committee on Finance has had under consideration payment of an invoice from King, Allen & Guthrie, in the amount of $2,538.93, for professional services rendered from March 1 to March 31, 1997, in civil action instituted by Henry O'Daniels, Jr. v. City of Charleston; to be charged to Account No. 01-0417-0-0-2-23, Legal Department - 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.

14. Your Committee on Finance has had under consideration payment of an invoice from Shuman, Annand & Poe, in the amount of $1,629, for professional services rendered during the period April 22 to May 20, 1997, in the case Harold Summers v. City of Charleston; to be charged to Account No. 01-417-0-0-2-23, Legal Department - 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.

15. Your Committee on Finance has had under consideration payment of an invoice from Kauffelt & Kauffelt, in the amount of $2,461.28, for professional services rendered from November 4 to November 26, 1996, in the City Parking Building Case Nos. 94-MISC-966, 94-MISC-967 and 94-MISC-968; to be charged to Account No. 01-417-0-0-2-23, Legal Department - 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.

16. Your Committee on Finance has had under consideration payment of an invoice from Holiday Inn Charleston House, in the amount of $4,662.85, for lodging and food services for the ICAP Domestic Violence Conference hosted in Charleston during April 1997; to be charged to the following accounts:

$ 319.00 - 01-177-1, Police - Violence Against Women Grant
$4,343.85 - 31-299-0-0-2-23, Police - Forfeiture Funds

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 payment of an invoice from the West Virginia State Fire Marshal, in the amount of $6,600, for review of architectural plans for the Embassy Suites facility currently under construction at Court and Lee streets; to be charged to the following accounts:

$3,000 - 01-500-0-0-2-23, Fire - Professional Services
$3,600 - 01-436-0-0-2-30, Building Commission - 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, with the exception of Councilman Thompson, the Mayor declared the committee report adopted.

Councilman Snodgrass, 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. 6347.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 6347 - A Bill to establish a 20 mile per hour speed limit on Carriage 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. A 20 mile per hour speed limit on Carriage Road 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: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer, Thompson and Mayor Melton.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 6347 passed.

2. Your Committee on Streets and Traffic has had under consideration Bill No. 6351.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 6351 - A Bill to establish a 15 minute parking tow-away zone on the northerly side of Smith Street from a point 66 feet east of Shrewsbury Street to a point 297 feet east of Shrewsbury 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 15 minute parking tow-away zone on the northerly side of Smith Street from a point 66 feet east of Shrewsbury Street to a point 297 feet east of Shrewsbury 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: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer, Thompson and Mayor Melton.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 6351 passed.

3. Your Committee on Streets and Traffic has had under consideration Bill No. 6352.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 6352 - A Bill to repeal Ordinance No. 2290, passed by Council on September 18, 1978, relating to No Parking on the northerly side of Smith Street between Capitol Street and Broad 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. Ordinance No. 2290, passed by Council on September 18, 1978, relating to No Parking on the northerly side of Smith Street between Capitol Street and Broad Street 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 27, nays 0 and absent 0 as follows:

YEAS: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham,

Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer, Thompson and Mayor Melton.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 6352 passed.

4. Your Committee on Streets and Traffic has had under consideration Bill No. 6353, as amended.

And reports the same to Council with the recommendation that the bill, as amended, pass.

Bill No. 6353, as amended - A Bill to establish a bus and cab parking stand/zone, for two buses, on the northerly side of Smith Street from a point 116 feet west of the easterly curb line of Shrewsbury Street to a point 231 feet west of the easterly curb line of Shrewsbury 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 bus and cap parking stand/zone, for two buses, on the northerly side of Smith Street from a point 116 feet west of the easterly curb line of Shrewsbury Street to a point 231 feet west of the easterly curb line of Shrewsbury 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: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer, Thompson and Mayor Melton.

NAYS: None.

ABSENT: None.

So, all members present and voting having voted in the affirmative the Mayor declared Bill No. 6353, as amended, passed.

REPORTS OF OFFICERS

1. Finance Information/Municipal Court Revenue and Cases for May 1997; received and filed.

2. Application to operate a private club located at 2337 West Washington Street; received and filed.

3. City Treasurer's Report for month ending May 1997; received and filed.

NEW BILLS INTRODUCED

Introduced by Councilman Hicks - June 16, 1997
Bill No. 6354 - A Bill to amend Chapter XXXI of the Charleston City Code 31-150; to prohibit any noise which may be annoying to persons; referred to Council Committee on Ordinances and Rules.

Introduced by Councilwoman Connell - June 16, 1997
Bill No. 6355 - 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-2 district those parcels of land situate on Gordon Drive, Loop Road and Lexington Drive, Charleston, West Virginia; referred to Municipal Planning Commission.

Introduced by Councilwoman Connell - June 16, 1997
Bill No. 6356 - A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March 1983, as amended, by reducing the maximum permitted sign height in C-6 and C-10 districts to 35 feet; referred to Municipal Planning Commission.

Introduced by Councilman Smith - June 16, 1997
Bill No. 6357 - A Bill to amend and re-enact the Administrative Code of the City of Charleston (Civil Service Code); referred to Council Committee on City Employees.

UNFINISHED BUSINESS

Councilwoman Connell moved to remove from the table Bill No. 6327.

The question being on Councilwoman Connell's motion a vote was taken. There being no dissent, with the exception of Councilman Layne, the Mayor declared the motion adopted.

Councilwoman Connell moved to amend the bill by changing 2386 to 2383 & 2385 Sissonville Drive.

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. 6327 - 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-6 district and a C-10 district, that certain parcel of land situate at 2383 & 2385 Sissonville 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 a C-6 district to a C-10 district the whole of the following described parcel of land:

> Parcels 120 & 121 as shown on North Charleston Tax Map No. 21. Subject parcel commonly known as 2383 & 2385 Sissonville Drive, Charleston, West Virginia. Said tax map is of record in the Planning Office.

1.1. The use of the above-described parcel of land is hereby restricted to permit a mini-storage facility as the only C-10 use and all permitted C-6 uses.

2. The Zoning Map, attached to and made a part of said Zoning Ordinance is hereby amended in accordance with Section 1 of this ordinance.

3. 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 26, nays 1 and absent 0 as follows:

YEAS: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lane, Lanham, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snodgrass, Snuffer, Thompson and Mayor Melton.

NAYS: Layne.

ABSENT: None.

So, a members present and voting, with the majority having voted in the affirmative the Mayor declared Bill No. 6327, as amended, passed.

At 11:15 p.m., on motion of Councilman Quick, Council adjourned until Monday, July 7, 1997.

G. Kemp Melton, Mayor

~~Fred M. Frisk, Jr.~~, City Clerk
Deputy

Resolution No. 788-97

Introduced in Council

October 6, 1997

Introduced By:

Dave Hardy

Adopted by Council

October 6, 1997

Resolution No. 788-97 Providing for the dates, maturities, interest rate, principal payment schedules, sale price and other terms of The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 B; designating a registrar, paying agent and depository bank, approving the sale of the Series 1997 B Bonds pursuant to a Loan Agreement; and making other provisions as to the Series 1997 B Bonds.

WHEREAS, the Council of The City of Charleston, West Virginia (the "Council"), on June 2, 1997, adopted Ordinance No. 6349, all as more fully set out therein (said Ordinance is hereinafter referred to as the "Ordinance") which Ordinance was placed into effect on June 16, 1997;

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Ordinance;

WHEREAS, the Ordinance provides for the issuance of two separate series of bonds, designated The City of Charleston, West Virginia, Sewerage System Revenue Bonds, in an aggregate principal amount not to exceed $8,000,000;

WHEREAS, the City issued its Sewerage System Revenue Bonds, Series 1997 A on July 22, 1997, in the principal amount of $732,688.

WHEREAS, the Ordinance provides for the issuance of The City of Charleston, West Virginia, Sewerage System Revenue Bonds, Series 1997 B, all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and the terms of the Loan Agreement entered into between the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment (the "DEP"), dated September 9, 1997 (the "Loan Agreement") and further provides that the dates, interest rates, maturities, sale prices and other terms of and matters relating to, the Series 1997 B Bonds should be established by a supplemental resolution; and

WHEREAS, the Series 1997 B Bonds are being issued to, along with other moneys available therefor, finance the cost of acquisition and construction of the sewerage system compost facility (the "Project"), to fund the reserve account, and to pay other costs in connection therewith; and

WHEREAS, it is in the best interests of the City to issue the Series 1997 B Bonds; and

WHEREAS, the Council of the City deems it essential and desirable that this resolution (the "Supplemental Resolution") be adopted and that the prices, the maturity dates, the redemption provisions, the interest rate, and the interest and principal payment dates of the Series 1997 B Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Series 1997 B Bonds be herein provided for.

NOW, THEREFORE, be it resolved by the Council of The City of Charleston, West Virginia, as follows:

Section 1. There are hereby authorized and ordered to be issued The City of Charleston, West Virginia, Sewerage System Revenue Bonds, Series 1997 B, all as set forth in the Ordinance:

(A) The second series of bonds of the City shall be issued originally represented by a single bond, designated "Sewerage System Revenue Bonds, Series 1997 B", numbered BR-1, and shall be in the aggregate principal amount of $5,237,584. The Series 1997 B Bonds shall be dated the date of delivery thereof, and shall finally mature on March 1, 2019, and shall bear interest at the rate of two percent (2%) per annum, commencing March 1, 1999. Both principal and interest are payable quarterly on each September 1, December 1, March 1 and June 1 of each year commencing June 1, 1999, in the amounts as set forth in Schedule Y attached to the Loan Agreement and incorporated herein. The Series 1997 B Bond 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 Bond. The City shall pay, quarterly, the 1% Administrative Fee as provided in the Ordinance and the Loan Agreement.

(B) The proceeds of the Series 1997 B Bonds shall be deposited, as received from time to time, as follows:

(1) $301,277 from the bond proceeds along with $17,106.04 from the Sanitary Board shall be deposited into the Reserve Account established for the Series 1997 B Bonds to meet the Reserve Account Requirement ($318,383.04); and

(2) $4,936,307 of such proceeds shall be deposited into the Bond Construction Trust Fund and used to pay costs of the Project, including costs of issuance.

(C) The sale of the Series 1997 B Bonds to the Authority is hereby approved. The Mayor is hereby authorized and directed to execute the Bonds by his manual

signature and attested by the Clerk of the City by his manual signature and the seal of the City shall be impressed thereon.

(D) The total aggregate principal amount of the Series 1997 A and Series 1997 B Bonds is $5,970,272 and does not exceed the $8,000,000 authorized by the Ordinance.

Section 2. All other provisions relating to the Series 1997 B Bonds shall be as provided in the Ordinance, and the Series 1997 B Bonds shall be in substantially the form provided in the Ordinance with such changes, insertions and omissions as may be approved by the Mayor of the City. The execution of the Series 1997 B Bonds by the Mayor shall be conclusive evidence of such approval.

Section 3. The City hereby appoints and designates One Valley Bank, National Association, Charleston, West Virginia, as Registrar for the Series 1997 B Bonds.

Section 4. The City hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia, as Paying Agent for the Series 1997 B Bonds.

Section 5. The City hereby affirms all covenants and representations made in the Loan Agreement and in the Application to the Authority. The price of the Series 1997 B Bonds shall be 100% of par value, provided that the proceeds will be advanced from time to time as requisitioned by the City. No interest accrues on the advanced amounts during the construction period.

Section 6. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates, including the Registrar's Agreement, required or desirable in connection with the Series 1997 B Bonds in order for the Series 1997 B Bonds to be delivered on or about October 7, 1997. The Mayor is hereby authorized and directed to execute and deliver all contracts, requisitions and other documents and certificates necessary to construct the Project.

Section 7. The City shall not permit at any time or times any of the proceeds of the Series 1997 B Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the Series 1997 B Bonds from the treatment afforded by Section 103(a) of the Code, by reason of the classification of the Series 1997 B Bonds as "private activity bonds" within the meaning of the Code. It will take all actions necessary to comply with the Code, including the Treasury Regulations promulgated thereunder.

Section 8. The City does hereby reaffirm Huntington National Bank West Virginia, Charleston, West Virginia, as Depository Bank for the Revenue Fund under the Ordinance.

Section 9. 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 10. The City hereby determines to invest all moneys in the funds and accounts established by the Ordinance held by the Depository Banks until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the City hereby directs the Depository Banks 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 1997 B Bonds Sinking Fund, including the Reserve Account therein, shall be invested by the Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 11. The financing of the Project with proceeds of the Series 1997 B 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. This Supplemental Resolution shall be effective immediately upon adoption.

102658

J O U R N A L

OF THE

COUNCIL

CITY OF CHARLESTON

WEST VIRGINIA

October 6, 1997

The Council met in its Chamber in the City Building at 8:00 p.m. for the first meeting in the month of October and was called to order by the Mayor, the Honorable G. Kemp Melton.

Prayer was offered by the Honorable Ernest A. Layne, Councilman for the Fifth Ward.

The Clerk called the roll and the following members answered to their names:

Barron	Kimberling	Morton
Barth		Nielsen
Connell	Lanham	Quick
Gilmer	Layne	Redman
Haddad	Leary	Smith
Hardy	Loeb	Snuffer
Hicks	Lopez	
Horan	Malone	Thompson
Huffman	McClaskie	Mayor Melton

Twenty-five members being present, two being absent, Councilmembers Lane and Snodgrass, 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.

EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION
By the Mayor

WHEREAS: Breast cancer is the most common form of cancer in American women; and

WHEREAS: A woman has a one in eight lifetime risk of developing breast cancer and a one in twenty-nine lifetime risk of dying of breast cancer. A new case will be diagnosed every three minutes; and

WHEREAS: The prospect of a cure for breast cancer is best with early detection; and

WHEREAS: Annually, an estimated 1,300 West Virginia women will be diagnosed with breast cancer, and about 320 will die from the disease; and

WHEREAS: Research has shown that breast cancer mortality could be reduced by at least 30 percent if women followed recommended breast cancer screening guidelines; and

WHEREAS: Guidelines include a monthly self-breast exam, an annual exam by a doctor or nurse, mammogram as soon as your doctor recommends starting and as often as they recommend, and after 50 years old, a screening mammogram every year; and

WHEREAS: Encouraging the women you love to follow the above steps may make a difference in their lives - a difference of life and death.

NOW, THEREFORE, I G. Kemp Melton, Mayor of the City of Charleston, do hereby proclaim October 1997 as

BREAST CANCER AWARENESS MONTH

in the City of Charleston, West Virginia.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Executive Department to be affixed this 6th day of October, 1997.

/s/G. Kemp Melton
Mayor

Received and filed.

EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION
By the Mayor

WHEREAS: More than 80 years ago, the precursor to the Kanawha-Charleston Health Department was first mentioned in a public report; and

WHEREAS: Thirty years later, the Kanawha-Charleston Health Department emerged from the joining of the Charleston and Kanawha County health departments; and

WHEREAS: This month, the Kanawha-Charleston Health Department is celebrating 50 years of dedicated service to the people of Charleston and all of Kanawha County, working to improve the health of all those in the region; and

WHEREAS: The Health Department has gladly accepted new challenges through the years while battling some perennial foes that continue to rear their head; and

WHEREAS: The Kanawha-Charleston Health Department, and the people behind the agency's years of service to the community, truly deserve recognition of their work.

NOW, THEREFORE, I, G. Kemp Melton, Mayor of the City of Charleston, do hereby proclaim the month of October 1997 as

KANAWHA-CHARLESTON HEALTH DEPARTMENT MONTH

in the City of Charleston, West Virginia.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Executive Department to be affixed this 6th day of October, 1997.

/s/G. Kemp Melton
Mayor

Received and filed.

CLAIMS

1. A Claim of James D. Charlton; 1816 Rosewood Road; alleges damage to vehicle; referred to City Solicitor.

2. A Claim of Veronica J. Washington; 304 Hinton Terrace; alleges damage to vehicle; referred to City Solicitor.

3. A Claim of Greg Bartram; 4832 Kanawha Turnpike; alleges injury; referred to City Solicitor.

4. A Claim of Richard Lightner; 247 Garrison Avenue; alleges damage to property; referred to City Solicitor.

PETITION

Attention: Traffic and Streets Committee/Loren Snodgrass
From: Archie Chestnut
Date: April 23, 1997
RE: Request for meters

Recently, the Parking System circulated a petition on Quarrier and Capitol streets to get imput from the businesses about installing parking meters on those streets. The number of meters we are proposing includes 29 doubles and 9 singles at a cost of $14,483. The estimated revenue would total ap. $3648.00 a month which would amount of ap. $43,776 a year.
The petition mentioned above is enclosed for your examination.

APPOINTMENTS

TO: Fred M. Frisk, Jr., City Clerk
FROM: G. Kemp Melton, Mayor
SUBJECT: Civil Service Commission
DATE: October 6, 1997

I am aware of the expiration of the terms of Addie Watkins and Charleston Dollison as a member of the Civil Service commission.

I am recommending the following:

The re-appointment of Addie Watkins, to a term that will expire September 3, 2000.
The re-appointment of Charles Dollison, to a term that will expire September 3, 1999.*

I respectfully request City Council approval of this recommendation.

*term was not renewed correctly on previous appointment.

The question being on the confirmation of the appointments a vote was taken. There being no dissent the Mayor declared the appointments confirmed.

TO: Fred M. Frisk, Jr., City Clerk
FROM: G. Kemp Melton, Mayor
SUBJECT: Appeals Board
DATE: October 6, 1997

The current Board of Examiners and Appeals of the Building Code must be updated to meet the requirements of the BOCA Building Code.
I am appointing the following individuals to the new Appeals Board in accordance with PM 121.2 of the BOCA Building Code:

Name	Expiration Date
Rodger Monk, Builder	10-1-2002
Paul Tennant, Architect	10-1-2001
Richard Wilbur, Plumbing Contractor	10-1-2000
Ted Brady, Electrical Contractor	10-1-1999
R.M. Brewer, Fire Protection Contractor	10-1-1998

In accordance with PM121.2.2 of the BOCA Building Code I am appointing the following alternate members:

Kanti Patel, PE Geotechnical Engineer	10-1-2002
Tom Orcutt, Plumbing Contractor	10-1-2002

Please advise City Council of these appointments.

Received and filed.

MISCELLANEOUS RESOLUTION

Introduced by Mayor Melton and Councilmembers Quick, Connell, Lane and Hardy:
Resolution No. 790-97 - WHEREAS, the City of Charleston, West Virginia ("The City"), acting by and through the City Council of the City of Charleston, West Virginia (the "City Council") is authorized under Chapter 8, Article 16, Section 1 et seq. of the West Virginia Code of 1931, as amended, (the "Municipal Works Act"), to issue its revenue bonds for the purpose of financing the costs of acquiring, constructing and equipping municipal public works projects; and

WHEREAS, the City is further authorized under Chapter 8, Article 12, Section 1 et seq. of the West Virginia Code of 1931, as amended (the "Act"), to take, purchase, hold and lease as Lessee for any municipal purpose real and/or personal property, including, but not limited to, the entering into of lease-purchase agreements with the Charleston Building Commission in accordance with the terms of Chapter 8, Article 33, Section 1 et seq. of the West Virginia Code of 1931, as amended (the "Building Commission Act"); and

WHEREAS, the City Council has considered a financing plan for the purpose of (i) undertaking certain renovations to the Charleston Civic Center in an amount approximating $7,000,000; (ii) leasing from the Charleston Building Commission a sports complex in Kanawha City which is estimated to cost approximately $2,500,000; (iii) leasing from the Charleston Building Commission a new public safety building which is estimated to cost approximately $1,500,000; (iv) leasing from the Charleston Building Commission a new police headquarters which is estimated to cost approximately $1,000,000; (v) contributing over a period not to exceed ten (10) years, $4,500,000 to the proposed Center for the Arts and Sciences; and

WHEREAS, the City anticipates financing the cost of the renovations to the Charleston Civic Center through the issuance by it of its revenue bonds pursuant to the Municipal Works act; and

WHEREAS, the City, with the anticipated cooperation of the Charleston Building Commission, anticipates financing the costs of (ii) through (iv) above through the issuance by the Charleston Building Commission of its Lease Revenue Bonds under the Building Commission Act; and

WHEREAS, the City has been advised that legislation will be proposed in the West Virginia Legislature in 1998 that, if enacted, will enable the City to increase the hotel occupancy tax in the City of Charleston from 3% to 6% which increased amount will result in the City receiving an estimated $850,000 annually in additional revenues; and

WHEREAS, prior to the issuance of bonds as aforesaid, the City anticipates that capital expenditures will be incurred in an amount not to exceed (i) $7,000,000 with respect to renovations to the Charleston Civic Center, (ii) $2,500,000 with respect to the sports complex; (iii) $1,500,000 with respect to the new public safety building; and (iv) $1,000,000 with respect to the new police headquarters; and

WHEREAS, pursuant to Regulation Section 1.150-2 of the Code (the "Reimbursement Regulations") the City has determined to declare its intention to reimburse the aforementioned capital expenditures with proceeds of a tax-exempt borrowing and, in so doing, to otherwise comply with the requirements of the Reimbursement Regulations; and

WHEREAS, there has been presented to the City Council for adoption a Declaration of Official Intent in the form attached hereto as Exhibit A which is incorporated by reference herein.

NOW, THEREFORE, be it resolved by the Council of the City of Charleston, West Virginia:

1. The City Council hereby finds and determines that the issuance of bonds for the purpose of financing the above-referenced projects will benefit the City and as otherwise within the authorized purposes of the Act, the Municipal Works Act and the Building Commission Act.

2. Preliminary approval is hereby given to the proposed financing(s) however, the issuance of bonds and the approval of the forms of the related bond documents will require further action by the City and/or the Charleston Building Commission and nothing herein shall be construed as an obligation on the part of the City to take such further action or to cause the Charleston Building commission to take such further action.

3. Goodwin & Goodwin, LLP, Charleston, West Virginia, is hereby designated as bond counsel and is hereby authorized to proceed with the preparation of necessary documents relating to the

foregoing, provided that all fees and expenses in connection with such services shall be paid solely from the proceeds of sale of said bonds.

4. The approval of the City Council of the (i) leasing from the Charleston Building Commission of a sports complex in Kanawha City which is estimated to cost approximately $2,500,000 (ii) leasing from the Charleston Building Commission of a new public safety building which is estimated to cost approximately $1,500,000; (iii) leasing from the Charleston Building commission a new police headquarters which is estimated to cost approximately $1,000,000; and (iv) contributing over a period not to exceed ten (10) years, $4,500,000 to the proposed Center for the Arts and Sciences, in specifically conditioned upon enactment of legislation which will permit the City to raise the hotel occupancy tax from 3% to 6%, resulting in an additional estimated $850,000 annually in additional revenues to the City.

5. The Mayor of the City is hereby authorized to take any and all steps necessary to accomplish the financing approved herein.

6. The Declaration of Official Intent attached hereto and incorporated by reference herein is hereby adopted and deemed effective.

Adopted this ___ day of October, 1997.

Referred to Council Committee on Finance.

REPORTS OF STANDING COMMITTEES

Councilman Hardy, Chairman of the Council Committee on Finance, submitted the following reports:

1. Your Committee on Finance has had under consideration Resolution No. 781-97, authorizing the Finance Director to make revisions to the 1997-98 General Fund budget.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 781-97 - "Authorizing the Finance Director to make revisions to the 1997-98 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 1997-98 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.

General Fund 1997-98 Budget Amendment No 3 - October 6, 1997

Budget Amendment for 1996-97 Encumbered Funds

01-409-0-0-5-068	Mayors Office	Other Contributions	995.00
01-412-0-0-3-041	City Manager	Materials & Supplies	675.00
01-417-0-0-2-029	Legal	Court Costs & Damages	12,127.00
01-418-0-0-4-059	Accounting	C/O-Equipment	1,500.00
01-419-0-0-2-024	Internal Audit	Audit Costs	1,628.00
01-420-0-0-4-058	Engineering	C/O-Special Projects	763,815.00
01-439-0-0-2-016	Information Systems	M&R-Equipment	270.00
01-439-0-0-3-041		Materials & Supplies	139.00
01-439-0-0-4-059		C/O-Equipment	7,075.00
01-448-0-0-3-045	E.A.S.	Uniforms	1,500.00
01-455-0-0-2-016	Police-Uniform	M&R-Equipment	482.00
01-455-0-0-2-017		M&R-Auto/Truck	14,130.00
01-455-0-0-3-041		Materials & Supplies	145.00
01-455-0-0-3-045		Uniforms	439.00
01-455-0-0-4-059		C/O-Equipment	1,491.00
01-456-0-0-3-041	Police -Civilian	Materials & Supplies	509.00
01-500-0-0-2-015	Fire-Uniform	M&R-Buildings & Grounds	2,950.00
01-500-0-0-2-016		M&R-Equipment	2,105.00
01-500-0-0-3-045		Uniforms	12,270.00
01-500-0-0-4-059		C/O-Equipment	124,409.00
01-530-0-0-3-041	Refuse & Recycling	Materials & Supplies	1,986.00
01-540-0-0-2-030	Parks & Recreation	Contract Services	3,473.00
01-540-0-0-3-041		Materials & Supplies	6,201.00
01-540-0-0-4-059		C/O-Equipment	18,745.00
01-573-0-0-3-041	Traffic Engineering	Materials & Supplies	3,599.00
01-576-0-0-2-030	Equipment Maintenance	Contract Services	5,670.00
01-299-00-0000	Balance on Hand July 1		(988,328.00)
Total			0.00

To adjust the proper accounts in the 1997-98 Municipal Budget for those amounts included in "Reserve for Encumberances" as stated in the Financial Statements for the Fiscal Year Ended June 30, 1997. This is in compliance with instruction from the Chief Inspector Division, Department of Tax and Revenue, State of West Virginia.

3. Your Committee on Finance has had under consideration Resolution No. 783-97, authorizing the Mayor to sign an agreement with the West Virginia Commission on Drunk Driving Prevention (CDDP) to receive and administer grant funds in the amount of $15,000. This grant will be used to fund DUI overtime enforcement which includes DUI roving patrols and sobriety checkpoints.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 783-97 - "Authorizing the Mayor to sign an agreement with the West Virginia Commission on Drunk Driving Prevention (CDDP) to receive and administer grant funds in the amount of $15,000. This grant will be used to fund DUI overtime enforcement which includes DUI roving patrols and sobriety checkpoints."

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

That the Mayor is hereby authorized and directed to sign an agreement with the West Virginia Commission on Drunk Driving Prevention (CDDP) to receive and administer grant funds in the amount of Fifteen Thousand Dollars ($15,000). This grant will be used to fund DUI overtime enforcement which includes DUI roving patrols and sobriety checkpoints.

The question being on the adoption of the resolution a vote was taken. There being no dissent the Mayor declared Resolution No. 783-97 adopted.

4. Your Committee on Finance has had under consideration Resolution No. 784-97, authorizing the Finance Director to allocate HOME Program funds in the amount of $29,000 for acquisition of two single family structures at 917-A Carte Street and 917-B Carte Street.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 784-97 - "Authorizing the Finance Director to allocate HOME Program funds in the amount of $29,000 for acquisition of two single family structures at 917-A Carte Street and 917-B Carte Street."

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

That the Finance Director is hereby authorized and directed to allocate HOME Program funds in the amount of Twenty-nine Thousand dollars ($29,000) for acquisition of two single family structures at 917-A Carte Street and 917-B Carte Street.

The question being on the adoption of the resolution a roll call was taken and there were - yeas 23, nays 0, abstention 1 and absent 3 as follows:

YEAS: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Snuffer, Thompson and Mayor Melton.

NAYS: None.

ABSTENTION: Kimberling.

ABSENT: Lane, Smith and Snodgrass.

So, a majority of elected members present and voting having voted in the affirmative the Mayor declared Resolution No. 784-97 adopted.

5. Your Committee on Finance has had under consideration Resolution No. 785-97, authorizing the Mayor to sign Change Order No. 1 with Garcie R. Marker & Sons, in the amount of approximately $30,000 (final payment amount to be determined by applying contract bid unit prices to quantities built) for the Curb, Gutter & Sidewalk Contract. This will primarily provide for additional work on Clay Avenue, but also includes minor quantities (approximately $3,000) for work on other streets. This will increase the contract price from $272,165 to approximately $302,165; to be charged to Account No. 25-096-00-032, CDBG - Sidewalks/Steps.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 785-97 - "Authorizing the Mayor to sign Change Order No. 1 with Garcie R. Marker & Sons, in the amount of approximately $30,000 (final payment amount to be determined by applying contract bid unit prices to quantities built) for the Curb, Gutter & Sidewalk Contract. This will primarily provide for additional work on Clay Avenue, but also includes minor quantities (approximately $3,000) for work on other streets. This will increase the contract price from $272,165 to approximately $302,165."

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 Garcie R. Marker & Sons, in the amount of approximately Thirty Thousand Dollars ($30,000), final payment amount to be determined by applying contract bid unit prices to quantities built, for the Curb, Gutter and Sidewalk Contract. This will primarily provide for additional work on Clay Avenue, but also includes minor quantities (approximately $3,000) for work on other streets. This will increase the contract price from Two Hundred Seventy-two Thousand One Hundred Sixty-five Dollars ($272,165) to approximately Three Hundred Two Thousand One Hundred Sixty-five Dollars ($302,165).

CITY OF CHARLESTON, WEST VIRGINIA
BID AND PROPOSAL FORM

CURB/GUTTER AND SIDEWALK PROJECT IN VARIOUS LOCATIONS
Spring, 1997

Please enter our bid for the above named project. We agree to complete this project in accordance with the City of Charleston's Plans and Specifications, attached, for the following prices:

ITEM	UNIT	ESTIMATED QUANTITY	UNIT COST	TOTAL UNIT COST
Integral Curb	LF	2913	$ 5.00	$ 14,565.00
Plain Curb	LF	930	10.00	9,300.00
Curb & Gutter	LF	2882	15.00	43,230.00
Sidewalk Replacement	SF	35,514	5.00	177,570.00
Dowel & Cap Curb	LF	200	10.00	2,000.00
Curb Inlets (Adjust)	EA	15	500.00	7,500.00
Asphalt Replacement	Ton	100	60.00	6,000.00
Aggregate	Ton	1000	12.00	12,000.00
			TOTAL:	$ 272,165.00

State percent (%) of dollar value of your total bid that represents work to be performed by DBE/WBE firms. Twenty percent (20%) of the dollar amount for project supplies or equipment purchased from DBE/WBE firms may be involved in the this percentage figure. All items are to be bid with the cost of materials in place.

0 %

Completion time: 120 calendar days from date of contract.

Earliest starting date: May 19, 1997.

We certify that we practice equal employment opportunities.

Allen MacKee
Authorized Bidder's Signature

05/15/97
Date

Vice President
Title

Company Name Garcie R. Marker & Sons, Inc.

Address Rt. 8, Box 511-B, South Charleston, WV 25309

Telephone (304) 744-0590

Enclosure: List of Stockholders, Bid Bond, References, Subcontractor List, Equipment List

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: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Snuffer, Thompson and Mayor Melton.

NAYS: None.

ABSENT: Lane, Smith and Snodgrass.

So, a majority of elected members present and voting having voted in the affirmative the Mayor declared Resolution No. 785-97 adopted.

6. Your Committee on Finance has had under consideration Resolution No. 786-97, authorizing the Mayor to enter into a contract with Garcie R. Marker & Sons, Inc., in the amount of approximately $79,460 (final payment amount to be determined by applying the attached contract bid unit prices to quantities built) for the Wertz Avenue Storm Sewer Repair - Phase II project. This will provide for construction of a contract invert in an existing storm sewer; to be charged to Account No. 25-097-00-027, CDBG - Flood Drain Facilities.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 786-97 - "Authorizing the Mayor to enter into a contract with Garcie R. Marker & Sons, Inc., in the amount of approximately $79,460 (final payment amount to be determined by applying the attached contract bid unit prices to quantities built) for the Wertz Avenue Storm Sewer Repair - Phase II project. This will provide for construction of a concrete invert in an existing storm sewer."

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 approximately Seventy-nine Thousand Four Hundred Sixty Dollars ($79,460), final payment amount to be determined by applying the attached contract bid unit prices to quantities built, for the Wertz Avenue Storm Sewer Repair - Phase II project. This will provide for construction of a concrete invert in an existing storm sewer.

CITY OF CHARLESTON
BID AND PROPOSAL FORM
WERTZ AVENUE STORM SEWER REPAIR
SEPTEMBER 1997

COMPANY NAME: Garcie R. Marker & Sons, Inc.

ADDRESS: Rt. 8, Box 511-B, South Charleston, WV 25309

TELEPHONE: 304-744-0590 **CONTRACTOR'S LICENSE NO.:** WV001474

Please enter our bid for the above named project as follows:

Description	Unit	Quantity	Unit Cost	Item Total
Item 3.01 - Mobilization/Demobilization (max. 10% of Project Total)	LS	1	$6,200.00	$6,200.00
Item 3.02 -Culvert Cleaning	LS	1	$5,360.00	$5,360.00
Item 3.03 - Water Control	DAY	25	$252.00	$6,300.00
Item 3.04 - Invert Construction (Concrete)	LF	1,400	$44.00	$61,600.00
			PROJECT TOTAL:	$79,460.00

All items required for project completion but not listed separately shall be considered incidental to the items shown. Quantities are estimates for bidding purposes only; the City of Charleston will pay only for actual quantities installed. The City of Charleston reserves the right to vary quantities up to 50% with no increase in unit price.

NAME OF AUTHORIZED BIDDER: Allen Marker

TITLE: Vice President

SIGNATURE: Allen Marker **DATE:** 09/29/97

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: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Snuffer, Thompson and Mayor Melton.

NAYS: None.

ABSENT: Lane, Smith and Snodgrass.

So, a majority of elected members present and voting having voted in the affirmative the Mayor declared Resolution No. 786-97 adopted.

7. Your Committee on Finance has had under consideration Resolution No. 787-97, authorizing the Mayor to enter into a contract with Wiseman Construction, in the amount of approximately $126,071.50, for the Downtown Brick Intersection Repairs in three main areas. The unit price items on the attached bid sheet will apply for spot repairs in various other areas and are estimated to cost approximately $10,000, for a total contract cost of approximately $136,071.50. West Virginia-American Water Company has agreed to contribute $15,000 to the Brawley Walkway area ($24,895) due to the failed work performed by a WVAWC contractor for the Capitol Street main replacement. This will decrease the total contract cost to approximately $121,071.50; to be charged to Account No. 01-420-0-0-4-58, Engineering Department - Capital Outlay/Special Projects.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 787-97 - "Authorizing the Mayor to enter into a contract with Wiseman Construction Company, in the amount of approximately $126,071.50, for the Downtown Brick Intersection Repairs in three main areas. The unit price items on the attached bid sheet will apply for spot repairs in various other areas and are estimated to cost approximately $10,000, for a total contract cost of approximately $136,071.50. West Virginia-American Water Company has agreed to contribute $15,000 to the Brawley Walkway area ($24,895) due to the failed work performed by a WVAWC contractor for the Capitol Street main replacement. This will decrease the total contract cost to approximately $121,071.50."

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 Wiseman Construction Company, in the amount of approximately One Hundred Twenty-Six Thousand Seventy-one Dollars and Fifty Cents ($126,071.50), for the Downtown Brick Intersection Repairs in three main areas. The unit price items on the attached bid sheet will apply for spot repairs in various other areas and are estimated to cost approximately Ten Thousand Dollars ($10,000), for a total contract cost of approximately One Hundred Thirty-six

Thousand Seventy-one Dollars and Fifty Cents ($136,071.50). West Virginia-American Water Company has agreed to contribute Fifteen Thousand Dollars ($15,000) to the Brawley Walkway area ($24,895) due to the failed work performed by a WVAWC contractor for the Capitol Street main replacement. This will decrease the total contract cost to approximately One Hundred Twenty-one Thousand Seventy-one Dollars and Fifty Cents ($121,071.50).

BIDS - CITY OF CHARLESTON
INTERSECTION REPAIR
SEPTEMBER 29, 1997
CITY MANAGER'S OFFICE
11:00 A.M.

Bidder	Unit Price 1 Concrete Spot Repair demolition & replacement per square foot	Unit Price 2 Intersection of Pavement demolition & replacement per square foot for various spot repairs	Unit Price 3 Installation of Bituminous Concrete Pavement per square foot	Unit Price 4 Implementation of a WVDOH traffic control plan per each intersection	Area No. 1 2, 900 sq. ft. Demolition & Replacement Brick Paver & Granite Edging	Area No. 2 2,650 sq. ft.Demolition & Replacement Brick Paver & Granite Edging	Area No. 3 Brawley Walkway
ranoConstruction	18.00	29.50	3.75	4.80	72,355.00	66,117.50	29,400.00
&L Construction							
h-Way Paving							
Viseman Construction	16.50	24.50	1.60	1260.00	52,867.00	48,309.50	24,895.00

The question being on the adoption of the resolution a vote was taken. There being no dissent, with the exception of Councilman Redman, the Mayor declared Resolution No. 787-97 adopted.

8. Your Committee on Finance has had under consideration Resolution No. 788-97, providing for the dates, maturities, interest rate, principal payment schedules, sale price and other terms of the City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997B; designating a registrar, paying agent and depository bank, approving the sale of the Series 1997B Bonds pursuant to a Loan Agreement; and making other provisions as to the Series 1997B Bonds, in the aggregate principal amount of $5,237,584.

And reports the same to Council with the recommendation that the committee report be adopted.

Resolution No. 788-97 - "Providing for the dates, maturities, interest rate, principal payment schedules, sale price and other terms of The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997B; designating a registrar, paying agent and depository bank, approving the sale of Series 1997B Bonds pursuant to a Loan Agreement; and making other provisions as to the Series 1997B Bonds.

WHEREAS, the Council of the City of Charleston, West Virginia (the "Council"), on June 2, 1997, adopted Ordinance No. 6349, all as more fully set out therein (said Ordinance is hereinafter referred to as the "Ordinance") which Ordinance was placed into effect on June 16, 1997;

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Ordinance;

WHEREAS, the Ordinance provides for the issuance of two separate series of bonds, designated The City of Charleston, West Virginia, Sewerage System Revenue Bonds, in an aggregate principal amount not to exceed $8,000,000;

WHEREAS, the City issued its Sewerage System Revenue Bonds, Series 1997A on July 22, 1997, in the principal amount of $732,688.

WHEREAS, the Ordinance provides for the issuance of The City of Charleston, West Virginia, Sewerage System Revenue Bonds, Series 1997B, all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and the terms of the Loan Agreement entered into between the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment (the "DEP"), dated September 9, 1997 (the "Loan Agreement") and further provides that the dates, interest rates, maturities, sale prices and other terms of and

matters relating to, the Series 1997B Bonds should be established by a supplemental resolution; and

WHEREAS, the Series 1997B Bonds are being issued to, along with other moneys available therefor, finance the cost of acquisition and construction of the sewerage system compost facility (the "Project"), to fund the reserve account, and to pay other costs in connection therewith; and

WHEREAS, it is in the best interest of the City to issue the Series 1997B Bonds; and

WHEREAS, the Council of the City deems it essential and desirable that this resolution (the "Supplemental Resolution") be adopted and that the prices, the maturity dates, the redemption provisions, the interest rate, and the interest and principal payment dates of the Series 1997B Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Series 1997B Bonds be herein provided for.

Now, therefore, be it Resolved by the Council of the City of Charleston, West Virginia, as follows:

Section 1. There are hereby authorized and ordered to be issued The City of Charleston, West Virginia, Sewerage System Revenue Bonds, Series 1997B, all as set forth in the Ordinance.

(A) The second series of bonds of the City shall be issued originally represented by a single bond, designated "Sewerage System Revenue Bonds, Series 1997B", numbered BR-1, and shall be in the aggregate principal amount of $5,237,584. The Series 1997B Bonds shall be dated the date of delivery thereof, and shall finally mature on March 1, 2019, and shall bear interest at the rate of two percent (2%) per annum, commencing March 1, 1999. Both principal and interest are payable quarterly on each September 1, December 1, March 1 and June 1 of each year commencing June 1, 1999, in the amounts as set forth in Schedule Y attached to the Loan Agreement and incorporated herein. The Series 1997B Bond shall be subject to redemption upon the written consent of the Authority and DEP, 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 Bond. The City shall pay, quarterly, the 1% Administrative Fee as provided in the Ordinance and the Loan Agreement.

(B) The proceeds of the Series 1997B Bonds shall be deposited, as received from time to time, as follows:

(1) $301,277 from the bond proceeds along with $17,106.04 from the Sanitary Board shall be deposited into the Reserve Account established for the Series 1997B Bonds to meet the Reserve Account Requirement ($318,383.04); and

(2) $4,936,307 of such proceeds shall be deposited into

the Bond Construction Trust Fund and used to pay costs of the Project, including costs of issuance.

(C) The sale of the Series 1997B Bonds to the Authority is hereby approved. The Mayor is hereby authorized and directed to execute the Bonds by his manual signature and attested by the Clerk of the City by his manual signature and the seal of the City shall be impressed thereon.

(D) The total aggregate principal amount of the Series 1997A and Series 1997B Bonds is $5,970,272 and does not exceed the $8,000,000 authorized by the Ordinance.

Section 2. All other provisions relating to the Series 1997B Bonds shall be in substantially the form provided in the Ordinance with such changes, insertions and omissions as may be approved by the Mayor of the City. The execution of the Series 1997B Bonds by the Mayor shall be conclusive evidence of such approval.

Section 3. The City hereby appoints and designates One Valley Bank, National Association, Charleston, West Virginia, as Registrar for the Series 1997B Bonds.

Section 4. The City hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia, as Paying Agent for the Series 1997B Bonds.

Section 5. The City hereby affirms all covenants and representations made in the Loan Agreement and in the Application to the Authority. The price of the Series 1997B Bonds shall be 100% of par value, provided that the proceeds will be advanced from time to time as requisitioned by the City. No interest accrues on the advanced amounts during the construction period.

Section 6. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates, including the Registrar's Agreement, required or desirable in connection with the Series 1997B Bonds in order for the Series 1997B Bonds to be delivered on or about October 7, 1997. The Mayor is hereby authorized and directed to execute and deliver all contracts, requisitions and other documents and certificates necessary to construct the Project.

Section 7. The City shall not permit at any time or times any of the proceeds of the Series 1997B Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the Series 1997B Bonds from the treatment afforded by Section 103(a) of the Code, by reason of the classification of the Series 1997B Bonds as "private activity bonds" within the meaning of the Code. It will take all actions necessary to comply with the Code, including the Treasury Regulations promulgated thereunder.

Section 8. The City does hereby reaffirm Huntington National Bank West Virginia, Charleston, West Virginia, as Depository Bank for the Revenue Fund under the Ordinance.

Section 9. 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 10. The City hereby determines to invest all moneys in the funds and accounts established by the Ordinance held by the Depository Banks until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the City hereby directs the Depository Banks 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 1997B Bonds Sinking Fund, including the Reserve Account therein, shall be invested by the Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 11. The financing of the Project with proceeds of the Series 1997B 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. This 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 22, nays 0, abstention 2 and absent 3 as follows:

YEAS: Barron, Barth, Connell, Gilmer, Haddad, Hicks, Horan, Huffman, Kimberling, Lanham, Layne, Leary, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Snuffer, Thompson and Mayor Melton.
NAYS: None.
ABSTENTION: Hardy and Loeb.
ABSENT: Lane, Smith and Snodgrass.

So, a majority of elected members present and voting having voted in the affirmative the Mayor declared Resolution No. 788-97 adopted.

9. Your Committee on Finance has had under consideration Resolution No. 789-97, authorizing the Finance Director to make revisions to the 1997-98 Parking System 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. 789-97 - "Authorizing the Finance Director to make revisions to the 1997-98 Parking System 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 1997-98 Parking System 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.

85-571-0-0-4-061	Parking System	C/O-Lease Purchase	$5,945.00
85-571-0-0-5-099	Other		(5,945.00)

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: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Snuffer, Thompson and Mayor Melton.

NAYS: None.

ABSENT: Lane, Smith and Snodgrass.

So, a majority of elected members present and voting having voted in the affirmative the Mayor declared Resolution No. 789-97 adopted.

10. Your Committee on Finance has had under consideration proposal submitted by Trinity Industries, in the amount of $2,223, for purchase of guardrail and related materials to be stockpiled for use by the Street Department for various projects throughout the City; to be charged to Account No. 01-570-0-0-3-41, Street - Materials & 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.

11. Your Committee on Finance has had under consideration bid submitted by McNiel Fence Company, Inc., in the amount of $2,749.25, for fencing and related materials for the basketball court at John Adams Jr. High School; to be charged to Account No. 51-051-0-0-3-41, South Hills Recreation Fund - Materials & 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.

12. Your Committee on Finance has had under consideration proposal submitted by the Christmas Factory, in the amount of $5,270, for special Christmas lighting an decorations for Magic Island, Haddad Riverfront Park and Daniel Boone Park; to be charged to Account No. 01-540-0-0-4-59, P&R/Public Grounds - 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.

13. Your Committee on Finance has had under consideration approval for transfer of title to the 1977 American LaFrance 1500 GPM pumper truck, Serial No. CE145407, to the Kanawha County Public Safety Division, to be used as a foam unit and brush truck, in exchange for a $9,600 contribution to the Fire Safety House located in North Charleston.

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 proposal submitted by NATCOR Computers and Communications, in the amount of $9,493.95, for purchase of one (1) 200 Mhx Fileserver; 100 RJ-45 Cat 5 Computer Plugs; and one (1) Single Port External Print Server to be used in the Drug Unit of the Charleston Police Department; to be charged to Account No. 29-173-0-0-4-59, Police - MDENT.

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 proposal submitted by Gateway 2000, in the amount of $18,504, for purchase of eight (8) 200 Mhz workstations to be used in the Drug Unit of the Charleston Police Department; to be charged to Account No. 29-173-0-0-4-59, Police - MDENT

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 proposal submitted by CGES, in the amount of $2,349.88, for one (1) Cisco Catalyst 1900 Ethernet Switch and 2000 feet of Category 5 computer Wire to be used in the Drug Unit of the Charleston Police Department; to be charged to Account No. 28-173-0-0-4-59, Police - MDENT.

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 Joe Holland Chevrolet, in the amount of $2,871.76, for replacement of the engine in a 1994 Police Cruiser; to be charged to Account No. 01-576-0-0-2-16, Equipment Maintenance - 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.

18. Your Committee on Finance has had under consideration proposal submitted by Duncan Industries, in the total amount of $32,693.82, for purchase of 31 single meters and 24 double meters, 24 meter poles, and 35 lamp post arms ($31,043.82), to be installed on Capitol and Quarrier streets by the Parking System; plus computer software ($1,650); to be charged to Account No. 85-571-0-0-4-61, Parking System - 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.

19. Your Committee on Finance has had under consideration Bill No. 6350, designating a Business Improvement District in downtown Charleston, West Virginia, as authorized by the West Virginia State Code, Chapter 8, Article 13A (Section 8-13A-9), to be known as

Downtown Charleston Business Improvement District; and in accordance with provisions outlined in said Bill.

And reports the same to Council with the recommendation that the bill be withdrawn.

The question being on the adoption of the committee report a vote was taken. There being no dissent the Mayor declared Bill No. 6350 officially withdrawn.

20. Your Committee on Finance has had under consideration payment of an invoice from Imperial Casualty and Indemnity Company, in the amount of $12,237.78, for the deductible amount due covering claim No. 801-0186, Orrin and Michael Alexander vs. City of Charleston Police Department and City of Charleston; to be charged to the following accounts:

$7,237.78 - 01-417-0-0-2-23, Legal Department - Professional Services

$5,000.00 - 01-417-0-0-2-29, Legal Department - Court Costs and Damages

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.

21. Your Committee on Finance has had under consideration authorizing the Charleston HOME Programs to charge Account No. 25-096-00-014 in the amount of $17,755 for rehabilitation of two (2) residential projects approved by the Charleston HOME Programs Loan Review Committee at a meeting held on September 30, 1997.

And reports the same to Council with the recommendation that the committee report be adopted.

Contractor:	Kennedy Construction
Project Address:	1009 Main Street
Total Est Cost:	$5,380.00
Total Loan:	$5,380.00

Contractor:	Kennedy Construction
Project Address:	1010 Oakmont Road
Total Est Cost:	$12,375.00
Total Loan:	$12,375.00

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: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Snuffer, Thompson and Mayor Melton.
NAYS: None.
ABSENT: Lane, Smith and Snodgrass.

So, a majority of elected members present and voting having voted in the affirmative the Mayor declared the committee report adopted.

Councilwoman Connell, Chairman from the Committee on Planning, submitted the following reports:

1. Your Committee on Planning has had under consideration Special Permit No. 822.

Your Committee concurs with the finding of the Municipal Planning Commission that since this will be an upscale restaurant serving alcoholic beverages with meals, providing valet parking, closing at a reasonable hour, and not having a "bar", there should be little, if any, adverse effect on the neighborhood.

Your Committee further finds that in order to better protect the neighborhood from any adverse impact of the proposed restaurant the application should be amended by:

1. Restricting the restaurant with alcoholic beverages to the applicants only;
2. The approval only to July 1, 1999, at which time the Committee will review the case as to its effects on the neighborhood; and
3. Closing the seating at 10:00 p.m.

And reports the same to Council with the recommendation that the Special Permit, as amended, be approved.

The question being on the adoption of the amendment a vote was taken. With the majority of elected members present and voting, having voted in the negative, the Mayor declared the amendment failed.

The question being on the approval of the special permit a roll call was taken and there were - yeas 6, nays 18, absent 2, abstention 1 as follows:

YEAS: Barth, Haddad, Loeb, Lopez, Morton and Snuffer.
NAYS: Barron, Connell, Gilmer, Hardy, Hicks, Horan, Huffman, Kimberling, Lanham, Layne, Leary, Malone, McClaskie, Nielsen, Quick, Redman, Thompson and Mayor Melton.
ABSENT: Lane and Snodgrass.
ABSTENTION: Smith.

So, a majority of elected members present and voting having voted in the negative, the Mayor declared Special Permit No. 822 failed.

2. Your Committee on Planning has had under consideration Special Permit No. 826.

Your Committee concurs with the finding of the Municipal Planning Commission that with the new parking with no backing out on Glen Road and the early closing in the evenings, there should be little, if any, adverse affect on the neighborhood.

And reports the same to Council with the recommendation that the special permit be approved.

The question being on the approval of the special permit a vote was taken. There being no dissent the Mayor declared Special Permit No. 826 approved.

3. Your Committee on Planning has had under consideration Special Permit No. 827.

Your Committee concurs with the finding of the Municipal Planning Commission that since there will be a limited number of sales and customers, there should be little, if any, adverse effects on the neighborhood.

And reports the same to Council with the recommendation that the special permit be approved.

The question being on the approval of the special permit a vote was taken. There being no dissent the Mayor declared Special Permit No. 827 approved.

4. Your Committee on Planning has had under consideration Bill No. 6379.

Your Committee concurs with the finding of the Municipal Planning Commission that:

1. Male and female impersonation does not belong in the definition of an "Adult entertainment establishment", and

2. This Bill would bring into conformity the Capitol Theater, Municipal Auditorium and Civic Center when these facilities have performances which include impersonations.

Your Committee further finds that it's inappropriate to permit male and female impersonators in adult entertainment establishments, therefore the bill should be amended as follows:

Page 1, line 33 and page 2, line 32 by deleting the words "adult entertainment establishment".

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, with the exception of Councilman Quick, the Mayor declared the amendments adopted.

Bill No. 6379, as amended - A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March, 1983, as amended, by amending Section 2-2 Definition of terms by eliminating male and female impersonators from the definition of "Adult Entertainment Establishment"; and Section 12-3 Permitted accessory uses for C-10 districts and Section 15-4 Permitted accessory uses for SPI-CBD districts by adding thereto the new use "Male and female impersonators."

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 as follows:

A. Section 2-2; Definition of terms; By eliminating the phrase "male and female impersonators" from the definition of "Adult entertainment establishment", said amended definition to then read:

"Adult entertainment establishment. An establishment which features topless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers."

B. Section 12-3 Permitted accessory uses (C-10 district): By adding the new use "Male and female impersonators", the restrictions thereon, and designating said new use "(1.1)", the amended section to then read:

"Sec. 12-3. Permitted accessory uses.

Accessory uses shall be limited to the following:

(a) Cultural, Entertainment, Assembly, Recreational

(1) Columbarium when located on the same lot as, or within a church, temple, or synagogue.

(1.1) Male and female impersonators, when the performance is located within a legal bar, nightclub or theater.

(2) Private recreational facility, such as a basketball court or tennis court.

(b) Residential

(1) Bed and Breakfast. [See requirements in Sec. 18-3(a.2)]

(2) Detached garage, carport, storage building, condenser unit, or fallout shelter.

(c) Services

Motor vehicles - body repairing or painting, when accessory to a new automobile dealership and conducted within the principal structure.
towing or wrecking service.

(d) Transportation, communication, Utilities
Satellite dish antenna located on the ground (also permitted on the roof of a dwelling of five stories or more or on the roof of a commercial or industrial building)."

C. Section 15-4. Permitted accessory uses (SPI-CBD district): By adding the new use "Male and female impersonators", the restrictions thereon, and designating said new use "(1.1), the amended section to then read:

"Sec. 15-4. CBD Permitted accessory uses.

Accessory uses shall be limited to the following:
(a) Cultural, Entertainment, Assembly, Recreational
(1) Columbarium when located on the same lot as, or within, a church, temple or synagogue.
(1.1) Male or female impersonators, when the performance is located within a legal bar, nightclub, or theater.
(2) Private recreational facility, such as a basketball court or tennis court.

(b) Residential
(1) Bed and Breakfast. [See requirements in Sec. 18-3(a.2)]
(2) Detached condenser unit or fallout shelter.
(c) Retail Trade
(1) Automobiles. (Ord. 6055, 1-3-95).

(d) Services
(1) Catering.
(2) Motor vehicle - repairing or general service (excluding body work).

(e) Transportation, communications, Utilities.
Satellite dish antenna located on the ground (also permitted on the roof of a dwelling of five stories or more or on the roof of a commercial or industrial building)."

2. The Table of Permitted Uses is hereby amended in accordance with Section 1 of this ordinance.

3. 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 13, nays 12 and absent 2 as follows:

YEAS: Barth, Connell, Haddad, Hardy, Huffman, Leary, Loeb, Lopez, Morton, Nielsen, Redman, Snuffer and Mayor Melton.

NAYS: Barron, Gilmer, Hicks, Horan, Kimberling, Lanham, Layne, Malone, McClaskie, Quick, Smith and Thompson.

ABSENT: Lane and Snodgrass.

So, a majority of elected members present and voting having failed to vote in the affirmative, the Mayor declared Bill No. 6379 failed.

Councilman Malone moved to reconsider Bill No. 6379 and delay until October 20, 1997.

The question being on Councilman Malone's motion a vote was taken. With the majority of members present and voting having voted in the affirmative the Mayor declared the motion adopted.

5. Your Committee on Planning has had under consideration an offer of dedication of Pinnacle Place.

Your Committee finds that the City Engineer recommends acceptance of this dedication, subject to receipt of a 2-year street maintenance bond.

And reports the same to Council with the recommendation that the dedication be accepted, subject to receipt of a 2-year maintenance bond the amount of which is acceptable to the City Engineer.

The question being on the approval of the street dedication a vote was taken. There being no dissent the Mayor declared the street dedication of Pinnacle Place, subject to a 2-year maintenance bond, approved.

6. Your Committee on Planning has had under consideration an offer of dedication of Chatsworth Lane.

Your Committee finds that the City Engineer does not recommend this dedication, because:

1. The substandard street width.
2. The turn-around at Lot "A" is not paved; and
3. The turn-around at Lot 34 does not exist.

And reports the same to Council with recommendation that the dedication be rejected.

The question being on the approval of the street dedication a vote was taken. With the majority of members present and voting having voted in the negative, the Mayor declared the dedication of Chatsworth Lane rejected.

Councilwoman Connell, Acting 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. 6381.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 6381 - A Bill to repeal Ordinance No. 4651, passed by Council on November 19, 1990, relating to a 5 minute parking tow-away zone on the southerly side of Donnally Street from a point 30 feet east of Summers Street to a point 70 feet east of Summers 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. Ordinance No. 4651, passed by Council on November 19, 1990, relating to a 5 minute parking tow-away zone on the southerly side of Donnally Street from a point 30 feet east of Summers Street to a point 70 feet east of Summers 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 25, nays 0 and absent 2 as follows:

YEAS: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lanham, Layne,

Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snuffer, Thompson and Mayor Melton.
NAYS: None.
ABSENT: Lane and Snodgrass.

So, a majority of elected members present and voting having voted in the affirmative the Mayor declared Bill No. 6381 passed.

2. Your Committee on Streets and Traffic has had under consideration Bill No. 6382.

And reports the same to Council with the recommendation that the bill pass.

Bill No. 6382 - A Bill to establish a no parking anytime tow-away zone on the southerly side of West Washington Street from a point 110 feet west of Ohio Avenue to a point 170 feet west of Ohio 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 no parking anytime tow-away zone on the southerly side of West Washington Street from a point 110 feet west of Ohio Avenue to a point 170 feet west of Ohio 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 25, nays 0 and absent 2 as follows:
YEAS: Barron, Barth, Connell, Gilmer, Haddad, Hardy, Hicks, Horan, Huffman, Kimberling, Lanham, Layne, Leary, Loeb, Lopez, Malone, McClaskie, Morton, Nielsen, Quick, Redman, Smith, Snuffer, Thompson and Mayor Melton.
NAYS: None.
ABSENT: Lane and Snodgrass.
So, a majority of elected members present and voting having voted in the affirmative the Mayor declared Bill No. 6382 passed.

Councilman Smith, Chairman of the Council Committee on City Employees, submitted the following report:

1. Your Committee on City Employees has had under consideration Committee Substitute for Bill No. 6357.

At this time Councilman Smith moved to table Bill No. 6357 for two weeks.

REPORTS OF OFFICERS

1. Financial Statements for the one month ended July 31, 1997; received and filed.

NEW BILLS INTRODUCED

Introduced by Councilwoman Horan - October 6, 1997
Bill No. 6383 - 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 17.13 acre+ tract of land commonly known as the Cunningham property on the easterly side of Greenbrier Street, Charleston, West Virginia; referred to Municipal Planning Commission.

Introduced by Councilwoman Connell - October 6, 1997
Bill No. 6384 - A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 7th day of March, 1983, as amended, in Sections 4-4(d), 5-4(e), 6-4(e), 7-4(b), 8-4(b), 9-4(b), 10-2(d), 11-2(e), 12-2(f), 15-3(e), 18-3(c), 19-4 and 20-3 thereof, by requiring a drop-off/pickup areas, off-street parking and landscaping for child care centers; referred to Municipal Planning Commission.

Introduced by Councilmembers Morton and Lane - October 6, 1997
Bill No. 6385 - 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-8 district to a C-6 district those certain parcels of land situated at 407 and 409 Beauregard Street, Charleston, West Virginia; referred to Municipal Planning Commission.

Introduced by Councilman Leary - October 6, 1997
Bill No. 6386 - 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-0 district those certain parcels of land situate at 2502 Kanawha Avenue, SE; 2505, 2506, 2508, 2509, 2510, 2511 (vacant lot) and 2512 Cherokee Avenue; and 303 26th Street, SE, Charleston, West Virginia; referred to Municipal Planning Commission.

Introduced by Councilman Thompson - October 6, 1997
Bill No. 6387 - A Bill to repeal Ordinance No. 4220, passed by Council on October 19, 1987, relating to a handicap parking zone on the southerly side of Lee Street 207 feet east of Brooks Street to 247 feet east of Brooks 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 Thompson - October 6, 1997
Bill No. 6388 - A Bill to repeal Ordinance No. 4246, passed by Council on October 19, 1987, relating to a handicap parking zone on the southerly side of Lee Street 247 feet east of Brooks Street to 293 feet east of Brooks 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 Redman - October 6, 1997
Bill No. 6389 - A Bill to establish a no parking anytime tow-away zone on the northerly side of Virginia Street West from Washington Street West to a point 415 feet east of Washington Street West 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 Kimberling - October 6, 1997
Bill No. 6390 - A Bill to establish a stop intersection on Whispering Woods at Alpha 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 Councilman Hardy - October 6, 1997
Bill No. 6391 - a bill to amend Bill No. 4208, passed by Council of the City of Charleston on August 17, 1987, and to reenact section Thirty-seven, Article Four, Chapter Twelve (12-37) of the Code of the City of Charleston, one thousand nine hundred seventy-five, as amended, relating to an annual charge, amount and purpose; and providing that the City Collector shall fix the square footage of property; providing that square footage may be the basis; providing for notice of the proposed adoption of this ordinance; and, further, providing for a public hearing as provided in Section

Thirteen, Article Thirteen, Chapter Eight of the Code of West Virginia (8-13-13) one thousand nine hundred thirty-one, as amended; referred to Council Committee on Finance.

Introduced by Councilman Loeb - October 6, 1997
Bill No. 6392 - A Bill to amend Chapter 5, Article One of the Charleston City Code to establish a procedure whereby the Building Commissioner, the Code Enforcement Officer, and his/her Deputy Inspectors shall have the inspection power necessary and right of entry into buildings and structures wherein the property owners fails or refuses to permit free access and entry to the structure or premises under his control, or any part thereof; referred to Council Committee on Ordinance and Rules.

Introduced by Councilman Layne - October 6, 1997
Bill No. 6393 - A Bill to establish a 25 mile per hour speed limit on Summit Drive from White Oak Road to end 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 Layne - October 6, 1997
Bill No. 6394 - A Bill to establish a 25 mile per hour speed limit on West Summit 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 Councilman Layne - October 6, 1997
Bill No. 6395 - A Bill to establish a 25 mile per hour speed limit on Chester 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 Barth - October 6, 1997
Bill No. 6396 - A Bill to repeal Ordinance No. 2085, passed by Council August 1, 1997, relating to a two hour parking on the northerly side of Virginia Street West from Couch Street to Beuhring 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 Councilwoman Morton - October 6, 1997
Bill No. 6397 - A Bill to establish a stop intersection at the intersection of Kent Street and Lakin Street requiring vehicles west bound on Kent Street to stop and requiring vehicles south bound on Lakin Street to stop except when turning right 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 McClaskie - October 6, 1997
Bill No. 6398 - A Bill to establish a no parking anytime tow away zone on the southerly side of Camden Drive from market Drive to Woodland Drive and on the northerly side of Camden Drive from Market Drive to a point 412 feet east of Market 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 Councilman Lanham - October 6, 1997
Bill No. 6399 - A Bill to amend and re-enact Ordinance No. 6309, passed by Council January 21, 1997 establishing a no parking anytime tow-away zone on the westerly side of McQueen Street between Frame Street and Red Oak 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.

On motion of Councilman Quick, Council adjourned until Monday, October 20, 1997.

G. Kemp Melton, Mayor

Fred M. Risk, Jr., City Clerk
Deputy

Affidavit of Publication

STATE OF WEST VIRGINIA,

Kanawha County, to-wit:

I, Robin Clark of the

[X] Sunday Gazette-Mail [X] Charleston Gazette, a daily Democratic newspaper [X] Daily Mail, a daily Republican newspaper, published in the City of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of CLASS Legal Advertisement

was duly published in said paper once a week for two successive weeks commencing with the issue of the 5th day of June, 19 97, and ending with the issue of the 12th day of June, 19 97, .

Dates Published:

June 5, 1997

June 12, 1997

[signature]

Subscribed and sworn to before me this 16th day of June, 1997

Marilyn J. Conley

Notary Public of Kanawha County, West Virginia

My Commission expires May 8, 2001

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
MARILYN J. CONLEY
P. O. BOX 611
NEWTON, WV 25266
My Commission Expires May 8, 2001

The City of Charleston
West Virginia
Notice of Public Hearing and Abstract of Ordinance

Notice is hereby given to any person interested that on June 2, 1997, the Council of The City of Charleston, West Virginia (the "City") enacted Ordinance No. 6349 (the "Ordinance") which:

1. Authorized the acquisition and construction of certain extensions, additions, betterments and improvements (the "Projects") to the existing sewerage system ("System") of the City and the financing of the permanent cost, not otherwise provided, thereof through the issuance of not more than $8,000,000 in aggregate principal amount of Sewerage System Revenue Bonds (the "1997 Bonds") at an interest rate not to exceed twelve percent (12%) and a term of not more than twenty-one years and the interim financing line of credit and a note to evidence the line of credit in an amount not to exceed $1,000,000 at an interest rate not to exceed twelve percent (12%).

2. Pledge rates and charges from the System sufficient to pay for the operating expenses, principal and interest on all outstanding bonds, the 1997 Bonds and the Note and all reserve, renewal and replacement requirements.

3. Directed the continuation of the Revenue Fund and the disposition of the System revenues; provided for the payment of operating and maintenance expenses; provided for the monthly payment of principal and interest on all outstanding bonds and the 1997 Bonds authorized to be issued pursuant to the Ordinance and all sinking fund, reserve account and other payments provided for in the Ordinance and the interest on any outstanding advances of principal of the Note and reserve payments provided thereof; and provided for the use of excess funds of the System.

The City contemplates the issuance of the 1997 Bonds and the Note described, 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 regular meeting thereof at 8:00 p.m. on Monday, June 16, 1997 at the City Hall, 501 Virginia Street, Charleston, and present protest and be heard as to whether the above described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of City on June 2, 1997, is on file in the Office of the City Clerk for review by interested persons during regular office of such office, to-wit: 8:00 a.m. to 4:00 p.m. Mondays through Fridays.

Fred M. Frisk, Jr.
City Clerk of
The City of Charleston
West Virginia

(368548)

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 (Compost)
(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: _____
Its: Mayor

Attest:

Its City Clerk

Date: 9/11/97

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION

By: Barbara S. Taylor
Its: Chief, Office of Water Resources

Date: 9/15/97

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: Daniel B. Yankosky
Its: Director

Attest:
Barbara B. Meadows
Secretary-Treasurer

Date: September 9, 1997

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.

The annual audit to be conducted while receiving funds will be in compliance with OMB Circular 128 and the Single Audit Act.

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	$ 5,237,584
Purchase Price of Bonds	$ 5,237,584

Interest on the Bonds shall be zero percent from the date of delivery to and including February 28, 1999. Principal and interest on the Bonds is payable quarterly, commencing June 1, 1999, at a rate of 2% 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 . (See attached list.)

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
SEWER REVENUE BONDS

CITY OF CHARLESTON

SERIES	ISSUED	AMOUNT
1989	03/21/89	$1,912,194
1989B	11/21/89	829856
1993A	12/02/93	773,237*
1996A	10/09/96	2,671,058*
1996B	11/26/96	395,299*
1997A	07/22/97	732,688*

*State Revolving Fund Loan Program

The City of Charleston Sewerage System
Refunding Revenue Bonds

1992A	06/01/92	$2,955,000
1992B	11/01/92	$6,670,000

SCHEDULE Y

City of Charleston, West Virginia
SRF Loan $5,237,584.00
20 Years, 2% Interest, 1% Admin. Fee

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
3/01/1999	-	-	-	-
6/01/1999	53,407.83	2.000%	26,187.92	79,595.75
9/01/1999	53,674.87	2.000%	25,920.88	79,595.75
12/01/1999	53,943.25	2.000%	25,652.51	79,595.76
3/01/2000	54,212.96	2.000%	25,382.79	79,595.75
6/01/2000	54,484.03	2.000%	25,111.73	79,595.76
9/01/2000	54,756.45	2.000%	24,839.31	79,595.76
12/01/2000	55,030.23	2.000%	24,565.52	79,595.75
3/01/2001	55,305.38	2.000%	24,290.37	79,595.75
6/01/2001	55,581.91	2.000%	24,013.85	79,595.76
9/01/2001	55,859.82	2.000%	23,735.94	79,595.76
12/01/2001	56,139.12	2.000%	23,456.64	79,595.76
3/01/2002	56,419.81	2.000%	23,175.94	79,595.75
6/01/2002	56,701.91	2.000%	22,893.84	79,595.75
9/01/2002	56,985.42	2.000%	22,610.33	79,595.75
12/01/2002	57,270.35	2.000%	22,325.41	79,595.76
3/01/2003	57,556.70	2.000%	22,039.05	79,595.75
6/01/2003	57,844.48	2.000%	21,751.27	79,595.75
9/01/2003	58,133.70	2.000%	21,462.05	79,595.75
12/01/2003	58,424.37	2.000%	21,171.38	79,595.75
3/01/2004	58,716.50	2.000%	20,879.26	79,595.76
6/01/2004	59,010.08	2.000%	20,585.67	79,595.75
9/01/2004	59,305.13	2.000%	20,290.62	79,595.75
12/01/2004	59,601.65	2.000%	19,994.10	79,595.75
3/01/2005	59,899.66	2.000%	19,696.09	79,595.75
6/01/2005	60,199.16	2.000%	19,396.59	79,595.75
9/01/2005	60,500.16	2.000%	19,095.60	79,595.76
12/01/2005	60,802.66	2.000%	18,793.10	79,595.76
3/01/2006	61,106.67	2.000%	18,489.08	79,595.75
6/01/2006	61,412.20	2.000%	18,183.55	79,595.75
9/01/2006	61,719.26	2.000%	17,876.49	79,595.75
12/01/2006	62,027.86	2.000%	17,567.89	79,595.75
3/01/2007	62,338.00	2.000%	17,257.75	79,595.75
6/01/2007	62,649.69	2.000%	16,946.06	79,595.75
9/01/2007	62,962.94	2.000%	16,632.81	79,595.75
12/01/2007	63,277.75	2.000%	16,318.00	79,595.75
3/01/2008	63,594.14	2.000%	16,001.61	79,595.75
6/01/2008	63,912.11	2.000%	15,683.64	79,595.75
9/01/2008	64,231.67	2.000%	15,364.08	79,595.75
12/01/2008	64,552.83	2.000%	15,042.92	79,595.75
3/01/2009	64,875.60	2.000%	14,720.16	79,595.76
6/01/2009	65,199.97	2.000%	14,395.78	79,595.75
9/01/2009	65,525.97	2.000%	14,069.78	79,595.75
12/01/2009	65,853.60	2.000%	13,742.15	79,595.75
3/01/2010	66,182.87	2.000%	13,412.88	79,595.75

City of Charleston, West Virginia
SRF Loan $5,237,584.00
20 Years, 2% Interest, 1% Admin. Fee

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
6/01/2010	66,513.79	2.000%	13,081.97	79,595.76
9/01/2010	66,846.36	2.000%	12,749.40	79,595.76
12/01/2010	67,180.59	2.000%	12,415.17	79,595.76
3/01/2011	67,516.49	2.000%	12,079.26	79,595.75
6/01/2011	67,854.07	2.000%	11,741.68	79,595.75
9/01/2011	68,193.34	2.000%	11,402.41	79,595.75
12/01/2011	68,534.31	2.000%	11,061.44	79,595.75
3/01/2012	68,876.98	2.000%	10,718.77	79,595.75
6/01/2012	69,221.37	2.000%	10,374.39	79,595.76
9/01/2012	69,567.47	2.000%	10,028.28	79,595.75
12/01/2012	69,915.31	2.000%	9,680.44	79,595.75
3/01/2013	70,264.89	2.000%	9,330.87	79,595.76
6/01/2013	70,616.21	2.000%	8,979.54	79,595.75
9/01/2013	70,969.29	2.000%	8,626.46	79,595.75
12/01/2013	71,324.14	2.000%	8,271.61	79,595.75
3/01/2014	71,680.76	2.000%	7,914.99	79,595.75
6/01/2014	72,039.16	2.000%	7,556.59	79,595.75
9/01/2014	72,399.36	2.000%	7,196.39	79,595.75
12/01/2014	72,761.36	2.000%	6,834.40	79,595.76
3/01/2015	73,125.16	2.000%	6,470.59	79,595.75
6/01/2015	73,490.79	2.000%	6,104.96	79,595.75
9/01/2015	73,858.24	2.000%	5,737.51	79,595.75
12/01/2015	74,227.53	2.000%	5,368.22	79,595.75
3/01/2016	74,598.67	2.000%	4,997.08	79,595.75
6/01/2016	74,971.66	2.000%	4,624.09	79,595.75
9/01/2016	75,346.52	2.000%	4,249.23	79,595.75
12/01/2016	75,723.26	2.000%	3,872.50	79,595.76
3/01/2017	76,101.87	2.000%	3,493.88	79,595.75
6/01/2017	76,482.38	2.000%	3,113.37	79,595.75
9/01/2017	76,864.79	2.000%	2,730.96	79,595.75
12/01/2017	77,249.12	2.000%	2,346.64	79,595.76
3/01/2018	77,635.36	2.000%	1,960.39	79,595.75
6/01/2018	78,023.54	2.000%	1,572.21	79,595.75
9/01/2018	78,413.66	2.000%	1,182.10	79,595.76
12/01/2018	78,805.73	2.000%	790.03	79,595.76
3/01/2019	79,199.75	2.000%	396.00	79,595.75
TOTAL	5,237,584.00	-	1,130,076.21	6,367,660.21 *

*Plus one-percent annual administrative fee paid quarterly in the amount of $7,063. Total administrative fee over the life of the loan is $565,040.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the Public Service Commission of West Virginia, in the City of Charleston, on the 24th day of September, 1997.

CASE NO. 97-0660-S-CN

THE CITY OF CHARLESTON, a municipal corporation, acting by its SANITARY BOARD.
Application for a certificate of convenience and necessity to construct a compost plant to compost bio-solids from the wastewater treatment plant with yard waste at Copenhaver Park in the North Charleston area of the City at the head of Hanna Drive.

COMMISSION ORDER

On May 21, 1997, the City of Charleston, a municipal corporation, acting by its Sanitary Board, applied for a certificate of convenience and necessity, pursuant to W. Va. Code § 24-2-11, to construct a compost plant to compost bio-solids from the wastewater treatment plant with yard waste. Application p. 1. No rate increase was proposed, and no additional customers would be added. Id.

On June 24, 1997, Commission Staff (Staff) recommended that the application be expanded to cover two W. Va. Code sections. In addition to W. Va. Code § 24-2-11, which relates to a certificate of convenience and necessity for a public utility, Staff suggested that an application also be required pursuant to W. Va. Code § 24-2-1c, which relates to a certificate of convenience and necessity for a solid waste facility. Initial Joint Staff Memorandum p. 1. Charleston opposed Staff's recommendation to require a second certificate. Staff and Charleston filed several reply pleadings.

On July 23, 1997, the Commission ruled that only a certificate pursuant to W. Va. Code § 24-2-11 was required.

On July 28, 1997, Staff from the Commission's Transportation Division petitioned for reconsideration, arguing that Commission's order did not support the conclusion of law that the proposed composting facility was not within the statutory definition of a commercial solid waste facility; that the facility would accept waste generated by Charleston residents, who are each legal persons separate and distinct from the municipality; that the Commission's order did not analyze whether acceptance of out-of-city waste would bring the facility within the definition of a commercial solid waste facility; that the Commission did not address a similar case

cited by Staff; and that the case file does not contain sworn statements that no outside waste will be accepted. Petition pp. 1-2. Staff asked the Commission to specifically address these arguments "which were made by Staff in numerous filings." Id. p. 3.

On July 29, 1997, Charleston filed plans and drawings for the proposed composting unit.

On August 1, 1997, Charleston argued that Transportation Staff's arguments for reconsideration had all been previously considered by the Commission. Charleston Letter. Charleston supported the Commission's order. Id. That same day, Charleston separately filed a list of the composting equipment with estimated prices.

On August 20, 1997, Charleston filed a letter from the Division of Environmental Protection which stated as follows:

> As you are aware, this office has prepared a draft Order which requires the City of Charleston to construct the composting facility and also requires the remediation of Copenhaver Park. A penalty of $81,900 will be held in abeyance pending compliance with the items identified in the Order.
>
> * * *
>
> The Office of Water Resources expects the remediation of Copenhaver Park to be the top priority of the composting facility, in addition to the daily processing of biosolids from your existing wastewater treatment facility. Acceptance of any type of material (biosolids, yard waste, etc) from entities other than the City of Charleston will not be allowed until all remediation work is completed.
>
> The composting facility is considered an extension of your existing wastewater treatment plant and, therefore, all permitting issues will be addressed by modification of your existing WV/NPDES permit. It is this agency's position that the proposed composting facility should not be classified as a "commercial solid waste facility" as defined in WV Code §22-15-2.

On September 15, 1997, Charleston filed revised bid and financing information.

On September 18, 1997, Staff from the Commission's Water and Wastewater Division advised that Charleston had published notice of the project on June 10, 1997, pursuant to W. Va. Code § 24-2-11, and no protests had been received. Final Joint Staff Memo.

Accordingly, Staff recommended that the certificate application be granted without a hearing. Id. Staff also recommended that the Commission act expeditiously because the project closing date and bid expiration date occur in early October. Id.

Water and Wastewater Staff further advised that Charleston had adequately demonstrated need for the project, that the West Virginia Department of Environmental Protection had approved the plans and specifications, that a review of the plans and specifications did not reveal any conflicts with the Commission's engineering requirements, and that adequate financing had been demonstrated. Final Internal Memo p. 2, attached to Final Joint Staff Memo. Moreover, the project was originally estimated to cost $6,277,138 and bids came in under projections, so the revised project cost was lowered to $5,254,690. Id. p. 1. Staff also advised that the annual operation and maintenance expenses for the project were expected to be $310,071, which is significantly lower than Charleston's $575,786 annual sludge disposal costs. Id.

Specifically as to finances, Staff advised that Charleston planned to finance the project with a $5,237,584 loan from the West Virginia State Revolving Fund and $17,106 in Sanitary Board funds. Id. p. 3. Charleston has received a commitment letter from the State Revolving Fund and can borrow up to $7,896,707. Id.

Finally, Staff recommended that Charleston be required to seek the Commission's approval for any changes in the project scope or financing. Id. p. 2.

On September 19, 1997, Charleston advised that it accepted Staff's recommendations as contained in the Final Joint Staff Memo. Charleston Letter. Charleston also urged the Commission to act expeditiously because the favorable bids could not be extended. Id.

DISCUSSION

Taking Staff's petition for reconsideration first, we agree with Charleston that the arguments raised by Staff's petition for reconsideration had been previously argued and considered. Indeed, Staff's petition made this clear. Therefore, we shall not modify our July 23, 1997, order.

We shall, though, clarify that the scope of the Commission's review of a certificate application pursuant to W. Va. Code § 24-2-11 -- that the public convenience and necessity require the project -- is broad enough to cover the specific matters listed in W. Va. Code § 24-2-1c.

We also wish to make clear that this decision is based upon the unique facts and circumstances of this case. This case should not be construed to permit a municipality that operates a landfill

to escape the statutory requirement to obtain a certificate for that operation simply because the municipality accepts solid waste only from its residents. Charleston is proposing to operate a composting facility to remediate environmental violations and the Commission's decision to proceed pursuant to W. Va. Code § 24-2-11 is expressly conditioned upon that circumstance. Our decision, crafted in response to these specific facts, should not be construed as setting a policy that the Commission would follow for more typical certificate applications.

Turning to Water and Wastewater Staff's recommendation that a certification be granted expeditiously for the project, without a hearing, we look to W. Va. Code § 24-2-11, which provides, in pertinent part, as follows:

> (a) No public utility . . . shall begin the construction of any plant . . . for furnishing to the public any [utility] service . . . unless and until it shall obtain from the public service commission a certificate of convenience and necessity requiring such construction . . . Upon the filing of any application for such certificate, and after hearing, the commission may, in its discretion, issue or refuse to issue, or issue in part and refuse in part, such certificate of convenience and necessity: Provided, That the commission, after it gives proper notice and if no protest is received within thirty (30) days after the notice is given, may waive formal hearing on the application.

Charleston published notice of its certificate application on June 10, 1997, and no protests were filed as a result of that publication. Accordingly, as authorized by the statute, the Commission shall waive formal hearing on Charleston's application.

In considering a certificate application, the Commission must assess whether the general public convenience will be served and the public necessity for the project. Sexton v. Public Serv. Comm'n, 423 S.E.2d 914 (W. Va. 1992). More than $80,000 in fines are being held in abeyance, so long as Charleston constructs this composting facility and remediates Copenhaver Park, where sewage sludge was dumped for several years. DEP will not permit any waste to be processed from outside sources until Copenhaver Park is remediated. Charleston needs to clean up the park, process the biosolids from its wastewater treatment plant, and dispose of yard waste someplace other than a landfill. Charleston's proposed project fills all of these legitimate needs. Accordingly, we agree with Charleston and Water and Wastewater Staff that this project is necessary for the public good and the general public's convenience will be served. Id.

This finding in no way impacts the Commission's previous ruling that Charleston may accept waste only from Charleston and its

residents. See Commission Order (July 23, 1997). If Charleston wishes to process solid waste from others, it must return to the Commission for further approval. Id.

Furthermore, Charleston does not propose to charge a fee for this operation, no rate increase is proposed for Charleston's sewer services and no additional customers would be added. Id. Under these circumstances, the proposed project has no impact upon rates. If Charleston wishes to impose a charge for this service or to sell any compost, Charleston must return to the Commission for further approval.

The financing set forth in Charleston's application, as revised, and Water and Wastewater Staff's recommendation is reasonable and sufficient for the proposed project and should be approved. Specifically as to finances, the total estimated project cost is $5,254,690 and Charleston plans to finance the project with a $5,237,584 loan from the West Virginia State Revolving Fund and $17,106 in Sanitary Board funds. Final Internal Memo p. 3, attached to Final Joint Staff Memo (Sept. 18, 1997). Charleston has received a commitment letter from the State Revolving Fund and can borrow up to $7,896,707. Id.

We agree with Water and Wastewater Staff that if there are changes to the scope of the project or its financing, Charleston must return to the Commission for approval of those changes.

Finally, Charleston's and Staff's requests for expedited consideration due to the approaching expiration date of favorable bids are reasonable and should be granted.

FINDINGS OF FACT

1. On May 21, 1997, Charleston, acting by its Sanitary Board, applied for a certificate of convenience and necessity, pursuant to W. Va. Code 24-2-11, to construct a compost plant to compost bio-solids from the wastewater treatment plant with yard waste. Application p. 1.

2. Charleston published notice of the project on June 10, 1997, pursuant to W. Va. Code § 24-2-11.

3. No protests to the project have been received by the Commission since Charleston's publication.

4. On June 24, 1997, Staff recommended that the application be expanded to cover W. Va. Code § 24-2-1c, which relates to a certificate of convenience and necessity for a solid waste facility. Initial Joint Staff Memorandum p. 1 & Staff's Response.

5. Charleston opposed Staff's recommendation to require a

second certificate. Staff and Charleston filed several reply pleadings.

6. On July 23, 1997, the Commission ruled that only a certificate pursuant to W. Va. Code § 24-2-11 was required, so long as Charleston processed only sludge and/or yard wastes from Charleston and its residents.

7. On July 28, 1997, Staff from the Commission's Transportation Division petitioned for reconsideration, asking the Commission to address these arguments "which were made by Staff in numerous filings." Id. p. 3.

8. On August 1, 1997, Charleston opposed the petition, arguing that Transportation Staff's arguments for reconsideration had all been previously considered by the Commission. Charleston Letter.

9. The West Virginia Division of Environmental Protection has prepared a draft Order which requires Charleston to construct the composting facility and remediate Copenhaver Park. Letter from DEP to Charleston filed August 20, 1997. A $81,900 penalty is being held in abeyance pending compliance with the items identified in the Order. Id. DEP prohibited the acceptance of any type of material from entities other than the City of Charleston until all remediation work is completed. Id. DEP considers the composting facility an extension of Charleston's existing wastewater treatment plant and not a "commercial solid waste facility" as defined in W. Va. Code § 22-15-2. Id.

10. On September 18, 1997, Staff from the Commission's Water and Wastewater Division recommended that the certificate application be granted without a hearing. Id. Staff recommended that Charleston be required to seek the Commission's approval for any changes in the project scope or financing. Id. p. 2.

11. The total estimated project cost, as revised, is $5,254,690. Water and Wastewater Staff's Final Joint Staff Memo.

12. Charleston plans to finance the project with a $5,237,584 loan from the West Virginia State Revolving Fund and $17,106 in Sanitary Board funds. Id. p. 3. Charleston has received a commitment letter from the State Revolving Fund and can borrow up to $7,896,707. Id.

13. On September 19, 1997, Charleston advised that it accepted Staff's recommendations as contained in the Final Joint Staff Memo. Charleston Letter. Charleston also urged the Commission to act expeditiously because the favorable bids could not be extended. Id.

CONCLUSIONS OF LAW

1. Since the arguments raised in the petition to reconsider by Transportation Division Staff were previously argued and considered by the Commission, the petition to reconsider should be denied.

2. Since there were no protests following publication, the Commission may waive formal hearing of Charleston's certificate application, as provided by W. Va. Code § 24-2-11. Accordingly, the Commission shall waive formal hearing.

3. Since Charleston must remediate Copenhaver Park, process biosolids from its wastewater treatment plant and dispose of yard waste somewhere other than a landfill and the proposed composting facility will meet all of these needs, we agree with Water and Wastewater Staff and Charleston that Charleston's proposed project is necessary for the public good and the general public's convenience will be served.

4. If Charleston proposes to charge for this composting service or to sell any compost, Charleston must return to the Commission for approval of those rates and charges.

5. The financing set forth in Charleston's application, as revised, and Water and Wastewater Staff's final recommendation is reasonable and sufficient for the proposed project and should be approved.

6. Charleston's and Staff's requests for expedited consideration due to the approaching expiration date of favorable bids are reasonable and should be granted.

7. If there are changes to the scope of the project or its financing, Charleston should return to the Commission for approval of those changes.

ORDER

IT IS THEREFORE ORDERED that Transportation Staff's petition to reconsider is denied. The Commission's July 23, 1997, order remains in full force and effect, as clarified by this order.

IT IS FURTHER ORDERED that formal hearing of Charleston's certificate application is waived.

IT IS FURTHER ORDERED that Charleston's application for a certificate for the composting facility, pursuant to W. Va. Code § 24-2-11, is granted for a facility to process only sewage sludge and/or yard wastes from Charleston and its residents. Before Charleston accepts sewage sludge and/or yard waste from other persons, Charleston must return to the Commission for further

approval.

IT IS FURTHER ORDERED that the financing set forth in Charleston's application, as revised, and Water and Wastewater Staff's final recommendation is approved.

IT IS FURTHER ORDERED that if there are changes to the scope of the project or its financing, Charleston must return to the Commission for approval of those changes.

IT IS FURTHER ORDERED that Charleston's and Staff's requests for expedited treatment are granted.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall serve a copy of this order upon all parties of record by United States First Class Mail, and upon Commission Staff by hand delivery.

A True Copy, Teste:

Sandra Neal

Sandra Neal
Executive Secretary

STATE OF WEST VIRGINIA
WATER DEVELOPMENT AUTHORITY
1201 DUNBAR AVENUE
DUNBAR, WV 25064
Telephone (304) 558-3612
Telecopier (304) 558-0299

December 8, 1995

Mr. James Downey, Operations Manager
Charleston Sanitary Board
P.O. Box 1026
Charleston WV 25324

PRELIMINARY APPLICATION -
CHARLESTON SANITARY BOARD (COMPOST) [SEWER PROJECT]

The West Virginia Infrastructure and Jobs Development Council (the "Council") has reviewed the Preliminary Application for the above-referenced project and has determined that the project is technically and financially feasible within the guidelines of the Act. (See attached Sewer Assessment Committee comments.)

The Council recommends that, as proposed in the preliminary application, the Charleston Sanitary Board pursue a State Revolving Fund loan of $6,999,554 through the Division of Environmental Protection to finance this project. It is further recommended that the Charleston Sanitary Board's three projects (Compost, Corridor G, and Oakvale Road) be combined so that only one loan closing is necessary, which will decrease closing costs. This letter does not constitute funding approval by the Division of Environmental Protection.

If you have any questions, please contact Daniel Yonkosky, Director of the Water Development Authority, who serves as chairman of the Council's Funding Committee.

RUSSELL L. ISAACS, CHAIRMAN
WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

c Mike Johnson, Division of Environmental Protection

$5,237,584 THE CITY OF CHARLESTON, WEST VIRGINIA SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 B

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 "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the single, fully registered The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 B, numbered BR-1, dated the date hereof, in the principal amount of $5,237,584 and bearing interest at the rate of 2% 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 Sewerage System Bond and Line of Credit Supplemental Ordinance duly passed by the Council (the "Council") of the Issuer on June 2, 1997, effective June 16, 1997, and the Supplemental Resolution adopted October 6, 1997, relating to the Bonds (collectively, the "Ordinance"), and the Loan Agreement (the "Loan Agreement") entered into among the Issuer, the Division of Environmental Protection ("DEP") and the West Virginia Water Development Authority (the "Authority"), dated September 9, 1997. Capitalized terms, not defined herein, shall have the meanings set forth in the Ordinance and the Loan Agreement.

2. NO LITIGATION: No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting the issuance and delivery of the Bonds; nor questioning the proceedings and authority by which the Council of the Issuer 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 Issuer or the title of the members or officers of the Issuer or of the Council thereof to their respective offices; nor questioning the construction and acquisition of extensions, improvements or betterments to the existing sewerage system of the Issuer financed in part by the proceeds of sale of the Bonds (herein called the "Project"), nor operation by the Issuer 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 Issuer since September 9, 1997. The Issuer has met the parity test requirements of the Prior Ordinance and the Bonds are issued on a parity with the Prior Bonds, with respect to liens, pledge and source of and security for payment and in all other respects and senior to the WDA Subordinate Bonds with respect to the liens, pledge and source of and security for payment. Other than the Prior Debt, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all terms and provisions set forth in the Prior Bonds and the Prior Ordinance authorizing issuance of the Prior Debt and in all documentation relating thereto. The Issuer has received the certificate of Grigoraci, Trainer, Wright & Paterno, independent certified public accountants, to the effect that the Issuer has met the parity test set forth in the Prior Ordinance. The Issuer has received the written consent of the owner of the WDA Subordinate Bonds with respect to the lien position of the Bonds.

5. SIGNATURES: The undersigned Mayor and City Clerk are the duly elected or appointed, qualified and serving officers of the Issuer as indicated by the official titles opposite their signatures below, and were duly authorized to execute and seal the Bonds for the Issuer. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the Issuer.

6. PUBLIC SERVICE COMMISSION ORDER; RATES: The City has taken all actions required to maintain the Public Service Commission order dated September 24, 1997, in full force and effect. The appeal period has expired.

The City's existing rates are sufficient to meet the Loan Agreement requirements.

7. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "The 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
G. Kemp Melton	Mayor	May 1, 1995	April 30, 1999
Fred M. Frisk, Jr.	City Clerk	May 1, 1995	April 30, 1999
J. E. Barron	Council Member	May 1, 1995	April 30, 1999
Carl Hicks	Council Member	May 1, 1995	April 30, 1999
James Lanham	Council Member	May 1, 1995	April 30, 1999
Bob E. Redman	Council Member	May 1, 1995	April 30, 1999
Ernest A. Layne	Council Member	May 1, 1995	April 30, 1999
Ivalou Barth	Council Member	May 1, 1995	April 30, 1999
Clyde W. Ransom, Jr.	Council Member	May 1, 1995	April 30, 1999
George W. McClaskie	Council Member	May 1, 1995	April 30, 1999
Betty Morton	Council Member	May 1, 1995	April 30, 1999
Chester F. Thompson	Council Member	May 1, 1995	April 30, 1999
Fred Snuffer	Council Member	May 1, 1995	April 30, 1999
Joyce Horan	Council Member	May 1, 1995	April 30, 1999
Linda M. Nielsen	Council Member	May 1, 1995	April 30, 1999
Jody Connell	Council Member	May 1, 1995	April 30, 1999
Lawrence J. Malone	Council Member	May 1, 1995	April 30, 1999
William Ward Huffman, II	Council Member	May 1, 1995	April 30, 1999
Brendan S. Leary	Council Member	May 1, 1995	April 30, 1999
William R. Kimberling	Council Member	May 1, 1995	April 30, 1999
Loren E. Snodgrass	Council Member	May 1, 1995	April 30, 1999
David J. Hardy	Council Member	May 1, 1995	April 30, 1999
Sam Haddad (At-Large)	Council Member	May 1, 1995	April 30, 1999
J. Thomas Lane (At-Large)	Council Member	May 1, 1995	April 30, 1999
Charles W. Loeb, Jr. (At-Large)	Council Member	May 1, 1995	April 30, 1999
Mary Jane Lopez (At-Large)	Council Member	May 1, 1995	April 30, 1999
Y. Howard Quick, Jr. (At-Large)	Council Member	May 1, 1995	April 30, 1999
Chris Smith (At-Large)	Council Member	May 1, 1995	April 30, 1999

Sanitary Board

G. Kemp Melton	Ex-Officio Chairman
John Tinney	Secretary/Treasurer
David Brown	Member and P.E.

The duly appointed and acting Attorney for the Issuer is W. Christopher Wickham, 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 Issuer, and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions that would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties that may have to be acquired by condemnation are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

9. MEETINGS: All actions, ordinances, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the 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 Issuer contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not 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 Issuer 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 Issuer is in compliance with the Loan Agreement.

11. TRUTH AND ACCURACY: As of the date hereof, G. Kemp Melton, Mayor and Fred M. Frisk Jr., 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 Issuer received $851,009 from the Authority and the DEP, being a portion of the principal amount of the Bonds and more than a de minimus amount of the proceeds of the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

14. PRIVATE USE OF FACILITIES: The Issuer shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Bonds and the interest thereon. Less than 10% of the proceeds of the Bonds will be used, directly or indirectly, for any private business use, and less than 10% of the payment of principal of, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, payments in respect of such property, or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Bonds, including the disproportionate related business use of the proceeds of the Bonds, and none of the payment of principal on, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Bonds. None of the proceeds of the issue of the Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person, including related persons, other than a governmental unit or other than use as a member of the general public. All of the foregoing shall be determined in accordance with and within the meaning of the Internal Revenue Code of 1986, as amended, including any successor provisions and rules and regulations thereunder (the "Code").

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 Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, the 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 7th day of October, 1997.

[SEAL]

SIGNATURE	OFFICIAL TITLE
	Mayor
	City Clerk
	Assistant City Attorney

CHASFS3:102659

EXHIBIT A

SPECIMEN BOND

NUMBER

BR-1

"SPECIMEN"

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 B

No. BR-1 $5,237,584.00

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 "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 Five Million Two Hundred Thirty-Seven Thousand Five Hundred Eighty-Four Dollars ($5,237,584.00), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in installments on March 1, June 1, September 1, and December 1 commencing June 1, 1999, 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 of two percent (2.00%) per annum as set forth on said Exhibit B. The interest and the SRF Administrative Fee (as defined in the hereinafter described Ordinance), shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 1999, as set forth on EXHIBIT B attached hereto.

Principal installments of this Series 1997 B 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 West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Series 1997 B Bond is payable by check or draft

"SPECIMEN"

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 Series 1997 B 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 September 9, 1997, among the Authority, the DEP and the City.

This 1997 Bond is issued (i) to pay costs of acquisition and construction of certain improvements, additions, extensions and betterments to the existing sewerage system of the City (the "Project"), (ii) to fund a reserve account therefor, and (iii) to pay certain costs of issuance hereof and related costs. This Series 1997 B 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, as amended, Ordinance No.4954 enacted by the City on the 3rd day of May, 1993, Ordinance No. 6276 enacted by the City on the 3rd day of September, 1996, Ordinance No. 6349 enacted by the City on the 16th day of June, 1997, and a Supplemental Resolution adopted by the City on the 6th day of October, 1997 (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 Series 1997 B Bonds under the Ordinance. Capitalized terms used but not defined herein shall have the meaning established in the Order.

THIS SERIES 1997 B BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE PRIOR BONDS AND THE SERIES 1997 A BONDS, AND SENIOR TO THE WDA SUBORDINATE BONDS.

This Series 1997 B Bond is payable only from and secured by a pledge of a first lien on the Net Revenues on parity with the Prior Bonds and the Series 1997 A Bonds, but senior to the WDA Subordinate Bonds, to be derived from the operation of the System, moneys in the Series 1997 B Reserve Account created under the Ordinance and unexpended proceeds of the Series 1997 B 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 Series 1997 B Bond does not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Series 1997 B Reserve Account and unexpended Series 1997 B 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

"SPECIMEN"

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 Series 1997 B Bonds, including the Prior Bonds and the Series 1997 A Bonds, payable from such revenues, provided however, that so long as there exists in the Series 1997 B Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the Series 1997 B Bonds and any bonds on a parity therewith in any succeeding fiscal year and in each of the reserve accounts for the Prior Bonds and the Series 1997 A 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 Series 1997 B Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the Series 1997 B Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This Series 1997 B Bond is transferable, as provided in the Ordinance, only upon the books of One Valley Bank, National Association, Charleston, West Virginia (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 Series 1997 B 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 Series 1997 B 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 Series 1997 B Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Ordinance or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Series 1997 B 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 Series 1997 B 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 Series 1997 B 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 Series 1997 B Bond.

All provisions of the Ordinance, resolutions and statutes under which this Series 1997 B Bond is issued shall be deemed to be a part of the contract evidenced by this Series 1997 B Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, THE CITY OF CHARLESTON has caused this Series 1997 B 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 Series 1997 B Bond to be dated October 7, 1997.

[SEAL]

Mayor "SPECIMEN"

ATTEST:

City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Series 1997 B Bond is one of the Series 1997 B 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 SPECIMEN
Its Authorized Officer

Dated: October 7, 1997

SCHEDULE A

RECORD OF ADVANCES

	AMOUNT	DATE	AMOUNT	DATE
(1)	$851,009	October 7, 1997	(11) $	
(2)	$		(12) $	
(3)	$		(13) $	
(4)	$		(14) $	
(5)	$		(15) $	
(6)	$		(16) $	
(7)	$		(17) $	
(8)	$		(18) $	
(9)	$		(19) $	
(10)	$		(20) $	

"SPECIMEN"

Total $_____

"SPECIMEN"

SCHEDULE B

SCHEDULE OF ANNUAL DEBT SERVICE

Date	Principal	Coupon	Interest	Total P+I
3/01/1999	-	-	-	-
6/01/1999	53,407.83	2.000%	26,187.92	79,595.75
9/01/1999	53,674.87	2.000%	25,920.88	79,595.75
12/01/1999	53,943.25	2.000%	25,652.51	79,595.76
3/01/2000	54,212.96	2.000%	25,382.79	79,595.75
6/01/2000	54,484.03	2.000%	25,111.73	79,595.76
9/01/2000	54,756.45	2.000%	24,839.31	79,595.76
12/01/2000	55,030.23	2.000%	24,565.52	79,595.75
3/01/2001	55,305.38	2.000%	24,290.37	79,595.75
6/01/2001	55,581.91	2.000%	24,013.85	79,595.76
9/01/2001	55,859.82	2.000%	23,735.94	79,595.76
12/01/2001	56,139.12	2.000%	23,456.64	79,595.76
3/01/2002	56,419.81	2.000%	23,175.94	79,595.75
6/01/2002	56,701.91	2.000%	22,893.84	79,595.75
9/01/2002	56,985.42	2.000%	22,610.33	79,595.75
12/01/2002	57,270.35	2.000%	22,325.41	79,595.76
3/01/2003	57,556.70	2.000%	22,039.05	79,595.75
6/01/2003	57,844.48	2.000%	21,751.27	79,595.75
9/01/2003	58,133.70	2.000%	21,462.05	79,595.75
12/01/2003	58,424.37	2.000%	21,171.38	79,595.75
3/01/2004	58,716.50	2.000%	20,879.26	79,595.76
6/01/2004	59,010.08	2.000%	20,585.67	79,595.75
9/01/2004	59,305.13	2.000%	20,290.62	79,595.75
12/01/2004	59,601.65	2.000%	19,994.10	79,595.75
3/01/2005	59,899.66	2.000%	19,696.09	79,595.75
6/01/2005	60,199.16	2.000%	19,396.59	79,595.75
9/01/2005	60,500.16	2.000%	19,095.60	79,595.76
12/01/2005	60,802.66	2.000%	18,793.10	79,595.76
3/01/2006	61,106.67	2.000%	18,489.08	79,595.75
6/01/2006	61,412.20	2.000%	18,183.55	79,595.75
9/01/2006	61,719.26	2.000%	17,876.49	79,595.75
12/01/2006	62,027.86	2.000%	17,567.89	79,595.75
3/01/2007	62,338.00	2.000%	17,257.75	79,595.75
6/01/2007	62,649.69	2.000%	16,946.06	79,595.75
9/01/2007	62,962.94	2.000%	16,632.81	79,595.75
12/01/2007	63,277.75	2.000%	16,318.00	79,595.75
3/01/2008	63,594.14	2.000%	16,001.61	79,595.75
6/01/2008	63,912.11	2.000%	15,683.64	79,595.75
9/01/2008	64,231.67	2.000%	15,364.08	79,595.75
12/01/2008	64,552.83	2.000%	15,042.92	79,595.75
3/01/2009	64,875.60	2.000%	14,720.16	79,595.76
6/01/2009	65,199.97	2.000%	14,395.78	79,595.75
9/01/2009	65,525.97	2.000%	14,069.78	79,595.75
12/01/2009	65,853.60	2.000%	13,742.15	79,595.75
3/01/2010	66,182.87	2.000%	13,412.88	79,595.75

SCHEDULE B

SCHEDULE OF ANNUAL DEBT SERVICE

"SPECIMEN"

Date	Principal	Coupon	Interest	Total P+I
6/01/2010	66,513.79	2.000%	13,081.97	79,595.76
9/01/2010	66,846.36	2.000%	12,749.40	79,595.76
12/01/2010	67,180.59	2.000%	12,415.17	79,595.76
3/01/2011	67,516.49	2.000%	12,079.26	79,595.75
6/01/2011	67,854.07	2.000%	11,741.68	79,595.75
9/01/2011	68,193.34	2.000%	11,402.41	79,595.75
12/01/2011	68,534.31	2.000%	11,061.44	79,595.75
3/01/2012	68,876.98	2.000%	10,718.77	79,595.75
6/01/2012	69,221.37	2.000%	10,374.39	79,595.76
9/01/2012	69,567.47	2.000%	10,028.28	79,595.75
12/01/2012	69,915.31	2.000%	9,680.44	79,595.75
3/01/2013	70,264.89	2.000%	9,330.87	79,595.76
6/01/2013	70,616.21	2.000%	8,979.54	79,595.75
9/01/2013	70,969.29	2.000%	8,626.46	79,595.75
12/01/2013	71,324.14	2.000%	8,271.61	79,595.75
3/01/2014	71,680.76	2.000%	7,914.99	79,595.75
6/01/2014	72,039.16	2.000%	7,556.59	79,595.75
9/01/2014	72,399.36	2.000%	7,196.39	79,595.75
12/01/2014	72,761.36	2.000%	6,834.40	79,595.76
3/01/2015	73,125.16	2.000%	6,470.59	79,595.75
6/01/2015	73,490.79	2.000%	6,104.96	79,595.75
9/01/2015	73,858.24	2.000%	5,737.51	79,595.75
12/01/2015	74,227.53	2.000%	5,368.22	79,595.75
3/01/2016	74,598.67	2.000%	4,997.08	79,595.75
6/01/2016	74,971.66	2.000%	4,624.09	79,595.75
9/01/2016	75,346.52	2.000%	4,249.23	79,595.75
12/01/2016	75,723.26	2.000%	3,872.50	79,595.76
3/01/2017	76,101.87	2.000%	3,493.88	79,595.75
6/01/2017	76,482.38	2.000%	3,113.37	79,595.75
9/01/2017	76,864.79	2.000%	2,730.96	79,595.75
12/01/2017	77,249.12	2.000%	2,346.64	79,595.76
3/01/2018	77,635.36	2.000%	1,960.39	79,595.75
6/01/2018	78,023.54	2.000%	1,572.21	79,595.75
9/01/2018	78,413.66	2.000%	1,182.10	79,595.76
12/01/2018	78,805.73	2.000%	790.03	79,595.76
3/01/2019	79,199.75	2.000%	396.00	79,595.75
TOTAL	5,237,584.00	-	1,130,076.21	6,367,660.21

[Form of Assignment]

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

_____

_____

_____

_____

_____

the within Series 1997 B Bond and does hereby irrevocably constitute and appoint _____ _____, Attorney to transfer the said Series 1997 B Bond on the books kept for registration of the within Series 1997 B Bond of the said City with full power of substitution in the premises.

Dated: _____.

"SPECIMEN"

_____

In the presence of:

_____

$5,237,584 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 B

CERTIFICATE OF CITY CLERK AS TO TRUTH
AND ACCURACY OF DOCUMENTS DELIVERED

I, the undersigned Fred M. Frisk, Jr., 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 $5,237,584 The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 B (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. Sewerage System Bond and Line of Credit Supplemental Ordinance No. 6349 (the "Ordinance") passed by Council on June 2, 1997.

5. Resolution No. 709-97 adopted by Council on June 2, 1997, authorizing publication of an abstract of the Ordinance and notice of the public hearing.

6. Minutes of the June 2, 1997, 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. 715-97 adopted by the Council on June 16, 1997, putting the Ordinance into effect.

9. Supplemental Resolution No. 788-97 adopted by Council on October 6, 1997, authorizing the sale of the above-referenced Bonds (the "Supplemental Resolution").

10. Minutes of the October 6, 1997, meeting of council wherein the Resolution authorizing the sale of the above-referenced Bonds was adopted.

11. Loan Agreement dated September 9, 1997.

WITNESS my signature and the official seal of The City of Charleston, West Virginia as of the 7th day of October, 1997.

City Clerk
The City of Charleston, West Virginia

(SEAL)

CHASFS3:102661

$5,237,584 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, 1996 SERIES B

CERTIFICATE AS TO NON-ARBITRAGE

I, G. Kemp Melton, Mayor of The City of Charleston, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of $5,237,584 aggregate principal amount of Sewerage System Revenue Bonds, Series 1997 B, of The City of Charleston, West Virginia, dated October 7, 1997 (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 Issuer 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 Issuer.

2. This certificate may be relied upon as the certificate of the Issuer.

3. The Issuer has not been notified by the Internal Revenue Service of any listing or proposed listing of it as an issuer and certification of which may not be relied upon by holders of obligations of the Issuer or that there is any disqualification of the Issuer by the Internal Revenue Service because a certification made by the Issuer contains a material misrepresentation.

4. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on October 7, 1997, 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 Issuer set forth herein are reasonable.

5. In the Sewerage System Bond and Line of Credit Supplemental Ordinance (the "Ordinance") pursuant to which the Bonds are issued, the Issuer 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 October 7, 1997, to the West Virginia Water Development Authority (the "Authority") pursuant to a loan agreement dated September 15, 1997, by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection (the "DEP") for an aggregate purchase price of $5,237,584 (100% of the principal amount thereof) of which $851,009 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 sewerage system of the Issuer (the "Project"), (ii) funding a debt service reserve fund and (iii) paying costs of issuance and other costs in connection therewith.

8. The Issuer shall, prior to or simultaneously with the delivery of the Bonds, enter into agreements which require the Issuer to expend in excess of $100,000 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 March, 1999. Construction of the Project is expected to be completed by January, 1999.

9. The total cost of the Project is estimated at $5,254,690.04. Sources and uses of funds for the Project are as follows:

SOURCES

Bond Proceeds	$5,237,584.00
Issuer Funds	17,106.04
Total Sources	$5,254,690.04

USES

Construction	$4,169,000.00
Technical Services	543,857.00
Legal and Fiscal	5,000.00
Contingency	208,450.00
Funding Reserve Account	318,383.04
Costs of Issuance	$ 10,000.00
Total Uses	$5,254,690.04

Except for the proceeds of the Bonds and the Issuer Funds and as otherwise provided in the Ordinance, no other funds of the Issuer 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 $301,277 and Issuer Funds in the amount of $17,106.04 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 Issuer 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 Issuer encounters financial difficulties. The Issuer does not expect that moneys in the Renewal and Replacement Fund will be used or needed for payments upon the Bonds. Except as provided herein, no funds which have been or will be used to acquire directly or indirectly securities, obligations, annuity contracts 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 Issuer 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 Issuer will comply with the provisions of the Code, for which the effective date precedes the date of delivery of its Bonds to the Authority.

16. All of the proceeds of the Bonds deposited in the Bond Construction Trust Fund will be expended on the Project within 19 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 Issuer 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 Issuer 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 Issuer.

24. The Issuer shall not permit at any time or times any of the proceeds of the Bonds, or any other funds of the Issuer, to be used directly or indirectly in a manner which would result in the exclusion of Bonds from treatment afforded by Section 103(a) of the Code by reason of classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions and refrain from taking such actions as shall be necessary to comply with the Code in order 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 Issuer will rebate to the United States the amount, if any, required by the Code and to take all steps necessary to make such rebates. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and 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 Issuer 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 Issuer shall comply with the yield restriction on the proceeds of the Bonds as set forth in the Code.

29. The Issuer 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 Issuer shall submit to the Authority within thirty (30) days following the end of the Issuer's bond year a certified copy of its rebate calculation or if the Issuer qualifies for the small governmental issuer exception to rebate, then the Issuer 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 Issuer 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 Issuer covenants and agrees to comply with the rebate requirements of the Code if not exempted therefrom, and with all other requirements of the Code necessary, proper or desirable to maintain the tax-exempt status of the Bonds.

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 7th day of October, 1997.

THE CITY OF CHARLESTON, WEST VIRGINIA

By _____
Mayor

CHASFS3:102662

$5,237,584 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 B

CERTIFICATE OF CONSULTING ENGINEER

I, Edward M. Halley, Jr., Registered Professional Engineer, West Virginia License No. 11631 of O'Brien & Gere Engineers, Inc., Consulting Engineers, Landover, Maryland, hereby certify that we are the engineers for the acquisition and construction of certain extensions, additions, betterments and improvements to the existing sewerage system (herein called the "Project") of the City of Charleston (the "Issuer") to be constructed primarily in Kahawha County, West Virginia, the cost of which construction and acquisition is 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 June 2, 1997, effective June 16, 1997, 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 September 9, 1997.

1. The Bonds are being issued for the purpose of financing, in part, the cost of such acquisition and construction, funding a reserve account for such Bonds and paying other costs in connection therewith.

2. The undersigned hereby certifies to the best of my knowledge that (i) it is the intent to construct the Project in accordance with the approved plans, specifications, and designs and approved change orders 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 was designed to have an estimated useful life of at least twenty-five 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, (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) based on the certificate of Grigoraci, Trainer, Wright & Paterno, Certified Public Accounts, attached hereto as Exhibit A, 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 Project as set forth in the Application and as set forth on the final Schedule A, and (vii) attached hereto as Exhibit B is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on the 7th day of October, 1997.

{Seal}

O'BRIEN & GERE ENGINEERS, INC.

By _____
Edward M. Halley, Jr.
West Virginia License No. 11631

102664

EXHIBIT A

G | T
& |
W | P

GRIGORACI, TRAINER, WRIGHT & PATERNO

CERTIFIED PUBLIC ACCOUNTANTS & CONSULTANTS
(A PARTNERSHIP OF ACCOUNTING CORPORATIONS)

608 TENNESSEE AVENUE
P. O. BOX 1191
CHARLESTON, WV 25324
(304) 343-5511
FAX: (304) 343-5514

$5,237,584 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 B

CERTIFICATE OF ACCOUNTANT AS TO COVERAGE

Grigoraci, Trainer, Wright & Paterno, Certified Public Accountants, have reviewed the sewer service rates of The City of Charleston, West Virginia (the "City"). It is our opinion that the rates are adequate to pay operation and maintenance expenses, and to meet the debt service coverage requirements of the Prior Ordinance, the Sewerage System Revenue Bonds, Series 1997 B and the Sewerage System Bond and Line of Credit Supplemental Ordinance adopted by the Council on June 2, 1997, effective June 16, 1997, and a Supplemental Resolution subsequently adopted by the Council on October 6, 1997, 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 September 15, 1997.

WITNESS our signature as of this 7th day of October, 1997.

GRIGORACI, TRAINER, WRIGHT & PATERNO

BY: _____
Certified Public Accountant

SCHEDULE A (Revised)

NAME OF GOVERNMENTAL AGENCY: Charleston Sanitary Board

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

A. Cost of Project

1.	Construction	$ 4,169,000.00	
2.	Technical Services	$ 543,857.00	
3.	Legal and Fiscal	$ 5,000.00	
4.	Administrative	$ 0	
*5.	Site and Other Lands	$ 0	
**6.	Fac. Plan/Design or Other Loan Repayment (Specify Type: _____)	$	
7.	Interim Financing Costs	$ 0	
8.	Contingency	$ 208,450.00	
9.	Total of Lines 1 Through 8		$ 4,926,307.00

B. Sources of Funds

10.	Federal Grants:[1] (Specify Sources)	$ 0	
11.	State Grants:[1] (Specify Sources)	$ 0	
12.	Other Grants:[1] (Specify Sources)	$ 0	
13.	Any Other Source[2] (Specify) Sanitary Bd. Funds	$ 17,106.00	
14.	Total of Lines 10 Through 13		$ 17,106.00
15.	Net Proceeds Required from Bond Issue (Line 9 minus Line 14)		$ 4,909,201.00

C. Cost of Financing

16.	Capitalized Interest (Construction period plus six months)	$ 0	
17.	Funded Reserve Account:[3]	$ 318,383.00	
18.	Other Costs:[4] Bond Council	$ 10,000.00	
19.	Total Cost of Financing (lines 16 - 18)	$	
20.	Size of Bond Issue (Line 15 plus Line 19)		$ 5,237,584.00

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

B. Kemp Hylton
Signature of Applicant

Date 9/15/97

Signature of Consulting Engineer

Date 9-16-97

G | T
& |
W | P

GRIGORACI, TRAINER, WRIGHT & PATERNO

CERTIFIED PUBLIC ACCOUNTANTS & CONSULTANTS

(A PARTNERSHIP OF ACCOUNTING CORPORATIONS)

608 TENNESSEE AVENUE
P. O. BOX 1191
CHARLESTON, WV 25324
(304) 343-5511
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$5,237,584 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 B

CERTIFICATE OF ACCOUNTANT AS TO COVERAGE

Grigoraci, Trainer, Wright & Paterno, Certified Public Accountants, have reviewed the sewer service rates of The City of Charleston, West Virginia (the "City"). It is our opinion that the rates are adequate to pay operation and maintenance expenses, and to meet the debt service coverage requirements of the Prior Ordinance, the Sewerage System Revenue Bonds, Series 1997 B and the Sewerage System Bond and Line of Credit Supplemental Ordinance adopted by the Council on June 2, 1997, effective June 16, 1997, and a Supplemental Resolution subsequently adopted by the Council on October 6, 1997, 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 September 9, 1997.

WITNESS our signature as of this 7th day of October, 1997.

GRIGORACI, TRAINER, WRIGHT & PATERNO

BY: _____
Certified Public Accountant

$5,237,584 THE CITY OF CHARLESTON, WEST VIRGINIA SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 B

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 7th day of October, 1997, 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 $5,237,584 The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 B (the "Bonds"), in the form of one bond, numbered BR-1, in fully registered form pursuant to a Sewerage System Bond and Line of Credit Supplemental Ordinance duly passed June 2, 1997, effective June 16, 1997, and a Supplemental Resolution adopted October 6, 1997 (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: One Financial Place

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

102672

EXHIBIT A

See Bond and Line of Credit Ordinance (Tab No. 8)

102672

$5,237,584 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 B

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 a Sewerage System Bond and Line of Credit Supplemental Ordinance of The City of Charleston, West Virginia duly passed on June 2, 1997, effective June 16, 1997, and the Supplemental Resolution adopted October 6, 1997 (collectively, the "Ordinance"), authorizing issuance of The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 B, dated October 7, 1997, in the aggregate principal amount of $5,237,584 (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 7th day of October, 1997.

ONE VALLEY BANK, NATIONAL ASSOCIATION

By: _____
Authorized Officer

102678

$5,237,584 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 B

ACCEPTANCE OF DUTIES OF DEPOSITORY BANK
FOR THE REVENUE FUND

Huntington National Bank West Virginia, with its principal office in Charleston, West Virginia, hereby accepts appointment as Depository Bank for the Revenue Fund in connection with a Sewerage System Bond and Line of Credit Supplemental Ordinance of The City of Charleston, West Virginia duly passed on June 2, 1997, effective June 16, 1997 and the Supplemental Resolution adopted October 6, 1997 (collectively, the "Ordinance"), authorizing issuance of The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 B, dated October 7, 1997, in the aggregate principal amount of $5,237,584 (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 7th day of October, 1997.

HUNTINGTON NATIONAL BANK
WEST VIRGINIA

By: _____
Authorized Officer

102680

$5,237,584 THE CITY OF CHARLESTON, WEST VIRGINIA SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 B

REQUEST AND AUTHORIZATION AS TO AUTHENTICATION AND DELIVERY OF THE BONDS

October 7, 1997

One Valley Bank, National Association
P. O. Box 1793
Charleston, West Virginia 25326

Ladies and Gentlemen:

We herewith hand to you, duly executed, $5,237,584 The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 B, in the form of one bond numbered BR-1 (the "Bonds") of the City of Charleston, West Virginia (the "City"), authorized to be issued under and pursuant to the Sewerage System Bond and Line of Credit Supplemental Ordinance, duly passed by the Council of the City on June 2, 1997, effective June 16, 1997, and a Supplemental Resolution adopted by the Council on October 6, 1997 (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

102681

$5,237,584 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 B

CERTIFICATE OF REGISTRATION OF BONDS

The undersigned authorized officer of One Valley Bank, National Association, Charleston, West Virginia, as Registrar (the "Registrar"), hereby certifies that on the 7th day of October, 1997, the bonds of The City of Charleston, West Virginia in the principal amount of $5,237,584 designated the "The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 B" and numbered BR-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 7th day of October, 1997.

ONE VALLEY BANK, NATIONAL ASSOCIATION, as Registrar

By _____
Authorized Officer

CHASFS3:102686

$5,237,584 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 B

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 7th day of October, 1997, in Charleston, West Virginia, the Authority received the entire original issue of $5,237,584 in aggregate principal amount of The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 B (the "Bonds"), said Bond being dated the 7th day of October, 1997; and issued in the form of one bond, fully registered to the Authority, and numbered BR-1.

2. At the time of receipt of such Bonds, it had been executed by G. Kemp Melton, as Mayor of the City of Charleston, by manual signature, and attested by Fred M. Frisk, Jr. 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 7th day of October, 1997.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By Barbara B Meadows
Secretary-Treasurer

CHASFS3:104199

$5,237,584 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 B

RECEIPT FOR BOND PROCEEDS

The undersigned G. Kemp Melton, 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 $5,237,584 Sewerage System Revenue Bonds, Series 1997 B, $851,009 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 $5,237,584 (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 7th day of October, 1997.

THE CITY OF CHARLESTON, WEST VIRGINIA

By:
MAYOR

CHASFS3:102687

AGENCY: ENVIRONMENTAL PROTECTION
TOTAL: $851,009.00

WARRANT #: 8-8579260
DATE: 09/29/97

TRANSACTION ID	INVOICE NUMBER	&	PAYEE REFERENCE	INVOICE DATE	PURCHASE ORDER	AMOUNT
I002882435 1,	C544043					$851,009.00

If you have questions concerning the above, please call 304-759-0507.

REMOVE DOCUMENT ALONG THIS PERFORATION

CTL# 7337887

THIS CHECK HAS MULTIPLE SECURITY FEATURES TO DETER FRAUD AND COUNTERFEITING
VOID UNLESS PRESENTED FOR PAYMENT WITHIN SIX MONTHS

State of West Virginia

STATE CAPITOL, CHARLESTON

WARRANT # **8-8579260**

PAY TO THE ORDER OF CHARLESTON SANITARY BOARD

SEPTEMBER 29, 1997

8-8579260

**********$851,009.00**

John D. Perdue
STATE TREASURER

Glen B Gainer III
AUDITOR

WEST VIRGINIA TREASURY

⑈88579260⑈ ⑆051902322⑆ 999310⑉6⑈

DIVISION OF ENVIRONMENTAL PROTECTION
1201 Greenbrier Street
Charleston, WV 25311-1088

CECIL H. UNDERWOOD
GOVERNOR

JOHN E. CAFFREY
DIRECTOR

August 26, 1997

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. 5

Dear Mr. Halloran:

This letter serves as Modification No. 5 of your existing WV/NPDES Water Pollution Control Permit No. WV0023205, issued the 19th day of October 1995.

After review and consideration of the information submitted on, and with, Permit Modification Application No. WV0023205-A, dated the 28th day of August 1995, relative to the activities being permitted herein, the plans and specifications, additional information, dated the 8th day of May 1997, additional information, dated the 11th day of June 1997, additional information, received the 30th day of June 1997, and other relevant information, the subject Permit is hereby modified to incorporate, and effectuate, the following data and changes, respectively.

To acquire, construct, install, operate, and maintain a sludge composting system, at Copenhaver Park, to be comprised of a mixing building with a total space of 4,000 square feet providing separate storage areas for dewatered sludge, bulking agent and recycle material; a compost building with a total space of 16,500 square feet, and housing five(5) composting bays that are 165 feet in length, by 10 feet in width, by six(6) feet in height; an operations building with a total space of 900 square feet providing an electric room, an office, and a laboratory; a noncovered flexible use materials storage area with a total space of 78,000 square feet providing areas for a yard waste tract of 11,350 cubic yards covering 37,300 square feet, a compost screening tract covering 4,200 square feet, a compost curing tract of 1,000 cubic yards covering 6,900 square feet, and a final product storage tract of 6,400 cubic yards covering 22,500 square feet; an odor control soil filter with a surface area of 9,700 square feet; a storm water retention pond; and all requisite appurtenances.

Form **8038-G** (Rev. May 1995)
Department of the Treasury Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

▶ Under Internal Revenue Code section 149(e)
▶ See separate instructions.
(Note: Use Form 8038-GC if the issue price is under $100,000.)

OMB No. 1545-0720

If Amended Return, check here ▶ ☐

Part I Reporting Authority

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: G1997 - 2
5 City, town, or post office, state, and ZIP code: Charleston, West Virginia 25301
6 Date of issue: October 7, 1997
7 Name of issue: $5,237,584 The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 B
8 CUSIP number: N/A

Part II Type of issue (check applicable box(es) and enter the issue price)

9	☐ Education (attach schedule-see instructions)	9	$
10	☐ Health and hospital (attach schedule-see instructions)	10	
11	☐ Transportation	11	
12	☐ Public safety	12	
13	☒ Environment (including sewage bonds) (Sewer Bonds)	13	$5,237,584
14	☐ Housing	14	
15	☐ Utilities	15	
16	☐ Other. Describe (see instructions) ▶	16	
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.	3-1-2019	2.00 %	$79,199.75	$79,199.75			
20 Entire issue			$5,237,584	$5,237,584	10.788 years	%	2.0000 %

2.0050001

Part IV Uses of 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	$5,237,584
23	Proceeds used for bond issuance costs (including underwriters' discount)	23	$10,000		
24	Proceeds used for credit enhancement	24	-0-		
25	Proceeds allocated to reasonably required reserve or replacement fund	25	$301,277		
26	Proceeds used to currently refund prior issues	26	-0-		
27	Proceeds used to advance refund prior issues	27	-0-		
28	Total (add lines 23 through 27)			28	311,277
29	Nonrefunding proceeds of the issue (subtract line 28 from line 22 and enter amount here)			29	$4,926,307

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)

30	Enter the remaining weighted average maturity of the bonds to be currently refunded ▶	N/A	years
31	Enter the remaining weighted average maturity of the bonds to be advance refunded ▶	N/A	years
32	Enter the last date on which the refunded bonds will be called ▶	N/A	
33	Enter the date(s) the refunded bonds were issued ▶		

Part VI Miscellaneous

34	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	34	-0-
35	Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(III) (small issuer exception)	35	-0-
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	36a	-0-
b	Enter the final maturity date of the guaranteed investment contract ▶		
37	Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	37a	-0-
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 ▶ _____		
38	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ▶ ☐		
39	If the issuer has identified a hedge, check box ▶ ☐		

Please Sign Here

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.

G. Kemp Melton — Signature of issuer's authorized representative
10/7/97 — Date
G. Kemp Melton, Mayor — Type or print name and title

Printed on recycled paper

Department of the Treasury
Internal Revenue Service

Instructions for Form 8038-G

(Rev. May 1995)

Information Return for Tax-Exempt Governmental Obligations

A separate Form 8038-G must be filed for each issue of obligations.

(Note: *Use Form 8038-GC if the issue price is under $100,000.)*

Section references are to the Internal Revenue Code unless otherwise noted.

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

The time needed to complete and file this form varies depending on individual circumstances. The estimated average time is:

Learning about the law or the form . . . . . 2 hr., 29 min.

Preparing, copying, assembling, and sending the form to the IRS . . . . . 2 hr., 51 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Attention: Tax Forms Committee, PC:FP, Washington, DC 20224. **DO NOT** send the form to this address. Instead, see **Where To File** below.

General Instructions

Purpose of Form

Form 8038-G is used by issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150. Complete Parts II through VI on the basis of available information and reasonable expectations as of the date the issue is issued. If an item does not apply to the issue you are reporting, write "N/A" in the space provided for the item.

Who Must File

Issuers must file a Form 8038-G for each issue of tax-exempt governmental obligations issued after December 31, 1986, if the price (line 20, column (c)) of the issue is $100,000 or more. If the issue price is less than $100,000, issuers must file Form 8038-GC, Information Return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales. Issuers use Form 8038-T, Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate, to pay the arbitrage rebate to the United States, and to pay a penalty in lieu of arbitrage rebate.

When To File

File Form 8038-G on or before the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is issued. Complete Form 8038-G based on the facts as of the issue date.

Late filing.—An issuer may be granted an extension of time to file Form 8038-G under Section 3 of Rev. Proc. 88-10, 1988-1 C.B. 635, if it is determined that the failure to file on time is not due to willful neglect. Send a late Form 8038-G to: Internal Revenue Service, Philadelphia Service Center, Statistics of Income Unit, P:DA:Unit F-SOI, Philadelphia, PA 19255, Stop #335. Type or print at the top of the form, "This Statement is Submitted in Accordance with Rev. Proc. 88-10." Attach to the Form 8038-G a letter explaining why Form 8038-G was not submitted to the IRS on time. Also indicate whether the bond issue in question is under examination by the IRS. Do not submit copies of the trust indenture or other bond documents.

Where To File

File Form 8038-G with the Internal Revenue Service Center, Philadelphia, PA 19255.

Rounding Off to Whole Dollars

You may show the money items on this return as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 cents through 99 cents to the next higher dollar.

Definitions

- A "tax-exempt obligation" is an obligation on which the interest is excluded from income under the Internal Revenue Code. A tax-exempt obligation is not limited to the formal issuance of bonds. It also includes installment purchase agreements and financial leases.
- A "tax-exempt governmental bond" is a tax-exempt bond that is not a private activity bond.
- A "private activity bond" is generally an obligation issued as part of an issue of which (a) more than 10% of the proceeds are to be used for any private business use; and (b) more than 10% of the payment of principal or interest of the issue is either secured by an interest in property to be used for a private business use (or payments in respect of such property), or is to be derived from payments in respect of property (or borrowed money) used for a private business use. An obligation is also considered a private activity bond if the amount of the proceeds to be used to make or finance loans (other than loans described in section 141(c)(2)) to certain persons exceeds the smaller of 5% of the proceeds or $5 million. Private activity bonds should be reported on Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

Issue.—Generally, do not treat separate obligations as part of the same issue unless the obligations are issued by the same issuer, on the same date, and pursuant to a single transaction (or series of related transactions). In cases of draw-down loans, all amounts reasonably expected to be advanced within 3 years of the date of the first draw may be treated as part of the same issue if the draws are equally and ratably secured by the same loan agreement and are pursuant to a common financing arrangement. All obligations that are issued under a single finance lease or installment purchase agreement may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

Arbitrage rebate.—Generally, interest on a state or local bond is not tax exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

Construction issue.—A construction issue is an issue of tax-exempt bonds if (1) at least 75% of the available construction proceeds of the issue are to be used for construction expenditures with respect to property that is to be owned by a governmental unit or a 501(c)(3) organization, and (2) all of the bonds that are part of the issue are qualified 501(c)(3) bonds; bonds that are not private activity bonds; or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization. In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1½% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C).

Specific Instructions

Part I—Reporting Authority

Amended Return.—If you are filing an amended Form 8038-G, check the amended return box and complete Part I and only those parts of Form 8038-G you are amending. Use the same report number (line 4) as was used for the original report. Do not amend the estimated amounts previously reported once the actual amounts are determined.

Line 1.—The issuer's name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. For a lease or installment sale, the issuer is the lessee or the purchaser.

Line 2.—An issuer that does not have an EIN should apply for one on Form SS-4, Application for Employer Identification Number. This form may be obtained from most IRS and Social Security Administration offices. File Form SS-4 according to the instructions on that form. If the EIN has not been received by the due date for Form 8038-G, write "Applied for" in the space for the EIN.

Line 4.—Number reports consecutively based on the filing date (not the date of issue). For example, if the issuer filed two Forms 8038-G in the 1995 calendar year, the "report number" for the third Form 8038-G would be "G1995-3." If an issuer (e.g., a state) issues obligations through many departments or

WV MUNICIPAL BOND COMMISSION
Suite 300 - L & S Building
812 Quarrier Street, Charleston, WV 25301
(304) 348-3971

NEW ISSUE REPORT FORM
Date of Report: October 7, 1997

ISSUE: $5,237,584 City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997 B
ADDRESS: P.O. Box 2749, 501 Virginia St., E. Charleston, WV 25330 COUNTY: Kanawha
PURPOSE OF ISSUE: New Money X
Refunding ____ Refunds issue(s) dated: _____

ISSUE DATE: October 7, 1997 CLOSING DATE: October 7, 1997
ISSUE AMOUNT: $5,237,584 RATE: 2% (1% Admin. Fee)
1st DEBT SERVICE DUE: June 1, 1999 1st PRINCIPAL DUE: June 1, 1999
1st DEBT SERVICE AMOUNT: $ 79,595.75 PAYING AGENT: WV Municipal Bond Commission

ISSUERS	UNDERWRITERS
BOND COUNSEL: Jackson & Kelly	BOND COUNSEL: _____
Contact Person: Samme L. Gee , Esquire	Contact Person: _____
Phone: (304) 340-1318	Phone: _____
(DEPOSITORY)	
CLOSING BANK: Huntington National Bank	ESCROW TRUSTEE: _____
Contact Person: Steve Bobonich	Contact Person : _____
Phone: (304) 348-5000	Phone: _____
KNOWLEDGEABLE ISSUER CONTACT:	OTHER: One Valley Bank, N.A.
Contact Person: Dan Halloran	Contact Person: Charlotte Morgan
Position: Manager	Function: Registrar/Depository
Phone: (304) 348-8124	Phone: (304) 348-7239

DEPOSITS TO MBC AT CLOSE: ____ Accrued Interest: $_____
_____ Capitalized Interest: $_____
By _____ Wire X Reserve Account: $ 318,383.04
X Check(s) _____ Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire _____ To Escrow Trustee: $_____
_____ Check _____ To Issuer: $_____
_____ IGT _____ To Cons.Invest.Fund $_____
_____ To Other:_____ $_____

NOTES: $301,277 from proceeds of Bond issue and $17,106.04 proceeds from the City.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

60560

One Valley Bank, National Association
One Valley Square, P.O. Box 1793
Charleston, WV 25326 Member FDIC

ONEVALLEY BANK

69-35
519

No. 459147

PAYMENT PER REQUISITION
DTD 10/7/97 FUND RESERVE - CITY CHARLESTON, WV 1997 B SWG SYS REV BOND

AMOUNT $301,277.00

4197101 CITY CHAS 97 B SWG SYS BD DEPOSITORY

BK/85

CHECK DATE	AMOUNT
OCTOBER 7, 1997	$301,277.00**

PAY TO THE ORDER OF

W VA MUNICIPAL BOND COMMISSION
812 QUARRIER STREET, SUITE 300
CHARLESTON WV 25301

ONE FINANCIAL PLACE
Financial & Trust Services

Charlotte A. Morgan
AUTHORIZED OFFICER

⑈459147⑈ ⑆051900353⑆ ⑈900⑈051 4⑈

THE SANITARY BOARD OF THE CITY OF CHARLESTON 25324

VENDOR 16768

CHECK NO. 57657

OUR REF. NO.	YOUR INV. NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
	8116	10-06-97	$17,106.04			$17,106.04

DETACH BEFORE DEPOSITING

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND - NOT A WHITE BACKGROUND — THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW

THE SANITARY BOARD
OF THE CITY OF CHARLESTON
CHARLESTON, WEST VIRGINIA 25324

69-376
519

Huntington National Bank
Lee Street Office
Charleston, WV 25301

Huntington Banks

CHECK NO.	CHECK DATE	VENDOR NO.
57657	10-06-97	16768

CHECK AMOUNT
$17,106.04

SANITARY BOARD CHAIRMAN

FINANCIAL ADVISOR

PAY TO THE ORDER OF
WV Municipal Bond Commission
Suite 300
812 Quarrier St.
Charleston WV 25301

⑈057657⑈ ⑆051903761⑆ 0225⑈17001⑈

$5,237,584
THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 B

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 entire outstanding aggregate principal amount of the WDA Bonds, hereinafter defined and described, in reliance on the parity test certification of Grigoraci, Trainer, Wright & Paterno, CPAs, hereby consent to the issuance of The City of Charleston, West Virginia (the "Issuer") Sewerage System Revenue Bonds, Series 1997 B (the "Bonds"), in the original aggregate principal amount of $5,237,584, under the terms of the ordinance authorizing the Bonds, on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's outstanding $1,912,194 Sewer Revenue Bonds, Series 1989, the $829,856 Sewer Revenue Bonds, Series 1989B, the $732,688 Sewerage System Revenue Bonds, Series 1997 A (collectively, the "WDA First Lien Bonds"), the $2,671,058 Sewerage System Revenue Bonds, Series 1996 A and the $395,299 Sewerage System Revenue Bonds, Series 1996 B (collectively, the "1996 Bonds") and the $732,688 Sewerage System Revenue Bonds, Series 1997 A (the "1997 Bonds") and senior and prior, with respect to liens, pledge and source of and security for payment to the Issuer's outstanding $283,458 Supplemental Sewer Revenue Bonds, Series 1989, and $123,015 Supplemental Sewer Revenue Bonds, Series 1989B (the "WDA Subordinate Bonds," and collectively with the WDA First Lien Bonds, the 1996 Bonds, and the 1997 Bonds, the "WDA Bonds").

WITNESS my signature this 7th day of October, 1997.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: _____
Daniel B. Yonkosky, Director

G | T
&
W | P

GRIGORACI, TRAINER, WRIGHT & PATERNO

CERTIFIED PUBLIC ACCOUNTANTS & CONSULTANTS

(A PARTNERSHIP OF ACCOUNTING CORPORATIONS)

608 TENNESSEE AVENUE
P. O. BOX 1191
CHARLESTON, WV 25324
(304) 343-5511
FAX: (304) 343-5514

October 7, 1997

Sanitary Board of The City of Charleston
City Building
Charleston, West Virginia 25301

Re: $5,237,584 The City of Charleston, West Virginia
Sewerage System Revenue Bonds, Series 1997 B

Gentlemen:

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 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 1989 B dated November 21, 1989 (the "WDA First Lien Bonds"), 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 1989 B, 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 Sewerage System Refunding Revenue Bonds, Series 1992 A, and the $6,670,000 The City of Charleston Sewerage System Refunding and Improvement Revenue Bonds, Series 1992 B (collectively the "1992 Bonds"), the $773,237 The City of Charleston Sewerage System Revenue Bonds, 1993 Series A (the "1993 Bonds"), the $2,671,058 Sewerage System Revenue Bonds, Series 1996 A and the $395,299 The City of Charleston Sewerage System Revenue Bonds, Series 1996 B (collectively the "1996 Bonds") and the $732,688 The City of Charleston Sewerage System Revenue Bonds, Series 1997 A (the "1997 Bonds" and collectively with the WDA First Lien Bonds, the 1992 Bonds and the 1996 Bonds, the "Prior Bonds").

Based upon the above assumptions, we certify the Sanitary Board's annual net revenues at June 30, 1997 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,

Grigoraci Trainer Wright & Paterno

$5,237,584 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 B

CITY'S CERTIFICATE WITH RESPECT TO PARITY BONDS

Pursuant to requirements of Section 6.08 of the Prior Ordinances, the undersigned Mayor and City Clerk of The City of Charleston, West Virginia (the "Issuer") hereby certify:

1. The City of Charleston Sewerage System Revenue Bonds, Series 1997 B (the "Bonds") are being issued for the purpose of financing the cost of the construction of extensions, improvements and 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 project 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 7th day of October, 1997.

THE CITY OF CHARLESTON, WEST VIRGINIA

By: _____
Mayor

[SEAL]

_____
Clerk

102690

DISBURSEMENT REQUEST FORM

One Valley Bank, National Association
P. O. Box 1793
Charleston, WV 25326
Attention: One Financial Place

Re: $5,237,584 The City of Charleston Sewerage System Revenue Bonds, Series 1997 B

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:

$301,277 to the West Virginia Municipal Bond Commission for funding of the Series 1997 B Reserve Account.

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

Date: 10/7/97

CHASFS3:102691

$5,237,584 THE CITY OF CHARLESTON, WEST VIRGINIA
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1997 B

October 7, 1997

One Valley Bank, National Association
P.O. Box 1793
Charleston, WV 25326

Re: Designation of Authorized Representative

Gentlemen:

You are hereby advised by The City of Charleston, West Virginia (the "City"), that its authorized representative to and on behalf of the City regarding The City of Charleston Sewerage System Revenue Bonds, Series 1997 B, is G. Kemp Melton, Mayor, whose manual signature is as follows:

G. Kemp Melton

The Bank is authorized to accept and honor all requests for disbursements, directions or notices signed by the above person.

Dated this 7th day of October, 1997.

THE CITY OF CHARLESTON, WEST VIRGINIA

By: G. Kemp Melton
Its Mayor and Chairman of the
Sanitary Board

105812

JACKSON & KELLY
ATTORNEYS AT LAW
1600 LAIDLEY TOWER
P. O. BOX 553
CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000 TELECOPIER 304-340-1130
WRITER'S DIRECT DIAL NO.

300 FOXCROFT AVENUE
MARTINSBURG, WEST VIRGINIA 25402
TELEPHONE 304-263-8600

256 RUSSELL AVENUE
NEW MARTINSVILLE, WEST VIRGINIA 26155
TELEPHONE 304-455-1751

6000 HAMPTON CENTER
MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE 304-599-3000

412 MARKET STREET
PARKERSBURG, WEST VIRGINIA 26101
TELEPHONE 304-424-3490

1000 TECHNOLOGY DRIVE
FAIRMONT, WEST VIRGINIA 26554
TELEPHONE 304-368-2000

1144 MARKET STREET
WHEELING, WEST VIRGINIA 26003
TELEPHONE 304-233-4000

1660 LINCOLN STREET
DENVER, COLORADO 80264
TELEPHONE 303-837-0003

175 EAST MAIN STREET
LEXINGTON, KENTUCKY 40595
TELEPHONE 606-255-9500

2401 PENNSYLVANIA AVENUE N.W.
WASHINGTON, D.C. 20037
TELEPHONE 202-973-0200

Jackson & Kelly is a member of Lex Mundi, a global association of more than 120 independent law firms.

October 7, 1997

West Virginia Division of Environmental
Protection
Division of Water Resources
617 Broad Street
Charleston, WV 25301

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311-1571

Re: $5,237,584 The City of Charleston, West Virginia
Sewerage System Revenue Bonds, Series 1997 B

Ladies and Gentlemen:

We are bond counsel to The City of Charleston, West Virginia, (the "Issuer"), a municipal corporation.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated September 9, 1997, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among the Issuer, 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 Issuer, dated October 7, 1997 (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 $5,237,584, issued in the form of one bond registered as to principal and interest to the Authority. Interest shall be paid on the unpaid principal balance at the rate of two percent (2%) per annum plus a one percent (1%) annual administrative fee payable quarterly. Principal and interest is payable in quarterly installments commencing March 1, 1999, and thereafter in quarterly installments on each September 1, December 1, March 1 and June 1, as set forth in "Schedule Y," attached to the Loan Agreement and incorporated in and made a part of the Bonds.

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 sewerage system of the Issuer (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 Sewerage System Bond and Line of Credit Supplemental Ordinance duly enacted by the Issuer on June 16, 1997, as supplemented on October 6, 1997 (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.

In connection with the issuance of the Bond, the Issuer has executed a Certificate as to Non-Arbitrage, dated as of the date hereof (the "Certificate as to Non-Arbitrage"), which, among other things, sets forth restrictions on the investment and expenditure of the Bond proceeds and earnings thereon, to ensure that the arbitrage requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder (collectively, the "Code"), necessary to establish and maintain the excludability of interest on the Bond from gross income for federal income tax purposes, are and will continue to be met.

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

1. The Loan Agreement has been duly authorized by and executed on behalf of the Issuer and is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof.

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

3. The Issuer 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 Issuer 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 Issuer, 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 Issuer'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 Issuer 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 Issuer comply, on a continuing basis, with all certifications, covenants and representations which may affect the excludability from gross income of the interest on the Local Bond set forth in the Local Act and the Certificate as to Non-Arbitrage and 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. The Issuer has covenanted to comply with all such requirements. Failure to comply with such certifications, covenants, representations and 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. 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 the executed and authenticated Local Bond numbered BR-1, and in our opinion the form of said bond and its execution and authentication are regular and proper.

Very truly yours,

Jackson & Kelly

102692

CITY OF CHARLESTON
P.O. BOX 2749
CHARLESTON, WEST VIRGINIA 25330

LEGAL DEPARTMENT
(304) 348-8031

October 6, 1997

West Virginia Division of
Environment Protection
Division of Water Resources
617 Broad Street
Charleston, WV 25301

West Virginia Water
Development Authority
180 Association Dive
Charleston, WV 2 5311-1571

Jackson & Kelly
P.O. Box 553
Charleston, WV 25322

Re: $5,237,584 The City of Charleston, West Virginia Sewerage System Revenue Bonds, Series 1997B

Ladies and Gentlemen:

I am Assistant City Attorney for The City of Charleston, West Virginia (the "City"). As such Assistant 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 September 9, 1997, as supplemented by a Supplemental Resolution adopted October 6, 1997, (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, license, approvals and authorizations necessary for the issuance of the Bonds, construction of the Project, operation of the System, including, without limitation, the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia (the "PUBLIC SERVICE COMMISSION"), and has taken any other action required. The time for appeal of the Order of the Public Service Commission of West Virginia entered September 24, 1997, (Case No. 97-0660-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 instructions to with 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 this 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 Project, or the collection or pledge the Net Revenues therefor.

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,

Assistant City Attorney

LAW OFFICES
KAUFFELT & KAUFFELT
803 KANAWHA VALLEY BUILDING
CHARLESTON, WEST VIRGINIA 25301
(304) 345-1272

T. D. KAUFFELT
JAMES D. KAUFFELT
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P. O. BOX 3082
CHARLESTON, WV 25331
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October 7, 1997

The City of Charleston
P. O. Box 2749
Charleston, WV 25330

Jackson & Kelly
P. O. Box 553
Charleston, WV 25322

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: $5,237,584 The City of Charleston, West Virginia
Sewerage System Revenue Bonds, Series 1997B

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 September 24, 1997. Pursuant to the above, I am of the opinion as follows:

The Issuer has received a Certificate of Public Convenience and Necessity for the Project from the Public Service Commission of West Virginia and said Certificate is in full force and effect. The time to seek rehearing has expired. The Commission Staff was the only other party in the case, and supported Charleston's position. There is no party to the proceeding who can appeal.

This opinion may be relied upon as if addressed to all counsel.

Very truly yours,

T. D. Kauffelt
Counsel for Public Service Commission Matters

TDK/rh

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October 7, 1997

The City of Charleston
P. O. Box 2749
Charleston, WV 25330

Jackson & Kelly
P. O. Box 553
Charleston, WV 25322

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: City of Charleston Sanitary Board-Hayslett Construction Company Contract
Certificate of Owner's Attorney

Ladies and Gentlemen:

As the duly authorized attorney for the Owner, I hereby certify that I have examined the Contract, the surety bond(s) and the policies or other evidence of insurance coverage, and the manner of execution thereof. In my opinion said surety bonds and insurance coverage are in compliance with the Contract and are adequate in form, substance and amount to protect the various interests of the Owner in connection with the contract. I am of the further opinion that the Contract, the said surety bond(s) and policies or other evidence of insurance coverage have been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that each of the aforementioned agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with the terms, conditions and provisions thereof.

Very truly yours,

T. D. Kauffelt

T. D. Kauffelt

TDK/rh